TITLE 20—EDUCATION

Chap.		Sec.
1.	Office of Education [Repealed]	1
2.	Teaching of Agricultural, Trade, Home Economics, and Industrial Subjects [Repealed or Omitted]	11
3.	Smithsonian Institution, National Museums and Art Galleries	41
4.	National Zoological Park	81
5.	Government Collections and Institutions for Research, and Material for Educational Institutions	91
6.	American Printing House for the Blind	101
6A.	Vending Facilities for Blind in Federal Buildings	107
7.	Instruction as to Nature and Effect of Alcoholic Drinks and Narcotics	111
8.	Howard University	121
9.	National Training School for Boys [Omitted]	131
10.	National Training School for Girls [Omitted]	161
11.	National Arboretum	191
12.	Foreign and Exchange Students	221
13.	Financial Assistance to Local Educational Agencies [Omitted or Repealed]	231
14.	School Construction in Areas Affected by Federal Activities [Transferred to Chapter 19]	251
15.	Studies and Research on Problems in Education [Omitted or Repealed]	331
16.	Public Library Services and Construction [Repealed]	351
17.	National Defense Education Program [Omitted or Repealed]	401
18.	Grants for Teaching in the Education of Handicapped Children [Repealed]	611
18A.	Early Education Programs for Handicapped Children [Repealed]	621
19.	School Construction in Areas Affected by Federal Activities [Repealed]	631
20.	Grants for Teaching in the Education of the Deaf [Omitted]	671
20A.	National Technical Institute for the Deaf [Repealed or Transferred]	681
20B.	Gallaudet College [Repealed or Transferred]	691
21.	Higher Education Facilities [Omitted or Repealed]	701
22.	National Council on the Arts [Repealed]	781
23.	Training and Fellowship Programs for Community Development	801
24.	Grants for Educational Materials, Facilities and Services, and Strengthening of Educational Agencies [Omitted, Repealed, or Transferred]	821
25.	Pay and Personnel Program for Overseas Teachers	901
25A.	Overseas Defense Dependents' Education	921
26.	Support and Scholarship in Humanities and Arts; Museum Services	951
26A.	Indemnity for Exhibitions of Arts and Artifacts	971
27.	National Vocational Student Loan Insurance [Repealed]	981
28.	Higher Education Resources and Student Assistance	1001
29.	International Studies and Research [Omitted or Repealed]	1171
30.	Basic Education for Adults [Repealed]	1201
31.	General Provisions Concerning Education	1221
32.	Vocational Education [Omitted or Repealed]	1241
33.	Education of Individuals With Disabilities	1400
34.	National Commission on Libraries and Information Science [Repealed]	1501
35.	Environmental Education [Omitted]	1531
36.	Emergency School Aid [Repealed]	1601

37.	Assignment or Transportation of Students	1651
38.	Discrimination Based on Sex or Blindness	1681
39.	Equal Educational Opportunities and Transportation of Students	1701
40.	Consolidation of Education Programs [Omitted, Repealed, or Transferred]	1801
41.	National Reading Improvement Program [Repealed]	1901
42.	Harry S Truman Memorial Scholarships	2001
43.	American Folklife Preservation	2101
44.	Career and Technical Education	2301
45.	Career Education and Career Development	2501
46.	Career Education Incentive [Repealed or Omitted]	2601
47.	Strengthening and Improvement of Elementary and Secondary Schools [Omitted, Transferred, or Repealed]	2701
48.	Department of Education	3401
49.	Asbestos School Hazard Detection and Control	3601
50.	National Center for the Study of Afro-American History and Culture	3701
51.	Elementary and Secondary Education Block Grant [Repealed]	3801
52.	Education for Economic Security	3901
53.	Emergency Immigrant Education Assistance [Repealed]	4101
54.	Leadership in Educational Administration [Repealed]	4201
55.	Education of the Deaf	4301
56.	American Indian, Alaska Native, and Native Hawaiian Culture and Art Development	4401
57.	James Madison Memorial Fellowship Program	4501
58.	Drug-Free Schools and Communities [Repealed or Transferred]	4601
59.	Barry Goldwater Scholarship and Excellence in Education Program	4701
60.	Fund for the Improvement and Reform of Schools and Teaching [Repealed]	4801
61.	Education for Native Hawaiians [Repealed]	4901
62.	Education and Training for American Competitiveness [Repealed]	5001
63.	Eisenhower Exchange Fellowship Program	5201
64.	Excellence in Mathematics, Science, and Engineering Education [Repealed]	5301
65.	National Environmental Education	5501
66.	Morris K. Udall and Stewart L. Udall Foundation	5601
67.	Christopher Columbus Fellowship Foundation	5701
68.	National Education Reform	5801
69.	School-to-Work Opportunities [Omitted]	6101
70.	Strengthening and Improvement of Elementary and Secondary Schools	6301
71.	National Education Statistics [Repealed or Transferred]	9001
72.	Museum and Library Services	9101
73.	Adult Education and Literacy [Repealed]	9201
74.	Troops-to-Teachers Program	9301
75.	Early Learning Opportunities	9401
76.	Education Research, Statistics, Evaluation, Information, and Dissemination	9501
77.	Financial Literacy and Education Improvement	9701
78.	Science, Technology, Engineering, Mathematics, and Critical Foreign Language Education	9801
79.	STEM-Training Grant Program	9901
80.	State Fiscal Stabilization Fund	10001

CHAPTER 1—OFFICE OF EDUCATION

§§1, 2. Repealed. Pub. L. 92–318, title III, §301(b)(2)(A), June 23, 1972, 86 Stat.

Section 1, R.S. §516, established Office of Education and provided for purpose and duties of Office.

Section 2, R.S. §517, provided for appointment of a Commissioner of Education to manage Office of Education.

EFFECTIVE DATE OF REPEAL

Pub. L. 92–318, title III, §301(b)(2)(A), June 23, 1972, 86 Stat. 332, provided that the repeal is effective July 1, 1972.

EXECUTIVE ORDER NO. 11185

Ex. Ord. No. 11185, Oct. 16, 1964, 29 F.R. 14399, as amended by Ex. Ord. No. 11260, Dec. 11, 1965, 30 F.R. 15395; Ex. Ord. No. 11661, Mar. 24, 1972, 37 FR 6281, which provided for the coordination of federal education programs, was superseded by Ex. Ord. No. 11761, Jan. 17, 1974, 39 F.R. 2345, formerly set out under section 1221 of this title.

§2a. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 647

Section, act May 26, 1930, ch. 330, 46 Stat. 384, provided for appointment of an Assistant Commissioner of Education.

§§3, 4. Repealed. Pub. L. 91–230, title IV, §401(d)(1), (2), Apr. 13, 1970, 84 Stat. 173

Section 3, act May 28, 1896, ch. 252, §1, 29 Stat. 171; Reorg. Plan No. I of 1939, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; Reorg. Plan No. 1 of 1953, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, provided for publication of a bulletin of Office of Education respecting condition of higher education, technical and industrial education, compulsory school attendance, and other domestic and foreign education topics, and provided for a one edition issue of 12,500 copies, chargeable to allotment for printing and binding of the Department of Health, Education, and Welfare.

Section 4, R.S. §518, directed Commissioner of Education to present an annual report to Congress.

§5. Repealed. Oct. 31, 1951, ch. 654, §1(36), 65 Stat. 702

Section, R.S. §519; acts Feb. 26, 1925, ch. 339, §3, 43 Stat. 983; Mar. 2, 1934, ch. 38, §1, 48 Stat. 389; June 30, 1949, ch. 288, title I, §103, 63 Stat. 380, required Administrator of General Services to furnish proper offices for use of Office of Education.

§6. Repealed. Pub. L. 91–230, title IV, §401(d)(3), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 90–576, title III, §303(a)–(d), Oct. 16, 1968, 82 Stat. 1095, related to collection and dissemination of information, providing in subsec. (a) for duties of Commissioner of Education, subsec. (b) for counseling and technical assistance in rural areas, in subsec. (c) for preparation and availability of catalog of Federal education assistance programs, and subsec. (d) for authorization of appropriations.

CHAPTER 2—TEACHING OF AGRICULTURAL, TRADE, HOME ECONOMICS, AND INDUSTRIAL SUBJECTS

§§11 to 14. Repealed. Pub. L. 105–33, title VI, §6201, Aug. 5, 1997, 111 Stat. 653

Section 11, acts Feb. 23, 1917, ch. 114, §1, 39 Stat. 929; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8,

eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to annual appropriations for payments to States for teaching agricultural, trade, home economics, and industrial subjects.

Section 12, acts Feb. 23, 1917, ch. 114, §2, 39 Stat. 930; July 12, 1960, Pub. L. 86–624, §14(b)(2), 74 Stat. 414, appropriated money for salaries of teachers, supervisors, and directors of agricultural subjects.

Section 13, act Feb. 23, 1917, ch. 114, §3, 39 Stat. 930, appropriated money for salaries of teachers of trade, home economics, and industrial subjects.

Section 14, acts Feb. 23, 1917, ch. 114, §4, 39 Stat. 931; June 25, 1959, Pub. L. 86–70, §18(b)(1), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, §14(b)(2), 74 Stat. 414, appropriated money for preparation of teachers, supervisors, and directors of agricultural subjects and teachers of trade, industrial, and home economics.

SHORT TITLE

Act June 8, 1936, ch. 541, §2, 49 Stat. 1488, as amended by act Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 775, provided that the act of Feb. 23, 1917, ch. 114, 39 Stat. 929 (enacting sections 11 to 15 and 16 to 28 of this title), was to be known as the Smith-Hughes Vocational Education Act. The 1917 act was also known as the Vocational Education Act of 1917.

The act of June 8, 1936, ch. 541, 49 Stat. 1488 (enacting sections 15i to 15ggg of this title), which was repealed by Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091, was known as the Vocational Education Act of 1946.

Pub. L. 87–22, §1, Apr. 24, 1961, 75 Stat. 44, provided that Pub. L. 87–22 (amending sections 15aa, 15bb, 15cc, and 15jj of this title) could be cited as "The Practical Nurse Training Extension Act of 1961".

§§15 to 15g. Omitted

CODIFICATION

Section 15 was comprised of provisions of act Feb. 23, 1917, ch. 114, §7, 39 Stat. 933; Ex. Ord. No. 6166, §15, June 10, 1933; June 26, 1934, ch. 756, §2, 48 Stat. 1225; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, which authorized appropriations of $200,000 annually to the Department of Education for studies, investigations and reports and paying salaries of personnel necessary to administer this chapter, and act Oct. 6, 1917, ch. 79, §1, 40 Stat. 345, which authorized use of that appropriation also for printing and binding, law books, books of reference and periodicals, and postage on foreign mail. Section 7 of act Feb. 23, 1917, was repealed by Pub. L. 105–33, title VI, §6201, Aug. 5, 1997, 111 Stat. 653.

Sections 15a to 15c, act Feb. 5, 1929, ch. 153, §§1–3, 45 Stat. 1151, appropriated money to be used for further development of vocational education in States and Territories but appropriations were authorized for only four years after the fiscal year ending June 30, 1930.

Sections 15d to 15g, act May 21, 1934, ch. 324, §§1–4, 48 Stat. 792, provided for further development of vocational education in several States and Territories by authorizing additional appropriations for the fiscal years 1935–37.

Act June 8, 1936, ch. 541, §7, 49 Stat. 1490, incorporated in section 15o of this title, provided that appropriations authorized by act June 8, 1936, incorporated in sections 15h to 15p of this title, "shall be in lieu thereof and not in addition to the appropriations authorized in" sections 1 and 2 of act May 21, 1934.

§§15h to 15m. Repealed. Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091

Section 15h, acts June 8, 1936, ch. 541, §1, 49 Stat. 1488; Aug. 1, 1946, ch. 725, §1, 60 Stat. 775, provided for a popular name. Subject matter of section prior to its amendment related to the development of vocational education in States and Territories, appropriations and their allotment, and matching of funds by States and Territories, and was replaced by sections 15j and 15k of this title.

Section 15i, acts June 8, 1936, ch. 541, §2, 49 Stat. 1488; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 775; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925; June 25, 1959, Pub. L. 86–70, §18(b)(2), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, §14(b)(3), 74 Stat. 414, defined "States and Territories", "State plan", "State board", and "Smith-Hughes Vocational Education Act".

Section 15j, acts June 8, 1936, ch. 541, §3, 49 Stat. 1489; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 775; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925; Aug. 8, 1956, ch. 1039, §2, 70 Stat. 1126, authorized

appropriations for programs in vocational education in agriculture, home economics, trades and industry, distributive occupations, and fishery trades.

Section 15k, acts June 8, 1936, ch. 541, §4, 49 Stat. 1489; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 776; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925, required that Federal funds be matched by State and local funds in order to receive benefits of section 15i et seq. of this title.

Section 15l, acts June 8, 1936, ch. 541, §5, 49 Stat. 1489; 1940 Reorg. Plan No. III, §1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 776; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925, provided for method of payment of funds to which the State or Territory was entitled under section 15i et seq. of this title.

Section 15m, acts June 8, 1936, ch. 541, §6, 49 Stat. 1489; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 777; Aug. 2, 1956, ch. 871, title, III, §301, 70 Stat. 925, made funds available for salary and expenses of State directors.

For general subject matter of sections 15i to 15m, see section 1241 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091, provided that the repeal is effective July 1, 1969.

§15n. Omitted

Section, act June 8, 1936, ch. 541, §6a, 49 Stat. 1490, limited expenditures on industrial plant training and was omitted in the amendment of act June 8, 1936 by act Aug. 1, 1946, ch. 725, 60 Stat. 775.

§§15*o* to 15q. Repealed. Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091

Section 15o, acts June 8, 1936, ch. 541, §7, 49 Stat. 1490; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 777; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925, made the Smith-Hughes Vocational Education Act applicable to the development of vocational education.

Section 15p, acts June 8, 1936, ch. 541, §8, 49 Stat. 1490; Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 777; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925, required that industrial-plant training be bona-fide vocational training and that no more than 10 percent be used for the purchase or acquisition of equipment.

Section 15q, act June 8, 1936, ch. 541, §9, as added Aug. 1, 1946, ch. 725, title I, §101, 60 Stat. 777; amended Reorg. Plan No. 1 of 1953, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925, authorized appropriations for Office of Education.

For general subject matter of sections 15o to 15q, see section 1241 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091, provided that the repeal is effective July 1, 1969.

§§15aa to 15jj. Repealed. Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091

Section 15aa, act Aug. 1, 1946, ch. 725, title II, §201, as added Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 925; amended Apr. 24, 1961, Pub. L. 87–22, §2, 75 Stat. 44; Dec. 18, 1963, Pub. L. 88–210, §11(a)(1), 77 Stat. 411, authorized an appropriation for grants to States with State plans for practical nurse training.

Section 15bb, act Aug. 1, 1946, ch. 725, title II, §202, as added Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 926; amended Apr. 24, 1961, Pub. L. 87–22, §3, 75 Stat. 44; Dec. 18, 1963, Pub. L. 88–210, §11(a)(2), 77 Stat. 411, provided for grants to States for practical nurse training.

Section 15cc, act Aug. 1, 1946, ch. 725, title II, §203, as added Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 926; amended Apr. 24, 1961, Pub. L. 87–22, §4, 75 Stat. 44, set out requirements for State plans under sections 15aa to 15jj of this title.

Section 15dd, act Aug. 1, 1946, ch. 725, title II, §204, as added Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 927, set out method of making and computing payments to States.

Section 15ee, act Aug. 1, 1946, ch. 725, title II, §205, as added Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 927, set out duties and authority of Commissioner in carrying out sections 15aa to 15jj of this title.

Section 15ff, act Aug. 1, 1946, ch. 725, title II, §206, as added Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 928, authorized appointment of advisory committees by Commissioner.

Section 15gg, act Aug. 1, 1946, ch. 725, title II, §207, as added Aug. 2, 1956, ch. 871, title III, §301, 70

Stat. 928, provided that amounts paid under sections 15aa to 15jj of this title should in no way affect the availability of funds for practical nurse training under sections 11 to 15, 16, and 18 to 28 and sections 15i to 15m and 15o to 15q of this title.

Section 15hh, act Aug. 1, 1946, ch. 725, title II, §208, as added Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 928, required Commissioner to submit an annual report on administration of sections 15aa to 15jj of this title.

Section 15ii, act Aug. 1, 1946, ch. 725, title II, §209, as added Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 928, authorized appropriation of funds necessary to administer sections 15aa to 15jj of this title.

Section 15jj, act Aug. 1, 1946, ch. 725, title II, §210, as added Aug. 2, 1956, ch. 871, title III, §301, 70 Stat. 928; amended June 25, 1959, Pub. L. 86–70, §18(b)(3), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, §14(b)(4), 74 Stat. 414; Apr. 24, 1961, Pub. L. 87–22, §5, 75 Stat. 44, defined terms as used in sections 15aa to 15jj of this title.

For general subject matter of sections 15aa to 15jj, see section 1241 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091, provided that the repeal is effective July 1, 1969.

§§15aaa to 15ggg. Repealed. Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091

Section 15aaa, act Aug. 1, 1946, ch. 725, title III, §301, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, §802, 72 Stat. 1597; amended Oct. 3, 1961, Pub. L. 87–344, title II, §207, 75 Stat. 760; Dec. 18, 1963, Pub. L. 88–210, §11(b), 77 Stat. 411, authorized an appropriation of $15,000,000 annually for area vocational education programs.

Section 15bbb, act Aug. 1, 1946, ch. 725, title III, §302, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, §802, 72 Stat. 1598, covered allotment of funds appropriated under section 15aaa of this title.

Section 15ccc, act Aug. 1, 1946, ch. 725, title III, §303, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, §802, 72 Stat. 1598, set out conditions which States had to fulfill to qualify for payments.

Section 15ddd, act Aug. 1, 1946, ch. 725, title III, §304, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, §802, 72 Stat. 1599, set out requirements of programs under sections 15aaa to 15ggg of this title.

Section 15eee, act Aug. 1, 1946, ch. 725, title III, §305, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, §802, 72 Stat. 1599, covered additional State plan requirements for eligibility under sections 15aaa to 15ggg of this title.

Section 15fff, act Aug. 1, 1946, ch. 725, title III, §306, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, §802, 72 Stat. 1600, authorized appropriations to administer sections 15aaa to 15ggg of this title.

Section 15ggg, act Aug. 1, 1946, ch. 725, title III, §307, as added Sept. 2, 1958, Pub. L. 85–864, title VIII, §802, 72 Stat. 1600; amended June 25, 1959, Pub. L. 86–70, §18(b)(3), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, §14(b)(4), 74 Stat. 414, defined terms as used in sections 15aaa to 15ggg of this title.

For general subject matter of sections 15aaa to 15ggg, see section 1241 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091, provided that the repeal is effective July 1, 1969.

§16. Repealed. Pub. L. 105–33, title VI, §6201, Aug. 5, 1997, 111 Stat. 653

Section, acts Feb. 23, 1917, ch. 114, §5, 39 Stat. 931; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, provided for State acceptance of appropriations provided by sections 11 to 14 of this title and provided for creation of State boards.

§17. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 643

Section, act Feb. 23, 1917, ch. 114, §6, 39 Stat. 932, created a Federal Board for Vocational Education, and provided for appointments, salary, powers and duties.

§§18 to 27. Repealed. Pub. L. 105–33, title VI, §6201, Aug. 5, 1997, 111 Stat. 653

Section 18, acts Feb. 23, 1917, ch. 114, §8, 39 Stat. 933; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, required State boards to submit plans and reports to Department of Education.

Section 19, acts Feb. 23, 1917, ch. 114, §9, 39 Stat. 933; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to use of appropriations for salaries of teachers, supervisors, and directors of agricultural subjects and of teachers of trade, home economics, and industrial subjects and to requirement for State and local matching funds.

Section 20, acts Feb. 23, 1917, ch. 114, §10, 39 Stat. 934; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to State use of appropriations for salaries of teachers, supervisors, and directors of agricultural subjects under an approved plan of supervision for the State.

Section 21, acts Feb. 23, 1917, ch. 114, §11, 39 Stat. 934; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to State use of appropriations for salaries of teachers of trade, home economics, and industrial subjects under an approved plan of supervision for the State.

Section 22, acts Feb. 23, 1917, ch. 114, §12, 39 Stat. 935; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, related to additional requirements for State plan of supervision in order for State to use appropriations under this chapter.

Section 23, act Feb. 23, 1917, ch. 114, §13, 39 Stat. 935, related to State custodians of funds appropriated under this chapter.

Section 24, acts Feb. 23, 1917, ch. 114, §14, 39 Stat. 935; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, provided for Department of Education supervision of State expenditures and for quarterly payments to States.

Section 25, acts Feb. 23, 1917, ch. 114, §15, 39 Stat. 936; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, provided for deductions from allotments when preceding allotments have not been expended for the purposes provided in this chapter.

Section 26, acts Feb. 23, 1917, ch. 114, §16, 39 Stat. 936; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, provided for withholding of allotments and right to appeal withholdings.

Section 27, act Feb. 23, 1917, ch. 114, §17, 39 Stat. 936, provided for State replacement of lost funds and for limitations on use of funds.

§28. Repealed. Pub. L. 104–66, title I, §1041(e), Dec. 21, 1995, 109 Stat. 715

Section, acts Feb. 23, 1917, ch. 114, §18, 39 Stat. 936; Ex. Ord. No. 6166, §15, June 10, 1933; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, directed Department of Education to report annually to Congress on administration of this chapter, including reports made by State boards and expenditure of money allotted to each State.

§29. Repealed. Pub. L. 86–624, §14(b)(1), July 12, 1960, 74 Stat. 413

Section, act Mar. 10, 1924, ch. 46, §4, 43 Stat. 18, extended benefits of chapter to Territory of Hawaii.

EFFECTIVE DATE OF REPEAL

Pub. L. 86–624, §47(c), July 12, 1960, 74 Stat. 423, provided that: "The amendment made by paragraphs (1) and (2) of subsection (b) and paragraphs (1), (2), and (3) of subsection (d) of section 14 [amending sections 12, 14, and 238 of this title and repealing this section] shall be applicable in the case of fiscal years beginning after June 30, 1960."

§§30 to 34. Repealed. Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091

Section 30, acts Mar. 3, 1931, ch. 404, §1, 46 Stat. 1489; May 17, 1932, ch. 190, 47 Stat. 158, extended to Puerto Rico the benefits of sections 11–15, 16, and 18–28 of this title.

Section 31, act Mar. 18, 1950, ch. 71, §1, 64 Stat. 27, extended to Virgin Islands the benefits of Vocational Education Act of 1946 (sections 15i to 15m, 15o to 15q, 15aa to 15jj, and 15aaa to 15ggg of this title).

Section 32, act Mar. 18, 1950, ch. 71, §2, 64 Stat. 27; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, authorized distribution of funds to Virgin Islands.

Section 33, act Mar. 18, 1950, ch. 71, §3, 64 Stat. 27; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set conditions governing use and payment of funds in Virgin Islands.

Section 34, act Aug. 1, 1956, ch. 852, §9, 70 Stat. 909, extended to Guam the benefits of Vocational Education Act of 1946.

EFFECTIVE DATE OF REPEAL

Pub. L. 90–576, title I, §103, Oct. 16, 1968, 82 Stat. 1091, provided that the repeal is effective July 1, 1969.

§§35 to 35n. Omitted

CODIFICATION

Sections 35, 35 note, and 35a to 35n, which were enacted by Part A of Pub. L. 88–210, §§1–10, 12–17, Dec. 18, 1963, 77 Stat. 403 to 415, to be known as the "Vocational Education Act of 1963" were omitted in the general reorganization of Pub. L. 88–210 by Pub. L. 90–576, title I, §101, Oct. 16, 1968, 82 Stat. 1064, which redesignated such Part A as title I of Pub. L. 88–210 and, as so redesignated, completely reorganized such title I and authorized its citation as the "Vocational Education Act of 1963". Such act, as redesignated and reorganized, was classified to section 1241 et seq. of this title.

Section 35, Pub. L. 88–210, §1, Dec. 18, 1963, 77 Stat. 403, set out declaration of policy as to sections 35 to 35n of this title.

Section 35 note, Pub. L. 88–210, §17, Dec. 18, 1963, 77 Stat. 415, named sections 1–17 of Pub. L. 88–210 the "Vocational Education Act of 1963". See Codification note set out preceding section 2301 of this title.

Section 35a, Pub. L. 88–210, §2, Dec. 18, 1963, 77 Stat. 403, authorized annual appropriations.

Section 35b, Pub. L. 88–210, §3, Dec. 18, 1963, 77 Stat. 403, covered determination of allotment to be made to each State of sums appropriated under section 35a of this title.

Section 35c, Pub. L. 88–210, §4, Dec. 18, 1963, 77 Stat. 405, set out allowable uses for allotments.

Section 35d, Pub. L. 88–210, §5, Dec. 18, 1963, 77 Stat. 405, set out requisite elements of State plan and covered the designation of State board and State advisory council, policy and procedure for allocation of allotment, qualifications of persons under the plan, arrangements with public employment offices, accounting and fiscal control, labor standards, and reports.

Section 35e, Pub. L. 88–210, §6, Dec. 18, 1963, 77 Stat. 407, set conditions for payments to States.

Section 35f, Pub. L. 88–210, §7, Dec. 18, 1963, 77 Stat. 408, provided for application of labor standards under the Davis-Bacon Act (now 40 U.S.C. 3141 to 3144, 3146, and 3147) to construction projects assisted under sections 35 to 35n of this title.

Section 35g, Pub. L. 88–210, §8, Dec. 18, 1963, 77 Stat. 408, defined terms used in sections 35 to 35n of this title.

Section 35h, Pub. L. 88–210, §9, Dec. 18, 1963, 77 Stat. 410, established Advisory Committee on Vocational Education.

Section 35i, Pub. L. 88–210, §10, Dec. 18, 1963, 77 Stat. 410, covered uses of allotments obtained under other statutes.

Section 35j, Pub. L. 88–210, §12, Dec. 18, 1963, 77 Stat. 411, established Advisory Council on Vocational

Education.

Section 35k, Pub. L. 88–210, §13, Dec. 18, 1963, 77 Stat. 412, provided for creation and funding of work-study programs.

Section 35l, Pub. L. 88–210, §14, Dec. 18, 1963, 77 Stat. 414, authorized grants for residential vocational education schools.

Section 35m, Pub. L. 88–210, §15, Dec. 18, 1963, 77 Stat. 415, authorized appropriations for work-study and residential schools.

Section 35n, Pub. L. 88–210, §16, Dec. 18, 1963, 77 Stat. 415, prohibited statutory construction authorizing Federal direction, supervision, or controls of programs under sections 35 to 35n of this title.

CHAPTER 3—SMITHSONIAN INSTITUTION, NATIONAL MUSEUMS AND ART GALLERIES

SUBCHAPTER I—CHARTER PROVISIONS

Sec.

41. Incorporation of institution.
42. Board of Regents; members.
43. Appointment of regents; terms of office; vacancies.
44. Organization of board; expenses; gratuitous services.
45. Special meetings of members.
46. Duties of Secretary.
46a. Employment of aliens by Secretary.
47. Acting Secretary.
48. Salary and removal of Secretary and assistants.
49. Omitted.
50. Reception and arrangement of specimens and objects of art.
50a. Gellatly art collection; estimates of sums needed for preservation and maintenance.
51. Library.
52. Evidence of title to site and buildings.
53. Protection of property.
53a. Authorization of appropriations.
54. Appropriation of interest.
55. Acceptance of other sums.
56. Disposal of unappropriated money.
57. Disbursements.
58. Omitted.
59. Collections of National Ocean Survey, United States Geological Survey, and others deposited in National Museum.
60. Army articles furnished to National Museum.
61 to 65. Repealed.
65a. Director of the National Museum.
66. Repealed.
67. Right of repeal.
68. Repealed.
69. Anthropological researches; cooperation of Institution with States, educational institutions, or scientific organizations.
70. Authorization of appropriations; cooperative work.

SUBCHAPTER II—NATIONAL GALLERY OF ART

71. Designation of site.
71a. Additions; payment of construction costs from trust funds.
71b. Status of completed addition.
72. Board of Trustees.

73. Acceptance of gift from A. W. Mellon.
74. Maintenance.
74a. Permanent loan of funds by Board of Trustees to Treasury; semiannual interest payments to Board.
75. Authority and functions of the board.

SUBCHAPTER III—NATIONAL PORTRAIT GALLERY

75a. Definitions.
75b. Establishment of National Portrait Gallery; functions.
75c. Creation of National Portrait Gallery Commission; members; functions; powers.
75d. Acceptance of gifts; title to property.
75e. Powers of Board.
75f. Director; appointment and compensation; officers and employees.
75g. Authorization of appropriations.

SUBCHAPTER IV—SMITHSONIAN GALLERY OF ART

76, 76a. Omitted.
76b. Functions of Regents.
76c. Policy to foster appreciation of past and contemporary art.
76d. Donations of works of art from Government agencies.
76e. Housing or exhibiting objects of art possessed by Smithsonian Institution.
76f. Appointment, compensation, and duties of Director of Gallery; personnel.
76g. Authorization of appropriations.

SUBCHAPTER V—JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

76h. Board of Trustees.
76i. John F. Kennedy Center for the Performing Arts.
76j. Duties of Board.
76k. Powers of Board.
76*l*. Official seal, Board vacancies and quorum, trustee powers and obligations, reports, support services, and review and audit.
76m. Photovoltaic system.
76n. Repealed.
76*o*. Borrowing authority to finance parking facilities.
76p. Acceptance and disposition of gifts to the United States contributed in honor or memory of the late President John F. Kennedy.
76q. Sole national memorial to the late John F. Kennedy within the city of Washington and environs.
76q–1. John F. Kennedy Center Plaza.
76r. Authorization of appropriations.
76s. Definitions.

SUBCHAPTER VI—JOSEPH H. HIRSHHORN MUSEUM AND SCULPTURE GARDEN

76aa. Site for museum and sculpture garden.
76bb. Joseph H. Hirshhorn Museum and Sculpture Garden.
76cc. Board of Trustees.
76dd. Director, administrator, curators, and other personnel; appointment, compensation, and duties.
76ee. Authorization of appropriations.

SUBCHAPTER VII—NATIONAL AIR AND SPACE MUSEUM

77. National Air and Space Museum.
77a. Functions of museum.
77b. Repealed.
77c. Museum board.
77d. Transfer or loan of aeronautical or space flight equipment to museum.

SUBCHAPTER VIII—PALEONTOLOGICAL INVESTIGATIONS

78. Cooperation of Smithsonian Institution with State institutions for continuing paleontological investigations.
78a. Authorization of appropriations; availability of funds; limit on use of funds during fiscal year; supervision; rules and regulations.

SUBCHAPTER IX—CANAL ZONE BIOLOGICAL AREA

79. Barro Colorado Island in Gatun Lake to be set aside.
79a. Preservation of natural features for scientific observation and investigation.
79b. Functions of Smithsonian Institution.
79c. Resident manager; powers and duties; compensation.
79d. Deposit of receipts into Treasury; disbursements.
79e. Authorization of appropriations.

SUBCHAPTER X—NATIONAL ARMED FORCES MUSEUM ADVISORY BOARD

80. National Armed Forces Museum Advisory Board.
80a. Display of contributions of Armed Forces.
80b. Selection of site.
80c. Transfer or loan of objects, equipment and records to Smithsonian Institution.
80d. Authorization of appropriations.

SUBCHAPTER XI—WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

80e. Congressional declaration of policy.
80f. Woodrow Wilson International Center for Scholars; Board of Trustees of the Center.
80g. Powers and duties of Board.
80g–1. Hubert H. Humphrey Fellowship in Social and Political Thought.
80h. Administration; quorum.
80i. Authorization of appropriations; limitations.
80j. Audit of accounts.

SUBCHAPTER XII—MUSEUM OF AFRICAN ART

80k. Donation and transfer of lands and improvements, works of art, and other assets and property of Museum of African Art to Smithsonian Institution.
80*l*. Establishment of Museum of African Art; functions.
80m. Powers of Board.
80n. Commission for the Museum of African Art.
80*o*. Director, officers, and employees; appointment, compensation, and duties.
80p. Funding.

SUBCHAPTER XIII—NATIONAL MUSEUM OF THE AMERICAN INDIAN

80q. Findings.
80q–1. National Museum of the American Indian.
80q–2. Authority of Board of Regents to enter into agreement providing for transfer of Heye Foundation assets to Smithsonian Institution.
80q–3. Board of Trustees of National Museum of the American Indian.
80q–4. Director and staff of National Museum.
80q–5. Museum facilities.
80q–6. Custom House office space and auditorium.
80q–7. Audubon Terrace.
80q–8. Board of Regents functions with respect to certain agreements and programs.
80q–9. Inventory, identification, and return of Indian human remains and Indian funerary objects in possession of Smithsonian Institution.
80q–9a. Summary and repatriation of unassociated funerary objects, sacred objects, and cultural patrimony.
80q–10. Special committee to review inventory, identification, and return of Indian human remains and Indian funerary objects.
80q–11. Inventory, identification, and return of Native Hawaiian human remains and Native Hawaiian funerary objects in possession of Smithsonian Institution.

80q–12. Grants by Secretary of the Interior to assist Indian tribes with respect to agreements for return of Indian human remains and Indian funerary objects.
80q–13. Grants by Secretary of the Interior to assist Indian organizations with respect to renovation and repair of museum facilities and exhibit facilities.
80q–14. Definitions.
80q–15. Authorization of appropriations.
SUBCHAPTER XIV—NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE
80r. Findings.
80r–1. Definitions.
80r–2. Establishment of Museum.
80r–3. Council.
80r–4. Director and staff of the Museum.
80r–5. Educational and liaison programs.
80r–6. Building for the National Museum of African American History and Culture.
80r–7. Congressional Budget Act compliance.
80r–8. Consideration of recommendations of Presidential Commission.
80r–9. Authorization of appropriations.
SUBCHAPTER XV—CIVIL RIGHTS HISTORY PROJECT
80s. Findings; purpose.
80s–1. Establishment of joint project at Library of Congress and National Museum of African American History and Culture to collect video and audio recordings of histories of participants in American Civil Rights movement.
80s–2. Private support for civil rights history project.
80s–3. Authorization of appropriations.

SUBCHAPTER I—CHARTER PROVISIONS

§41. Incorporation of institution

The President, the Vice President, the Chief Justice, and the heads of executive departments are constituted an establishment by the name of the Smithsonian Institution for the increase and diffusion of knowledge among men, and by that name shall be known and have perpetual succession with the powers, limitations, and restrictions hereinafter contained, and no other.

(R.S. §5579; Feb. 27, 1877, ch. 69, 19 Stat. 253; Mar. 12, 1894, ch. 36, 28 Stat. 41.)

CODIFICATION

R.S. §5579 derived from acts Aug. 10, 1846, ch. 178, §1, 9 Stat. 102; Mar. 20, 1871, ch. 1, 17 Stat. 1.

R.S. §§5579 to 5594 (codified as sections 41 to 46, 48, 50, 51 to 53, 54 to 57, and 67 of this title) constituted Title 73 of the Revised Statutes, entitled "The Smithsonian Institution." A preamble to these sections was as follows: "James Smithson, esquire, of London, in the kingdom of Great Britain, having by his last will and testament given the whole of his property to the United States of America, to found, at Washington, under the name of the 'Smithsonian Institution,' an establishment for the increase and diffusion of knowledge among men; and the United States having, by an act of Congress, received said property and accepted said trust; therefore, for the faithful execution of said trust, according to the will of the liberal and enlightened donor."

R.S. §5579, as originally enacted, constituted the President, the Vice-President, the Secretaries of State, the Treasury, War, and the Navy, the Postmaster-General, the Attorney-General, the Chief Justice, the Commissioner of the Patent Office, and the Governor of the District of Columbia, and such persons as they might elect honorary members, an establishment by the name of the "Smithsonian Institution," for the purposes and with the powers specified in the section as set forth here.

AMENDMENTS

1894—Act Mar. 12, 1894, substituted "the Chief Justice, and heads of executive departments" for "the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the

Postmaster-General, the Attorney General, the Chief Justice, the Commissioner of Patents, the governor of the District of Columbia, and other such persons as they may elect honorary members".

1877—Act Feb. 27, 1877, substituted "Patents" for "Patent Office".

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–72, §1, Aug. 15, 2003, 117 Stat. 888, provided that: "This Act [enacting section 253l–8 of Title 41, Public Contracts, enacting provisions set out as notes under section 75b of this title and section 3521 of Title 5, Government Organization and Employees, and amending provisions set out as a note under section 50 of this title] may be cited as the 'Smithsonian Facilities Authorization Act'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–674, §1, Oct. 15, 1966, 80 Stat. 953, provided: "That this Act [enacting section 65a of this title and repealing section 65 of this title] may be cited as the 'National Museum Act of 1966'."

§42. Board of Regents; members

(a) The business of the Institution shall be conducted at the city of Washington by a Board of Regents, named the Regents of the Smithsonian Institution, to be composed of the Vice President, the Chief Justice of the United States, three Members of the Senate, three Members of the House of Representatives, and nine other persons, other than Members of Congress, two of whom shall be resident in the city of Washington, and seven of whom shall be inhabitants of some State, but no two of them of the same State.

(b) Notwithstanding any other provision of law, the Board of Regents of the Smithsonian Institution may modify the number of members, manner of appointment of members, or tenure of members, of the boards or commissions under the jurisdiction of the Smithsonian Institution, other than—

(1) the Board of Regents of the Smithsonian Institution; and

(2) the boards or commissions of the National Gallery of Art, the John F. Kennedy Center for the Performing Arts, and the Woodrow Wilson International Center for Scholars.

(R.S. §5580; Mar. 12, 1894, ch. 36, 28 Stat. 41; Pub. L. 91–551, §1(a), Dec. 15, 1970, 84 Stat. 1439; Pub. L. 105–277, div. A, §101(e) [title III, §355], Oct. 21, 1998, 112 Stat. 2681–231, 2681–303.)

CODIFICATION

R.S. §5580 derived from acts Aug. 10, 1846, ch. 178, §3, 9 Stat. 103; Jan. 10, 1865, ch. 11, 13 Stat. 420; Mar. 20, 1871, ch. 1, 17 Stat. 1.

AMENDMENTS

1998—Pub. L. 105–277 designated existing provisions as subsec. (a) and added subsec. (b).

1970—Pub. L. 91–551 authorized three additional persons on the Board of Regents.

1894—Act Mar. 12, 1894, struck out "the governor of the District of Columbia" after "the Chief Justice of the United States,".

§43. Appointment of regents; terms of office; vacancies

The regents to be selected shall be appointed as follows: The Members of the Senate by the President thereof; the Members of the House by the Speaker thereof; and the nine other persons by joint resolution of the Congress. The Members of the House so appointed shall serve for the term of two years; and on every alternate fourth Wednesday of December a like number shall be appointed in the same manner to serve until the fourth Wednesday in December, in the second year succeeding their appointment. The Senators so appointed shall serve during the term for which they shall hold, without re-election, their office as Senators. Vacancies, occasioned by death, resignation, or otherwise, shall be filled as vacancies in committees are filled. The regular term of service for the

other nine members shall be six years; and new elections thereof shall be made by joint resolutions of Congress. Vacancies occasioned by death, resignation, or otherwise may be filled in like manner by joint resolution of Congress.

(R.S. §5581; Pub. L. 91–551, §1(b), (c), Dec. 15, 1970, 84 Stat. 1440.)

CODIFICATION

R.S. §5581 derived from act Aug. 10, 1846, ch. 178, §3, 9 Stat. 103.

AMENDMENTS

1970—Pub. L. 91–551 authorized appointment of three additional members of the board by joint resolution of Congress.

§44. Organization of board; expenses; gratuitous services

The Board of Regents shall meet in the city of Washington and elect one of their number as chancellor, who shall be the presiding officer of the Board of Regents, and called the chancellor of the Smithsonian Institution, and a suitable person as Secretary of the institution, who shall also be the secretary of the Board of Regents. The board shall also elect three of their own body as an executive committee, and shall fix the time for the regular meetings of the board; and, on application of any three of the regents to the Secretary of the institution, it shall be his duty to appoint a special meeting of the Board of Regents, of which he shall give notice, by letter, to each of the members; and, at any meeting of the board, eight shall constitute a quorum to do business. Each member of the board shall be paid his necessary traveling and other actual expenses, in attending meetings of the board, which shall be audited by the executive committee, and recorded by the Secretary of the board; but his service as regent shall be gratuitous.

(R.S. §5582; Pub. L. 91–551, §1(d), Dec. 15, 1970, 84 Stat. 1440.)

CODIFICATION

R.S. §5582 derived from act Aug. 10, 1846, ch. 178, §3, 9 Stat. 103.

AMENDMENTS

1970—Pub. L. 91–551 increased number of members required to constitute a quorum from five to eight.

§45. Special meetings of members

The members of the institution may hold stated and special meetings, for the supervision of the affairs of the institution and the advice and instruction of the Board of Regents, to be called in the manner provided for in the by-laws of the institution, at which the President, and in his absence the Vice President, shall preside.

(R.S. §5585.)

CODIFICATION

R.S. §5585 derived from act Aug. 10, 1846, ch. 178, §8, 9 Stat. 103.

§46. Duties of Secretary

The Secretary of the Board of Regents shall take charge of the building and property of the institution, and shall, under their direction, make a fair and accurate record of all their proceedings, to be preserved in the institution until no longer needed in conducting current business; and shall also discharge the duties of librarian and of keeper of the museum, and may, with the consent of the Board of Regents, employ assistants.

(R.S. §5583; Oct. 25, 1951, ch. 562, §2(4), 65 Stat. 639.)

CODIFICATION

R.S. §5583 derived from act Aug. 10, 1846, ch. 178, §7, 9 Stat. 105.

AMENDMENTS

1951—Act Oct. 25, 1951, inserted "until no longer needed in conducting current business".

§46a. Employment of aliens by Secretary

The Secretary of the Smithsonian Institution, subject to adequate security and other investigations as he may determine to be appropriate, and subject further to a prior determination by him that no qualified United States citizen is available for the particular position involved, is authorized to employ and compensate aliens in a scientific or technical capacity at authorized rates of compensation without regard to statutory provisions prohibiting payment of compensation to aliens.

(Pub. L. 88–549, Aug. 31, 1964, 78 Stat. 754.)

§47. Acting Secretary

The chancellor of the Smithsonian Institution may, by an instrument in writing filed in the office of the Secretary thereof, designate and appoint a suitable person to act as Secretary of the Institution when there shall be a vacancy in said office, and whenever the Secretary shall be unable from illness, absence, or other cause to perform the duties of his office; and in such case the person so appointed may perform all the duties imposed on the Secretary by law until the vacancy shall be filled or such inability shall cease. The said chancellor may change such designation and appointment from time to time as the interests of the Institution may in his judgment require.

(May 13, 1884, ch. 44, 23 Stat. 21.)

PRIOR PROVISIONS

Similar prior provisions were contained in act Jan. 24, 1879, ch. 21, 20 Stat. 264.

§48. Salary and removal of Secretary and assistants

The Secretary and his assistants shall, respectively, receive for their services such sum as may be allowed by the Board of Regents; and shall be removable by the Board of Regents whenever, in their judgment, the interests of the institution require such removal.

(R.S. §5584.)

CODIFICATION

R.S. §5584 derived from act Aug. 10, 1846, ch. 178, §7, 9 Stat. 105.
Provisions which related to semi-annual payments on the first day of January and July have been omitted.

§49. Omitted

CODIFICATION

Section, act Oct. 2, 1888, ch. 1069, 25 Stat. 529, which required the Secretary of the Smithsonian Institution to submit to Congress annually a detailed statement of expenditures under appropriations for "International Exchanges," "North American Ethnology," and the "National Museum,", terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 192 of House Document No. 103–7.

§50. Reception and arrangement of specimens and objects of art

Whenever suitable arrangements can be made from time to time for their reception, all objects of art and of foreign and curious research, and all objects of natural history, plants, and geological and mineralogical specimens belonging to the United States, which may be in the city of Washington, in whosesoever custody they may be, shall be delivered to such persons as may be authorized by the Board of Regents to receive them, and shall be so arranged and classified in the building erected for the institution as best to facilitate the examination and study of them; and whenever new specimens in natural history, geology, or mineralogy are obtained for the museum of the institution, by exchanges of duplicate specimens, which the Regents may in their discretion make, or by donation, which they may receive, or otherwise, the Regents shall cause such new specimens to be appropriately classed and arranged. The minerals, books, manuscripts, and other property of James Smithson, which have been received by the Government of the United States, shall be preserved separate and apart from other property of the institution.

(R.S. §5586.)

CODIFICATION

R.S. §5586 derived from act Aug. 10, 1846, ch. 178, §6, 9 Stat. 105.

LABORATORY SPACE, GAMBOA, PANAMA

Pub. L. 111–11, title XV, §15102, Mar. 30, 2009, 123 Stat. 1456, provided that:

"(a) AUTHORITY TO CONSTRUCT.—The Board of Regents of the Smithsonian Institution is authorized to construct laboratory space to accommodate the terrestrial research program of the Smithsonian tropical research institute in Gamboa, Panama.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of $14,000,000 for fiscal years 2009 and 2010. Such sums shall remain available until expended."

VERITAS ASTROPHYSICAL OBSERVATORY PROJECT; AUTHORIZATION OF CONSTRUCTION AND APPROPRIATIONS

Pub. L. 108–331, Oct. 16, 2004, 118 Stat. 1281, as amended by Pub. L. 110–341, §1(2), Oct. 3, 2008, 122 Stat. 3738, provided that:

"SECTION 1. AUTHORIZING BOARD OF REGENTS OF SMITHSONIAN INSTITUTION TO CARRY OUT CONSTRUCTION AND RELATED ACTIVITIES IN SUPPORT OF VERITAS ASTROPHYSICAL OBSERVATORY PROJECT.

"The Board of Regents of the Smithsonian Institution is authorized to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project at the Fred Lawrence Whipple Observatory Base Camp on Mount Hopkins, Arizona, or other similar location.

"SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated $1,000,000 for fiscal year 2005 to carry out section 1."

COLLECTION AND PRESERVATION OF ARTIFACTS RELATING TO SEPTEMBER 11TH ATTACKS

Pub. L. 107–117, div. B, §701, Jan. 10, 2002, 115 Stat. 2311, provided that:

"(a) IN GENERAL.—The Secretary of the Smithsonian Institution shall collect and preserve in the National Museum of American History artifacts relating to the September 11th attacks on the World Trade Center and the Pentagon.

"(b) TYPES OF ARTIFACTS.—In carrying out subsection (a), the Secretary of the Smithsonian Institution shall consider collecting and preserving—

"(1) pieces of the World Trade Center and the Pentagon;

"(2) still and video images made by private individuals and the media;

"(3) personal narratives of survivors, rescuers, and government officials; and

"(4) other artifacts, recordings, and testimonials that the Secretary of the Smithsonian Institution determines have lasting historical significance.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Smithsonian Institution $5,000,000 to carry out this section."

SMITHSONIAN ASTROPHYSICAL OBSERVATORY SUBMILLIMETER ARRAY;

AUTHORIZATION OF CONSTRUCTION AND APPROPRIATIONS

Pub. L. 106–383, Oct. 27, 2000, 114 Stat. 1459, provided that:

"SECTION 1. FACILITY AUTHORIZED.

"The Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip laboratory, administrative, and support space to house base operations for the Smithsonian Astrophysical Observatory Submillimeter Array located on Mauna Kea at Hilo, Hawaii.

"SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Board of Regents of the Smithsonian Institution to carry out this Act, $2,000,000 for fiscal year 2001, and $2,500,000 for fiscal year 2002, which shall remain available until expended."

SMITHSONIAN INSTITUTION TRANSPORTATION PROGRAM

Pub. L. 105–178, title I, §1214(b), June 9, 1998, 112 Stat. 204, provided that:

"(1) IN GENERAL.—The Secretary [of Transportation] shall allocate amounts made available by this subsection for obligation at the discretion of the Secretary of the Smithsonian Institution, in consultation with the Secretary, to carry out projects and activities described in paragraph (2).

"(2) ELIGIBLE USES.—Amounts allocated under paragraph (1) may be obligated only—

"(A) for transportation-related exhibitions, exhibits, and educational outreach programs;

"(B) to enhance the care and protection of the Nation's collection of transportation-related artifacts;

"(C) to acquire historically significant transportation-related artifacts; and

"(D) to support research programs within the Smithsonian Institution that document the history and evolution of transportation, in cooperation with other museums in the United States.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $1,000,000 for each of fiscal years 1998 through 2003 to carry out this subsection.

"(4) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity under this subsection shall be 100 percent and such funds shall remain available until expended."

NATIONAL HEALTH MUSEUM

Pub. L. 105–78, title VII, Nov. 13, 1997, 111 Stat. 1524, known as the National Health Museum Development Act, which provided that the National Health Museum would be located on or near the Mall, established the National Health Museum Commission and its duties, including submission of a report to the President and Congress, provided that all Commission activities would be administered in accordance with the Federal Advisory Committee Act, provided for compensation of Commission members who were not officers or employees of the U.S., appropriated funds, and specified the Commission would terminate 60 days after submission of the report, was repealed, except for section 702, by Pub. L. 107–303, title III, §303, Nov. 27, 2002, 116 Stat. 2361. Section 702 of Pub. L. 105–78 amended section 1067 of Pub. L. 103–337, set out as a note under section 176 of Title 10, Armed Forces.

WEST COURT OF NATIONAL MUSEUM OF NATURAL HISTORY BUILDING

Pub. L. 103–151, Nov. 24, 1993, 107 Stat. 1515, provided that:

"SECTION 1. PLANNING, DESIGN, AND CONSTRUCTION OF WEST COURT OF NATIONAL MUSEUM OF NATURAL HISTORY BUILDING.

"The Board of Regents of the Smithsonian Institution is authorized to plan, design, and construct the West Court of the National Museum of Natural History building.

"SEC. 2. FUNDING.

"No appropriated funds may be used to pay any expense of the planning, design, and construction authorized by section 1."

EAST COURT OF NATIONAL MUSEUM OF NATURAL HISTORY BUILDING

Pub. L. 101–455, Oct. 24, 1990, 104 Stat. 1067, as amended by Pub. L. 103–98, §1(a), Oct. 6, 1993, 107 Stat. 1015, provided that:

"SECTION 1. ADDITIONAL SPACE IN NATIONAL MUSEUM OF NATURAL HISTORY.

"The Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip

approximately 80,000 square feet of space in the East Court of the National Museum of Natural History building.

"SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the Smithsonian Institution for fiscal year 1991 and succeeding fiscal years not to exceed $30,000,000 to carry out this Act."

[Section 1(b) of Pub. L. 103–98 provided that: "The amendment made by subsection (a) [amending section 2 of Pub. L. 101–455, set out above] shall take effect as of October 24, 1990."]

CHARLES MCC. MATHIAS, JR. LABORATORY FOR ENVIRONMENTAL RESEARCH

Pub. L. 111–11, title XV, §15101, Mar. 30, 2009, 123 Stat. 1456, provided that:

"(a) AUTHORITY TO DESIGN AND CONSTRUCT.—The Board of Regents of the Smithsonian Institution is authorized to design and construct laboratory and support space to accommodate the Mathias Laboratory at the Smithsonian Environmental Research Center in Edgewater, Maryland.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of $41,000,000 for fiscal years 2009 through 2011. Such sums shall remain available until expended."

Pub. L. 99–617, §1, Nov. 6, 1986, 100 Stat. 3488, provided that:

"(a) CONSTRUCTION AUTHORIZATION.—The Board of Regents of the Smithsonian Institution is authorized to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research.

"(b) LOCATION.—The Charles McC. Mathias, Jr. Laboratory for Environmental Research shall be located at the Smithsonian Environmental Research Center, a bureau of the Smithsonian Institution, located at Edgewater, Maryland.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $1,000,000 to carry out the purposes of this section.

"(d) TRANSFER OF FUNDS.—Any portion of the sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes."

SMITHSONIAN ASTROPHYSICAL OBSERVATORY AND SMITHSONIAN TROPICAL RESEARCH INSTITUTE; AUTHORIZATION OF CONSTRUCTION AND APPROPRIATIONS

Pub. L. 99–423, Sept. 30, 1986, 100 Stat. 963, provided: "That the Board of Regents of the Smithsonian Institution is authorized to plan and construct facilities for the Smithsonian Astrophysical Observatory and the Smithsonian Tropical Research Institute.

"SEC. 2. Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution:

"(a) $4,500,000 for the Smithsonian Astrophysical Observatory; and

"(b) $11,100,000 for the Smithsonian Tropical Research Institute.

"SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes."

FRED LAWRENCE WHIPPLE OBSERVATORY; PURCHASE OF LAND

Pub. L. 98–73, Aug. 11, 1983, 97 Stat. 406, provided: "That the Smithsonian Institution is authorized to purchase land in Santa Cruz County, Arizona, for the permanent headquarters of the Fred Lawrence Whipple Observatory.

"SEC. 2. Effective October 1, 1984, there is authorized to be appropriated $150,000 to carry out the purposes of this Act."

CONSTRUCTION OF NATIONAL MUSEUM OF AFRICAN ART, CENTER FOR EASTERN ART, AND STRUCTURES FOR RELATED EDUCATIONAL FACILITIES

Pub. L. 97–203, June 24, 1982, 96 Stat. 129, provided: "That the Board of Regents of the Smithsonian Institution is authorized to construct a building for the National Museum of African Art and a center for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street Southwest, in the city of Washington.

"SEC. 2. Effective October 1, 1982, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $36,500,000 to carry out the purposes of this Act [this note]. Except for funds obligated or expended for planning, administration, and management expenses, and architectural or other consulting services, no funds appropriated pursuant to this section shall be obligated or expended until such time as there is available to such Board, from private donations or from other non-Federal sources, a sum which, when combined with the funds so appropriated, is sufficient to carry out the purposes of this Act.

"SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act [this note] may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes."

SMITHSONIAN INSTITUTION; DEVELOPMENT OF PROPERTY ADJACENT TO ORIGINAL BUILDING

Pub. L. 96–36, July 20, 1979, 93 Stat. 94, provided: "That the Board of Regents of the Smithsonian Institution is authorized to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

"SEC. 2. Effective October 1, 1979, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $500,000 to carry out the purposes of this Act.

"SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes."

SMITHSONIAN INSTITUTION PLANS FOR AND CONSTRUCTION OF MUSEUM SUPPORT FACILITIES; APPROVAL OF PLANS AND SPECIFICATIONS; SITUS; TRANSFER OF LAND; APPROPRIATIONS; CONTRACTS BY GENERAL SERVICES ADMINISTRATION

Pub. L. 111–11, title XV, §15103, Mar. 30, 2009, 123 Stat. 1456, provided that:

"(a) IN GENERAL.—The Board of Regents of the Smithsonian Institution is authorized to construct a greenhouse facility at its museum support facility in Suitland, Maryland, to maintain the horticultural operations of, and preserve the orchid collection held in trust by, the Smithsonian Institution.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $12,000,000 to carry out this section. Such sums shall remain available until expended."

Pub. L. 94–98, Sept. 19, 1975, 89 Stat. 480, as amended by Pub. L. 95–569, Nov. 2, 1978, 92 Stat. 2444; Pub. L. 108–72, §2, Aug. 15, 2003, 117 Stat. 888, provided that: "The Regents of the Smithsonian Institution are authorized to prepare plans for, and to construct, museum support facilities to be used for (1) the care, curation, conservation, deposit, preparation, and study of the national collections of scientific, historic, and artistic objects, specimens, and artifacts; (2) the related documentation of such collections of the Smithsonian Institution; and (3) the training of museum conservators. No appropriation shall be made to construct the facilities authorized by this Act until the Committee on Public Works and Transportation of the House of Representatives and the Committee on Rules and Administration of the Senate, by resolution approve the final plans and specifications of such facilities.

"SEC. 2. The museum support facilities referred to in section 1 shall be located on federally owned land within the metropolitan area of Washington, District of Columbia. Any Federal agency is authorized to transfer land under its jurisdiction to the Smithsonian Institution for such purposes without reimbursement.

"SEC. 3. There is authorized to be appropriated to the Smithsonian Institution $21,500,000 to carry out this Act (other than section 4). Any portion of the sums appropriated for such purposes may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

"SEC. 4. Additional space and resources for national collections held by the Smithsonian Institution.

"(a) IN GENERAL.—The Board of Regents of the Smithsonian Institution may plan, design, construct, and equip additional special use storage and laboratory space at the museum support facility of the Smithsonian Institution in Suitland, Maryland, to accommodate the care, preservation, conservation, deposit, and study of national collections held in trust by the Institution.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $2,000,000 for fiscal year 2003;

"(2) $10,000,000 for fiscal year 2004; and

"(3) such sums as are necessary for each of fiscal years 2005 through 2008."

[Amendment of section 3 by Pub. L. 95–569 effective Oct. 1, 1979.]

NATIONAL MUSEUM

The National Museum was not created by any express statutory provision for that purpose. It was first mentioned in an appropriation for postage for "the National Museum in the Smithsonian Institution," contained in act June 20, 1874, ch. 328, §1, 18 Stat. 103. An appropriation for a building for the use of the National Museum was made by act Mar. 3, 1879, ch. 182, §1, 20 Stat. 397, and annual appropriations have continuously been made for expenses of heating, etc., such building.

NATIONAL MUSEUM EXHIBIT

Res. Feb. 28, 1922, ch. 86, 42 Stat. 399, authorized Secretary of State to transfer to custody of Secretary of Institution for safekeeping and exhibition in National Museum the sword of George Washington and the staff of Benjamin Franklin, presented by Samuel T. Washington, and the sword of Andrew Jackson, presented by family of General Robert Armstrong.

TRANSPORTATION OF PROPERTY

Quartermaster-General and his officers were required to receive and transport property for National Museum by a provision of act July 5, 1884, ch. 217, 23 Stat. 107.

§50a. Gellatly art collection; estimates of sums needed for preservation and maintenance

The Smithsonian Institution is authorized to include in its estimates of appropriations such sums as may be needful for the preservation and maintenance of the John Gellatly art collection.

(June 5, 1929, ch. 9, 46 Stat. 5.)

§51. Library

The Regents shall make, from the interest of the fund, an appropriation, not exceeding an average of $25,000 annually, for the gradual formation of a library composed of valuable works pertaining to all departments of human knowledge.

(R.S. §5587.)

CODIFICATION

R.S. §5587 derived from act Aug. 10, 1846, ch. 178, §8, 9 Stat. 105.

PUBLIC USE OF RESEARCH AND STUDY FACILITIES OF CERTAIN INSTITUTIONS

Under provisions of R.S. §94 and act Mar. 3, 1875, ch. 179, 18 Stat. 512, the Joint Committee on the Library of Congress was authorized to extend the use of the Library to the Regents of the Smithsonian Institution. These provisions were not classified to the Code, being rendered superfluous by a general declaration of public policy by Congress, by a joint resolution adopted Apr. 12, 1892, 27 Stat. 395, to the effect that facilities for study and research in the Library of Congress, the National Museum, and similar institutions shall be afforded investigators, students, etc., in the several states and territories as well as in the District of Columbia.

§52. Evidence of title to site and buildings

The site and lands selected for buildings for the Smithsonian Institution shall be deemed appropriated to the institution, and the record of the description of such site and lands, or a copy thereof, certified by the chancellor and Secretary of the Board of Regents, shall be received as evidence in all courts of the extent and boundaries of the lands appropriated to the institution.

(R.S. §5588.)

CODIFICATION

R.S. §5588 derived from act Aug. 10, 1846, ch. 178, §4, 9 Stat. 104.

§53. Protection of property

All laws for the protection of public property in the city of Washington shall apply to, and be in force for, the protection of the lands, buildings, and other property of the Smithsonian Institution. All moneys recovered by or accruing to, the institution shall be paid into the Treasury of the United States, to the credit of the Smithsonian bequest, and separately accounted for.

(R.S. §5589.)

CODIFICATION

R.S. §5589 derived from act Aug. 10, 1846, ch. 178, §5, 9 Stat. 104.

§53a. Authorization of appropriations

Appropriations are authorized for the maintenance of the Astrophysical Observatory and the making of solar observations at high altitudes; for repairs and alterations of buildings and grounds occupied by the Smithsonian Institution in the District of Columbia and elsewhere; and for preparation of manuscripts, drawings, and illustrations for publications.

(Aug. 22, 1949, ch. 494, §2, 63 Stat. 623.)

§54. Appropriation of interest

So much of the property of James Smithson as has been received in money, and paid into the Treasury of the United States, being the sum of $541,379.63, shall be lent to the United States Treasury and invested in public debt securities with maturities requested by the Smithsonian Institution bearing interest at rates determined by the Secretary of the Treasury, based upon current market yields on outstanding marketable obligations of the United States of comparable maturities, and this interest is hereby appropriated for the perpetual maintenance and support of the Smithsonian Institution; and all expenditures and appropriations to be made, from time to time, to the purposes of the Institution shall be exclusively from the accruing interest, and not from the principal of the fund. All the moneys and stocks which have been, or may hereafter be, received into the Treasury of the United States, on account of the fund bequeathed by James Smithson, are hereby pledged to refund to the Treasury of the United States the sums hereby appropriated.

(R.S. §5590; Pub. L. 97–199, §1, June 22, 1982, 96 Stat. 121.)

CODIFICATION

R.S. §5590 derived from acts Aug. 10, 1846, ch. 178, §2, 9 Stat. 102; Feb. 5, 1867, ch. 34, §2, 14 Stat. 391.

AMENDMENTS

1982—Pub. L. 97–199 substituted "and invested in public debt securities with maturities requested by the Smithsonian Institution bearing interest at rates determined by the Secretary of the Treasury, based upon current market yields on outstanding marketable obligations of the United States of comparable maturities, and this interest is hereby" for ", at 6 per centum per annum interest; and 6 per centum interest on the trust-fund and residuary legacy received into the United States Treasury, payable in half-yearly payments, on the first of January and July in each year, is", substituted "purposes of the Institution" for "purposes of the institution", and substituted "are hereby pledged" for "are pledged".

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–199, §2, June 22, 1982, 96 Stat. 121, provided that: "The amendment made by the first section [amending this section] shall apply with respect to fiscal years beginning after September 30, 1982."

§55. Acceptance of other sums

The Secretary of the Treasury is authorized and directed to receive into the Treasury, on the same terms as the original bequest of James Smithson, such sums as the Regents may, from time to time, see fit to deposit, not exceeding, with the original bequest, the sum of $1,000,000. This shall not operate as a limitation on the power of the Smithsonian Institution to receive money or other property by gift, bequest, or devise, and to hold and dispose of the same in promotion of the purposes thereof.

(R.S. §5591; Mar. 12, 1894, ch. 36, 28 Stat. 41.)

CODIFICATION

R.S. §5591 derived from act Feb. 5, 1867, ch. 34, §1, 14 Stat. 391.

AMENDMENTS

1894—Act Mar. 12, 1894, made limitation on deposits into the Treasury inapplicable to receipt of gifts, bequests and devises and dispositions of money or other property.

§56. Disposal of unappropriated money

The Regents are authorized to make such disposal of any other moneys which have accrued, or shall hereafter accrue, as interest upon the Smithsonian fund, not herein appropriated, or not required for the purposes herein provided, as they shall deem best suited for the promotion of the purpose of the testator.

(R.S. §5592.)

CODIFICATION

R.S. §5592 derived from act Aug. 10, 1846, ch. 178, §9, 9 Stat. 105.

§57. Disbursements

Whenever money is required for the payment of the debts or performance of the contracts of the institution, incurred or entered into in conformity with the provisions of sections 41 to 46, 48, 50, 51 to 53, 54 to 57, and 67 of this title, or for making the purchases and executing the objects authorized by said sections, the Board of Regents, or the executive committee thereof, may certify to the chancellor and secretary of the board that such sum of money is required, whereupon they shall examine the same, and, if they shall approve thereof, shall certify the same to the proper officer of the Treasury for payment. The board shall submit to Congress, at each session thereof, a report of the operations, expenditures, and condition of the institution.

(R.S. §5593.)

CODIFICATION

R.S. §5593 derived from act Aug. 10, 1846, ch. 178, §3, 9 Stat. 103.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to submitting a report to Congress at each session of Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 192 of House Document No. 103–7.

§58. Omitted

CODIFICATION

Section, act Mar. 3, 1899, ch. 424, §1, 30 Stat. 1085, which required that the salaries of officers and employees paid from appropriations under the Smithsonian Institution be reported to Congress annually, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note

under section 1113 of Title 31, Money and Finance. See, also, page 192 of House Document No. 103–7.

§59. Collections of National Ocean Survey, United States Geological Survey, and others deposited in National Museum

All collections of rocks, minerals, soils, fossils, and objects of natural history, archaeology, and ethnology, made by the National Ocean Survey, the United States Geological Survey, or by any other parties for the Government of the United States, when no longer needed for investigations in progress shall be deposited in the National Museum.

(Mar. 3, 1879, ch. 182, §1, 20 Stat. 394; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CODIFICATION

Words "Coast and Interior Survey" appearing in act Mar. 3, 1879, were in prior editions of the Code changed to "Coast and Geodetic Survey." Congress never created a Coast and Interior Survey. In a communication dated Nov. 6, 1940, the Director of the Geological Survey explained that the words "Coast and Interior Survey" were inadvertently incorporated upon authority of report contained in Senate Misc. Doc. No. 9, 45th Congress, 3d Session, which recommended the "Coast and Geodetic Survey" be changed to "United States Coast and Interior Survey" and an organization be created in the Interior Department to be known as the "United States Geological Survey." Congress adopted only the latter suggestion.

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

CHANGE OF NAME

"United States Geological Survey" substituted in text for "Geological Survey" pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

NATIONAL MUSEUM

Establishment of the National Museum, see note set out under section 50 of this title.

NATIONAL MUSEUM OF AMERICAN HISTORY

Pub. L. 96–441, §2, Oct. 13, 1980, 94 Stat. 1884, provided that: "The bureau of the Smithsonian Institution known as the Museum of History and Technology and so referred to in the Act entitled 'An Act to authorize the construction of a building for a Museum of History and Technology for the Smithsonian Institution, including the preparation of plans and specifications, and all other work incidental thereto', approved June 28, 1955 (20 U.S.C. 59 note), shall be known as the 'National Museum of American History'."

For provision deeming references to the Museum of History and Technology in laws and regulations to be references to the National Museum of American History, see section of 3 of Pub. L. 96–441, set out as a note under section 71 of this title.

MUSEUM OF HISTORY AND TECHNOLOGY FOR THE SMITHSONIAN INSTITUTION

Act June 28, 1955, ch. 201, 69 Stat. 189, authorized construction of a building for a Museum of History and Technology, which was redesignated the National Museum of American History, for the use of the Smithsonian Institution, at a cost not to exceed $36,000,000.

§60. Army articles furnished to National Museum

The Secretary of the Army is authorized to furnish to the National Museum, for exhibition, upon request therefor by the administrative head thereof, such articles of arms, materiel, equipment, or clothing as have been issued from time to time to the United States Army, or which have been or

may hereafter be produced for the United States Army, and which are objects of general interest or of foreign or curious research, provided that such articles can be spared.

(Mar. 4, 1921, ch. 166, §1, 41 Stat. 1438; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Oct. 31, 1951, ch. 654, §3(4), 65 Stat. 708.)

AMENDMENTS

1951—Act Oct. 31, 1951, struck out "are surplus or" after "articles".

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

SECRETARY OF AIR FORCE

For transfer of certain personal property and personal property functions, insofar as they pertain to the Air Force, from Secretary of the Army to Secretary of the Air Force, see Secretary of Defense Transfer Order No. 39 [§2vv], eff. May 18, 1949.

§§61 to 64. Repealed. Oct. 31, 1951, ch. 654, §1(37)–(40), 65 Stat. 702

Section 61, act Mar. 3, 1879, ch. 182, §1, 20 Stat. 397, required archives, records and materials relating to Indians of North America to be turned over from Geographical and Geological Survey to Smithsonian Institution for purposes of completion of collection of information and its publication.

Section 62, act Aug. 1, 1914, ch. 223, §1, 38 Stat. 661, authorized Secretary of Commerce to transfer instruments of historical value of the Coast and Geodetic Survey [the National Ocean Survey] to Smithsonian Institution.

Section 63, act June 5, 1920, ch. 235, §1, 41 Stat. 930, related to transfer, by Secretary of Commerce, of Coast and Geodetic Survey [the National Ocean Survey] instruments of historical value, to educational institutions and museums.

Section 64, act Mar. 3, 1883, ch. 143, 22 Stat. 629, related to distribution of specimens of National Museum and Bureau of Fisheries to schools and colleges.

§65. Repealed. Pub. L. 89–674, §3, Oct. 15, 1966, 80 Stat. 953

Section, act July 7, 1884, ch. 332, 23 Stat. 214, required Director of National Museum to report annually to Congress on progress of the Museum during the year and its present condition. See section 65a of this title.

§65a. Director of the National Museum

(a) Duties; programs and studies; annual report to Congress

The Director of the National Museum under the direction of the Secretary of the Smithsonian Institution shall—

(1) cooperate with museums and their professional organizations in a continuing study of museum problems and opportunities, both in the United States and abroad;

(2) prepare and carry out programs by grant, contract, or directly for training career employees in museum practices in cooperation with museums, their professional organizations, and institutions of higher education either at the Smithsonian Institution or at the cooperating museum, organization, or institutions;

(3) prepare and distribute significant museum publications;

(4) perform research on, and otherwise contribute to, the development of museum techniques, with emphasis on museum conservation and the development of a national institute for museum conservation;

(5) cooperate with departments and agencies of the Government of the United States operating, assisting, or otherwise concerned with museums; and

(6) report annually to the Congress on progress in these activities.

(b) Authorization of appropriations

There are hereby authorized to be appropriated to the Smithsonian Institution for the fiscal year 1981, the sum of $803,000, and for the fiscal year 1982, the sum of $1,000,000.

(Pub. L. 89–674, §2, Oct. 15, 1966, 80 Stat. 953; Pub. L. 91–629, §§1, 2 Dec. 31, 1970, 84 Stat. 1875; Pub. L. 93–345, §§1, 2, July 12, 1974, 88 Stat. 339; Pub. L. 94–336, July 1, 1976, 90 Stat. 795; Pub. L. 96–268, June 13, 1980, 94 Stat. 485.)

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–268 substituted provisions authorizing appropriations of $803,000 for fiscal year 1981 and $1,000,000 for fiscal year 1982 for provisions which had authorized appropriations of $1,000,000 each year for fiscal years 1978, 1979, and 1980.

1976—Subsec. (b). Pub. L. 94–336 substituted provisions authorizing the appropriation of $1,000,000 each year for fiscal years 1978, 1979, and 1980, for provisions under which there had been authorized to be appropriated whatever sums as might be necessary to carry out the purposes of the section, with a proviso that no more than $1,000,000 could be appropriated annually through fiscal year 1977, of which no less than $200,000, was to be allocated and used to carry out subsec. (a)(4) of this section.

1974—Subsec. (a)(4). Pub. L. 93–345, §1, inserted ", with emphasis on museum conservation and the development of a national institute for museum conservation" after "museum techniques".

Subsec. (b). Pub. L. 93–345, §2, substituted provisions limiting to $1,000,000 the amount which may be appropriated annually through fiscal year 1977, with no less than $200,000 annually to be allocated and used to carry out the purposes of subsection (a)(4) of this section for provisions limiting to $1,000,000 the amount which could be appropriated annually through fiscal year 1974, of which $300,000 annually had to be allocated and used according to the formula of 331/3 per centum for purposes of subsec. (a)(2), 331/3 per centum for assistance to museums under section 954(c) of this title, and 331/3 per centum for assistance to museums under section 956(c) of this title.

1970—Subsec. (a)(2). Pub. L. 91–629, §2, inserted provisions that programs be prepared and carried out by grant, contract, or directly and which authorized the training of career employees in museum practices in cooperation with institutions of higher education, and substituted provisions which authorized training programs to be conducted either at the Smithsonian Institution, or at the cooperating museum, organization, or institutions, for provisions which authorized such programs to be conducted at the best locations.

Subsec. (b). Pub. L. 91–629, §1, substituted provisions which authorized to be appropriated such sums as necessary to carry out the purposes of this section, with no more than $1,000,000 to be appropriated annually through fiscal year 1974, of which $300,000, annually, to be allocated in the enumerated manner, for provisions which authorized to be appropriated to carry out this section, not to exceed $200,000 for the fiscal year ending June 30, 1968, $250,000 for the fiscal years ending June 30, 1969, and June 30, 1970, and $300,000 for the fiscal year ending June 30, 1971, and in each subsequent fiscal year, only such sums as the Congress hereafter authorizes by law.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (a)(6) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 192 of House Document No. 103–7.

§66. Repealed. June 30, 1949, ch. 288, title VI, §602(a)(19), 63 Stat. 400, eff. July 1, 1949; renumbered Sept. 5, 1950, ch. 849, §6(a), (b), 64 Stat. 583

Section, act Mar. 3, 1915, ch. 75, §1, 38 Stat. 839, related to exchange of typewriters and adding machines.

§67. Right of repeal

Congress may alter, amend, add to, or repeal any of the provisions of sections 41 to 46, 48, 50, 51

to 53, and 54 to 57, of this title; but no contract or individual right made or acquired under such provisions shall be thereby divested or impaired.

(R.S. §5594.)

CODIFICATION

R.S. §5594 derived from act Aug. 10, 1846, ch. 178, §11, 9 Stat. 106.

§68. Repealed. Oct. 10, 1940, ch. 851, §4, 54 Stat. 1111

Section, act Feb. 11, 1927, ch. 104, §1, 44 Stat. 1081, related to advertisements for proposals for purchases and services.

§69. Anthropological researches; cooperation of Institution with States, educational institutions, or scientific organizations

The Secretary of the Smithsonian Institution is hereby authorized to cooperate with any State, educational institution, or scientific organization in the United States to continue independently or in cooperation anthropological researches among the American Indians and the natives of lands under the jurisdiction or protection of the United States and the excavation and preservation of archaeological remains.

(Apr. 10, 1928, ch. 335, §1, 45 Stat. 413; Aug. 22, 1949, ch. 494, §1, 63 Stat. 623.)

AMENDMENTS

1949—Act Aug. 22, 1949, substituted "to continue independently or in cooperation anthropological" for "for continuing ethnological" and inserted "and the natives of lands under the jurisdiction or protection of the United States".

§70. Authorization of appropriations; cooperative work

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $20,000, which shall be available until expended for the purposes stated in section 69 of this title: *Provided*, That at such time as the Smithsonian Institution is satisfied that any State, educational institution, or scientific organization in any of the United States is prepared to contribute to such investigation and when, in its judgment such investigation shall appear meritorious, the Secretary of the Smithsonian Institution may direct that an amount from this sum equal to that contributed by such State, educational institution, or scientific organization, not to exceed $2,000, to be expended from such sum in any one State during any calendar year, be made available for cooperative investigation: *Provided further*, That all such cooperative work and division of the result thereof shall be under the direction of the Secretary of the Smithsonian Institution: *Provided further*, That where lands are involved which are under the jurisdiction of the Bureau of Indian Affairs or the National Park Service, cooperative work thereon shall be under such regulations and conditions as the Secretary of the Interior may provide.

(Apr. 10, 1928, ch. 335, §2, 45 Stat. 413.)

SUBCHAPTER II—NATIONAL GALLERY OF ART

§71. Designation of site

The area bounded by Seventh Street, Constitution Avenue, Fourth Street, and North Mall Drive,

Northwest, in the District of Columbia, is appropriated to the Smithsonian Institution as a site for a National Gallery of Art. The Smithsonian Institution is authorized to permit the A. W. Mellon Educational and Charitable Trust (hereinafter referred to as the donor) to construct on said site for the Smithsonian Institution a building to be designated the National Gallery of Art, and to remove any existing structure and landscape the grounds within said area. The adjoining area bounded by Fourth Street, Pennsylvania Avenue, Third Street, and North Mall Drive, Northwest, in the District of Columbia, is reserved as a site for future additions to the National Gallery of Art. The project shall be in accordance with plans and specifications approved by the Commission of Fine Arts.

(Mar. 24, 1937, ch. 50, §1, 50 Stat. 51.)

SMITHSONIAN AMERICAN ART MUSEUM

Pub. L. 106–385, Oct. 27, 2000, 114 Stat. 1463, provided that:

"SECTION 1. RENAMING OF NATIONAL MUSEUM OF AMERICAN ART.

"(a) IN GENERAL.—The National Museum of American Art, as designated under section 1 of Public Law 96–441 (20 U.S.C. 71 note), shall be known as the 'Smithsonian American Art Museum'.

"(b) REFERENCES IN LAW.—Any reference in any law, regulation, document, or paper to the National Museum of American Art shall be considered to be a reference to the Smithsonian American Art Museum.

"SEC. 2. EFFECTIVE DATE.

"Section 1 shall take effect on the day after the date of enactment of this Act [Oct. 27, 2000]."

Pub. L. 96–441, §§1, 3, 4, Oct. 13, 1980, 94 Stat. 1884, provided: "That the bureau of the Smithsonian Institution designated as the National Collection of Fine Arts by section 6(c) of the joint resolution entitled 'Joint Resolution providing for the construction and maintenance of a National Gallery of Art', approved March 24, 1937 (20 U.S.C. 71 note), shall be known as the 'National Museum of American Art'.

"SEC. 3. Any reference in any law, regulation, document, or paper to the National Collection of Fine Arts or the Museum of History and Technology shall on and after the effective date of this Act [Oct. 13, 1980] be considered to be a reference to the National Museum of American Art and the National Museum of American History, respectively.

"SEC. 4. This Act shall take effect on the day after the date of the enactment of this Act [Oct. 13, 1980]."

Act Mar. 24, 1937, ch. 50, 50 Stat. 51, sections 1 to 5 of which are incorporated as sections 71, 72 to 74, and 75 of this title, provided in section 6(c) that: "The existing bureau of the Smithsonian Institution now designated as a national gallery of art shall hereafter be known as the National Collection of Fine Arts."

GENERAL POST OFFICE BUILDING; TRANSFER TO SMITHSONIAN INSTITUTION FOR USE AS ART GALLERIES; RELOCATION OF UNITED STATES INTERNATIONAL TRADE COMMISSION

Pub. L. 98–523, Oct. 19, 1984, 98 Stat. 2433, provided: "That at such time as it is declared to be excess property pursuant to section 2(d) of this Act, the Administrator of General Services (hereinafter in this Act referred to as the 'Administrator') is authorized to transfer to the Smithsonian Institution, in accordance with section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) [now 40 U.S.C. 521–527, 529], without reimbursement, and for use by the Smithsonian Institution for certain art galleries and related functions, the General Post Office Building with any attached underground structures and the site of such building, located between Seventh and Eighth Streets Northwest and E and F Streets Northwest, in the District of Columbia.

"SEC. 2. (a) The Administrator, at the earliest practicable date, shall relocate all operations of the United States International Trade Commission (hereinafter in this Act referred to as the 'Commission') to a building in downtown Washington, District of Columbia. The Administrator's determination as to such relocation shall be based on studies and investigations in which the Chairman of the Commission shall have full opportunity to consult and cooperate with the Administrator. Such consultation shall include opportunity for the Chairman to participate jointly with the Administrator in surveys of available buildings and to submit views and recommendations to the Administrator with respect to space suitable for the Commission's operations. The Administrator shall advise the Chairman in writing of the building to which the operations of the Commission are to be relocated. The Administrator's determination of such relocation shall not take effect for a period of at least sixty days after the date such determination is made and the Chairman is advised of the building to which the operations of the Commission are to be relocated. In the event the Chairman disagrees with the Administrator's determination of such relocation, the Chairman, within thirty days after the Chairman is advised of the building to which the operations of the Commission are to be relocated, may make a written

request for review of such determination to the Administrator, and the Administrator shall conduct a formal review of such determination.

"(b) The Administrator and the Chairman shall each report separately in writing to the Committees on Environment and Public Works, Finance, Rules and Administration, and Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and to the Committees on Public Works and Transportation, Ways and Means, House Administration, and Government Operations of the House of Representatives not later than sixty days after the date of enactment of this Act [Oct. 19, 1984] and every thirty days thereafter on the status of the relocation required by this section.

"(c) During the period in which the Commission and the United States Postal Service continue to occupy the General Post Office Building referred to in the first section of this Act, the Administrator shall maintain such building in order to prevent its deterioration and to assure that conditions therein are safe and the building is presentable and suitable to the normal operations of the Commission and such Service.

"(d) Upon accomplishment of the relocation required by subsection (a) of this section, the Administrator shall declare the property referred to in the first section of this Act to be excess property as defined in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472) [now 40 U.S.C. 102].

"SEC. 3. There is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $40,000,000 for fiscal years beginning after September 30, 1984, for renovation and repair, after the transfer made under the first section of this Act, of the General Post Office Building referred to in such section. Any portion of the sums appropriated under this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such renovation and repair. No contract for such renovation or repair shall be advertised or entered into before the end of the period of thirty days of continuous session of Congress beginning on the date the Smithsonian Institution submits to the Committees on Public Works and Transportation and House Administration of the House of Representatives and the Committees on Environment and Public Works and Rules and Administration of the Senate the plans and advanced engineering and design for such renovation and repair. For purposes of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session."

§71a. Additions; payment of construction costs from trust funds

The Trustees of the National Gallery of Art are authorized to construct within the area reserved as a site for future additions by the third sentence of section 71 of this title one or more buildings to serve as additions to the National Gallery of Art. The cost of constructing any such building shall be paid from trust funds administered by such Trustees. The plans and specifications for any such building shall be approved by the Commission of Fine Arts and the National Capital Planning Commission.

(Pub. L. 90–376, §1, July 5, 1968, 82 Stat. 286.)

CODIFICATION

Section was not enacted as part of act Mar. 24, 1937, ch. 50, 50 Stat. 51, which comprises this subchapter.

TRANSFER OF JURISDICTION

Pub. L. 90–376, §4, July 5, 1968, 82 Stat. 286, provided that: "The Commissioner [Mayor] of the District of Columbia is authorized to transfer to the United States such jurisdiction as the District of Columbia may have over any of the property within the area referred to in the first section of this Act [this section]."

PUBLIC UTILITY: PAYMENT OF COST OF RELOCATION OR PROTECTION FROM TRUST FUNDS

Pub. L. 90–376, §5, July 5, 1968, 82 Stat. 286, provided that: "If any public utility (whether privately or publicly owned) located within the area referred to in the first section of this Act [this section] is required to be relocated or protected by reason of the construction within such area of any addition to the National Gallery of Art, the cost of such relocation or protection shall be paid from trust funds administered by the Trustees of the National Gallery of Art."

§71b. Status of completed addition

Any building constructed under authority of section 71a of this title shall, upon completion, be a part of the National Gallery of Art.

(Pub. L. 90–376, §2, July 5, 1968, 82 Stat. 286.)

CODIFICATION

Section was not enacted as part of act Mar. 24, 1937, ch. 50, 50 Stat. 51, which comprises this subchapter.

§72. Board of Trustees

(a) Establishment

There is established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the National Gallery of Art, whose duty it shall be to maintain and administer the National Gallery of Art and site thereof and to execute such other functions as are vested in the board by this subchapter. The board shall be composed as follows: The Chief Justice of the United States, the Secretary of State, the Secretary of the Treasury, and the Secretary of the Smithsonian Institution, ex officio; and five general trustees who shall be citizens of the United States, to be chosen as hereinafter provided. No officer or employee of the Federal Government shall be eligible to be chosen as a general trustee.

(b) Method of selection; term of office

The general trustees first taking office shall be chosen by the Board of Regents of the Smithsonian Institution, subject to the approval of the donor, and shall have terms expiring one each on July 1 of 1939, 1941, 1943, 1945, and 1947, as designated by the Board of Regents. A successor shall be chosen by a majority vote of the general trustees and shall have a term expiring ten years from the date of the expiration of the term for which his predecessor was chosen, except that a successor chosen to fill a vacancy occurring prior to the expiration of such term shall be chosen only for the remainder of such term.

(Mar. 24, 1937, ch. 50, §2, 50 Stat. 52.)

DELEGATION OF FUNCTIONS BY SECRETARY OF STATE TO DIRECTOR OF UNITED STATES INFORMATION AGENCY

Pub. L. 95–426, title II, §205, Oct. 7, 1978, 92 Stat. 975, as amended by Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291, provided that: "The Secretary of State may delegate to the Director of the United States Information Agency, with the consent of the Director, the functions vested in the Secretary by section 2(a) of the joint resolution entitled 'Joint Resolution providing for the construction and maintenance of a National Gallery of Art', approved March 24, 1937 (20 U.S.C. 72(a))."

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of Title 22, Foreign Relations and Intercourse.]

§73. Acceptance of gift from A. W. Mellon

Upon completion of the National Gallery of Art, the board shall accept for the Smithsonian Institution as a gift from the donor a collection of works of art which shall be housed and exhibited in the National Gallery of Art.

(Mar. 24, 1937, ch. 50, §3, 50 Stat. 52.)

§74. Maintenance

(a) Pledge of funds for upkeep; authorization of appropriations

The faith of the United States is pledged that, on completion of the National Gallery of Art by the

donor in accordance with the terms of this subchapter and the acquisition from the donor of the collection of works of art, the United States will provide such funds as may be necessary for the upkeep of the National Gallery of Art and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the board, so that the National Gallery of Art shall be at all times properly maintained and the works of art contained therein shall be exhibited regularly to the general public free of charge. For these purposes, and to provide, prior to the completion of the National Gallery of Art, for the protection and care of the works of art in said Gallery and for administrative and operating expenses and equipment preparatory to the opening of the Gallery to the public, there are authorized to be appropriated such sums as may be necessary.

(b) Acceptance of gifts and other property; investment of funds

The board is authorized to accept for the Smithsonian Institution and to hold and administer gifts, bequests, or devises of money, securities, or other property of whatsoever character for the benefit of the National Gallery of Art. Unless otherwise restricted by the terms of the gift, bequest, or devise, the board is authorized to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit of the National Gallery of Art. The income as and when collected shall be placed in such depositaries as the board shall determine and shall be subject to expenditure by the board.

(c) Appointment and compensation of officers and employees

The board shall appoint and fix the compensation and duties of a director, an assistant director, a secretary, and a chief curator of the National Gallery of Art, and of such other officers and employees of the National Gallery of Art as may be necessary for the efficient administration of the functions of the board. Such director, assistant director, secretary, and chief curator shall be compensated from trust funds available to the board for the purpose, and their appointment and salaries shall not be subject to the civil-service laws or chapter 51 and subchapter III of chapter 53 of title 5. The director, assistant director, secretary, and chief curator shall be well qualified by experience and training to perform the duties of their office and the original appointment to each such office shall be subject to the approval of the donor.

(d) Review of actions of board

The actions of the board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law.

(Mar. 24, 1937, ch. 50, §4, 50 Stat. 52; Apr. 13, 1939, ch. 61, 53 Stat. 577; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972.)

CODIFICATION

In subsec. (c), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949, as amended" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

1939—Subsec. (a). Act Apr. 13, 1939, inserted in last sentence "and to provide, prior to the completion of the National Gallery of Art, for the protection and care of the works of art in said Gallery and for administrative and operating expenses and equipment preparatory to the opening of the Gallery to the public".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

§74a. Permanent loan of funds by Board of Trustees to Treasury; semiannual interest payments to Board

The Secretary of the Treasury is authorized and directed to receive into the Treasury from time to time as a permanent loan by the Board of Trustees of the National Gallery of Art to the United States sums in cash of not to exceed $5,000,000 in the aggregate, and to pay interest on the principal amount of such loan at a rate which is the higher of the rate of 4 per centum per annum or a rate which is .25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum, payable semiannually. Such interest is permanently appropriated for payment to the Board of Trustees of the National Gallery of Art.

(Apr. 10, 1943, ch. 46, 57 Stat. 62; Pub. L. 94–418, Sept. 21, 1976, 90 Stat. 1278.)

CODIFICATION

Section was not enacted as part of act Mar. 24, 1937, ch. 50, 50 Stat. 51, which comprises this subchapter.

AMENDMENTS

1976—Pub. L. 94–418 inserted provision authorizing alternate interest rate to existing interest rate of 4 per centum per annum.

§75. Authority and functions of the board

(a) Official seal; bylaws, rules, and regulations; quorum

The board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations, as it deems necessary for the administration of its functions under this subchapter, including, among other matters, bylaws, rules, and regulations relating to the acquisition, exhibition, and loan of works of art, the administration of its trust funds, and the organization and procedure of the board. The board may function notwithstanding vacancies, and three members of the board shall constitute a quorum for the transaction of business.

(b) Quality of works of art

In order that the collection of the National Gallery of Art shall always be maintained at a high standard and in order to prevent the introduction therein of inferior works of art, no work of art shall be included in the permanent collection of the National Gallery of Art unless it be of similar high standard of quality to those in the collection acquired from the donor.

(c) Powers and obligations

The board shall have all the usual powers and obligations of a trustee in respect of all trust funds administered by it and all works of art acquired by it.

(d) Annual reports

The board shall submit to the Smithsonian Institution an annual report of its operations under this subchapter, including a detailed statement of all acquisitions and loans of works of art and of all public and private moneys received and disbursed.

(Mar. 24, 1937, ch. 50, §5, 50 Stat. 53.)

SUBCHAPTER III—NATIONAL PORTRAIT GALLERY

§75a. Definitions

For the purposes of this subchapter—

(a) The term "Board" means the Board of Regents of the Smithsonian Institution.

(b) The term "Commission" means the National Portrait Gallery Commission as provided for in

this subchapter.

(c) The term "Gallery" means the National Portrait Gallery established by this subchapter.

(d) The term "gift" includes a gift, bequest, or devise, whether outright or in trust, and any legal instrument by which the gift is effected.

(e) The term "portraiture" includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter.

(Pub. L. 87–443, §2, Apr. 27, 1962, 76 Stat. 62; Pub. L. 94–209, Feb. 5, 1976, 90 Stat. 30.)

AMENDMENTS

1976—Subsec. (e). Pub. L. 94–209 substituted "includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter" for "for purposes of this subchapter shall mean painted or sculptured likenesses".

SHORT TITLE

Pub. L. 87–443, §1, Apr. 27, 1962, 76 Stat. 62, provided: "That this Act [enacting this subchapter] may be cited as the 'National Portrait Gallery Act'."

§75b. Establishment of National Portrait Gallery; functions

(a) There is established in the Smithsonian Institution a bureau which shall be known as the National Portrait Gallery. The functions of such bureau shall be those authorized by this subchapter. The use for the purposes of the Gallery of any part of the building transferred to the Smithsonian Institution pursuant to the Act of March 28, 1958 (72 Stat. 68), is authorized.

(b) The Gallery shall function as a free public museum for the exhibition and study of portraiture and statuary depicting men and women who have made significant contributions to the history, development, and culture of the people of the United States and of the artists who created such portraiture and statuary.

(Pub. L. 87–443, §3, Apr. 27, 1962, 76 Stat. 62.)

REFERENCES IN TEXT

Act of March 28, 1958, referred to in subsec. (a), is act Mar. 28, 1958, Pub. L. 85–357, 72 Stat. 68, which was not classified to the Code.

PATENT OFFICE BUILDING IMPROVEMENTS

Pub. L. 108–72, §3, Aug. 15, 2003, 117 Stat. 888, provided that:

"(a) AUTHORIZATION OF USE OF FUNDS.—

"(1) IN GENERAL.—The Board of Regents of the Smithsonian Institution may plan, design, and construct improvements to the interior and exterior of the Patent Office Building (including the construction of a roof covering for the courtyard), using funds available to the Institution from nonappropriated sources.

"(2) DEFINITION.—In this section, the term 'Patent Office Building' means the building transferred to the Smithsonian Institution pursuant to Public Law 85–357 [72 Stat. 68].

"(b) DESIGN AND SPECIFICATIONS.—The design and specifications for any exterior alterations authorized by subsection (a) shall be—

"(1) submitted by the Secretary of the Smithsonian Institution (referred to in this section as the 'Secretary') to the Commission of Fine Arts for comments and recommendations; and

"(2) subject to the review and approval of the National Capital Planning Commission in accordance with section 8722 of title 40, United States Code, and section 16 of the Act of June 20, 1938 (sec. 6–641.15, D.C. Official Code).

"(c) AUTHORITY OF HISTORIC PRESERVATION AGENCIES.—

"(1) IN GENERAL.—The Secretary shall—

"(A) take into account the effect of the improvements authorized by subsection (a) on the historic character of the Patent Office Building; and

"(B) provide the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such improvements.

"(2) STATUS OF SMITHSONIAN.—In carrying out this subsection, and in carrying out other projects in the District of Columbia which are subject to the review and approval of the National Capital

Planning Commission in accordance with section 16 of the Act of June 20, 1938 (sec. 6–641.15, D.C. Official Code), the Smithsonian Institution shall be deemed to be an agency for purposes of compliance with regulations promulgated by the Advisory Council on Historic Preservation pursuant to section 106 of the National Historic Preservation Act ([former] 16 U.S.C. 470f) [see 54 U.S.C. 306108]."

§75c. Creation of National Portrait Gallery Commission; members; functions; powers

There is created the National Portrait Gallery Commission. The number, manner of appointment and tenure of the members of the Commission shall be such as the Board may from time to time prescribe. The Board may delegate to the Commission any function of the Gallery or any function of the Board with respect to the Gallery. The Board may make rules and regulations for the conduct of the affairs of the Commission and the operation of the Gallery, and to the extent and under such limitations as the Board deems advisable, the Board may delegate to the Commission the power to make such rules and regulations.

(Pub. L. 87–443, §4, Apr. 27, 1962, 76 Stat. 62.)

§75d. Acceptance of gifts; title to property

(a) The Board is authorized to accept for the Smithsonian Institution gifts of any property for the benefit of the Gallery.

(b) Legal title to all property (except property of the United States) held for the use or benefit of the Gallery shall be vested in the Smithsonian Institution. Subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, the Board is authorized to sell, exchange, or otherwise dispose of any property of whatsoever nature held by it, and to invest in, reinvest in, or purchase any property of whatsoever nature for the benefit of the National Portrait Gallery.

(Pub. L. 87–443, §5, Apr. 27, 1962, 76 Stat. 62.)

§75e. Powers of Board

For the purpose of carrying out any function authorized by section 75b of this title, the Board may—

(1) purchase, accept, borrow, or otherwise acquire portraiture, statuary, and other items for preservation, exhibition, or study. The Board may acquire any such item on the basis of its general historical interest, its artistic merit, or the historical significance of the individual to which it relates, or any combination of any such factors. The Board may acquire period furniture and other items to enhance its displays of portraiture and statuary.

(2) preserve or restore any item acquired pursuant to paragraph (1).

(3) display, loan, store, or otherwise hold any such item.

(4) sell, exchange, donate, return, or otherwise dispose of any such item.

(Pub. L. 87–443, §6, Apr. 27, 1962, 76 Stat. 63.)

§75f. Director; appointment and compensation; officers and employees

(a) The Board may appoint and fix the compensation and duties of a director of the Gallery, and his appointment and salary shall not be subject to the civil-service laws or chapter 51 and subchapter III of chapter 53 of title 5. The Board may employ such other officers and employees as may be necessary for the efficient administration, operation, and maintenance of the Gallery.

(b) The Board may delegate to the Secretary of the Smithsonian Institution, as well as to the Commission, any of its functions pursuant to subsection (a) of this section.

(Pub. L. 87–443, §7, Apr. 27, 1962, 76 Stat. 63.)

CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949, as amended" on authority of Pub. L. 89–554, §7(b) Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§75g. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.

(Pub. L. 87–443, §8, Apr. 27, 1962, 76 Stat. 63.)

SUBCHAPTER IV—SMITHSONIAN GALLERY OF ART

§§76, 76a. Omitted

CODIFICATION

Section 76, act May 17, 1938, ch. 238, §1, 52 Stat. 399, directed National Capital Park and Planning Commission to designate and President to assign a site for a building to house and display national collections of fine arts, portraits of eminent Americans, and works of artists deserving of recognition.

Section 76a, act May 17, 1938, ch. 238, §2, 52 Stat. 399, created Smithsonian Gallery of Art Commission which terminated upon approval by Regents of Smithsonian Institution of design for buildings and grounds.

§76b. Functions of Regents

(a) Solicitation of construction funds

The Regents are authorized to solicit and receive subscriptions of funds from private sources for the purposes specified in this subsection. Funds so received shall be placed in a special deposit account with the Treasurer of the United States, and may be expended by the Regents to meet the cost of the construction of the building, including furnishings and equipment thereof, to obtain necessary drawings and specifications, make necessary surveys and estimates of cost, defray necessary administrative expenses, and secure other needful services.

(b) Construction of building

The Regents may, subject to the approval of the President, authorize the preparation of the site and the construction of the building, including approaches and landscaping of the grounds: *Provided*, That the Administrator of General Services shall supervise the preparation of the plans and specifications, make all necessary contracts, and supervise construction.

(c) Name of building; supervision and control

The name of the building shall be the Smithsonian Gallery of Art (hereinafter referred to as the "Gallery"), and it shall be under the supervision and control of the Regents and the Secretary of the Smithsonian Institution.

(May 17, 1938, ch. 238, §3, 52 Stat. 400; 1939 Reorg. Plan No. I, §§301, 303, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1426, 1427; June 30, 1949, ch. 288, title I, §103, 63 Stat. 380.)

TRANSFER OF FUNCTIONS

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator, transferred to Administrator of General Services, and Federal Works Agency and office of

Federal Works Administrator abolished by section 103 of act June 30, 1949. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, §2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

Functions of Director of Procurement relating to selection of location and sites of public buildings transferred to Federal Works Administrator by Reorg. Plan No. I of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

§76c. Policy to foster appreciation of past and contemporary art

(a) Solicitations of private donations

It shall be the policy of the Regents to maintain a worthy standard for the acceptance of art objects for exhibition in the Gallery, and to foster by public exhibitions from time to time in Washington, and other parts of the United States a growing appreciation of art, both of past and contemporary time; and the Regents are authorized to solicit and receive private donations of works of art and contributions of funds from private sources for the purchase of works of art. Funds so received shall be placed in a special deposit account with the Treasurer of the United States and may be expended by the Regents for the purchase of works of art.

(b) Solicitation of funds to acquire and sell works of art, employ artists, award scholarships, etc.

In order to encourage the development of contemporary art and to effect the widest distribution and cultivation in matters of such art, the Regents are authorized to solicit and receive funds from private sources, to acquire (by purchase or otherwise) and sell contemporary works of art or copies thereof, to employ artists and other personnel, award scholarships, conduct exhibitions, and generally to do such things and have such other powers as will effectuate the purposes of this subsection. Funds received by the Regents under this subsection shall be placed in a special deposit account with the Treasurer of the United States and may be expended by the Regents for the purposes enumerated in this subsection and for no other purposes: *Provided*, That the Regents shall not incur any obligations under this subsection in excess of the funds available therefor.

(May 17, 1938, ch. 238, §4, 52 Stat. 400.)

§76d. Donations of works of art from Government agencies

The Administrator of General Services and other agencies of the Government are authorized to donate to the Gallery any works of art now or hereafter under their control.

(May 17, 1938, ch. 238, §5, 52 Stat. 401; 1939 Reorg. Plan No. I, §§301, 303, eff. July 1, 1939, 4 FR 2729, 53 Stat. 1426, 1427; June 30, 1949, ch. 288, title I, §103, 63 Stat. 380.)

TRANSFER OF FUNCTIONS

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator, transferred to Administrator of General Services, and Federal Works Agency and office of Federal Works Administrator abolished by section 103 of act June 30, 1949. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109–313, §2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

Public Buildings Branch of Procurement Division in Treasury Department and Public Works Administration and other agencies were consolidated into Federal Works Agency, and functions transferred to Federal Works Administrator, by Reorg. Plan No. I of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

§76e. Housing or exhibiting objects of art possessed by Smithsonian Institution

Such objects of art as the Government or the Smithsonian Institution now possess, or such as may hereafter be acquired, may be housed or exhibited in the Gallery, with the approval of and under such regulations as the Regents and Secretary of the Smithsonian Institution may prescribe.

(May 17, 1938, ch. 238, §6, 52 Stat. 401.)

§76f. Appointment, compensation, and duties of Director of Gallery; personnel

The Regents may appoint and fix the compensation and duties of a Director of the Gallery and may employ such other officers and employees as may be necessary for the efficient operation and administration of the Gallery.

(May 17, 1938, ch. 238, §7, 52 Stat. 401.)

§76g. Authorization of appropriations

There are authorized to be appropriated annually such sums as may be necessary to maintain and administer the Gallery, including the salaries of the Director and of other necessary officers and employees, and for special public exhibitions at Washington and elsewhere.

(May 17, 1938, ch. 238, §8, 52 Stat. 401.)

SUBCHAPTER V—JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

§76h. Board of Trustees

(a) Establishment

(1) In general

There is established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the John F. Kennedy Center for the Performing Arts (hereafter in this subchapter referred to as the "Board"), whose duty it shall be to maintain and administer the John F. Kennedy Center for the Performing Arts and site thereof as the National Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy, and to execute such other functions as are vested in the Board by this subchapter.

(2) Membership

The Board shall be composed of—

(A) the Secretary of Health and Human Services;
(B) the Librarian of Congress;
(C) the Secretary of State;
(D) the Chairman of the Commission of Fine Arts;
(E) the Mayor of the District of Columbia;
(F) the Superintendent of Schools of the District of Columbia;
(G) the Director of the National Park Service;
(H) the Secretary of Education;
(I) the Secretary of the Smithsonian Institution;
(J)(i) the Speaker and the Minority Leader of the House of Representatives;
(ii) the chairman and ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives; and

(iii) three additional Members of the House of Representatives appointed by the Speaker of the House of Representatives;

(K)(i) the Majority Leader and the Minority Leader of the Senate;

(ii) the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate; and

(iii) three additional Members of the Senate appointed by the President of the Senate; and

(L) thirty-six general trustees, who shall be citizens of the United States, to be appointed in accordance with subsection (b) of this section.

(b) General trustees

The general trustees shall be appointed by the President of the United States. Each trustee shall hold office as a member of the Board for a term of 6 years, except that—

(1) any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term;

(2) a member shall continue to serve until the successor of the member has been appointed; and

(3) the term of office of a member appointed before July 21, 1994, shall expire as designated at the time of appointment.

(c) Advisory Committee on the Arts

There shall be an Advisory Committee on the Arts composed of such members as the President of the United States may designate, to serve at the pleasure of the President. Persons appointed to the Advisory Committee on the Arts, including officers or employees of the United States, shall be persons who are recognized for their knowledge of, or experience or interest in, one or more of the arts in the fields covered by the John F. Kennedy Center for the Performing Arts. The President shall designate the Chairman of the Advisory Committee on the Arts. In making such appointments the President shall give consideration to such recommendations as may from time to time be submitted to him by leading national organizations in the appropriate art fields. The Advisory Committee on the Arts shall advise and consult with the Board and make recommendations to the Board regarding existing and prospective cultural activities to be carried out by the John F. Kennedy Center for the Performing Arts. The Advisory Committee on the Arts shall assist the Board in carrying out section 76k(a) of this title. Members of the Advisory Committee on the Arts shall serve without compensation.

(Pub. L. 85–874, §2, Sept. 2, 1958, 72 Stat. 1698; Pub. L. 88–100, §§1, 2, Aug. 19, 1963, 77 Stat. 128; Pub. L. 88–260, §1(2), Jan. 23, 1964, 78 Stat. 4; Pub. L. 103–279, §2(b)(1), (c), (d), July 21, 1994, 108 Stat. 1409, 1410; Pub. L. 107–117, div. D, title II, §201(a), Jan. 10, 2002, 115 Stat. 2353; Pub. L. 110–338, §2, Oct. 3, 2008, 122 Stat. 3731.)

AMENDMENTS

2008—Subsec. (a)(2)(J)(ii). Pub. L. 110–338 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

2002—Subsec. (a). Pub. L. 107–117 designated existing provisions as par. (1), inserted par. heading, struck out "hereby" before "established", struck out second sentence, and added par. (2). Prior to amendment, second sentence read as follows: "The Board shall be composed as follows: The Secretary of Health and Human Services, the Librarian of Congress, the Director of the United States Information Agency, the Chairman of the Commission of Fine Arts, the Mayor of the District of Columbia, the Superintendent of Schools of the District of Columbia, the Director of the National Park Service, the Secretary of Education, the Secretary of the Smithsonian Institution, the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives and 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives, and the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate and 3 additional Members of the Senate appointed by the President of the Senate ex officio; and thirty general trustees who shall be citizens of the United States, to be chosen as hereinafter provided."

1994—Pub. L. 103–279, §2(b)(1)(A), substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103–279, §2(b)(1)(A), inserted heading, in first sentence inserted "as the National

Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy," after "and site thereof", and in second sentence substituted "Superintendent of Schools of the District of Columbia" for "Chairman of the District of Columbia Recreation Board" and "the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives and 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives, and the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate and 3 additional Members of the Senate appointed by the President of the Senate" for "three Members of the Senate appointed by the President of the Senate, and three Members of the House of Representatives appointed by the Speaker of the House of Representatives".

Subsec. (b). Pub. L. 103–279, §2(c), inserted heading and amended text generally. Prior to amendment, text read as follows: "The general trustees shall be appointed by the President of the United States and each such trustee shall hold office as a member of the Board for a term of ten years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (2) the terms of any members appointed prior to August 19, 1963, shall expire as designated by the President at the time of appointment, and (3) the terms of the first fifteen members appointed to the Board pursuant to the amendments made by the National Cultural Center Amendments Act of 1963 shall expire, as designated by the President at the time of appointment, three on September 1, 1964, three on September 1, 1966, three on September 1, 1968, three on September 1, 1970, and three on September 1, 1972."

Subsec. (c). Pub. L. 103–279, §2(d), inserted heading, inserted "of the United States" before "may designate" in first sentence, substituted "carried out by the John" for "carried on in the John" in fifth sentence, and struck out before period at end of last sentence ", but each member of such Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in connection with the work of such Committee".

1964—Subsecs. (a), (c). Pub. L. 88–260 substituted "John F. Kennedy Center for the Performing Arts" for "National Cultural Center" wherever appearing.

1963—Subsec. (a). Pub. L. 88–100, §1, substituted "thirty" for "fifteen" after "ex officio; and".

Subsec. (b). Pub. L. 88–100, §2, inserted provisions governing the terms of the additional fifteen general trustees added to the Board by section 1 of Pub. L. 88–100.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–279, §2(b)(2), July 21, 1994, 108 Stat. 1410, provided that:

"(A) SUPERINTENDENT OF SCHOOLS OF THE DISTRICT OF COLUMBIA.—The amendment made by paragraph (1)(C)(i) [amending this section] shall take effect on the date of expiration of the term of the Chairman of the District of Columbia Recreation Board serving as a trustee of the John F. Kennedy Center for the Performing Arts on the date of enactment of this Act [July 21, 1994].

"(B) MEMBERS OF CONGRESS.—The amendment made by paragraph (1)(C)(ii) [amending this section] shall take effect on the date of enactment of this Act."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–131, §1, June 8, 2012, 126 Stat. 377, provided that: "This Act [amending sections 76i and 76r of this title] may be cited as the 'John F. Kennedy Center Reauthorization Act of 2012'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–338, §1, Oct. 3, 2008, 122 Stat. 3731, provided that: "This Act [enacting section 76m of this title, amending this section and section 76r of this title, and enacting provisions set out as a note under this section] may be cited as the 'John F. Kennedy Center Reauthorization Act of 2008'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–410, §1, Oct. 30, 2004, 118 Stat. 2303, provided that: "This Act [amending sections 76q–1 and 76r of this title] may be cited as the 'John F. Kennedy Center Reauthorization Act of 2004'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–224, §1, Sept. 18, 2002, 116 Stat. 1340, provided that: "This Act [enacting section 76q–1 of this title and amending sections 76j, 76r, and 76s of this title] may be cited as the 'John F. Kennedy Center Plaza Authorization Act of 2002'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–226, §1, Aug. 12, 1998, 112 Stat. 1513, provided that: "This Act [amending sections 76j, 76l,

and 76r of this title] may be cited as the 'John F. Kennedy Center for the Performing Arts Authorization Act of 1998'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–95, §1, Nov. 19, 1997, 111 Stat. 2148, provided that: "This Act [amending sections 76i to 76k and 76s of this title and section 193v of former Title 40, Public Buildings, Property, and Works] may be cited as the 'John F. Kennedy Center Parking Improvement Act of 1997'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–279, §1, July 21, 1994, 108 Stat. 1409, provided that: "This Act [enacting sections 76r and 76s of this title, amending this section, sections 76j, 76k, 76l, and 76p of this title, and sections 193r, 193u, and 193v of former Title 40, Public Buildings, Property, and Works, enacting provisions set out as notes under this section, and amending provisions set out as a note under this section] may be cited as the 'John F. Kennedy Center Act Amendments of 1994'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–473, title I, §101(c), Oct. 12, 1984, 98 Stat. 1837, 1876, provided that: "The following [amending section 76o of this title] may be cited as 'The John F. Kennedy Center Act Amendments of 1984'."

SHORT TITLE OF 1963 AMENDMENT

Pub. L. 88–100, §5, Aug. 19, 1963, 77 Stat. 128, provided that: "This Act [amending this section and sections 76l and 76m of this title] may be cited as the 'National Cultural Center Amendments Act of 1963'."

SHORT TITLE

Section 1(a), formerly §1, of Pub. L. 85–874, as amended by Pub. L. 88–260, §1(1), Jan. 23, 1964, 78 Stat. 4; redesignated §1(a), Pub. L. 103–279, §2(a)(1), July 21, 1994, 108 Stat. 1409, provided that: "This Act [enacting this subchapter] may be cited as the 'John F. Kennedy Center Act'."

EXISTING AUTHORITIES

Pub. L. 110–338, §5, Oct. 3, 2008, 122 Stat. 3732, provided that: "Nothing in this Act [see Short Title of 2008 Amendment note above] limits or otherwise affects the authority or responsibility of the National Capital Planning Commission or the Commission of Fine Arts."

TERMS OF OFFICE FOR NEW GENERAL TRUSTEES

Pub. L. 107–117, div. D, title II, §201(b), Jan. 10, 2002, 115 Stat. 2354, provided that: "Section 2(b) of the John F. Kennedy Center Act (20 U.S.C. 76h(b)) shall apply to each general trustee of the John F. Kennedy Center for the Performing Arts whose position is established by the amendment made by subsection (a)(2) [amending this section] (referred to in this subsection as a 'new general trustee'), except that the initial term of office of each new general trustee shall—

"(1) commence on the date on which the new general trustee is appointed by the President; and

"(2) terminate on September 1, 2007."

NATIONAL CULTURAL CENTER; DESIGNATION OR REFERENCES

Pub. L. 88–260, §2, Jan. 23, 1964, 78 Stat. 5, provided that: "In addition to the amendments made by the first section of this Act [enacting sections 76n to 76q, and amending sections 76h to 76q of this title], any designation or reference to the National Cultural Center in any other law, map, regulation, document, record, or other paper of the United States shall be held to designate or refer to such Center as the John F. Kennedy Center for the Performing Arts."

CONGRESSIONAL FINDINGS

Section 1(b) of Pub. L. 85–874, as added by Pub. L. 103–279, §2(a)(2), July 21, 1994, 108 Stat. 1409, provided that: "Congress finds that—

"(1) the late John Fitzgerald Kennedy served with distinction as President of the United States and as a Member of the Senate and the House of Representatives;

"(2) by the untimely death of John Fitzgerald Kennedy the United States and the world have suffered a great loss;

"(3) the late John Fitzgerald Kennedy was particularly devoted to education and cultural understanding and the advancement of the performing arts;

"(4) it is fitting and proper that a living institution of the performing arts, designated as the National Center for the Performing Arts, named in the memory and honor of this great leader, shall serve as the sole

national monument to his memory within the District of Columbia and its environs;

"(5) such a living memorial serves all of the people of the United States by preserving, fostering, and transmitting the performing arts traditions of the people of the United States and other countries by producing and presenting music, opera, theater, dance, and other performing arts; and

"(6) such a living memorial should be housed in the John F. Kennedy Center for the Performing Arts, located in the District of Columbia."

§76i. John F. Kennedy Center for the Performing Arts

(a) In general

The Board shall construct for the Smithsonian Institution, with funds raised by voluntary contributions, a building to be designated as the John F. Kennedy Center for the Performing Arts on a site in the District of Columbia bounded by the Inner Loop Freeway on the east, the Theodore Roosevelt Bridge approaches on the south, Rock Creek Parkway on the west, New Hampshire Avenue and F Street on the north, which shall be selected for such purpose by the National Capital Planning Commission. The National Capital Planning Commission shall acquire by purchase, condemnation, or otherwise, lands necessary to provide for the John F. Kennedy Center for the Performing Arts and related facilities. Such building shall be in accordance with plans and specifications approved by the Commission of Fine Arts.

(b) Parking garage additions and site improvements

(1) In general

Substantially in accordance with the plan entitled "Site Master Plan—Drawing Number 1997–2 April 29, 1997," and map number NCR 844/82571, the Board may design and construct—

(A) an addition to the parking garage at each of the north and south ends of the John F. Kennedy Center for the Performing Arts; and

(B) site improvements and modifications.

(2) Availability

The plan shall be on file and available for public inspection in the office of the Secretary of the Center.

(3) Limitation on use of appropriated funds

No appropriated funds may be used to pay the costs (including the repayment of obligations incurred to finance costs) of—

(A) the design and construction of an addition to the parking garage authorized under paragraph (1)(A);

(B) the design and construction of site improvements and modifications authorized under paragraph (1)(B) that the Board specifically designates will be financed using sources other than appropriated funds; or

(C) any project to acquire large screen format equipment for an interpretive theater, or to produce an interpretive film, that the Board specifically designates will be financed using sources other than appropriated funds.

(c) Expansion project

(1) Authority to construct

(A) In general

Subject to the requirements of this subsection, the Board may undertake such activities as may be necessary to construct the expansion project.

(B) Responsibilities of the Board

The Board may construct the expansion project, and shall be responsible for the planning, design, engineering, and construction of the expansion project.

(C) Limitations

(i) Mission

All activities carried out under this paragraph shall be within the mission of the John F. Kennedy Center for the Performing Arts to serve as the national center for the performing arts.

(ii) Funding

The costs of planning, design, engineering, and construction of the expansion project shall be paid for using nonappropriated funds.

(2) Annual operations and maintenance costs

(A) Estimates

Before awarding a contract for construction of the expansion project, the Board shall estimate any additional annual operations and maintenance costs (or savings) associated with the project.

(B) Budget requests

The Board shall account for any additional costs identified under subparagraph (A) in making a budget request for fiscal year 2014 and each fiscal year thereafter.

(C) Budget priorities

The Board shall base a final determination on whether to proceed with the expansion project on the ability of the Board to accommodate any additional costs identified under subparagraph (A) within the other budget priorities of the Board.

(3) Acknowledgments

The Board may acknowledge private contributions used in carrying out the expansion project in the interior of the project, but may not acknowledge such private contributions on the exterior of the project. Any acknowledgment of private contributions under this paragraph shall be consistent with the requirements of section 76j(b) of this title.

(4) Expansion project defined

In this subsection, the term "expansion project" means an addition to the south end of the building of the John F. Kennedy Center for the Performing Arts that—

(A) is less than 100,000 square feet;

(B) will improve the existing (as of June 8, 2012) accessibility and education functions of the Center; and

(C) will become part of the existing (as of June 8, 2012) structure of the Center.

(Pub. L. 85–874, §3, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–260, §1(2), Jan. 23, 1964, 78 Stat. 4; Pub. L. 105–95, §2, Nov. 19, 1997, 111 Stat. 2148; Pub. L. 112–131, §2, June 8, 2012, 126 Stat. 377.)

AMENDMENTS

2012—Subsec. (c). Pub. L. 112–131 added subsec. (c).

1997—Pub. L. 105–95 substituted section catchline for former section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

1964—Pub. L. 88–260 substituted "John F. Kennedy Center for the Performing Arts" for "National Cultural Center" wherever appearing.

§76j. Duties of Board

(a) Programs, activities, and goals

(1) In general

The Board shall—

(A) present classical and contemporary music, opera, drama, dance, and other performing arts

from the United States and other countries;

(B) promote and maintain the John F. Kennedy Center for the Performing Arts as the National Center for the Performing Arts—

(i) by developing and maintaining a leadership role in national performing arts education policy and programs, including developing and presenting original and innovative performing arts and educational programs for children, youth, families, adults, and educators designed specifically to foster an appreciation and understanding of the performing arts;

(ii) by developing and maintaining a comprehensive and broad program for national and community outreach, including establishing model programs for adaptation by other presenting and educational institutions; and

(iii) by conducting joint initiatives with the national education and outreach programs of the Very Special Arts, an entity affiliated with the John F. Kennedy Center for the Performing Arts which has an established program for the identification, development, and implementation of model programs and projects in the arts for disabled individuals;

(C) strive to ensure that the education and outreach programs and policies of the John F. Kennedy Center for the Performing Arts meet the highest level of excellence and reflect the cultural diversity of the United States;

(D) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts;

(E) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President;

(F) develop, and update annually, a comprehensive building needs plan for the features of the John F. Kennedy Center for the Performing Arts in existence on July 21, 1994;

(G) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary to maintain the functionality of the building and site at current standards of life, safety, security, and accessibility;

(H) provide—

(i) information and interpretation; and

(ii) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operations of, the building and site, in a manner consistent with requirements for high quality operations; and

(I) ensure that safe and convenient access to the site of the John F. Kennedy Center for the Performing Arts is provided for pedestrians and vehicles.

(2) Administrative powers and duties

(A) Authority to enter into contracts

The Board, in accordance with applicable law, may enter into contracts or other arrangements with, and make payments to, public agencies or private organizations or other private persons in order to carry out the functions of the Board under this subchapter. The authority described in the preceding sentence includes utilizing the services and facilities of other agencies, including the Department of the Interior, the General Services Administration, and the Smithsonian Institution.

(B) Preparation of budget

The Board shall prepare a budget pursuant to sections 1104, 1105(a), and 1513(b) of title 31.

(C) Use of agency personnel

The Board may utilize or employ the services of the personnel of any agency or instrumentality of the Federal Government or the District of Columbia, with the consent of the agency or the instrumentality concerned, on a reimbursable basis, and utilize voluntary and

uncompensated personnel.

(D) Selection of contractors

In carrying out the duties of the Board under this subchapter, the Board may negotiate any contract—

(i) for planning, design, engineering, or construction of buildings to be erected on the John F. Kennedy Center Plaza under section 76q–1 of this title and for landscaping and other improvements to the Plaza; or

(ii) for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts,

with selected contractors and award the contract on the basis of contractor qualifications as well as price.

(E) Maintenance of halls

The Board shall maintain the Hall of Nations, the Hall of States, and the Grand Foyer of the John F. Kennedy Center for the Performing Arts in a manner that is suitable to a national performing arts center that is operated as a Presidential memorial and in a manner consistent with other national Presidential memorials.

(F) Maintenance of grounds

The Board shall manage and operate the grounds of the John F. Kennedy Center for the Performing Arts in a manner consistent with National Park Service regulations and agreements in effect on July 21, 1994. No change in the management and operation of the grounds may be made without the express approval of Congress and of the Secretary of the Interior.

(b) Restriction on additional memorials

(1) Except as provided in paragraph (2) of this subsection, the Board shall assure that after December 2, 1983, no additional memorials or plaques in the nature of memorials shall be designated or installed in the public areas of the John F. Kennedy Center for the Performing Arts.

(2) Paragraph (1) of this subsection shall not apply to—

(A) any plaque acknowledging a gift from a foreign country;

(B) any plaque on a theater chair or a theater box acknowledging the gift of such chair or box; and

(C) any inscription on the marble walls in the north or south galleries, the Hall of States, or the Hall of Nations acknowledging a major contribution;

which plaque or inscription is permitted under policies of the Board in effect on December 2, 1983.

(3) For purposes of this subsection, testimonials and benefit performances shall not be construed to be memorials.

(Pub. L. 85–874, §4, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–260, §1(3), Jan. 23, 1964, 78 Stat. 4; Pub. L. 98–205, §4, Dec. 2, 1983, 97 Stat. 1388; Pub. L. 103–279, §3, July 21, 1994, 108 Stat. 1411; Pub. L. 105–95, §3(a), Nov. 19, 1997, 111 Stat. 2149; Pub. L. 105–226, §§2, 3, Aug. 12, 1998, 112 Stat. 1513; Pub. L. 107–224, §4(a), Sept. 18, 2002, 116 Stat. 1343.)

AMENDMENTS

2002—Subsec. (a)(2)(D). Pub. L. 107–224 amended heading and text of subpar. (D) generally. Prior to amendment, text read as follows: "In carrying out the duties of the Board under this subchapter, the Board may negotiate any contract for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts with selected contractors and award the contract on the basis of contractor qualifications as well as price."

1998—Subsec. (a)(1)(G). Pub. L. 105–226, §2, amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: "with respect to each feature of the building and site of the John F. Kennedy

Center for the Performing Arts that is in existence on July 21, 1994 (including a theater, the garage, the plaza, or a building walkway), plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary for the feature;".

Subsec. (a)(1)(H)(ii). Pub. L. 105–226, §3, amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on July 21, 1994 (including a theater, the garage, the plaza, or a building walkway), all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operation of, the feature, in a manner consistent with requirements for high quality operations; and".

1997—Subsec. (a)(1)(I). Pub. L. 105–95 added subpar. (I).

1994—Pub. L. 103–279 substituted section catchline for former section catchline, added heading and text of subsec. (a), and struck out former subsec. (a) which read as follows: "The Board shall—

"(1) present classical and contemporary music, opera, drama, dance, and poetry from this and other countries,

"(2) present lectures and other programs,

"(3) develop programs for children and youth and the elderly (and for other age groups as well) in such arts designed specifically for their participation, education, and recreation,

"(4) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts,

"(5) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President."

1983—Pub. L. 98–205 designated existing provisions as subsec. (a) and added subsec. (b).

1964—Pub. L. 88–260 struck out "and" at end of par. (3), substituted "John F. Kennedy Center for the Performing Arts" for "Cultural Center" in par. (4), and added par. (5).

ACCESS TO JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Pub. L. 105–178, title I, §1214(a), June 9, 1998, 112 Stat. 204, provided that:

"(1) STUDY.—The Secretary [of Transportation], in cooperation with the District of Columbia, the John F. Kennedy Center for the Performing Arts, and the Department of the Interior and in consultation with other interested persons, shall conduct a study of methods to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts.

"(2) REPORT.—Not later than September 30, 1999, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing the results of the study with an assessment of the impacts (including environmental, aesthetic, economic, and historical impacts) associated with the implementation of each of the methods examined under the study.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $500,000 for fiscal year 1998.

"(4) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted using such funds shall be 100 percent and such funds shall remain available until expended."

§76k. Powers of Board

(a) Solicitation and acceptance of gifts

The Board is authorized to solicit and accept for the John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution, and to hold and administer gifts, bequests, or devises of money, securities, or other property of whatsoever character for the benefit of the John F. Kennedy Center for the Performing Arts. Unless otherwise restricted by the terms of the gift, bequest, or devise, the Board is authorized to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit of the John F. Kennedy Center for the Performing Arts. The income as and when collected shall be placed in such depositaries as the Board shall determine and shall be subject to expenditure by the Board.

(b) Appointment of officers and employees

(1) Chairperson and Secretary

The Board shall appoint and fix the compensation and duties of a Chairperson of the John F. Kennedy Center for the Performing Arts, who shall serve as the chief executive officer of the Center, and a Secretary of the John F. Kennedy Center for the Performing Arts. The Chairperson and Secretary shall be well qualified by experience and training to perform the duties of their respective offices.

(2) Senior level executive and other employees

The Chairperson of the John F. Kennedy Center for the Performing Arts may appoint—

(A) a senior level executive who, by virtue of the background of the individual, shall be well suited to be responsible for facilities management and services and who may, without regard to the provisions of title 5, be appointed and compensated with appropriated funds, except that the compensation may not exceed the maximum rate of pay prescribed for level IV of the Executive Schedule under section 5315 of title 5; and

(B) such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient administration of the functions of the Board.

(c) Transfer of property

Not later than October 1, 1995, the property, liabilities, contracts, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred from the Secretary of the Interior pursuant to the amendments made by the John F. Kennedy Center Act Amendments of 1994 shall be transferred, subject to section 1531 of title 31, to the Board as the Board and the Secretary of the Interior may determine appropriate. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which, and subject to the terms under which, the funds were originally authorized and appropriated.

(d) Transfer of personnel

(1) In general

Employees of the National Park Service assigned to duties related to the functions being undertaken by the Board shall be transferred with their functions to the Board not later than October 1, 1995.

(2) Rights and benefits

Transferred employees shall remain in the Federal competitive service and retain all rights and benefits provided under title 5. For a period of not less than 3 years after the date of transfer of an employee under paragraph (1), the transferred employee shall retain the right of priority consideration under merit promotion procedures or lateral reassignment for all vacancies within the Department of the Interior.

(3) Park Police

All United States Park Police and Park Police guard force employees assigned to the John F. Kennedy Center for the Performing Arts shall remain employees of the National Park Service.

(4) Costs

All usual and customary costs associated with any adverse action or grievance proceeding resulting from the transfer of functions under this section that are incurred before October 1, 1995, shall be paid from funds appropriated to the John F. Kennedy Center for the Performing Arts.

(5) Reorganization authority

Nothing contained in this section shall prohibit the Board from reorganizing functions at the John F. Kennedy Center for the Performing Arts in accordance with laws governing reorganizations.

(e) Review of Board actions

The actions of the Board relating to performing arts and to payments made or directed to be made by the Board from any trust funds shall not be subject to review by any officer or agency other than a court of law.

(f) Collective bargaining

(1) "Theatrical employee" defined

As used in this subsection, the term "theatrical employee" means a nonappropriated fund employee of the Board, who is engaged in a box office, performing, or theatrical trade that is the subject of a collective bargaining agreement as of January 1, 1994, including any change in the trade as a result of a technological advance.

(2) Collective bargaining

(A) In general

For the purposes of the National Labor Relations Act (29 U.S.C. 151 et seq.) and the Labor-Management Relations Act, 1947 (29 U.S.C. 141 et seq.)—

(i) each theatrical employee shall be considered to be an "employee" within the meaning of section 2(3) of the National Labor Relations Act (29 U.S.C. 152(3)); and

(ii) with respect to a theatrical employee, the Board shall be considered to be an "employer" within the meaning of section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)).

(B) Rights and obligations

With respect to each theatrical employee, the theatrical employee and the Board shall have all of the rights and obligations specified in such Acts.

(g) Pedestrian and vehicular access

Subject to approval of the Secretary of the Interior under section 76j(a)(2)(F) of this title, the Board shall develop plans and carry out projects to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts.

(Pub. L. 85–874, §5, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–260, §1(2), Jan. 23, 1964, 78 Stat. 4; Pub. L. 103–279, §4, July 21, 1994, 108 Stat. 1413; Pub. L. 105–95, §3(b), Nov. 19, 1997, 111 Stat. 2149.)

REFERENCES IN TEXT

The John F. Kennedy Center Act Amendments of 1994, referred to in subsec. (c), is Pub. L. 103–279, July 21, 1994, 108 Stat. 1409, which enacted sections 76r and 76s of this title, amended this section, sections 76h, 76j, 76l, and 76p of this title, and sections 193r, 193u, and 193v of former Title 40, Public Buildings, Property, and Works, and enacted and amended provisions set out as notes under section 76h of this title. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 76h of this title and Tables.

The National Labor Relations Act, referred to in subsec. (f)(2), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

The Labor Management Relations Act, 1947, referred to in subsec. (f)(2), is act June 23, 1947, ch. 120, 61 Stat. 136, as amended, which is classified principally to chapter 7 (§141 et seq.) of Title 29. For complete classification of this Act to the Code, see section 141 of Title 29 and Tables.

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–95 added subsec. (g).

1994—Pub. L. 103–279, §4(a)(1), substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103–279, §4(a)(1), inserted heading and substituted "John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution," for "Smithsonian Institution".

Subsec. (b). Pub. L. 103–279, §4(b), inserted heading and amended text generally. Prior to amendment, text read as follows: "The Board shall appoint and fix the compensation and duties of a director, an assistant director, and a secretary of the John F. Kennedy Center for the Performing Arts and of such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient

administration of the functions of the Board. The director, assistant director, and secretary shall be well qualified by experience and training to perform the duties of their office."

Subsec. (c). Pub. L. 103–279, §4(c), added heading and text of subsec. (c) and struck out text of former subsec. (c). Prior to amendment, text read as follows: "The actions of the Board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law."

Subsecs. (d) to (f). Pub. L. 103–279, §4(c), added subsecs. (d) to (f).

1964—Subsecs. (a), (b). Pub. L. 88–260 substituted "John F. Kennedy Center for the Performing Arts" for "National Cultural Center" wherever appearing.

§76*l*. Official seal, Board vacancies and quorum, trustee powers and obligations, reports, support services, and review and audit

(a) Adoption of seal; Board function notwithstanding vacancies; quorum

The Board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations, as it deems necessary for the administration of its functions under this subchapter, including, among other matters, bylaws, rules, and regulations relating to the administration of its trust funds and the organization and procedure of the Board. The Board may function notwithstanding vacancies and twelve members of the Board shall constitute a quorum for the transaction of business.

(b) Powers and obligations of Board in respect of trust funds

The Board shall have all the usual powers and obligations of a trustee in respect of all trust funds administered by it.

(c) Annual report of operations and finances

The Board shall submit to the Smithsonian Institution and to Congress an annual report of the operations of the Board under this subchapter, including a detailed statement of all public and private moneys received and disbursed by it.

(d) Inspector General

The functions of the Board funded by funds appropriated pursuant to section 76r [1] of this title shall be subject to the requirements for a Federal entity under the Inspector General Act of 1978 (5 U.S.C. App.). The Inspector General of the Smithsonian Institution is authorized to carry out the requirements of such Act on behalf of the Board, on a reimbursable basis when requested by the Board.

(e) Property and personnel compensation

(1) In general

The Board may procure insurance against any loss in connection with the property of the Board and other assets administered by the Board. Each employee and volunteer of the Board shall be considered to be a civil employee of the United States (within the meaning of the term "employee" as defined in section 8101(1) of title 5), except that the Board shall continue to provide benefits with respect to any disability or death resulting from a personal injury to a nonappropriated fund employee of the Board sustained while in the performance of the duties of the employee for the Board pursuant to the workers compensation statute of the jurisdiction in which the John F. Kennedy Center for the Performing Arts is located. The disability or death benefits referred to in the preceding sentence, whether under the workers compensation statute referred to in the preceding sentence or under chapter 81 of title 5, shall continue to be the exclusive liability of the Board and the United States with respect to all employees and volunteers of the Board.

(2) Federal tort claims

For the purposes of chapter 171 of title 28, an employee of the Board shall be considered to be an "employee of the government" and the Board shall be considered to be a "Federal agency". No

employee of the Board may bring suit against the United States or the Board under the Federal tort claims procedure of chapter 171 of title 28 for disability or death resulting from personal injury sustained while in the performance of the duties of the employee for the Board.

(Pub. L. 85–874, §6, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–100, §3, Aug. 19, 1963, 77 Stat. 128; Pub. L. 88–260, §1(4), (5), Jan. 23, 1964, 78 Stat. 4; Pub. L. 92–313, §10, June 16, 1972, 86 Stat. 222; Pub. L. 93–67, July 10, 1973, 87 Stat. 161; Pub. L. 94–119, §§1, 2, Oct. 21, 1975, 89 Stat. 608; Pub. L. 94–578, title III, §314, Oct. 21, 1976, 90 Stat. 2737; Pub. L. 95–50, §2, June 20, 1977, 91 Stat. 232; Pub. L. 95–305, June 29, 1978, 92 Stat. 348; Pub. L. 96–587, §1, Dec. 23, 1980, 94 Stat. 3387; Pub. L. 97–73, Nov. 3, 1981, 95 Stat. 1064; Pub. L. 97–202, June 24, 1982, 96 Stat. 128; Pub. L. 101–449, §§1–3, Oct. 22, 1990, 104 Stat. 1050; Pub. L. 102–500, §1, Oct. 24, 1992, 106 Stat. 3267; Pub. L. 103–279, §5, July 21, 1994, 108 Stat. 1414; Pub. L. 105–226, §4, Aug. 12, 1998, 112 Stat. 1513.)

REFERENCES IN TEXT

Section 76r of this title, referred to in subsec. (d), was in the original a reference to section 12 of Pub. L. 85–874. Section 12 of Pub. L. 85–874 was renumbered as section 13, and a new section 12 was added, by Pub. L. 107–224, §2, Sept. 18, 2002, 116 Stat. 1340. Sections 12 and 13 are classified to sections 76q–1 and 76r, respectively, of this title.

The Inspector General Act of 1978, referred to in subsec. (d), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsecs. (d) to (f). Pub. L. 105–226 redesignated subsecs. (e) and (f) as (d) and (e), respectively, and struck out heading and text of former subsec. (d). Text read as follows: "Not less than once every 3 years, the Comptroller General shall review and audit the accounts of the John F. Kennedy Center for the Performing Arts for the purpose of examining expenditures of funds appropriated under the authority provided by this subchapter."

1994—Subsec. (c). Pub. L. 103–279, §5(1), substituted "the operations of the Board" for "its operations".

Subsecs. (d) to (f). Pub. L. 103–279, §5(2), added subsecs. (d) to (f) and struck out former subsec. (e) which related to maintenance, repair, alteration, security, information, and other services and former subsec. (f) which related to audits.

1992—Subsec. (e)(3). Pub. L. 102–500 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "There is authorized to be appropriated to the Secretary of the Interior to carry out this subsection—

"(A) for fiscal year 1991, not more than—

"(i) $6,750,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,000,000 for deferred maintenance, repairs, and alterations; and

"(B) for fiscal year 1992, not more than—

"(i) $9,850,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,512,000 for deferred maintenance, repairs, and alterations."

1990—Subsec. (d). Pub. L. 101–449, §3, struck out subsec. (d) which read as follows: "The Board shall transmit to Congress a detailed report of any memorial which it proposes to provide within the John F. Kennedy Center for the Performing Arts under authority of paragraph (5) of section 76j of this title, and no such memorial shall be provided until the Board of Regents of the Smithsonian Institution shall have approved such memorial."

Subsec. (e). Pub. L. 101–449, §1, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The Secretary of the Interior, acting through the National Park Service, shall provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. There is authorized to be appropriated to carry out this subsection not to exceed $2,800,000 for the fiscal year ending June 30, 1976, $741,000 for the transition period ending September 30, 1976, $3,100,000 for the fiscal year ending September 30, 1977, and $4,000,000 for the fiscal year ending September 30, 1978. There is authorized to be appropriated to carry out this subsection not to exceed $4,200,000 for the fiscal year ending September 30, 1979. There is authorized to be appropriated to carry out this subsection not to exceed $4,287,000 for the fiscal year ending September 30, 1980, and not to exceed $4,400,000 for the fiscal year ending September 30, 1981, and not to exceed $4,544,000 for the fiscal year ending September 30, 1982, and not to exceed $4,247,000 for the fiscal year ending September 30, 1983."

Subsec. (f). Pub. L. 101–449, §2, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as

follows: "The General Accounting Office is authorized and directed to review and audit, regularly, the accounts of the Kennedy Center for the Performing Arts, for the purpose of determining the continuing ability of the Center to pay its share of future operating costs, and for the purpose of assuring that the cost-of-living formula fairly and accurately reflects the use of the building."

1982—Subsec. (e). Pub. L. 97–202 inserted provisions authorizing an appropriation of not to exceed $4,247,000 for fiscal year ending Sept. 30, 1983.

1981—Subsec. (e). Pub. L. 97–73 inserted provision authorizing an appropriation of not to exceed $4,544,000 for fiscal year ending Sept. 30, 1982.

1980—Subsec. (e). Pub. L. 96–587 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1980, and Sept. 30, 1981.

1978—Subsec. (e). Pub. L. 95–305 inserted provisions authorizing appropriations for fiscal year ending Sept. 30, 1979.

1977—Subsec. (e). Pub. L. 95–50 substituted provisions authorizing an appropriation of $4,000,000 for fiscal year ending Sept. 30, 1978, for provisions authorizing appropriations of $4,000,000 for fiscal year ending Sept. 30, 1978, and not to exceed $4,300,000 for the fiscal year ending Sept. 30, 1979.

1976—Subsec. (e). Pub. L. 94–578 substituted provisions authorizing appropriations for fiscal years ending Sept. 30, 1978, and Sept. 30, 1979, for provisions covering fiscal years ending Sept. 30, 1976, Sept. 30, 1977, and transitional period ending Sept. 30, 1976.

1975—Subsec. (e). Pub. L. 94–119, §1, inserted provisions authorizing appropriations for fiscal year ending June 30, 1976, for the transitional period ending Sept. 30, 1976, and for fiscal year ending Sept. 30, 1977.

Subsec. (f). Pub. L. 94–119, §2, added subsec. (f).

1973—Subsec. (e). Pub. L. 93–67 substituted provisions authorizing appropriations not to exceed $2,400,000 for fiscal year ending June 30, 1974, and $2,500,000 for fiscal year ending June 30, 1975, for provision granting general authorization of appropriation for fiscal year ending June 30, 1973.

1972—Subsec. (e). Pub. L. 92–313 added subsec. (e).

1964—Subsec. (c). Pub. L. 88–260, §1(4), inserted "and to Congress" after "Smithsonian Institution".

Subsec. (d). Pub. L. 88–260, §1(5), added subsec. (d).

1963—Subsec. (a). Pub. L. 88–100 substituted "twelve" for "eight" after "vacancies and".

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) of this section relating to submitting annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 192 of House Document No. 103–7.

AWARD OF SERVICE CONTRACTS

Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1782, provided: "That contracts hereafter awarded for environmental systems, housekeeping, protection systems, and repair or renovation of buildings of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price."

[1] *See References in Text note below.*

§76m. Photovoltaic system

(a) In general

The Board may study, plan, design, engineer, and construct a photovoltaic system for the main roof of the John F. Kennedy Center for the Performing Arts.

(b) Report

Not later than 60 days before beginning construction of the photovoltaic system pursuant to subsection (a), the Board shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the feasibility and design of the project.

(Pub. L. 85–874, §7, as added, Pub. L. 110–338, §3, Oct. 3, 2008, 122 Stat. 3731.)

PRIOR PROVISIONS

A prior section 76m, Pub. L. 85–874, §7, Sept. 2, 1958, 72 Stat. 1700; Pub. L. 86–297, Sept. 21, 1959, 73 Stat. 573; Pub. L. 88–100, §4, Aug. 19, 1963, 77 Stat. 128; Pub. L. 88–260, §1(2), Jan. 23, 1964, 78 Stat. 4; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, which related to termination of offices created and appointments made in connection with John F. Kennedy Center for the Performing Arts if moneys were not found to construct the Center within eight years after Sept. 2, 1958, was repealed by Pub. L. 101–449, §3, Oct. 22, 1990, 104 Stat. 1050.

§76n. Repealed. Pub. L. 101–449, §3, Oct. 22, 1990, 104 Stat. 1050

Section, Pub. L. 85–874, §8, as added Pub. L. 88–260, §1(6), Jan. 23, 1964, 78 Stat. 4; amended Pub. L. 91–90, §1(a), Oct. 17, 1969, 83 Stat. 135; Pub. L. 92–313, §9, June 16, 1972, 86 Stat. 222; Pub. L. 95–50, §1, June 20, 1977, 91 Stat. 232, authorized appropriations for construction, repair, renovation, and reconstruction of John F. Kennedy Center for the Performing Arts.

§76*o*. Borrowing authority to finance parking facilities

(a) Revenue bonds

To finance necessary parking facilities for the Center, the Board may issue revenue bonds to the Secretary of the Treasury payable from revenues accruing to the Board. The total face value of all bonds so issued shall not be greater than $20,400,000. Such obligations shall have maturities agreed upon by the Board and the Secretary of the Treasury but not in excess of fifty years. Such obligations may be redeemable at the option of the Board before maturity in such manner as may be stipulated in such obligations, but the obligations thus redeemed shall not be refinanced by the Board. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Board to be issued under this section and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31 and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include any purchases of the Board's obligations under this section.

(b) Interest

Effective as of October 12, 1984, the obligations of the Board incurred under subsection (a) of this section shall bear no interest, and the requirement of the Board to pay the unpaid interest which has accrued on such obligations is terminated.

(c) Kennedy Center Revenue Bond Sinking Fund

There is hereby established in the Treasury of the United States a sinking fund, the Kennedy Center Revenue Bond Sinking Fund (hereinafter referred to as the "Fund"), which shall be used to retire the obligations of the Board incurred under subsection (a) of this section upon the respective maturities of such obligations. The Board shall pay into the Fund, beginning on January 1, 1987 and ending on January 1, 2016, the annual sum of $200,000 in amortization of the principal amount of the obligations. Such sums shall be invested by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to and form a part of the Fund. Moneys in the Fund shall be used exclusively to retire the obligations of the Board incurred under subsection (a) of this section. Adjustments of not greater than plus or minus 5 per centum may be made from time to time in the annual payments to the Fund in order to correct any gains or deficiencies as a result of fluctuations in interest rates over the life of the investments: *Provided, however*, That a final adjustment shall be made between the Board and the Secretary of the Treasury at the end of the amortization period to correct any overall gain or deficiency in the Fund. The terms of this adjustment shall be covered by a memorandum of understanding between the Board and the Secretary of the Treasury to be consummated on or before the time the initial payment into the Fund is made.

(Pub. L. 85–874, §9, as added Pub. L. 88–260, §1(6), Jan. 23, 1964, 78 Stat. 5; amended Pub. L. 91–90, §1(b), Oct. 17, 1969, 83 Stat. 135; Pub. L. 98–473, title I, §101(c), Oct. 12, 1984, 98 Stat. 1837, 1876; Pub. L. 101–449, §4, Oct. 22, 1990, 104 Stat. 1051.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–449 substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as amended," in two places.

1984—Pub. L. 98–473 designated existing provisions as subsec. (a), struck out provisions relating to interest on bonds, and added subsecs. (b) and (c).

1969—Pub. L. 91–90 substituted "$20,400,000" for "$15,400,000" in two places.

§76p. Acceptance and disposition of gifts to the United States contributed in honor or memory of the late President John F. Kennedy

The Secretary of the Treasury is authorized to accept on behalf of the United States any gift to the United States which the Secretary finds has been contributed in honor of or in memory of the late President John F. Kennedy and to pay the money to such appropriation or other accounts, including the appropriation accounts established pursuant to appropriations authorized by this subchapter, as in the judgment of the Secretary will best effectuate the intent of the donor.

(Pub. L. 85–874, §10, as added Pub. L. 88–260, §1(6), Jan. 23, 1964, 78 Stat. 5; amended Pub. L. 103–279, §6, July 21, 1994, 108 Stat. 1415.)

AMENDMENTS

1994—Pub. L. 103–279 substituted "which the Secretary finds" for "which he finds" and "the judgment of the Secretary" for "his judgment".

§76q. Sole national memorial to the late John F. Kennedy within the city of Washington and environs

The John F. Kennedy Center for the Performing Arts, designated by this subchapter, shall be the sole national memorial to the late John Fitzgerald Kennedy within the city of Washington and its environs.

(Pub. L. 85–874, §11, as added Pub. L. 88–260, §1(6), Jan. 23, 1964, 78 Stat. 5.)

§76q–1. John F. Kennedy Center Plaza

(a) Definitions

In this section, the following definitions apply:

(1) Air rights

The term "air rights" means real property interests conveyed by deed, lease, or permit for the use of space between streets and alleys within the boundaries of the Project.

(2) Center

The term "Center" means the John F. Kennedy Center for the Performing Arts.

(3) Green spaces

The term "green spaces" means areas within the boundaries of the Project or affected by the Project that are covered by grass, trees, or other vegetation.

(4) Plaza

The term "Plaza" means improvements to the area surrounding the John F. Kennedy Center building carried out under the Project and comprised of transportation elements (including

roadways, sidewalks, and bicycle lanes) and non-transportation elements (including landscaping, green space, open public space, water, sewer, and utility connections).

(5) Project

The term "Project" means the Plaza project, as described in the TEA–21 report, providing for construction of a Plaza adjacent to the Center and for improved bicycle, pedestrian, and vehicular access to and around the Center. The term includes planning, design, engineering, and construction of the Plaza, buildings to be constructed on the Plaza, and related transportation improvements and may include any other elements of the Project identified in the TEA–21 report.

(6) Secretary

The term "Secretary" means the Secretary of Transportation.

(7) TEA–21 report

The term "TEA–21 report" means the report of the Secretary submitted to Congress under section 1214 of the Transportation Equity Act for the 21st Century (20 U.S.C. 76j note; 112 Stat. 204).

(b) Responsibilities of the Secretary

(1) In general

The Secretary shall be responsible for the Project and may undertake such activities as may be necessary to construct the Project, other than buildings to be constructed on the Plaza, substantially as described in the TEA–21 report.

(2) Planning, design, engineering, and construction

The Secretary shall be responsible for the planning, design, engineering, and construction of the Project, other than buildings to be constructed on the Plaza.

(3) Agreements with the Board and other agencies

The Secretary shall enter into memoranda of agreement with the Board and any appropriate Federal or other governmental agency to facilitate the planning, design, engineering, and construction of the Project.

(4) Consultation with the Board

The Secretary shall consult with the Board to maximize efficiencies in planning and executing the Project, including the construction of any buildings on the Plaza.

(5) Contracts

Subject to the approval of the Board, the Secretary may enter into contracts on behalf of the Center related to the planning, design, engineering, and construction of the Project.

(6) Project Team

(A) Establishment

To further construction of the Project, the Secretary shall establish a Project Team.

(B) Membership

The Project Team shall be composed of the following members:

(i) The Secretary (or the Secretary's designee).
(ii) The Administrator of General Services (or the Administrator's designee).
(iii) The Chairman of the Board (or the Chairman's designee).
(iv) Such other individuals as the Project Team considers appropriate.

(C) Project Director

The Project Team shall have a Project Director who shall be appointed by the Secretary, in consultation with the Administrator of General Services and the Chairman of the Board. The Project Director shall report directly to the Project Team.

(c) Responsibilities of the Board

(1) In general

The Board, in consultation with the Project Team, may undertake such activities as may be necessary to construct buildings on the Plaza for the Project.

(2) Receipt of transfers of air rights

The Board may receive from the District of Columbia such transfers of air rights as may be necessary for the planning, design, engineering, and construction of the Project.

(3) Construction of buildings

The Board, in consultation with the Project Team, may construct, with non-appropriated funds, buildings on the Plaza for the Project and shall be responsible for the planning, design, engineering, and construction of the buildings.

(4) Acknowledgment of contributions

(A) In general

The Board may acknowledge private contributions used in the construction of buildings on the Plaza for the Project in the interior of the buildings, but may not acknowledge private contributions on the exterior of the buildings.

(B) Applicability of other requirements

Any acknowledgment of private contributions under this paragraph shall be consistent with the requirements of section 76j(b) of this title.

(5) Approval by Project Team

Notwithstanding section 76k(e) of this title, any decision by the Board that will significantly affect, as determined by the Project Team in consultation with the Board, the scope, cost, schedule, or engineering feasibility of any element of the Project, other than buildings to be constructed on the Plaza, shall be subject to the approval of the Project Team.

(d) Responsibilities of the District of Columbia

(1) Modification of highway system

Notwithstanding any State or local law, the Mayor of the District of Columbia, in consultation with the National Capital Planning Commission and the Secretary, shall have exclusive authority to amend or modify the permanent system of highways of the District of Columbia as may be necessary to meet the requirements and needs of the Project.

(2) Conveyances

(A) Authority

Notwithstanding any State or local law, the Mayor of the District of Columbia shall have exclusive authority to convey or dispose of any interests in real estate (including air rights or air space as that term is defined by District of Columbia law) owned or controlled by the District of Columbia, as may be necessary to meet the requirements and needs of the Project.

(B) Conveyance to the Board

Not later than 90 days following the date of receipt of notification from the Secretary of the requirements and needs of the Project, the Mayor of the District of Columbia shall convey or dispose of to the Board without compensation interests in real estate described in subparagraph (A).

(3) Agreements with the Board

The Mayor of the District of Columbia shall have the authority to enter into memoranda of agreement with the Board and any Federal or other governmental agency to facilitate the planning, design, engineering, and construction of the Project.

(e) Ownership

(1) Roadways and sidewalks

Upon completion of the Project, responsibility for maintenance and oversight of roadways and sidewalks modified or improved for the Project shall remain with the owner of the affected roadways and sidewalks.

(2) Maintenance of green spaces

Subject to paragraph (3), upon completion of the Project, responsibility for maintenance and oversight of any green spaces modified or improved for the Project shall remain with the owner of the affected green spaces.

(3) Buildings and green spaces on the Plaza

Upon completion of the Project, the Board shall own, operate, and maintain the buildings and green spaces established on the Plaza for the Project.

(f) National highway boundaries

(1) Realignment of boundaries

The Secretary may realign national highways related to proposed changes to the Northern and Southern Interchanges and the E Street Approach recommended in the TEA–21 report in order to facilitate the flow of traffic in the vicinity of the Center.

(2) Access to Center from I–66

The Secretary may improve direct access and egress between Interstate Route 66 and the Center, including its garages.

(g) GAO review

Until completion of the Project, the Comptroller General shall review the management and oversight of construction of the Project by the Board and report periodically on the results of the review to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(Pub. L. 85–874, §12, as added Pub. L. 107–224, §2(2), Sept. 18, 2002, 116 Stat. 1340; amended Pub. L. 108–410, §3, Oct. 30, 2004, 118 Stat. 2303.)

REFERENCES IN TEXT

Section 1214 of the Transportation Equity Act for the 21st Century, referred to in subsec. (a)(7), is section 1214 of Pub. L. 105–178, which enacted provisions set out as notes under sections 50 and 76j of this title, section 460m–29a of Title 16, Conservation, and section 202 of Title 23, Highways, and enacted provisions listed in a table of National Wildlife Refuges set out under section 668dd of Title 16.

PRIOR PROVISIONS

A prior section 12 of Pub. L. 85–874 was renumbered section 13 and is classified to section 76r of this title.

AMENDMENTS

2004—Subsec. (b)(6). Pub. L. 108–410, §3(a), added par. (6).

Subsec. (c)(1), (3). Pub. L. 108–410, §3(b)(1), (2), inserted ", in consultation with the Project Team," after "The Board".

Subsec. (c)(5). Pub. L. 108–410, §3(b)(3), added par. (5).

Subsec. (g). Pub. L. 108–410, §3(c), added subsec. (g).

§76r. Authorization of appropriations

(a) Maintenance, repair, and security

There is authorized to be appropriated to the Board to carry out section 76j(a)(1)(H) of this title, $22,000,000 for fiscal year 2016.

(b) Capital projects

There is authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 76j(a)(1) of this title, $15,000,000 for fiscal year 2016.

(c) John F. Kennedy Center Plaza

There is authorized to be appropriated to the Secretary of Transportation for capital costs incurred in the planning, design, engineering, and construction of the project authorized by section 76q–1 of this title (including roadway improvements related to the North and South Interchanges and construction of the John F. Kennedy Center Plaza, but not including construction of any buildings on the plaza) a total of $400,000,000 for fiscal years 2003 through 2010. Such sums shall remain available until expended.

(d) Photovoltaic system

There are authorized to be appropriated to the Board such sums as are necessary to carry out section 76m of this title, to remain available until expended.

(e) Limitation on use of funds

No funds appropriated pursuant to this section may be used for any direct expense incurred in the production of a performing arts attraction, for personnel who are involved in performing arts administration (including any supply or equipment used by the personnel), or for production, staging, public relations, marketing, fundraising, ticket sales, or education. Funds appropriated directly to the Board shall not affect nor diminish other Federal funds sought for any performing arts function and may be used to reimburse the Board for that portion of costs that are Federal costs reasonably allocated to building services and theater maintenance and repair.

(Pub. L. 85–874, §13, formerly §12, as added Pub. L. 103–279, §7, July 21, 1994, 108 Stat. 1415; amended Pub. L. 105–226, §5, Aug. 12, 1998, 112 Stat. 1513; renumbered §13 and amended Pub. L. 107–224, §§2(1), 3, Sept. 18, 2002, 116 Stat. 1340, 1342; Pub. L. 108–410, §2, Oct. 30, 2004, 118 Stat. 2303; Pub. L. 109–306, §1, Oct. 6, 2006, 120 Stat. 1720; Pub. L. 110–338, §4, Oct. 3, 2008, 122 Stat. 3731; Pub. L. 112–131, §3, June 8, 2012, 126 Stat. 378; Pub. L. 114–113, div. G, title IV, §427, Dec. 18, 2015, 129 Stat. 2583.)

PRIOR PROVISIONS

A prior section 13 of Pub. L. 85–874 was renumbered section 14 and is classified to section 76s of this title.

AMENDMENTS

2015—Subsecs. (a), (b). Pub. L. 114–113 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There is authorized to be appropriated to the Board to carry out section 76j(a)(1)(H) of this title $22,379,000 for each of fiscal years 2013 and 2014.

"(b) CAPITAL PROJECTS.—There is authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 76j(a)(1) of this title $13,588,000 for each of fiscal years 2013 and 2014."

2012—Subsecs. (a), (b). Pub. L. 112–131 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 76j(a)(1)(H) of this title—

"(1) $20,200,000 for fiscal year 2008;
"(2) $21,800,000 for fiscal year 2009;
"(3) $22,500,000 for fiscal year 2010;
"(4) $23,500,000 for fiscal year 2011; and
"(5) $24,500,000 for fiscal year 2012.

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 76j(a)(1) of this title—

"(1) $23,150,000 for fiscal year 2008;
"(2) $16,000,000 for fiscal year 2009;
"(3) $17,000,000 for fiscal year 2010;
"(4) $17,000,000 for fiscal year 2011; and
"(5) $18,500,000 for fiscal year 2012."

2008—Subsecs. (a), (b). Pub. L. 110–338, §4(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 76j(a)(1)(H) of this title—

"(1) $17,000,000 for fiscal year 2004;

"(2) $18,000,000 for each of fiscal years 2005 and 2006; and

"(3) $19,100,000 for fiscal year 2007.

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 76j(a)(1) of this title—

"(1) $16,000,000 for fiscal year 2004;

"(2) $18,000,000 for each of fiscal years 2005 and 2006; and

"(3) $20,000,000 for fiscal year 2007."

Subsecs. (d), (e). Pub. L. 110–338, §4(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

2006—Subsec. (a). Pub. L. 109–306, §1(a), struck out "and" at end of par. (1), substituted "and 2006; and" for ", 2006, and 2007." in par. (2), and added par. (3).

Subsec. (b). Pub. L. 109–306, §1(b), struck out "and" at end of par. (1), substituted "and 2006; and" for ", 2006, and 2007." in par. (2), and added par. (3).

2004—Subsecs. (a), (b). Pub. L. 108–410 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 76j(a)(1)(H) of this title—

"(1) $13,000,000 for fiscal year 1999;

"(2) $14,000,000 for each of fiscal years 2000 and 2001; and

"(3) $15,000,000 for each of fiscal years 2002 and 2003.

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 76j(a)(1) of this title—

"(1) $20,000,000 for each of fiscal years 1999, 2000, and 2001;

"(2) $19,000,000 for fiscal year 2002; and

"(3) $17,000,000 for fiscal year 2003."

2002—Subsecs. (c), (d). Pub. L. 107–224, §3, added subsec. (c) and redesignated former subsec. (c) as (d).

1998—Subsecs. (a), (b). Pub. L. 105–226 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 76j(a)(1)(H) of this title $12,000,000 for each of fiscal years 1995 through 1999.

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 76j(a)(1) of this title $9,000,000 for each of fiscal years 1995 through 1999."

§76s. Definitions

As used in this subchapter, the terms "building and site of the John F. Kennedy Center for the Performing Arts" and "grounds of the John F. Kennedy Center for the Performing Arts" refer to the site in the District of Columbia on which the John F. Kennedy Center building is constructed and that extends to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled "Transfer of John F. Kennedy Center for the Performing Arts", numbered 844/82563, and dated April 20, 1994 (as amended by the map entitled "Transfer of John F. Kennedy Center for the Performing Arts", numbered 844/82563A and dated May 22, 1997), which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service, Department of the Interior. Upon completion of the project for establishment of the John F. Kennedy Center Plaza authorized by section 76q–1 of this title, the Board, in consultation with the Secretary of Transportation, shall amend the map that is on file and available for public inspection under the preceding sentence.

(Pub. L. 85–874, §14, formerly §13, as added Pub. L. 103–279, §8, July 21, 1994, 108 Stat. 1416; amended Pub. L. 105–95, §4, Nov. 19, 1997, 111 Stat. 2149; renumbered §14 and amended Pub. L. 107–224, §§2(1), 4(b), Sept. 18, 2002, 116 Stat. 1340, 1343.)

AMENDMENTS

2002—Pub. L. 107–224, §4(b), inserted at end: "Upon completion of the project for establishment of the John F. Kennedy Center Plaza authorized by section 76q–1 of this title, the Board, in consultation with the Secretary of Transportation, shall amend the map that is on file and available for public inspection under the preceding sentence."

1997—Pub. L. 105–95 inserted "(as amended by the map entitled 'Transfer of John F. Kennedy Center for the Performing Arts', numbered 844/82563A and dated May 22, 1997)" after "April 20, 1994".

SUBCHAPTER VI—JOSEPH H. HIRSHHORN MUSEUM AND SCULPTURE GARDEN

§76aa. Site for museum and sculpture garden

(a) Appropriation and availability

The area bounded by Seventh Street, Independence Avenue, Ninth Street, and Jefferson Drive, in the District of Columbia, is hereby appropriated to the Smithsonian Institution as the permanent site of a museum and the area bounded by Seventh Street, Jefferson Drive, Ninth Street, and Madison Drive, in the District of Columbia is hereby made available to the Smithsonian Institution as the permanent site of a sculpture garden, both areas to be used for the exhibition of works of art.

(b) Powers and duties of Board of Regents

The Board of Regents of the Smithsonian Institution is authorized to remove any existing structure, to prepare architectural and engineering designs, plans, and specifications, and to construct a suitable museum within said area lying south of Jefferson Drive and to provide a sculpture garden for the use of the Smithsonian Institution within the areas designated in subsection (a) of this section.

(Pub. L. 89–788, §1, Nov. 7, 1966, 80 Stat. 1403.)

§76bb. Joseph H. Hirshhorn Museum and Sculpture Garden

(a) Designation; administration by Board of Regents; cooperation of Board with Secretary of the Interior

The museum and sculpture garden provided for by this subchapter shall be designated and known in perpetuity as the Joseph H. Hirshhorn Museum and Sculpture Garden, and shall be a free public museum and sculpture garden under the administration of the Board of Regents of the Smithsonian Institution. In administering the sculpture garden the Board shall cooperate with the Secretary of [1] Interior so that the development and use of the Garden is consistent with the open-space concept of the Mall, for which the Secretary of [1] Interior is responsible, and with related development regarding underground garages and street development.

(b) Federal funds

The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the upkeep, operation, and administration of the Joseph H. Hirshhorn Museum and Sculpture Garden.

(c) Uses

The Joseph H. Hirshhorn Museum and Sculpture Garden shall be the permanent home of the

collections of art of Joseph H. Hirshhorn and the Joseph H. Hirshhorn Foundation, and shall be used for the storage, exhibition, and study of works of art, and for the administration of the affairs of the Joseph H. Hirshhorn Museum and Sculpture Garden.

(Pub. L. 89–788, §2, Nov. 7, 1966, 80 Stat. 1403.)

[1] *So in original. Probably should be followed by "the".*

§76cc. Board of Trustees

(a) Establishment; powers and duties

There is established in the Smithsonian Institution a Board of Trustees to be known as the Trustees of the Joseph H. Hirshhorn Museum and Sculpture Garden, which shall provide advice and assistance to the Board of Regents of the Smithsonian Institution on all matters relating to the administration, operation, maintenance, and preservation of the Joseph H. Hirshhorn Museum and Sculpture Garden; and which shall have the sole authority (i) to purchase or otherwise acquire (whether by gift, exchange, or other means) works of art for the Joseph H. Hirshhorn Museum and Sculpture Garden, (ii) to loan, exchange, sell, or otherwise dispose of said works of art, and (iii) to determine policy as to the method of display of the works of art contained in said museum and sculpture garden.

(b) Membership; appointment; terms of office; vacancies

The Board of Trustees shall be composed of the Chief Justice of the United States and the Secretary of the Smithsonian Institution, who shall serve as ex officio members, and eight general members to be appointed as follows: Four of the general members first taking office shall be appointed by the President of the United States from among nominations submitted by Joseph H. Hirshhorn and four shall be appointed by the President from among nominations submitted by the Board of Regents of the Smithsonian Institution. The general members so appointed by the President shall have terms expiring one each on July 1, 1968, 1969, 1970, 1971, 1972, 1973, 1974, and 1975, as designated by the President. Successor general members (who may be elected from among members whose terms have expired) shall serve for a term of six years, except that a successor chosen to fill a vacancy occurring prior to the expiration of the term of office of his predecessor shall be chosen only for the remainder of such term. Vacancies occurring among general members of the Board of Trustees of the Joseph H. Hirshhorn Museum and Sculpture Garden shall be filled by a vote of not less than four-fifths of the then acting members of the Board of Trustees.

(Pub. L. 89–788, §3, Nov. 7, 1966, 80 Stat. 1404.)

§76dd. Director, administrator, curators, and other personnel; appointment, compensation, and duties

The Board of Regents of the Smithsonian Institution may appoint and fix the compensation and duties of a director and, subject to his supervision, an administrator and two curators of the Joseph H. Hirshhorn Museum and Sculpture Garden, none of whose appointment, compensation, or duties shall be subject to the civil service laws or chapter 51 and subchapter III of chapter 53 of title 5. The Board of Regents may employ such other officers and employees as may be necessary for the efficient administration, operation, and maintenance of the Joseph H. Hirshhorn Museum and Sculpture Garden.

(Pub. L. 89–788, §4, Nov. 7, 1966, 80 Stat. 1404.)

CODIFICATION

"Chapter 51 and subchapter III of chapter 53 of title 5" substituted in text for "the Classification Act of 1949, as amended" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of

which enacted Title 5, Government Organization and Employees.

§76ee. Authorization of appropriations

There is authorized to be appropriated not to exceed $15,000,000 for the planning and construction of the Joseph H. Hirshhorn Museum and Sculpture Garden, and such additional sums as may be necessary for the maintenance and operation of such museum and sculpture garden.

(Pub. L. 89–788, §5, Nov. 7, 1966, 80 Stat. 1404.)

SUBCHAPTER VII—NATIONAL AIR AND SPACE MUSEUM

§77. National Air and Space Museum

(a) Establishment; board; administration; reimbursement of expenses

There is hereby established under the Smithsonian Institution a bureau to be known as a National Air and Space Museum, which shall be administered by the Smithsonian Institution with the advice of a board to be composed of the Chief of Staff of the Air Force, or his designee, the Chief of Naval Operations, or his designee, the Chief of Staff of the Army, or his designee, the Commandant of the Marine Corps, or his designee, the Commandant of the Coast Guard, or his designee, the Administrator of the National Aeronautics and Space Administration, or his designee, the Administrator of the Federal Aviation Administration, or his designee, the Secretary of the Smithsonian Institution, and three citizens of the United States appointed by the President from civilian life who shall serve at the pleasure of the President. The members of the board shall serve as such members without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the board.

(b) Appointment and compensation of head of museum

The Secretary of the Smithsonian Institution, with the advice of the board, may appoint and fix the compensation and duties of the head of a national air and space museum whose appointment shall not be subject to the civil service laws.

(Aug. 12, 1946, ch. 955, §1, 60 Stat. 997; July 26, 1947, ch. 343, title II, §208(b), 61 Stat. 503; Pub. L. 89–509, pt. I, §§2, 3, July 19, 1966, 80 Stat. 310; Pub. L. 89–670, §§3(e), 6(c)(1), Oct. 15, 1966, 80 Stat. 932, 938.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–509, §2, changed the name of the museum from the National Air Museum to the National Air and Space Museum, expanded the advisory board to include additional members including the Chief of Staff of the Army, the Commandant of the Marine Corps, the Commandant of the Coast Guard, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Federal Aviation Agency, and an additional member appointed from civilian life to serve at the pleasure of the President, and provided for reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Board.

Subsec. (b). Pub. L. 89–509, §3, substituted "national air and space museum" for "national air museum" and struck out provision that the salary of the head of the museum shall not be subject to the Classification Act of 1923, as amended.

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–509, §1, July 19, 1966, 80 Stat. 310, provided: "That this Act [amending this section, sections 77a, 77c, and 77d of this title, and provisions set out as notes under this section and sections 77b and 77d of this title, and repealing section 77b of this title] may be cited as 'the National Air Museum Amendments Act of 1965'."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

"Chief of Staff of the Air Force" substituted in subsec. (a) for "Commanding General of the Army Air Forces" pursuant to act July 26, 1947, ch. 343, title II, §208(b), 61 Stat. 503, which transferred functions of Commanding General of the Army Air Forces to Chief of Staff, United States Air Force. Section 208(b) of act July 26, 1947 was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. See sections 8031 and 8034 of Title 10, Armed Forces.

"Federal Aviation Administration" substituted in subsec. (a) for "Federal Aviation Agency" pursuant to Pub. L. 89–670, §§3(e), 6(c)(1), Oct. 15, 1966, 80 Stat. 932, 938, which transferred all functions, powers, and duties of Federal Aviation Agency and of Administrator and other offices and officers thereof to Secretary of Transportation and established a Federal Aviation Administration in Department of Transportation. See section 106 of Title 49, Transportation.

APPROPRIATIONS

Act Aug. 12, 1946, ch. 955, §6, 60 Stat. 998, as amended by Pub. L. 89–509, pt. I, §10, July 19, 1966, 80 Stat. 311, provided that: "There is hereby authorized to be appropriated the sum of $50,000 for the purposes of this Act [this subchapter] and there are hereby authorized to be appropriated annually hereafter such sums as may be necessary to maintain and administer said national air and space museum including salaries and all other necessary expenses."

CONSTRUCTION OF MUSEUM CENTER

Pub. L. 104–222, Oct. 1, 1996, 110 Stat. 3025, provided that:

"SECTION 1. CONSTRUCTION OF MUSEUM CENTER.

"The Board of Regents of the Smithsonian Institution is authorized to construct the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport.

"SEC. 2. LIMITATION ON USE OF FUNDS.

"No appropriated funds may be used to pay any expense of the construction authorized by section 1."

EXTENSION AT WASHINGTON DULLES INTERNATIONAL AIRPORT

Pub. L. 103–57, Aug. 2, 1993, 107 Stat. 279, provided that:

"SECTION 1. PLAN FOR NATIONAL AIR AND SPACE MUSEUM EXTENSION.

"The Board of Regents of the Smithsonian Institution shall have authority to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

"SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated for fiscal years beginning after September 30, 1993, a total of $8,000,000 to carry out this Act."

RATIFICATION OF COMPENSATION PAID HEAD OF MUSEUM

Pub. L. 89–509, pt. I, §11, July 19, 1966, 80 Stat. 311, provided that: "Payments of compensation heretofore made to the head of the National Air Museum at rates fixed by the Secretary of the Smithsonian Institution without regard to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees] are hereby ratified and affirmed."

§77a. Functions of museum

The national air and space museum shall memorialize the national development of aviation and space flight; collect, preserve, and display aeronautical and space flight equipment of historical interest and significance; serve as a repository for scientific equipment and data pertaining to the development of aviation and space flight; and provide educational material for the historical study of aviation and space flight.

(Aug. 12, 1946, ch. 955, §2, 60 Stat. 998; Pub. L. 89–509, pt. I, §4, July 19, 1966, 80 Stat. 310.)

AMENDMENTS

1966—Pub. L. 89–509 substituted "national air and space museum" for "national air museum", inserted "and space flight" after "aviation" wherever appearing, and substituted "aeronautical and space flight equipment" for "aeronautical equipment".

§77b. Repealed. Pub. L. 89–509, pt. I, §5, July 19, 1966, 80 Stat. 310

Section, act Aug. 12, 1946, ch. 955, §3, 60 Stat. 998, directed Secretary of Smithsonian Institution to investigate and survey suitable lands and buildings for selection as a site for national air museum and to make recommendations to Congress.

CONSTRUCTION PLANS; LOCATION; DESIGN; SUPERVISION OF DRAWINGS AND SPECIFICATIONS; CONSTRUCTION; AUTHORIZATION AND TRANSFER OF APPROPRIATIONS

Pub. L. 85–935, Sept. 6, 1958, 72 Stat. 1794, as amended by Pub. L. 89–509, §§12, 13, July 19, 1966, 80 Stat. 311, 312, authorized and directed Regents of Smithsonian Institution to prepare plans and to construct a building for a National Air and Space Museum at a certain site with exact location to be approved by National Capital Planning Commission and design to be approved by Commission of Fine Arts and with supervision of work to be by Administrator of General Services Administration and also appropriated such sums as were necessary to carry out the work.

§77c. Museum board

(a) Seal; regulations; vacancies

The board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations as it deems necessary for the administration of its functions. The board may function notwithstanding vacancies and six members of the board shall constitute a quorum for the transaction of business.

(b) Annual report

The Smithsonian Institution shall include in its annual report of its operations to Congress a statement of the operations of said national air and space museum, including all public and private moneys received and disbursed.

(Aug. 12, 1946, ch. 955, §4, 60 Stat. 998; Pub. L. 89–509, pt. I, §§6, 7, July 19, 1966, 80 Stat. 310, 311.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–509, §6, raised from three to six the number of board members required to constitute a quorum.

Subsec. (b). Pub. L. 89–509, §7, substituted "national air and space museum" for "national air museum".

§77d. Transfer or loan of aeronautical or space flight equipment to museum

The heads of executive departments and independent agencies of the Government are authorized to transfer or loan to said national air and space museum without charge therefor, aircraft, spacecraft, aircraft and spacecraft parts, instruments, engines, or other aeronautical and space flight equipment or records for exhibition, historical, or educational purposes.

(Aug. 12, 1946, ch. 955, §5(a), 60 Stat. 998; Pub. L. 89–509, pt. I, §8, July 19, 1966, 80 Stat. 311.)

CODIFICATION

Section consists of subsec. (a) of section 5 of act Aug. 12, 1946. Subsec. (b) of said section is set out as a note below.

AMENDMENTS

1966—Pub. L. 89–509 inserted "and independent agencies" after "departments", "and space" after "national air", "spacecraft," after "aircraft,", "and spacecraft" after "aircraft" in phrase "aircraft parts", and "and space flight" after "aeronautical".

ACCEPTANCE OF STATUE OF GENERAL MITCHELL

Act Aug. 12, 1946, ch. 955, §5(b), 60 Stat. 998, as amended by Pub. L. 89–509, pt. I, §9, July 19, 1966, 80 Stat. 311, provided that: "The Secretary of the Smithsonian Institution, with the advice of the Commission of Fine Arts, is authorized (1) to accept as a gift to the Smithsonian Institution from George H. Stephenson, of Philadelphia, Pennsylvania, a statue of Brigadier General William L. Mitchell of such character as may be deemed appropriate, and (2) without expense to the United States, to cause such statue to be erected at a suitable location on the grounds of the national air and space museum."

SUBCHAPTER VIII—PALEONTOLOGICAL INVESTIGATIONS

§78. Cooperation of Smithsonian Institution with State institutions for continuing paleontological investigations

The Secretary of the Smithsonian Institution is authorized to cooperate with any State, educational institution, or scientific organization in the United States for continuing paleontological investigations, and the excavation and preservation of fossil remains, in areas which will be flooded by the construction of Government dams or otherwise be made unavailable for such investigations because of such construction: *Provided*, That such investigations and activities shall not duplicate nor affect adversely similar operations being conducted by the Department of Interior in cooperation with the Smithsonian Institution.

(Aug. 15, 1949, ch. 427, §1, 63 Stat. 606.)

§78a. Authorization of appropriations; availability of funds; limit on use of funds during fiscal year; supervision; rules and regulations

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $65,000, which shall be available until expended for the above purposes: *Provided*, That at such time as the Smithsonian Institution is satisfied that any State agency, or any educational institution or scientific organization in any of the United States, is prepared to contribute to such investigation and when in its judgment such investigation shall appear meritorious, the Secretary of the Smithsonian Institution may make available for such investigation such amounts from this sum as shall be equal to the amounts contributed respectively by each such State agency, or educational institution or scientific organization: *Provided further*, That the amount to be made available from this sum for such investigation in cooperation with each such State agency, or educational institution or scientific organization, shall not exceed $10,000 in any fiscal year: *Provided further*, That all such cooperative work and division of the result thereof shall be under the direction of the Secretary of the Smithsonian Institution: *Provided further*, That where lands are involved which are controlled by the Government of the United States, cooperative work thereon shall be under the provisions of section 1866(b) of title 18 and sections 320302 and 320303 of title 54, and rules and regulations pertaining thereto.

(Aug. 15, 1949, ch. 427, §2, 63 Stat. 606; Pub. L. 113–287, §5(e)(1), Dec. 19, 2014, 128 Stat. 3268.)

AMENDMENTS

2014—Pub. L. 113–287 substituted "section 1866(b) of title 18 and sections 320302 and 320303 of title 54" for "the Act of June 8, 1906 (16 U.S.C. 432, 433)".

SUBCHAPTER IX—CANAL ZONE BIOLOGICAL AREA

§79. Barro Colorado Island in Gatun Lake to be set aside

The President is authorized and directed to set aside within the Canal Zone an area in Gatun Lake known as Barro Colorado Island in which the natural features shall, except in event of declared national emergency, be left in their natural state for scientific observation and investigation.

(July 2, 1940, ch. 516, §1, 54 Stat. 724.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was formerly classified to section 1381 of Title 48, Territories and Insular Possessions.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§79a. Preservation of natural features for scientific observation and investigation

The purpose of setting aside such an area is to preserve and conserve its natural features, including existing flora and fauna, in as nearly a natural condition as possible, thus providing a place where duly qualified students can make observations and scientific investigations for increase of knowledge, under such conditions and regulations as may be prescribed by the Smithsonian Institution.

(July 2, 1940, ch. 516, §2, 54 Stat. 724; 1946 Reorg. Plan No. 3, §801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 1382 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

"Smithsonian Institution" substituted in text for "Board of Directors of the Canal Zone Biological Area" by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

§79b. Functions of Smithsonian Institution

The Smithsonian Institution shall (a) determine the policy, prescribe conditions under which studies may be pursued within the area, and promulgate regulations for carrying out the purposes of this subchapter; (b) be responsible for the construction and maintenance of laboratory and other facilities on the area provided for the use of students authorized to carry on studies within the confines of the area; (c) deposit into the Treasury of the United States sums donated or subscribed or collected to be expended for carrying out the purposes of this subchapter; (d) in its discretion, fixed [1] charges that may be made for use of laboratory or other facilities provided students authorized to make observations and investigations within the prescribed area and provide for the collection of such sums for deposit into the Treasury of the United States; (e) make such disposal of any moneys donated, subscribed, collected, or otherwise provided as in its judgment is to the best interest in carrying out the purpose of this subchapter: *Provided*, That sums contributed or appropriated for specific purposes shall be used for such purpose only; and (f) include in its annual report of its operations to Congress a statement of activities and operations during the preceding year.

(July 2, 1940, ch. 516, §4, 54 Stat. 724; 1946 Reorg. Plan No. 3, §801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101; Pub. L. 89–280, §2, Oct. 20, 1965, 79 Stat. 1012.)

CODIFICATION

Section was formerly classified to section 1384 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1965—Pub. L. 89–280 substituted provisions in cl. (f) requiring the Smithsonian Institution to include in its annual report of its operations to Congress a statement of activities and operations during the preceding year for provisions which required the Smithsonian Institution to submit to the Congress of the United States not later than the 15th day of each January a report of activities and operations during the preceding year.

TRANSFER OF FUNCTIONS

"Smithsonian Institution" substituted in text for "Board of Directors of the Canal Zone Biological Area" and former clause (a) which provided for annual meetings of Board was superseded by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

[1] So in original. Probably should be "fix".

§79c. Resident manager; powers and duties; compensation

The Smithsonian Institution may select and designate a resident manager to assist in carrying out the policy, conditions, and regulations approved by it in compliance with the purposes of this subchapter. The resident manager shall receive such compensation for his services as may be allowed by the Smithsonian Institution.

(July 2, 1940, ch. 516, §5, 54 Stat. 725; 1946 Reorg. Plan No. 3, §801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 1385 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

References to the "Board of Directors of the Canal Zone Biological Area" and its "executive officer" changed to "Smithsonian Institution" and provisions for the appointment and compensation of said executive officer were superseded by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

§79d. Deposit of receipts into Treasury; disbursements

All moneys received by donation, subscription, fees, or otherwise, except the moneys appropriated pursuant to section 79e of this title, for carrying out the purposes of this subchapter shall be deposited into the Treasury as trust funds and are appropriated for such purposes. Disbursements of such funds shall be made by the Secretary of the Treasury through the Fiscal Service on requisitions or vouchers signed by or on authority of the Smithsonian Institution.

(July 2, 1940, ch. 516, §6, 54 Stat. 725; 1940 Reorg. Plan No. III, §1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 3, §801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 1386 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to

authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

"Smithsonian Institution" substituted in text for "executive officer of the Board of Directors of the Canal Zone Biological Area" by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

"Fiscal Service" substituted in text for "Division of Disbursement" on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, which consolidated such division into Fiscal Service of Department of the Treasury. See section 306 of Title 31, Money and Finance.

§79e. Authorization of appropriations

There are authorized to be appropriated annually, from money in the Treasury of the United States not otherwise appropriated, such sums as are necessary for the administration of this subchapter and for the maintenance of laboratory or other facilities provided for carrying out the purposes of this subchapter.

(July 2, 1940, ch. 516, §7, 54 Stat. 725; Pub. L. 89–280, §1, Oct. 20, 1965, 79 Stat. 1012; Pub. L. 96–89, §1, Oct. 19, 1979, 93 Stat. 697; Pub. L. 98–57, §1, July 22, 1983, 97 Stat. 293.)

CODIFICATION

Section was formerly classified to section 1387 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1983—Pub. L. 98–57 struck out ", not to exceed $750,000" after "such sums".
1979—Pub. L. 96–89 substituted "$750,000" for "$350,000".
1965—Pub. L. 89–280 substituted "$350,000" for "$10,000".

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–57, §2, July 22, 1983, 97 Stat. 293, provided that: "The provision in the first section of this Act [amending this section] shall take effect on October 1, 1983."

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–89, §2, Oct. 19, 1979, 93 Stat. 697, provided that: "The provision in section 1 of this Act [amending this section] shall take effect on October 1, 1979."

SUBCHAPTER X—NATIONAL ARMED FORCES MUSEUM ADVISORY BOARD

§80. National Armed Forces Museum Advisory Board

(a) Establishment; functions

There is established in the Smithsonian Institution a National Armed Forces Museum Advisory Board (hereinafter referred to as the Board), which shall provide advice and assistance to the Regents of the Smithsonian Institution on matters concerned with the portrayal of the contributions which the Armed Forces of the United States have made to American society and culture.

(b) Membership

The Board shall be composed of eleven members, as follows:

(1) The Secretary of Defense, who shall serve as an ex officio member;

(2) The Secretary of the Smithsonian Institution, who shall serve as an ex officio member;

(3) Nine members appointed by the President, (A) three of whom shall be appointed from persons recommended by the Secretary of Defense to represent the Armed Forces, and (B) two of

whom shall be appointed from among persons recommended by the Regents of the Smithsonian Institution. Not less than two members appointed by the President shall be from civilian life.

(c) Term of office; vacancies

Members of the Board appointed by the President shall be appointed to serve for a period of six years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and the terms of office of the members first appointed shall expire, as designated by the President at the time of appointment, three at the end of two years, three at the end of four years, and three at the end of six years.

(d) Quorum

Five members of the Board shall constitute a quorum and any vacancy in the Board shall not affect its power to function.

(e) Compensation, travel and other expenses

The members of the Board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Board.

(f) Biennial organization; rules and regulations

The Board shall select officers from among its members biennially and shall make such bylaws, rules, and regulations as it deems necessary for the furtherance of its business.

(Pub. L. 87–186, §1, Aug. 30, 1961, 75 Stat. 414.)

§80a. Display of contributions of Armed Forces

(a) Study center; historical collections

The Smithsonian Institution shall commemorate and display the contributions made by the military forces of the Nation toward creating, developing, and maintaining a free, peaceful, and independent society and culture in the United States of America. The valor and sacrificial service of the men and women of the Armed Forces shall be portrayed as an inspiration to the present and future generations of America. The demands placed upon the full energies of our people, the hardships endured, and the sacrifice demanded in our constant search for world peace shall be clearly demonstrated. The extensive peacetime contributions the Armed Forces have made to the advance of human knowledge in science, nuclear energy, polar and space exploration, electronics, engineering, aeronautics, and medicine shall be graphically described. The Smithsonian Institution shall interpret through dramatic display significant current problems affecting the Nation's security. It shall be equipped with a study center for scholarly research into the meaning of war, its effect on civilization, and the role of the Armed Forces in maintaining a just and lasting peace by providing a powerful deterrent to war. In fulfilling its purposes, the Smithsonian Institution shall collect, preserve, and exhibit military objects of historical interest and significance.

(b) National Air and Space Museum provisions unaffected

The provisions of this subchapter in no way rescind subchapter VII of this chapter, which established the National Air and Space Museum of the Smithsonian Institution, or any other authority of the Smithsonian Institution.

(Pub. L. 87–186, §2, Aug. 30, 1961, 75 Stat. 414; Pub. L. 89–509, pt. I, §2, July 19, 1966, 80 Stat. 310.)

CHANGE OF NAME

"National Air and Space Museum" substituted for "National Air Museum" in subsec. (b) pursuant to section 2 of Pub. L. 89–509, which is classified to section 77 of this title.

§80b. Selection of site

(a) Authorization of Board of Regents; submission of recommendations to Congress

The Board of Regents of the Smithsonian Institution is authorized and directed, with the advice and assistance of the Board, to investigate and survey lands and buildings in and near the District of Columbia suitable for the display of military collections. The Board of Regents of the Smithsonian Institution shall, after consulting with and seeking the advice of the Commission on Fine Arts, the National Capital Planning Commission, and the General Services Administration, submit recommendations to the Congress with respect to the acquisition of lands and buildings for such purpose.

(b) Public exhibits and study collections; exhibits of military and naval operations

Buildings acquired pursuant to recommendations made under subsection (a) of this section shall be used to house public exhibits and study collections that are not appropriate for the military exhibits of the Smithsonian Institution on the Mall in the District of Columbia. Facilities shall be provided for the display of large military objects and for the reconstruction, in an appropriate way, on lands acquired pursuant to recommendations made under subsection (a) of this section, of exhibits showing the nature of fortifications, trenches, and other military and naval facilities characteristic of the American colonial period, the War of the Revolution, and subsequent American military and naval operations.

(Pub. L. 87–186, §3, Aug. 30, 1961, 75 Stat. 415.)

§80c. Transfer or loan of objects, equipment and records to Smithsonian Institution

The heads of executive departments and independent agencies of the Government are authorized to transfer or loan to the Smithsonian Institution for its use without charge therefor military, naval, aeronautical, and space objects, equipment and records for exhibition, historical, or other appropriate purposes.

(Pub. L. 87–186, §4, Aug. 30, 1961, 75 Stat. 415.)

§80d. Authorization of appropriations

There are authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the purposes of this subchapter.

(Pub. L. 87–186, §5, Aug. 30, 1961, 75 Stat. 415.)

SUBCHAPTER XI—WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

§80e. Congressional declaration of policy

The Congress hereby finds and declares—

(1) that a living institution expressing the ideals and concerns of Woodrow Wilson would be an appropriate memorial to his accomplishments as the twenty-eighth President of the United States, a distinguished scholar, an outstanding university president, and a brilliant advocate of international understanding;

(2) that the Woodrow Wilson Memorial Commission, created by joint resolution of Congress, recommended that an International Center for Scholars be constructed in the District of Columbia

in the area north of the proposed Market Square as part of the Nation's memorial to Woodrow Wilson;

(3) that such a center, symbolizing and strengthening the fruitful relation between the world of learning and the world of public affairs, would be a suitable memorial to the spirit of Woodrow Wilson; and

(4) that the establishment of such a center would be consonant with the purposes of the Smithsonian Institution, created by Congress in 1846 "for the increase and diffusion of knowledge among men."

(Pub. L. 90–637, §2, Oct. 24, 1968, 82 Stat. 1357.)

SHORT TITLE

Pub. L. 90–637, §1, Oct. 24, 1968, 82 Stat. 1356, provided: "That this Act [enacting this subchapter] may be cited as the 'Woodrow Wilson Memorial Act of 1968'."

§80f. Woodrow Wilson International Center for Scholars; Board of Trustees of the Center

(a) Establishment

There is hereby established in the Smithsonian Institution a Woodrow Wilson International Center for Scholars and a Board of Trustees of the Center (hereinafter referred to as the "Center" and the "Board"), whose duties it shall be to maintain and administer the Center and site thereof and to execute such other functions as are vested in the Board by this subchapter.

(b) Composition of Board

The Board of Trustees shall be composed of 17 members as follows:

(1) the Secretary of State;

(2) the Secretary of Health and Human Services;

(3) the Secretary of Education;

(4) the Chairman of the National Endowment for the Humanities;

(5) the Secretary of the Smithsonian Institution;

(6) the Librarian of Congress;

(7) the Archivist of the United States;

(8) one member appointed by the President from time to time from within the Federal Government; and

(9) 9 members appointed by the President from private life.

(c) Appointment of alternate members by members of Board

Each member of the Board of Trustees specified in paragraphs (1) through (8) of subsection (b) of this section may designate another official to serve on the Board of Trustees in his stead.

(d) Terms of office; vacancies; reappointment

Each member of the Board of Trustees appointed under paragraph (10) of subsection (b) of this section shall serve for a term of six years from the expiration of his predecessor's term; except that (1) any trustee appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the trustees first taking office shall begin on October 24, 1968, and shall expire as designated at the time of appointment, two at the end of two years, three at the end of four years, and three at the end of six years. No trustee of the Board chosen from private life shall be eligible to serve in excess of two consecutive terms, except that a trustee whose term has expired may serve until his successor has qualified.

(e) Chairman and Vice Chairman of Board

The President shall designate a Chairman and a Vice Chairman from among the members of the Board chosen from private life.

(Pub. L. 90–637, §3, Oct. 24, 1968, 82 Stat. 1357; Pub. L. 95–426, title II, §206, Oct. 7, 1978, 92 Stat. 975; Pub. L. 101–268, Apr. 9, 1990, 104 Stat. 132; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(i), Oct. 21, 1998, 112 Stat. 2681–788.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277, §1335(i)(1)(A), substituted "17" for "19" in introductory provisions.

Subsec. (b)(7) to (10). Pub. L. 105–277, §1335(i)(1)(B)–(D), redesignated pars. (8) to (10) as (7) to (9), respectively, in par. (9) substituted "9" for "10", and struck out former par. (7) which read as follows: "the Director of the United States Information Agency;".

Subsec. (c). Pub. L. 105–277, §1335(i)(2), substituted "(8)" for "(9)".

1990—Subsec. (b). Pub. L. 101–268, §1, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Board of Trustees shall be composed of sixteen members as follows:

"(1) the Secretary of State;

"(2) the Director of the United States Information Agency;

"(3) the Secretary of Health and Human Services;

"(4) the Chairman of the National Endowment for the Humanities;

"(5) the Secretary of the Smithsonian Institution;

"(6) the Librarian of Congress;

"(7) the Archivist of the United States;

"(8) one appointed by the President from time to time from within the Federal Government; and

"(9) eight appointed by the President from private life."

Subsec. (c). Pub. L. 101–268, §2(1), substituted "(9)" for "(8)".

Subsec. (d). Pub. L. 101–268, §2(2), substituted "(10)" for "(9)".

1978—Subsec. (b). Pub. L. 95–426, §206(a)(1), substituted "sixteen" for "fifteen".

Subsec. (b)(2) to (9). Pub. L. 95–426, §206(a)(2), (3), designated pars. (2) to (8) as (3) to (9), respectively, and added a new par. (2) "the Director of the International Communication Agency".

Subsec. (c). Pub. L. 95–426, §206(b)(1), substituted "(8)" for "(7)".

Subsec. (d). Pub. L. 95–426, §206(b)(2), substituted "(9)" for "(8)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as a note under section 6531 of Title 22.

§80g. Powers and duties of Board

(a) Appointment of scholars; gifts, bequests, etc.; grants; location of Center; physical facilities; compensation of officers; plans and specifications for Center

In administering the Center, the Board shall have all necessary and proper powers, which shall include but not be limited to the power to—

(1) appoint scholars, from the United States and abroad, and, where appropriate, provide stipends, grants, and fellowships to such scholars, and to hire or accept the voluntary services of consultants, advisory boards, and panels to aid the Board in carrying out its responsibilities;

(2) solicit, accept, and dispose of gifts, bequests, and devises of money, securities, and other property of whatsoever character for the benefit of the Center; any such money, securities, or other property shall, upon receipt, be deposited with the Smithsonian Institution, and unless otherwise restricted by the terms of the gift, expenditures shall be in the discretion of the Board for the purposes of the Center;

(3) obtain grants from, and make contracts with, State, Federal, local, and private agencies, organizations, institutions, and individuals;

(4) acquire such site as a location for the Center as may subsequently be authorized by the Congress;

(5) acquire, hold, maintain, use, operate, and dispose of any physical facilities, including equipment, necessary for the operation of the Center;

(6) appoint and fix the compensation and duties of the director and such other officers of the Center as may be necessary for the efficient administration of the Center; the director and two

other officers of the Center may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and

(7) prepare plans and specifications for the Center, including the design and development of all buildings, facilities, open spaces, and other structures on the site in consultation with the President's Temporary Commission on Pennsylvania Avenue, or its successor, and with other appropriate Federal and local agencies, such plans to include an exterior classic frieze memorial to Woodrow Wilson.

(b) Relocation assistance and programs

The Board shall, in connection with acquisition of any site authorized by Congress, as provided for in paragraph (4) of subsection (a) of this section, provide, to businesses and residents displaced from any such site, relocation assistance, including payments and other benefits, equivalent to that authorized to displace businesses and residents under the Housing Act of 1949, as amended [42 U.S.C. 1441 et seq.]. The Board shall develop a relocation program for existing businesses and residents within the site and submit such program to the government of the District of Columbia for a determination as to its adequacy and feasibility. In providing such relocation assistance and developing such relocation program the Board shall utilize to the maximum extent the services and facilities of the appropriate Federal and local agencies.

(Pub. L. 90–637, §4, Oct. 24, 1968, 82 Stat. 1358; Pub. L. 95–286, §2, May 26, 1978, 92 Stat. 279.)

REFERENCES IN TEXT

The Housing Act of 1949, as amended, referred to in subsec. (b), is act July 15, 1949, ch. 338, 63 Stat. 413, which is classified principally to chapter 8A (§1441 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95–286 substituted "devises" for "devices".

§80g–1. Hubert H. Humphrey Fellowship in Social and Political Thought

(a) Establishment in Center

There is hereby established in the Center a Hubert H. Humphrey Fellowship in Social and Political Thought.

(b) Selection of Humphrey Fellow; term; compensation

Each year the Board shall select a distinguished scholar, statesman, or cultural figure, from the United States or abroad, to serve at the Center for a period of up to one year as the Hubert H. Humphrey Fellow in Social and Political Thought (hereinafter in this section referred to as the "Humphrey Fellow"). Each Humphrey Fellow shall receive compensation in an amount, determined by the Board, not to exceed the annual income of the trust fund established under subsection (d) of this section.

(c) Functions of Humphrey Fellow; publication and dissemination by Board of Memorial Lectures

Each Humphrey Fellow shall—

(1) deliver a Hubert H. Humphrey Memorial Lecture; and

(2) carry out such projects and work as are consistent with the Humphrey Fellowship.

The Board shall provide for the publication and dissemination of the Hubert H. Humphrey Memorial Lectures.

(d) Hubert H. Humphrey Fellowship Trust Fund; establishment, composition, investments, etc.

(1) There is hereby established in the Treasury of the United States a trust fund to be known as the

Hubert H. Humphrey Fellowship Trust Fund (hereinafter in this section referred to as the "fund"). The Secretary of the Treasury shall deposit in the fund such sums as may be appropriated to the fund under subsection (f) of this section and shall receive into the Treasury and deposit into the fund such sums as may be received as contributions to the fund.

(2) The Secretary of the Treasury shall invest amounts in the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates; and the interest on such investments shall be credited to and form a part of the fund.

(3) Notwithstanding section 80g(a)(2) of this title any gift, bequest, or devise of money, securities or other property for the benefit of the Hubert H. Humphrey Fellowship in Social and Political Thought received by the Board shall, upon receipt, be deposited into the fund as provided by paragraph (1).

(e) Payments to Board from investments for implementation of Fellowship purposes

The Secretary of the Treasury shall pay to the Board from amounts received as interest on investments under subsection (d)(2) of this section such sums as the Board determines are necessary and appropriate for the purposes of the Humphrey Fellowship.

(f) Authorization of appropriations

There is authorized to be appropriated to the fund for the fiscal year beginning October 1, 1978, $1,000,000.

(Pub. L. 90–637, §5, as added Pub. L. 95–286, §1(2), May 26, 1978, 92 Stat. 278.)

§80h. Administration; quorum

The Board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations as it deems necessary for the administration of its functions under this subchapter, including, among other matters, bylaws, rules, and regulations relating to the administration of its trust funds and the organization and procedure of the Board. A majority of the members of the Board shall constitute a quorum for the transaction of business.

(Pub. L. 90–637, §6, formerly §5, Oct. 24, 1968, 82 Stat. 1359, renumbered Pub. L. 95–286, §1(1), May 26, 1978, 92 Stat. 278.)

§80i. Authorization of appropriations; limitations

There are hereby authorized to be appropriated to the Board such funds as may be necessary to carry out the purposes of this subchapter: *Provided*, That no more than $200,000 shall be authorized for appropriation through fiscal year 1970 and no part of that appropriation shall be available for construction purposes.

(Pub. L. 90–637, §7, formerly §6, Oct. 24, 1968, 82 Stat. 1359, renumbered Pub. L. 95–286, §1(1), May 26, 1978, 92 Stat. 278.)

§80j. Audit of accounts

The accounts of the Board shall be audited in accordance with the principles and procedures applicable to, and as part of, the audit of the other Federal and trust funds of the Smithsonian Institution.

(Pub. L. 90–637, §8, formerly §7, Oct. 24, 1968, 82 Stat. 1359, renumbered Pub. L. 95–286, §1(1), May 26, 1978, 92 Stat. 278.)

SUBCHAPTER XII—MUSEUM OF AFRICAN ART

§80k. Donation and transfer of lands and improvements, works of art, and other assets and property of Museum of African Art to Smithsonian Institution

The Board of Regents of the Smithsonian Institution (hereinafter in this subchapter referred to as the "Board") is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and improvements thereto, collections of works of art, and all other assets and property of the Museum of African Art.

(Pub. L. 95–414, §1, Oct. 5, 1978, 92 Stat. 911.)

EFFECTIVE DATE

Pub. L. 95–414, §7, Oct. 5, 1978, 92 Stat. 913, provided that: "Except for the provisions in sections 1 and 6(b) [this section and section 80p(b) of this title], the provisions of this Act [this subchapter] shall take effect on the date of transfer of a deed or other instrument under the provisions of section 1 [this section]."

§80*l*. Establishment of Museum of African Art; functions

There is established in the Smithsonian Institution a bureau which shall be known as the "Museum of African Art" (hereinafter in this subchapter referred to as the "Museum"). The functions of such bureau shall be those authorized by section 80m(a) of this title.

(Pub. L. 95–414, §2, Oct. 5, 1978, 92 Stat. 911.)

CONSTRUCTION OF NATIONAL MUSEUM OF AFRICAN ART

Regents of Smithsonian Institution authorized to construct building for National Museum of African Art, see Pub. L. 97–203, June 24, 1982, 96 Stat. 129, set out as a note under section 50 of this title.

§80m. Powers of Board

(a) Acquisition, retention, and disposition of property; research and education programs

For the purpose of carrying out sections 80k and 80l of this title, the Board may—

(1) purchase, accept, borrow, or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store, or otherwise hold any property of whatsoever nature acquired pursuant to section 80k of this title or paragraph (1) of this subsection;

(3) conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this subchapter: *Provided*, That the proceeds from the sale of any property acquired pursuant to section 80k of this title shall be designated for the benefit of the Museum.

(b) Recommendations of Commission

In carrying out the purposes of this subchapter, the Board shall consider the recommendations of the Commission established pursuant to section 80n of this title.

(Pub. L. 95–414, §3, Oct. 5, 1978, 92 Stat. 911.)

§80n. Commission for the Museum of African Art

(a) Establishment; duties

There is established a Commission for the Museum of African Art (hereinafter the "Commission")

which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

(b) Membership

The Commission shall consist of fifteen members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than ten members of the Board of Trustees of the Museum of African Art who are serving on October 5, 1978. Each initial member so appointed shall serve for a three-year term. Thereafter, in appointing members of the Commission the Board shall continue to include representatives of African descendants in the United States, collectors of African Art, and scholars in the fields of African art and culture.

(c) Terms of office

Members of the Commission shall be appointed to serve for a three-year term, except that after the appointment of the first term of the Commission as specified in subsection (b) of this section, the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) Quorum; vacancies

A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

(e) Travel, subsistence, and other expenses

Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) Selection of officers; bylaws

The Commission shall select officers, from among its members biennially and shall make bylaws to carry out its functions under this subchapter.

(Pub. L. 95–414, §4, Oct. 5, 1978, 92 Stat. 911.)

§80*o*. Director, officers, and employees; appointment, compensation, and duties

The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 80k of this title shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5.

(Pub. L. 95–414, §5, Oct. 5, 1978, 92 Stat. 912.)

§80p. Funding

(a) Federal funds for Museum

The faith of the United States is pledged that upon the completion of the acquisition in section 80k of this title, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and

care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general public free of charge.

(b) Authorization of appropriations

There is authorized to be appropriated for the first fiscal year under this subchapter, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this subchapter.

(Pub. L. 95–414, §6, Oct. 5, 1978, 92 Stat. 912.)

EFFECTIVE DATE

Section effective, except for the provisions in subsec. (b) of this section, on the date of transfer of a deed or other instrument under the provisions of section 80k of this title, see section 7 of Pub. L. 95–414, set out as a note under section 80k of this title.

SUBCHAPTER XIII—NATIONAL MUSEUM OF THE AMERICAN INDIAN

§80q. Findings

The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas;

(2) although the Smithsonian Institution sponsors extensive Native American programs, none of its 19 museums, galleries, and major research facilities is devoted exclusively to Native American history and art;

(3) the Heye Museum in New York, New York, one of the largest Native American collections in the world, has more than 1,000,000 art objects and artifacts and a library of 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(4) the Heye Museum is housed in facilities with a total area of 90,000 square feet, but requires a minimum of 400,000 square feet for exhibition, storage, and scholarly research;

(5) the bringing together of the Heye Museum collection and the Native American collection of the Smithsonian Institution would—

(A) create a national institution with unrivaled capability for exhibition and research;

(B) give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Native Americans;

(C) provide facilities for scholarly meetings and the performing arts;

(D) make available curatorial and other learning opportunities for Indians; and

(E) make possible traveling exhibitions to communities throughout the Nation;

(6) by order of the Surgeon General of the Army, approximately 4,000 Indian human remains from battlefields and burial sites were sent to the Army Medical Museum and were later transferred to the Smithsonian Institution;

(7) through archaeological excavations, individual donations, and museum donations, the Smithsonian Institution has acquired approximately 14,000 additional Indian human remains;

(8) the human remains referred to in paragraphs (6) and (7) have long been a matter of concern for many Indian tribes, including Alaska Native Villages, and Native Hawaiian communities which are determined to provide an appropriate resting place for their ancestors;

(9) identification of the origins of such human remains is essential to addressing that concern; and

(10) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) is reserved for the use of the Smithsonian Institution and is available for construction of the National Museum of the American Indian.

(Pub. L. 101–185, §2, Nov. 28, 1989, 103 Stat. 1336.)

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 113–70, §1, Dec. 26, 2013, 127 Stat. 1208, provided that: "This Act [amending provisions set out as a note under section 80q–5 of this title] may be cited as the 'Native American Veterans' Memorial Amendments Act of 2013'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–278, §1(a), Oct. 9, 1996, 110 Stat. 3355, provided that: "This Act [enacting section 80q–9a of this title and amending sections 80q–3, 80q–9, and 80q–10 of this title] may be cited as the 'National Museum of the American Indian Act Amendments of 1996'."

SHORT TITLE

Pub. L. 101–185, §1, Nov. 28, 1989, 103 Stat. 1336, provided that: "This Act [enacting this subchapter] may be cited as the 'National Museum of the American Indian Act'."

§80q–1. National Museum of the American Indian

(a) Establishment

There is established, within the Smithsonian Institution, a living memorial to Native Americans and their traditions which shall be known as the "National Museum of the American Indian".

(b) Purposes

The purposes of the National Museum are to—

(1) advance the study of Native Americans, including the study of language, literature, history, art, anthropology, and life;

(2) collect, preserve, and exhibit Native American objects of artistic, historical, literary, anthropological, and scientific interest;

(3) provide for Native American research and study programs; and

(4) provide for the means of carrying out paragraphs (1), (2), and (3) in the District of Columbia, the State of New York, and other appropriate locations.

(Pub. L. 101–185, §3, Nov. 28, 1989, 103 Stat. 1337.)

§80q–2. Authority of Board of Regents to enter into agreement providing for transfer of Heye Foundation assets to Smithsonian Institution

The Board of Regents is authorized to enter into an agreement with the Heye Foundation, to provide for the transfer to the Smithsonian Institution of title to the Heye Foundation assets. The agreement shall—

(1) require that the use of the assets be consistent with section 80q–1(b) of this title; and

(2) be governed by, and construed in accordance with, the law of the State of New York.

The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over any cause of action arising under the agreement.

(Pub. L. 101–185, §4, Nov. 28, 1989, 103 Stat. 1337.)

§80q–3. Board of Trustees of National Museum of the American Indian

(a) In general

The National Museum shall be under a Board of Trustees with the duties, powers, and authority specified in this section.

(b) General duties and powers

The Board of Trustees shall—

(1) recommend annual operating budgets for the National Museum to the Board of Regents;

(2) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the National Museum;

(3) adopt bylaws for the Board of Trustees;

(4) designate a chairman and other officers from among the members of the Board of trustees; [1] and

(5) report annually to the Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts and on other appropriate matters.

(c) Sole authority

Subject to the general policies of the Board of Regents, the Board of Trustees shall have the sole authority to—

(1) lend, exchange, sell, or otherwise dispose of any part of the collections of the National Museum, with the proceeds of such transactions to be used for additions to the collections of the National Museum or additions to the endowment of the National Museum, as the case may be;

(2) purchase, accept, borrow, or otherwise acquire artifacts and other objects for addition to the collections of the Natural Museum; and

(3) specify criteria for use of the collections of the National Museum for appropriate purposes, including research, evaluation, education, and method of display.

(d) Authority

Subject to the general policies of the Board of Regents, the Board of Trustees shall have authority to—

(1) provide for restoration, preservation, and maintenance of the collections of the National Museum;

(2) solicit funds for the National Museum and determine the purposes to which such funds shall be applied; and

(3) approve expenditures from the endowment of the National Museum for any purpose of the Museum.

(e) Initial appointments to Board of Trustees

(1) Membership

The initial membership of the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) an Assistant Secretary of the Smithsonian Institution appointed by the Board of Regents;

(C) 8 individuals appointed by the Board of Regents; and

(D) 15 individuals, each of whom shall be a member of the board of trustees of the Heye Museum, appointed by the Board of Regents from a list of nominees recommended by the board of trustees of the Heye Museum.

(2) Special rule

At least 7 of the 23 members appointed under subparagraphs (C) and (D) of paragraph (1) shall be Indians.

(3) Terms

The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. The terms of the trustees appointed under subparagraph (C) or (D) of paragraph (1) shall be 3 years, beginning on the date of the transfer of the Heye Foundation assets to the Smithsonian Institution.

(4) Vacancies

Any vacancy shall be filled only for the remainder of the term involved. Any vacancy appointment under paragraph (1)(D) shall not be subject to the source and recommendation requirements of that paragraph, but shall be subject to paragraph (2).

(f) Subsequent appointments to Board of Trustees

(1) Membership

Upon the expiration of the terms under subsection (e) of this section, the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) a senior official of the Smithsonian Institution appointed by the Board of Regents; and

(C) 23 individuals appointed by the Board of Regents from a list of nominees recommended by the Board of Trustees.

(2) Special rule

A [2] least 12 of the 23 members appointed under paragraph (1)(C) shall be Indians.

(3) Terms

The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. Except as otherwise provided in the next sentence, the terms of members appointed under paragraph (1)(C) shall be 3 years. Of the members first appointed under paragraph (1)(C)—

(A) 7 members, 4 of whom shall be Indians, shall be appointed for a term of one year, as designated at the time of appointment; and

(B) 8 members, 4 of whom shall be Indians, shall be appointed for a term of 2 years, as designated at the time of appointment.

(4) Vacancies

Any vacancy shall be filled only for the remainder of the term involved.

(g) Quorum

A majority of the members of the Board of Trustees then in office shall constitute a quorum.

(h) Expenses

Members of the Board shall be entitled (to the same extent as provided in section 5703 of title 5 with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses for each day (including travel time) during which they are engaged in the performance of their duties.

(Pub. L. 101–185, §5, Nov. 28, 1989, 103 Stat. 1337; Pub. L. 104–278, §2, Oct. 9, 1996, 110 Stat. 3355.)

AMENDMENTS

1996—Subsec. (f)(1)(B). Pub. L. 104–278 substituted "a senior official" for "an Assistant Secretary".

[1] So in original. Probably should be capitalized.

[2] So in original. Probably should be "At".

§80q–4. Director and staff of National Museum

(a) In general

The Secretary of the Smithsonian Institution shall appoint—

(1) a Director who, subject to the policies of the Board of Trustees, shall manage the National Museum; and

(2) other employees of the National Museum, to serve under the Director.

(b) Offer of employment to Heye Foundation employees

Each employee of the Heye Museum on the day before the date of the transfer of the Heye Foundation assets to the Smithsonian Institution shall be offered employment with the Smithsonian Institution—

(1) under the usual terms of such employment; and

(2) at a rate of pay not less than the rate applicable to the employee on the day before the date of the transfer.

(c) Applicability of certain civil service laws

The Secretary may—

(1) appoint the Director, 2 employees under subsection (a)(2) of this section, and the employees under subsection (b) of this section without regard to the provisions of title 5, governing appointments in the competitive service;

(2) fix the pay of the Director and such 2 employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates; and

(3) fix the pay of the employees under subsection (b) of this section in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, subject to subsection (b)(2) of this section.

(Pub. L. 101–185, §6, Nov. 28, 1989, 103 Stat. 1339.)

§80q–5. Museum facilities

(a) National Museum mall facility

The Board of Regents shall plan, design, and construct a facility on the area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, Southwest, in the District of Columbia to house the portion of the National Museum to be located in the District of Columbia. The Board of Regents shall pay not more than 2/3 of the total cost of planning, designing, and constructing the facility from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(b) National Museum Heye Center facility

(1) Lease of space from GSA

(A) Terms

Notwithstanding section 586(a) and (b) of title 40, the Administrator of General Services may lease, at a nominal charge, to the Smithsonian Institution space in the Old United States Custom House at One Bowling Green, New York, New York, to house the portion of the National Museum to be located in the city of New York. The lease shall be subject to such terms as may be mutually agreed upon by the Administrator and the Secretary of the Smithsonian Institution. The term of the lease shall not be less than 99 years.

(B) Reimbursement of Federal buildings fund

The Administrator of General Services may reimburse the fund established by section 592 of title 40 for the difference between the amount charged to the Smithsonian Institution for leasing space under this paragraph and the commercial charge under section 586(a) and (b) of title 40 which, but for this paragraph, would apply to the leasing of such space. There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this subparagraph for fiscal years beginning after September 30, 1990.

(2) Construction

(A) Museum facility

The Board of Regents shall plan, design, and construct a significant facility for the National Museum in the space leased under paragraph (1).

(B) Auditorium and loading dock facility

The Administrator of General Services shall plan, design, and construct an auditorium and loading dock in the Old United States Custom House at One Bowling Green, New York, New

York, for the shared use of all the occupants of the building, including the National Museum.

(C) Square footage

The facilities to be constructed under this paragraph shall have, in the aggregate, a total square footage of approximately 82,500 square feet.

(3) Repairs and alterations

After construction of the facility under paragraph (2)(A), repairs and alterations of the facility shall be the responsibility of the Board of Regents.

(4) Reimbursement of GSA

The Board of Regents shall reimburse the Administrator for the Smithsonian Institution's pro rata share of the cost of utilities, maintenance, cleaning, and other services incurred with respect to the space leased under paragraph (1) and the full cost of any repairs or alterations made by the General Services Administration at the request of the Smithsonian Institution with respect to the space.

(5) Cost sharing

(A) General rules

The Board of Regents shall pay 1/3 of the costs of planning, designing, and constructing the facility under paragraph (2)(A) from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(B) Responsibilities of New York City and State

Of the costs which are required to be paid from non-Federal sources under this paragraph, the city of New York, New York, and the State of New York have each agreed to pay $8,000,000 or an amount equal to 1/3 of the costs of planning, designing, and constructing the facility under paragraph (2)(A), whichever is less. Such payments shall be made to the Board of Regents in accordance with a payment schedule to be agreed upon by the city and State and the Board of Regents.

(C) Limitation on obligations of Federal funds

Federal funds may not be obligated for actual construction of a facility under paragraph (2)(A) in a fiscal year until non-Federal sources have paid to the Board of Regents the non-Federal share of such costs which the Board of Regents estimates will be incurred in such year.

(6) Designation

The facility to be constructed under paragraph (2)(A) shall be known and designated as the "George Gustav Heye Center of the National Museum of the American Indian".

(c) Museum Support Center facility

The Board of Regents shall plan, design, and construct a facility for the conservation and storage of the collections of the National Museum at the Museum Support Center of the Smithsonian Institution.

(d) Minimum square footage

The facilities to be constructed under this section shall have, in the aggregate, a total square footage of at least 400,000 square feet.

(e) Authority to contract with GSA

The Board of Regents and the Administrator of General Services may enter into such agreements as may be necessary for planning, designing, and constructing facilities under this section (other than subsection (b)(2)(B)). Under such agreements, the Board of Regents shall transfer to the Administrator, from funds available for planning, designing, and constructing such facilities, such amounts as may be necessary for expenses of the General Services Administration with respect to planning, designing, and constructing such facilities.

(f) Limitation on obligation of Federal funds

Notwithstanding any other provision of this subchapter, funds appropriated for carrying out this section may not be obligated for actual construction of any facility under this section until the 60th day after the date on which the Board of Regents transmits to Congress a written analysis of the total estimated cost of the construction and a cost-sharing plan projecting the amount for Federal appropriations and for non-Federal contributions for the construction on a fiscal year basis.

(Pub. L. 101–185, §7, Nov. 28, 1989, 103 Stat. 1339.)

CODIFICATION

"Section 586(a) and (b) of title 40" substituted in subsec. (b)(1)(A) for "section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j))", "section 592 of title 40" substituted in subsec. (b)(1)(B) for "section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f))", and "section 586(a) and (b) of title 40" substituted in subsec. (b)(1)(B) for "section 210(j) of such Act" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

NATIONAL NATIVE AMERICAN VETERANS' MEMORIAL

Pub. L. 103–384, Oct. 22, 1994, 108 Stat. 4067, as amended by Pub. L. 113–70, §2, Dec. 26, 2013, 127 Stat. 1208, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Native American Veterans' Memorial Establishment Act of 1994'.

"SEC. 2. FINDINGS.

"The Congress finds the following:

"(1) Native Americans across the Nation—Indians, Native Alaskans, and Native Hawaiians—have a long, proud and distinguished tradition of service in the Armed Forces of the United States.

"(2) Native Americans have historically served in the Armed Forces of the United States in numbers which far exceed their representation in the population of the United States.

"(3) Native American veterans count among themselves a number of Medal of Honor recipients. Their numbers are also conspicuous in the ranks of those who have received other decorations for valor and distinguished service.

"(4) Native Americans have lost their lives in the service of their Nation and in the cause of peace.

"(5) The National Museum of the American Indian was established as a living memorial to Native Americans. Its mission is to advance knowledge and understanding of Native American cultures, including art, history, language, and the contributions Native Americans have made to our society.

"(6) The National Museum of the American Indian is an extraordinary site and an ideal location to establish a National Native American Veterans' Memorial.

"(7) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the Armed Forces of the United States.

"SEC. 3. AUTHORITY TO ESTABLISH MEMORIAL.

"(a) IN GENERAL.—The National Museum of the American Indian (established by the National Museum of the American Indian Act (20 U.S.C. 80q et seq.)), in close consultation with the National Congress of American Indians and other Native American groups, is authorized to construct and maintain a National Native American Veterans' Memorial (hereafter in this Act referred to as the 'memorial').

"(b) LOCATION.—The memorial shall be located at a site determined to be suitable by the Museum on property under the jurisdiction of the Museum on the site described in section 7(a) of such Act (20 U.S.C. 80q–5(a)) (relating to housing the portion of the Museum to be located in the District of Columbia).

"(c) DESIGN AND PLANS.—(1) The National Congress of American Indians and the National Museum of the American Indian are authorized to hold a competition to select the design of the Memorial. Any design so selected shall be compatible with both the purpose of the Museum, as set forth in section 3(b) of the National Museum of the American Indian Act (20 U.S.C. 80q–1 [(b)]), and with any existing design plans for the Museum's structure and its surroundings.

"(2) Any design so selected shall be subject to the approval of the Board of Regents of the Smithsonian Institution.

"SEC. 4. PAYMENT OF EXPENSES AND USE OF NAME.

"(a) RESPONSIBILITY OF NATIONAL CONGRESS OF AMERICAN INDIANS AND NATIONAL MUSEUM OF THE AMERICAN INDIAN.—The National Congress of American Indians and the National Museum of the American Indian shall be responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

"(b) USE OF NAME.—Use of the name of the Smithsonian Institution or the National Museum of the American Indian in any material regarding the memorial produced by the National Congress of American Indians, other than in a manner simply describing the location of the memorial, shall be subject to consultation with, and the approval of, the Board of Regents of the Smithsonian Institution."

§80q–6. Custom House office space and auditorium

(a) Repairs and alterations

The Administrator of General Services shall make such repairs and alterations as may be necessary in the portion of the Old United States Custom House at One Bowling Green, New York, New York, which is not leased to the Board of Regents under section 80q–5(b) of this title and which, as of November 28, 1989, has not been altered.

(b) Authorization of appropriation

There is authorized to be appropriated to the Administrator of General Services $25,000,000 from the fund established pursuant to section 592 of title 40 to carry out this section and section 80q–5(b)(2)(B) of this title.

(Pub. L. 101–185, §8, Nov. 28, 1989, 103 Stat. 1341.)

CODIFICATION

"Section 592 of title 40" substituted in subsec. (b) for "section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f))" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§80q–7. Audubon Terrace

(a) In general

The Board of Regents shall—

(1) assure that, on the date on which a qualified successor to the Heye Foundation at Audubon Terrace first takes possession of Audubon Terrace, an area of at least 2,000 square feet at that facility is accessible to the public and physically suitable for exhibition of museum objects and for related exhibition activities;

(2) upon written agreement between the Board and any qualified successor, lend objects from the collections of the Smithsonian Institution to the successor for exhibition at Audubon Terrace; and

(3) upon written agreement between the Board and any qualified successor, provide training, scholarship, technical, and other assistance (other than operating funds) with respect to the area referred to in paragraph (1) for the purposes described in that paragraph.

(b) Determination of charges

Any charge by the Board of Regents for activities pursuant to agreements under paragraph (2) or (3) of subsection (a) of this section shall be determined according to the ability of the successor to pay.

(c) Definition

As used in this section, the terms "qualified successor to the Heye Foundation at Audubon Terrace", "qualified successor", and,[1] "successor" mean an organization described in section 501(c)(3) of title 26, and exempt from tax under section 501(a) of title 26, that, as determined by the

Board of Regents—

(1) is a successor occupant to the Heye Foundation at Audubon Terrace, 3753 Broadway, New York, New York;

(2) is qualified to operate the area referred to in paragraph (1) for the purposes described in that paragraph; and

(3) is committed to making a good faith effort to respond to community cultural interests in such operation.

(Pub. L. 101–185, §9, Nov. 28, 1989, 103 Stat. 1342.)

[1] *So in original. The comma probably should not appear.*

§80q–8. Board of Regents functions with respect to certain agreements and programs

(a) Priority to be given to Indian organizations with respect to certain agreements

In entering into agreements with museums and other educational and cultural organizations to—

(1) lend Native American artifacts and objects from any collection of the Smithsonian Institution;

(2) sponsor or coordinate traveling exhibitions of artifacts and objects; or

(3) provide training or technical assistance;

the Board of Regents shall give priority to agreements with Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives. Such agreements may provide that loans or services to such organizations may be furnished by the Smithsonian Institution at minimal or no cost.

(b) Indian programs

The Board of Regents may establish—

(1) programs to serve Indian tribes and communities; and

(2) in cooperation with educational institutions, including tribally controlled colleges or universities (as defined in section 1801(a) of title 25), programs to enhance the opportunities for Indians in the areas of museum studies, management, and research.

(c) Indian Museum Management Fellowships

The Board of Regents shall establish an Indian Museum Management Fellowship program to provide stipend support to Indians for training in museum development and management.

(d) Authorization of appropriations

There is authorized to be appropriated $2,000,000 for each fiscal year, beginning with fiscal year 1991, to carry out subsections (b) and (c) of this section.

(Pub. L. 101–185, §10, Nov. 28, 1989, 103 Stat. 1342; Pub. L. 105–244, title IX, §901(d), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 110–315, title IX, §941(k)(2)(B), Aug. 14, 2008, 122 Stat. 3465.)

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110–315 substituted "tribally controlled colleges or universities (as defined in section 1801(a) of title 25)" for "tribally controlled community colleges (as defined in section 1801 of title 25)".

1998—Subsec. (b)(2). Pub. L. 105–244 made technical amendment to reference in original act which appears in text as reference to section 1801 of title 25.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§80q–9. Inventory, identification, and return of Indian human remains and Indian funerary objects in possession of Smithsonian Institution

(a) Inventory and identification

(1) The Secretary of the Smithsonian Institution, in consultation and cooperation with traditional Indian religious leaders and government officials of Indian tribes, shall—

(A) inventory the Indian human remains and Indian funerary objects in the possession or control of the Smithsonian Institution; and

(B) using the best available scientific and historical documentation, identify the origins of such remains and objects.

(2) The inventory made by the Secretary of the Smithsonian Institution under paragraph (1) shall be completed not later than June 1, 1998.

(3) For purposes of this subsection, the term "inventory" means a simple, itemized list that, to the extent practicable, identifies, based upon available information held by the Smithsonian Institution, the geographic and cultural affiliation of the remains and objects referred to in paragraph (1).

(b) Notice in case of identification of tribal origin

If the tribal origin of any Indian human remains or Indian funerary object is identified by a preponderance of the evidence, the Secretary shall so notify any affected Indian tribe at the earliest opportunity.

(c) Return of Indian human remains and associated Indian funerary objects

If any Indian human remains are identified by a preponderance of the evidence as those of a particular individual or as those of an individual culturally affiliated with a particular Indian tribe, the Secretary, upon the request of the descendants of such individual or of the Indian tribe shall expeditiously return such remains (together with any associated funerary objects) to the descendants or tribe, as the case may be.

(d) Return of Indian funerary objects not associated with Indian human remains

If any Indian funerary object not associated with Indian human remains is identified by a preponderance of the evidence as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe, the Secretary, upon the request of the Indian tribe, shall expeditiously return such object to the tribe.

(e) Interpretation

Nothing in this section shall be interpreted as—

(1) limiting the authority of the Smithsonian Institution to return or repatriate Indian human remains or Indian funerary objects to Indian tribes or individuals; or

(2) delaying actions on pending repatriation requests, denying or otherwise affecting access to the courts, or limiting any procedural or substantive rights which may otherwise be secured to Indian tribes or individuals.

(f) Authorization of appropriations

There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section and section 80q–9a of this title.

(Pub. L. 101–185, §11, Nov. 28, 1989, 103 Stat. 1343; Pub. L. 104–278, §3, Oct. 9, 1996, 110 Stat. 3355.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–278, §3(a), designated existing provisions as par. (1), added pars. (2) and (3), and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1).

Subsec. (f). Pub. L. 104–278, §3(b), inserted "and section 80q–9a of this title" after "to carry out this section".

§80q–9a. Summary and repatriation of unassociated funerary objects, sacred objects, and cultural patrimony

(a) Summary

Not later than December 31, 1996, the Secretary of the Smithsonian Institution shall provide a written summary that contains a summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony (as those terms are defined in subparagraphs (B), (C), and (D), respectively, of section 3001(3) of title 25, based upon available information held by the Smithsonian Institution. The summary required under this section shall include, at a minimum, the information required under section 3004 of title 25.

(b) Repatriation

Where cultural affiliation of Native American unassociated funerary objects, sacred objects, and objects of cultural patrimony has been established in the summary prepared pursuant to subsection (a) of this section, or where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion, then the Smithsonian Institution shall expeditiously return such unassociated funerary object, sacred object, or object of cultural patrimony where—

(1) the requesting party is the direct lineal descendant of an individual who owned the unassociated funerary object or sacred object;

(2) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the Indian tribe or Native Hawaiian organization; or

(3) the requesting Indian tribe or Native Hawaiian organization can show that the unassociated funerary object or sacred object was owned or controlled by a member thereof, provided that in the case where an unassociated funerary object or sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object.

(c) Standard of repatriation

If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to this subchapter and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian Institution did not have the right of possession, then the Smithsonian Institution shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

(d) Museum obligation

Any museum of the Smithsonian Institution which repatriates any item in good faith pursuant to this subchapter shall not be liable for claims by an aggrieved party or for claims of fiduciary duty, public trust, or violations of applicable law that are inconsistent with the provisions of this subchapter.

(e) Statutory construction

Nothing in this section may be construed to prevent the Secretary of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution, from making an inventory or preparing a written summary or carrying out the repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in a manner that exceeds the requirements of this subchapter.

(f) "Native Hawaiian organization" defined

For purposes of this section, the term "Native Hawaiian organization" has the meaning provided that term in section 3001(11) of title 25.

(Pub. L. 101–185, §11A, as added Pub. L. 104–278, §4, Oct. 9, 1996, 110 Stat. 3355.)

§80q–10. Special committee to review inventory, identification, and return of Indian human remains and Indian funerary objects

(a) Establishment; duties

Not later than 120 days after November 28, 1989, the Secretary of the Smithsonian Institution shall appoint a special committee to monitor and review the inventory, identification, and return of Indian human remains and Indian funerary objects under section 80q–9 of this title and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 80q–9a of this title. In carrying out its duties, the committee shall—

(1) with respect to the inventory and identification, ensure fair and objective consideration and assessment of all relevant evidence;

(2) upon the request of any affected party or otherwise, review any finding relating to the origin or the return of such remains or objects;

(3) facilitate the resolution of any dispute that may arise between Indian tribes with respect to the return of such remains or objects; and

(4) perform such other related functions as the Secretary may assign.

(b) Membership

The committee shall consist of 7 members, of whom—

(1) 4 members shall be appointed from among nominations submitted by Indian tribes and organizations;

(2) at least 2 members shall be traditional Indian religious leaders; and

(3) the Secretary shall designate one member as chairman.

The Secretary may not appoint to the committee any individual who is an officer or employee of the Government (including the Smithsonian Institution) or any individual who is otherwise affiliated with the Smithsonian Institution.

(c) Access

The Secretary shall ensure that the members of the committee have full and free access to the Indian human remains and Indian funerary objects subject to section 80q–9 of this title and to any related evidence, including scientific and historical documents.

(d) Pay and expenses of members

Members of the committee shall—

(1) be paid the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General schedule under section 5332 of title 5; and

(2) be entitled (to the same extent as provided in section 5703 of such title, with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses;

for each day (including travel time) during which they are engaged in the performance of their duties.

(e) Rules and administrative support

The Secretary shall prescribe regulations and provide administrative support for the committee.

(f) Report and termination

At the conclusion of the work of the committee, the Secretary shall be so [1] certify by report to the Congress. The committee shall cease to exist 120 days after the submission of the report.

(g) Nonapplicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the committee.

(h) Authorization of appropriations

There is authorized to be appropriated $250,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section.

(Pub. L. 101–185, §12, Nov. 28, 1989, 103 Stat. 1344; Pub. L. 104–278, §5, Oct. 9, 1996, 110 Stat. 3357.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–278, §5(1), in first sentence, inserted "and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 80q–9a of this title" before period.

Subsec. (b). Pub. L. 104–278, §5(2)(A), substituted "7 members" for "five members" in introductory provisions.

Subsec. (b)(1). Pub. L. 104–278, §5(2)(B), substituted "4 members" for "three members" and struck out "and" at end.

Subsec. (b)(2), (3). Pub. L. 104–278, §5(2)(C), (D), added par. (2) and redesignated former par. (2) as (3).

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

[1] *So in original. Probably should be "shall so".*

§80q–11. Inventory, identification, and return of Native Hawaiian human remains and Native Hawaiian funerary objects in possession of Smithsonian Institution

(a) In general

The Secretary of the Smithsonian Institution shall—

(1) in conjunction with the inventory and identification under section 80q–9 of this title, inventory and identify the Native Hawaiian human remains and Native Hawaiian funerary objects in the possession of the Smithsonian Institution;

(2) enter into an agreement with appropriate Native Hawaiian organizations with expertise in Native Hawaiian affairs (which may include the Office of Hawaiian Affairs and the Malama I Na Kupuna O Hawai'i Nei) to provide for the return of such human remains nd [1] funerary objects; and

(3) to the greatest extent practicable, apply, with respect to such human remains and funerary objects, the principles and procedures set forth in sections 80q–9 and 80q–10 of this title with respect to the Indian human remains and Indian funerary objects in the possession of the Smithsonian Institution.

(b) Definitions

As used in this section—

(1) the term "Malama I Na Kupuna O Hawai'i Nei" means the nonprofit, Native Hawaiian organization, incorporated under the laws of the State of Hawaii by that name on April 17, 1989, the purpose of which is to provide guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues; and

(2) the term "Office of Hawaiian Affairs" means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

(Pub. L. 101–185, §13, Nov. 28, 1989, 103 Stat. 1345.)

[1] *So in original. Probably should be "and".*

§80q–12. Grants by Secretary of the Interior to assist Indian tribes with respect to agreements for return of Indian human remains and Indian funerary objects

(a) In general

The Secretary of the Interior may make grants to Indian tribes to assist such tribes in reaching and carrying out agreements with—

(1) the Board of Regents for the return of Indian human remains and Indian funerary objects under section 80q–9 of this title; and

(2) other Federal and non-Federal entities for additional returns of Indian human remains and Indian funerary objects.

(b) Authorization of appropriations

There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years for grants under subsection (a) of this section.

(Pub. L. 101–185, §14, Nov. 28, 1989, 103 Stat. 1345.)

§80q–13. Grants by Secretary of the Interior to assist Indian organizations with respect to renovation and repair of museum facilities and exhibit facilities

(a) Grants

The Secretary of the Interior may make grants to Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives, for renovation and repair of museum facilities and exhibit facilities to enable such organizations to exhibit objects and artifacts on loan from the collections of the Smithsonian Institution or from other sources. Such grants may be made only from the Tribal Museum Endowment Fund.

(b) Indian organization contribution

In making grants under subsection (a) of this section, the Secretary may require the organization receiving the grant to contribute, in cash or in kind, not more than 50 percent of the cost of the renovation or repair involved. Such contribution may be derived from any source other than the Tribal Museum Endowment Fund.

(c) Tribal Museum Endowment Fund

(1) Establishment

There is established in the Treasury a fund, to be known as the "Tribal Museum Endowment Fund" (hereinafter in this subsection referred to as the "Fund") for the purpose of making grants under subsection (a) of this section. The Fund shall consist of (A) amounts deposited and credited under paragraph (2), (B) obligations obtained under paragraph (3), and (C) amounts appropriated pursuant to authorization under paragraph (5).

(2) Deposits and credits

The Secretary of the Interior is authorized to accept contributions to the Fund from non-Federal sources and shall deposit such contributions in the Fund. The Secretary of the Treasury shall credit to the Fund the interest on, and the proceeds from sale and redemption of, obligations held in the Fund.

(3) Investments

The Secretary of the Treasury may invest any portion of the Fund in interest-bearing obligations of the United States. Such obligations may be acquired on original issue or in the open market and

may be held to maturity or sold in the open market. In making investments for the Fund, the Secretary of the Treasury shall consult the Secretary of the Interior with respect to maturities, purchases, and sales, taking into consideration the balance necessary to meet current grant requirements.

(4) Expenditures and capital preservation

Subject to appropriation, amounts derived from interest shall be available for expenditure from the Fund. The capital of the Fund shall not be available for expenditure.

(5) Authorization of appropriations

There is authorized to be appropriated to the Fund $2,000,000 for each fiscal year beginning with fiscal year 1992.

(Pub. L. 101–185, §15, Nov. 28, 1989, 103 Stat. 1345.)

CODIFICATION

Subsec. (d) of this section, which required the Secretary of the Interior, in consultation with the Secretary of the Treasury, to submit an annual report to Congress on activities under this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 108 of House Document No. 103–7.

NATIVE AMERICAN CULTURAL CENTER IN OKLAHOMA CITY, OKLAHOMA; FEASIBILITY STUDY AND REPORT

Pub. L. 102–196, Dec. 9, 1991, 105 Stat. 1620, directed Secretary of the Interior to conduct a study and make a report to Congress on the feasibility of establishing a Native American Cultural Center in Oklahoma City, Oklahoma, and made appropriations for that purpose.

§80q–14. Definitions

As used in this subchapter—

(1) the term "Board of Regents" means the Board of Regents of the Smithsonian Institution;

(2) the term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian;

(3) the term "burial site" means a natural or prepared physical location, whether below, on, or above the surface of the earth, into which, as a part of a death rite or ceremony of a culture, individual human remains are deposited;

(4) the term "funerary object" means an object that, as part of a death rite or ceremony of a culture, is intentionally placed with individual human remains, either at the time of burial or later;

(5) the term "Heye Foundation assets" means the collections, endowment, and all other property of the Heye Foundation (other than the interest of the Heye Foundation in Audubon Terrace) described in the Memorandum of Understanding between the Smithsonian Institution and the Heye Foundation, dated May 8, 1989, and the schedules attached to such memorandum;

(6) the term "Heye Museum" means the Museum of the American Indian, Heye Foundation;

(7) the term "Indian" means a member of an Indian tribe;

(8) the term "Indian tribe" has the meaning given that term in section 450b of title 25;

(9) the term "National Museum" means the National Museum of the American Indian established by section 80q–1 of this title;

(10) the term "Native American" means an individual of a tribe, people, or culture that is indigenous to the Americas and such term includes a Native Hawaiian; and

(11) the term "Native Hawaiian" means a member or descendant of the aboriginal people who, before 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(Pub. L. 101–185, §16, Nov. 28, 1989, 103 Stat. 1346.)

§80q–15. Authorization of appropriations

(a) Funding

There is authorized to be appropriated to the Board of Regents to carry out this subchapter (other than as provided in sections 80q–5(b)(1)(B), 80q–6, 80q–8, 80q–9, 80q–10, 80q–12, and 80q–13(c)(5) of this title)—

(1) $10,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each succeeding fiscal year.

(b) Period of availability

Funds appropriated under subsection (a) of this section shall remain available without fiscal year limitation for any period prior to the availability of the facilities to be constructed under section 80q–5 of this title for administrative and planning expenses and for the care and custody of the collections of the National Museum.

(Pub. L. 101–185, §17, Nov. 28, 1989, 103 Stat. 1347.)

SUBCHAPTER XIV—NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE

§80r. Findings

Congress finds that—

(1) since its founding, the United States has grown into a symbol of democracy and freedom around the world, and the legacy of African Americans is rooted in the very fabric of the democracy and freedom of the United States;

(2) there exists no national museum within the Smithsonian Institution that—

(A) is devoted to the documentation of African American life, art, history, and culture; and

(B) encompasses, on a national level—

(i) the period of slavery;

(ii) the era of Reconstruction;

(iii) the Harlem renaissance;

(iv) the civil rights movement; and

(v) other periods associated with African American life, art, history, and culture; and

(3) a National Museum of African American History and Culture would be dedicated to the collection, preservation, research, and exhibition of African American historical and cultural material reflecting the breadth and depth of the experiences of individuals of African descent living in the United States.

(Pub. L. 108–184, §2, Dec. 16, 2003, 117 Stat. 2676.)

SHORT TITLE

Pub. L. 108–184, §1, Dec. 16, 2003, 117 Stat. 2676, provided that: "This Act [enacting this subchapter] may be cited as the 'National Museum of African American History and Culture Act'."

§80r–1. Definitions

In this subchapter:

(1) Board of Regents

The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) Council

The term "Council" means the National Museum of African American History and Culture Council established by section 80r–3 of this title.

(3) Museum

The term "Museum" means the National Museum of African American History and Culture established by section 80r–2 of this title.

(4) Secretary

The term "Secretary" means the Secretary of the Smithsonian Institution.

(Pub. L. 108–184, §3, Dec. 16, 2003, 117 Stat. 2676.)

§80r–2. Establishment of Museum

(a) Establishment

There is established within the Smithsonian Institution a museum to be known as the "National Museum of African American History and Culture".

(b) Purpose

The purpose of the Museum shall be to provide for—

(1) the collection, study, and establishment of programs relating to African American life, art, history, and culture that encompass—

(A) the period of slavery;

(B) the era of Reconstruction;

(C) the Harlem renaissance;

(D) the civil rights movement; and

(E) other periods of the African American diaspora;

(2) the creation and maintenance of permanent and temporary exhibits documenting the history of slavery in America and African American life, art, history, and culture during the periods referred to in paragraph (1);

(3) the collection and study of artifacts and documents relating to African American life, art, history, and culture; and

(4) collaboration between the Museum and other museums, historically black colleges and universities, historical societies, educational institutions, and other organizations that promote the study or appreciation of African American life, art, history, or culture, including collaboration concerning—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections; and

(C) training of museum professionals.

(Pub. L. 108–184, §4, Dec. 16, 2003, 117 Stat. 2677.)

§80r–3. Council

(a) Establishment

There is established within the Smithsonian Institution a council to be known as the "National Museum of African American History and Culture Council".

(b) Duties

(1) In general

The Council shall—

(A) make recommendations to the Board of Regents concerning the planning, design, and construction of the Museum;

(B) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the Museum;

(C) recommend annual operating budgets for the Museum to the Board of Regents;

(D) report annually to the Board of Regents on the acquisition, disposition, and display of objects relating to African American life, art, history, and culture; and

(E) adopt bylaws for the operation of the Council.

(2) Principal responsibilities

The Council, subject to the general policies of the Board of Regents, shall have sole authority to—

(A) purchase, accept, borrow, and otherwise acquire artifacts for addition to the collections of the Museum;

(B) loan, exchange, sell, and otherwise dispose of any part of the collections of the Museum, but only if the funds generated by that disposition are used for additions to the collections of the Museum; or

(C) specify criteria with respect to the use of the collections and resources of the Museum, including policies on programming, education, exhibitions, and research with respect to—

(i) the life, art, history, and culture of African Americans;

(ii) the role of African Americans in the history of the United States from the period of slavery to the present; and

(iii) the contributions of African Americans to society.

(3) Other responsibilities

The Council, subject to the general policies of the Board of Regents, shall have authority—

(A) to provide for preservation, restoration, and maintenance of the collections of the Museum; and

(B) to solicit, accept, use, and dispose of gifts, bequests, and devises of personal property for the purpose of aiding and facilitating the work of the Museum.

(c) Composition and appointment

(1) In general

The Council shall be composed of 19 voting members as provided under paragraph (2).

(2) Voting members

The Council shall include the following voting members:

(A) The Secretary of the Smithsonian Institution.

(B) One member of the Board of Regents, appointed by the Board of Regents.

(C) Seventeen individuals appointed by the Board of Regents—

(i) taking into consideration individuals recommended by organizations and entities that are committed to the advancement of knowledge of African American life, art, history, and culture; and

(ii) taking into consideration individuals recommended by the members of the Council.

(3) Initial appointments

The Board of Regents shall make initial appointments to the Council under paragraph (2) not later than 180 days after December 16, 2003.

(d) Terms

(1) In general

Except as provided in this subsection, each appointed member of the Council shall be appointed for a term of 3 years.

(2) Initial appointees

As designated by the Board of Regents at the time of appointment, of the voting members first appointed under subparagraph (C) of subsection (c)(2) of this section—

(A) six members shall be appointed for a term of 1 year;
(B) six members shall be appointed for a term of 2 years; and
(C) five members shall be appointed for a term of 3 years.

(3) Reappointment

A member of the Council may be reappointed, except that no individual may serve on the Council for a total of more than 2 terms. For purposes of this paragraph, the number of terms an individual serves on the Council shall not include any portion of a term for which an individual is appointed to fill a vacancy under paragraph (4)(B).

(4) Vacancies

(A) In general

A vacancy on the Council—
(i) shall not affect the powers of the Council; and
(ii) shall be filled in the same manner as the original appointment was made.

(B) Term

Any member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(e) Compensation

(1) In general

Except as provided in paragraph (2), a member of the Council shall serve without pay.

(2) Travel expenses

A member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, while away from the home or regular place of business of the member in the performance of the duties of the Council.

(f) Chairperson

By a majority vote of its voting members, the Council shall elect a chairperson from its members.

(g) Meetings

(1) In general

The Council shall meet at the call of the chairperson or on the written request of a majority of the voting members of the Council, but not fewer than twice each year.

(2) Initial meetings

During the 1-year period beginning on the date of the first meeting of the Council, the Council shall meet not fewer than 4 times for the purpose of carrying out the duties of the Council under this subchapter.

(h) Quorum

A majority of the voting members of the Council holding office shall constitute a quorum for the purpose of conducting business, but a lesser number may receive information on behalf of the Council.

(Pub. L. 108–184, §5, Dec. 16, 2003, 117 Stat. 2677.)

§80r–4. Director and staff of the Museum

(a) Director

(1) In general

The Museum shall have a Director who shall be appointed by the Secretary, taking into consideration individuals recommended by the Council.

(2) Duties

The Director shall manage the Museum subject to the policies of the Board of Regents.

(b) Staff

The Secretary may appoint two additional employees to serve under the Director, except that such additional employees may be appointed without regard to the provisions of title 5 governing appointments in the competitive service.

(c) Pay

The employees appointed by the Secretary under subsection (b) of this section may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates.

(Pub. L. 108–184, §6, Dec. 16, 2003, 117 Stat. 2679.)

§80r–5. Educational and liaison programs

(a) In general

(1) Programs authorized

The Director of the Museum may carry out educational and liaison programs in support of the goals of the Museum.

(2) Specific activities described

In carrying out this section, the Director shall—

(A) carry out educational programs relating to African American life, art, history, and culture, including—

(i) programs using digital, electronic, and interactive technologies; and

(ii) programs carried out in collaboration with elementary schools, secondary schools, and postsecondary schools; and

(B) consult with the Director of the Institute of Museum and Library Services concerning the grant and scholarship programs carried out under subsection (b) of this section.

(b) Grant and scholarship programs

(1) In general

In consultation with the Council and the Director of the Museum, the Director of the Institute of Museum and Library Services shall establish—

(A) a grant program with the purpose of improving operations, care of collections, and development of professional management at African American museums;

(B) a grant program with the purpose of providing internship and fellowship opportunities at African American museums;

(C) a scholarship program with the purpose of assisting individuals who are pursuing careers or carrying out studies in the arts, humanities, and sciences in the study of African American life, art, history, and culture;

(D) in cooperation with other museums, historical societies, and educational institutions, a grant program with the purpose of promoting the understanding of modern-day practices of slavery throughout the world; and

(E) a grant program under which an African-American museum (including a nonprofit education organization the primary mission of which is to promote the study of

African-American diaspora) may use the funds provided under the grant to increase an endowment fund established by the museum (or organization) as of May 1, 2003, for the purposes of—

(i) enhancing educational programming; and

(ii) maintaining and operating traveling educational exhibits.

(2) Authorization of appropriations

There are authorized to be appropriated to the Director of the Institute of Museum and Library Services to carry out this subsection—

(A) $15,000,000 for fiscal year 2004; and

(B) such sums as are necessary for each fiscal year thereafter.

(Pub. L. 108–184, §7, Dec. 16, 2003, 117 Stat. 2679.)

§80r–6. Building for the National Museum of African American History and Culture

(a) In general

(1) Location

(A) In general

Not later than 12 months after December 16, 2003, the Board of Regents shall designate a site for the Museum.

(B) Sites for consideration

In designating a site under subparagraph (A), the Board of Regents shall select from among the following sites in the District of Columbia:

(i) The Arts and Industries Building of the Smithsonian Institution, located on the National Mall at 900 Jefferson Drive, Southwest, Washington, District of Columbia.

(ii) The area bounded by Constitution Avenue, Madison Drive, and 14th and 15th Streets, Northwest.

(iii) The site known as the "Liberty Loan site", located on 14th Street Southwest at the foot of the 14th Street Bridge.

(iv) The site known as the "Banneker Overlook site", located on 10th Street Southwest at the foot of the L'Enfant Plaza Promenade.

(C) Availability of site

(i) In general

A site described in subparagraph (B) shall remain available until the date on which the Board of Regents designates a site for the Museum under subparagraph (A).

(ii) Transfer to Smithsonian Institution

Except with respect to a site described in clause (i) of subparagraph (B), if the site designated for the Museum is in an area that is under the administrative jurisdiction of a Federal agency, as soon as practicable after the date on which the designation is made, the head of the Federal agency shall transfer to the Smithsonian Institution administrative jurisdiction over the area.

(D) Consultation

The Board of Regents shall carry out its duties under this paragraph in consultation with the following:

(i) The Chair of the National Capital Planning Commission.

(ii) The Chair of the Commission on Fine Arts.

(iii) The Chair and Vice Chair of the Presidential Commission referred to in section 80r–8 of this title.

(iv) The Chair of the Building and Site Subcommittee of the Presidential Commission referred to in section 80r–8 of this title.

(v) The Chair and ranking minority member of each of the following Committees:

(I) The Committee on Rules and Administration of the Senate.

(II) The Committee on House Administration of the House of Representatives.

(III) The Committee on Transportation and Infrastructure of the House of Representatives.

(IV) The Committee on Appropriations of the House of Representatives.

(V) The Committee on Appropriations of the Senate.

(2) Construction of building

The Board of Regents, in consultation with the Council, may plan, design, and construct a building for the Museum, which shall be located at the site designated by the Board of Regents under this paragraph.

(3) Nonapplicability of provisions relating to monuments and commemorative works

Chapter 89 of title 40 shall not apply with respect to the Museum.

(b) Cost sharing

The Board of Regents shall pay—

(1) 50 percent of the costs of carrying out this section from Federal funds; and

(2) 50 percent of the costs of carrying out this section from non-Federal sources.

(c) Authorization of appropriations

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

(Pub. L. 108–184, §8, Dec. 16, 2003, 117 Stat. 2680.)

PROCUREMENT FOR CONSTRUCTION

Pub. L. 112–74, div. E, title III, Dec. 23, 2011, 125 Stat. 1033, provided in part: "That during fiscal year 2012 and any succeeding fiscal year, a single procurement for construction of the National Museum of African American History and Culture, as authorized under section 8 of the National Museum of African American History and Culture Act (20 U.S.C. 80r–6), may be issued that includes the full scope of the project".

§80r–7. Congressional Budget Act compliance

Authority under this subchapter to enter into contracts or to make payments shall be effective in any fiscal year only to the extent provided in advance in an appropriations Act, except as provided under section 80r–9(b) of this title.

(Pub. L. 108–184, §9, Dec. 16, 2003, 117 Stat. 2682.)

REFERENCES IN TEXT

The Congressional Budget Act, referred to in section catchline, probably means the Congressional Budget Act of 1974, which is titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

§80r–8. Consideration of recommendations of Presidential Commission

In carrying out their duties under this subchapter, the Council and the Board of Regents shall take into consideration the reports and plans submitted by the National Museum of African American History and Culture Plan for Action Presidential Commission under the National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001 (Public Law 107–106).

(Pub. L. 108–184, §10, Dec. 16, 2003, 117 Stat. 2682.)

REFERENCES IN TEXT

The National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001, referred to in text, is Pub. L. 107–106, Dec. 28, 2001, 115 Stat. 1009, which is not classified to the Code.

§80r–9. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Smithsonian Institution to carry out this subchapter, other than sections 80r–5(b) and 80r–6 of this title—

(1) $17,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each fiscal year thereafter.

(b) Availability

Amounts made available under subsection (a) of this section shall remain available until expended.

(c) Use of funds for fundraising

Amounts appropriated pursuant to the authorization under this section may be used to conduct fundraising in support of the Museum from private sources.

(Pub. L. 108–184, §11, Dec. 16, 2003, 117 Stat. 2682.)

SUBCHAPTER XV—CIVIL RIGHTS HISTORY PROJECT

§80s. Findings; purpose

(a) Findings

Congress finds as follows:

(1) A fundamental principle of American democracy is that individuals should stand up for their rights and beliefs and fight for justice.

(2) The actions of those who participated in the Civil Rights movement from the 1950s through the 1960s are a shining example of this principle in action, demonstrated in events as varied as the Montgomery Bus Boycott, the sit-ins, the Freedom Rides, the March on Washington, the drive for voting rights in Mississippi, and the March to Selma.

(3) While the Civil Rights movement had many visible leaders, including Thurgood Marshall, Dr. Martin Luther King, Jr., and Rosa Parks, there were many others whose impact and experience were just as important to the cause but who are not as well known.

(4) The participants in the Civil Rights movement possess an invaluable resource in their first-hand memories of the movement, and the recording of the retelling of their stories and memories will provide a rich, detailed history of our Nation during an important and tumultuous period.

(5) It is in the Nation's interest to undertake a project to collect oral histories of individuals from the Civil Rights movement so future generations will be able to learn of their struggle and sacrifice through primary-source, eyewitness material. A coordinated Federal project would also focus attention on the efforts undertaken by various public and private entities to collect and interpret articles in all formats relating to the Civil Rights movement, and serve as a model for future projects undertaken in museums, libraries, and universities throughout the Nation.

(6) The Library of Congress and the Smithsonian Institution are appropriate repositories to collect, preserve, and make available to the public a collection of these oral histories. The Library

and Smithsonian have expertise in the management of documentation projects, and experience in the development of cultural and educational programs for the public.

(b) Purpose

It is the purpose of this subchapter to create a new federally sponsored, authorized, and funded project that will coordinate at a national level the collection of video and audio recordings of personal histories and testimonials of individuals who participated in the American Civil Rights movement that will build upon and complement previous and ongoing documentary work on this subject, and to assist and encourage local efforts to preserve the memories of such individuals so that Americans of all current and future generations may hear from them directly and better appreciate the sacrifices they made.

(Pub. L. 111–19, §2, May 12, 2009, 123 Stat. 1612.)

SHORT TITLE

Pub. L. 111–19, §1, May 12, 2009, 123 Stat. 1612, provided that: "This Act [enacting this subchapter] may be cited as the 'Civil Rights History Project Act of 2009'."

§80s–1. Establishment of joint project at Library of Congress and National Museum of African American History and Culture to collect video and audio recordings of histories of participants in American Civil Rights movement

(a) Establishment of project

(1) In general

Within the limits of available funds, the Librarian of Congress (hereafter referred to as the "Librarian") and the Secretary of the Smithsonian Institution (hereafter referred to as the "Secretary)",[1] acting jointly, shall establish an oral history project—

(A) to survey, during the initial phase of the project, collections of audio and video recordings of the reminiscences of participants in the Civil Rights movement that are housed in archives, libraries, museums, and other educational institutions, as well as ongoing documentary work, in order to augment and complement these endeavors and avoid duplication of effort;

(B) to solicit, reproduce, and collect—

(i) video and audio recordings of personal histories and testimonials of individuals who participated in the Civil Rights movement, and

(ii) visual and written materials (such as letters, diaries, photographs, and ephemera) relevant to the personal histories of individuals;

(C) to create a collection of the recordings and other materials obtained, and to catalog and index the collection in a manner the Librarian and the Secretary consider appropriate; and

(D) to make the collection available for public use through the Library of Congress and the National Museum of African American History and Culture, as well as through such other methods as the Librarian and the Secretary consider appropriate.

(2) Role of Director of museum

The Secretary shall carry out the Secretary's duties under this subchapter through the Director of the National Museum of African American History and Culture.

(b) Use of and consultation with other entities

The Librarian and the Secretary may carry out the activities described in subsection (a)(1) through agreements and partnerships entered into with other government and private entities, and may otherwise consult with interested persons (within the limits of available resources) and develop appropriate guidelines and arrangements for soliciting, acquiring, and making available recordings under the project under this subchapter.

(c) Services of experts and consultants; acceptance of volunteer services; advance payments

In carrying out activities described in subsection (a)(1), the Librarian and the Secretary may—

(1) procure temporary and intermittent services under section 3109 of title 5;

(2) accept and utilize the services of volunteers and other uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized under section 5703 of title 5; and

(3) make advances of money and payments in advance in accordance with section 3324 of title 31.

(d) Timing

As soon as practicable after May 12, 2009, the Librarian and the Secretary shall begin collecting video and audio recordings and other materials under subsection (a)(1), and shall attempt to collect the first such recordings from the oldest individuals involved.

(e) Definition

In this subchapter, the term "Civil Rights movement" means the movement to secure racial equality in the United States for African Americans that, focusing on the period 1954 through 1968, challenged the practice of racial segregation in the Nation and achieved equal rights legislation for all American citizens.

(Pub. L. 111–19, §3, May 12, 2009, 123 Stat. 1613.)

[1] So in original. The closing quotation marks probably should precede the closing parenthesis.

§80s–2. Private support for civil rights history project

(a) Encouraging solicitation and acceptance of donations

The Librarian of Congress and the Secretary are encouraged to solicit and accept donations of funds and in-kind contributions to support activities under section 80s–1 of this title.

(b) Dedication of funds provided to Library of Congress

Notwithstanding any other provision of law—

(1) any funds donated to the Librarian of Congress to support the activities of the Librarian under section 80s–1 of this title shall be deposited entirely into an account established for such purpose;

(2) the funds contained in such account shall be used solely to support such activities; and

(3) the Librarian of Congress may not deposit into such account any funds donated to the Librarian which are not donated for the exclusive purpose of supporting such activities.

(Pub. L. 111–19, §4, May 12, 2009, 123 Stat. 1614.)

§80s–3. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter—

(1) $500,000 for fiscal year 2010; and

(2) such sums as may be necessary for each of the fiscal years 2011 through 2014.

(Pub. L. 111–19, §5, May 12, 2009, 123 Stat. 1615.)

CHAPTER 4—NATIONAL ZOOLOGICAL PARK

Sec.

81. Administration by Regents of Smithsonian Institution.
82. Aid in acquisition of collections.
83. Omitted.
84. Plans for buildings and bridges.
85. Concessions.

§81. Administration by Regents of Smithsonian Institution

The National Zoological Park is placed under the direction of the Regents of the Smithsonian Institution, who are authorized to transfer to it any living specimens, whether of animals or plants, in their charge, to accept gifts for the park at their discretion, in the name of the United States, to make exchanges of specimens, and to administer and improve the said Zoological Park for the advancement of science and the instruction and recreation of the people.

(Apr. 30, 1890, ch. 173, §2, 26 Stat. 78; Pub. L. 87–360, Oct. 4, 1961, 75 Stat. 779.)

AMENDMENTS

1961—Pub. L. 87–360 inserted "and improve" after "administer".

ESTABLISHMENT OF PARKS

The National Zoological Park was established under provisions of the District of Columbia Appropriation Act for the Fiscal Year 1890, act Mar. 2, 1889, ch. 370, §4, 25 Stat. 808, which constituted a commission to select from a certain district along Rock Creek a tract of land, including a section of the creek, suitable for a zoological park, and to purchase the land so selected, or take proceedings for the condemnation thereof, the United States to have title to the land on payment therefor to the owners.

The Rock Creek Park was established by act Sept. 27, 1890, ch. 1001, 26 Stat. 492.

The Potomac Park was established by act Mar. 3, 1897, ch. 375, 29 Stat. 624.

ADDITION OF LANDS

Certain parcels of land were added to the National Zoological Park by acts June 5, 1920, ch. 235, §1, 41 Stat. 892; Mar. 4, 1921, ch. 161, §1, 41 Stat. 1384.

CONNECTING PARKWAY

Provisions for a parkway connecting Potomac Park with Zoological Park and Rock Creek Park were made by act Mar. 4, 1913, ch. 147, §27, 37 Stat. 885.

§82. Aid in acquisition of collections

The heads of executive departments of the Government are authorized and directed to cause to be rendered all necessary and practicable aid to the said Regents in the acquisition of collections for the Zoological Park.

(Apr. 30, 1890, ch. 173, §3, 26 Stat. 78.)

§83. Omitted

CODIFICATION

Section, act Aug. 18, 1894, ch. 301, §1, 28 Stat. 384, which required that a detailed report of expenses on account of the National Zoological Park be made to Congress at the beginning of each regular session, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 192 of House Document No. 103–7.

§84. Plans for buildings and bridges

All plans and specifications for the construction of buildings and bridges in the National

Zoological Park shall be prepared under the supervision of the Smithsonian Institution.

(Aug. 24, 1912, ch. 355, §1, 37 Stat. 437; 1966 Reorg. Plan No. 4, eff. Aug. 23, 1966, 31 FR 11137, 80 Stat. 1611.)

REORGANIZATION PLAN NO. 4 OF 1966

EFF. AUG. 23, 1966, 31 F.R. 11137, 80 STAT. 1611

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 13, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

NATIONAL ZOOLOGICAL PARK BUILDINGS AND BRIDGES

All those functions of the Board of Commissioners of the District of Columbia which were vested in the municipal architect of the District of Columbia by the provisions of the Act of August 24, 1912, c. 355, 37 Stat. 437 (20 U.S.C. 84; D.C. Code [former] §8–134), in respect of buildings of the National Zoological Park, and all functions of that Board which were vested in the engineer of bridges of the District of Columbia by those provisions in respect of bridges of the National Zoological Park, are hereby transferred to the Smithsonian Institution.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for a reorganization relating to the National Zoological Park located in the District of Columbia.

Today, all responsibilities for the administration of the park are vested in the Smithsonian Institution with one exception—the function of preparing plans and specifications for the construction of buildings and bridges at the zoo. That statutory responsibility is now conducted by the Board of Commissioners of the District of Columbia [now the Mayor].

Under the accompanying reorganization plan, the responsibility for the preparation of these plans and specifications would be transferred from the District of Columbia Board of Commissioners to the Smithsonian. The complete administration of the park would then be vested in one agency—the Smithsonian Institution. This will allow the more efficient and effective development and management of the park.

In 1912, the functions to be transferred were vested in the Municipal Architect of the District of Columbia and in the Engineers of the Bridges of the District of Columbia. In 1952, they were transferred to the Board of Commissioners.

When the 1912 act was passed, the District of Columbia shared the costs of capital improvements in the National Zoological Park. In 1961, it ceased sharing these costs, and the Federal Government assumed complete responsibility for financing the improvements. Accordingly, the District government retains no capital improvement responsibilities for the National Zoological Park except those functions relating to construction plans and specifications for buildings and bridges, as specified in the 1912 statute. Upon the transfer of these remaining functions to the Smithsonian Institution, the administration of the National Zoological Park will, at last, be fully centered in one agency. It is not practicable at this time, however, to itemize the resulting reduction in expenditures.

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, June 13, 1966.

§85. Concessions

(a) Authorization; use of proceeds for research and educational work

The Board of Regents of the Smithsonian Institution, in furtherance of the mission of the National Zoological Park to provide for the advancement of science and instruction and recreation of the

people, is authorized to negotiate agreements granting concessions at the National Zoological Park to nonprofit scientific, educational, or historic organizations. The net proceeds of such organizations gained from such concessions granted under this subsection shall be used exclusively for research and educational work for the benefit of the National Zoological Park.

(b) Voluntary services

The Smithsonian Institution is authorized to accept the voluntary services of such organizations, and the voluntary services of individuals, for the benefit of the National Zoological Park.

(Pub. L. 89–772, Nov. 6, 1966, 80 Stat. 1322.)

CHAPTER 5—GOVERNMENT COLLECTIONS AND INSTITUTIONS FOR RESEARCH, AND MATERIAL FOR EDUCATIONAL INSTITUTIONS

Sec.

91. Literary and scientific collections accessible to investigators and students.
92. Admissions to marine biological station for pursuit of investigations.
93, 94. Repealed.

§91. Literary and scientific collections accessible to investigators and students

The facilities for study, research and illustration in the Government departments and in the following and any other governmental collections now existing or hereafter to be established in the city of Washington for the promotion of knowledge shall be accessible, under such rules and restrictions as the officers in charge of each department or collection may prescribe, subject to such authority as is now or may hereafter be permitted by law, to the scientific investigators and to duly qualified individuals, students and graduates of any institution of learning in the several States and Territories and the District of Columbia, to wit:

One. Of the Library of Congress.
Two. Of the National Museum.
Three. Of the United States Patent and Trademark Office.
Four. Of the Department of Education.
Five. Of the Bureau of Ethnology.
Six. Of the Army Medical Museum.
Seven. Of the Department of Agriculture.
Eight. Of the United States Fish and Wildlife Service.
Nine. Of the Botanic Gardens.
Ten. Of the National Ocean Survey.
Eleven. Of the United States Geological Survey.
Twelve. Of the Naval Observatory.
Thirteen. Of the Zoological Park.
Fourteen. Of the Government Publishing Office.

(Apr. 12, 1892, No. 8, 27 Stat. 395; Mar. 3, 1901, ch. 831, §1, 31 Stat. 1039; May 14, 1928, ch. 551, §1, 45 Stat. 531; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 8, 1956, ch. 1036, §3, 70 Stat. 1120; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 96–88, title III, §301(b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4732(b)(10)], Nov. 29, 1999, 113 Stat. 1536, 1501A–584; Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537.)

CODIFICATION

Section is from a resolution adopted Apr. 12, 1892, the Deficiencies Appropriation Act of Mar. 3, 1901, and

the Legislative Appropriations Act of May 14, 1928, providing that facilities for study and research be afforded to investigators, students, etc., in the several States and Territories as well as in the District of Columbia.

AMENDMENTS

1999—Pub. L. 106–113 substituted "United States Patent and Trademark Office" for "Patent Office" in par. Three.

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in par. Fourteen on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

"United States Geological Survey" substituted for "Geological Survey" in par. Eleven pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Commerce and functions of all agencies and employees of such Department, with a few exceptions, transferred to Secretary of Commerce, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 5 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees. United States Patents and Trademark Office, and National Ocean Survey, referred to in this section, are agencies within Department of Commerce.

Functions of all other officers of Department of the Interior and functions of all agencies and employees of such Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, §3, 70 Stat. 1120, which is classified to section 742b of Title 16, Conservation.

Bureau of Fisheries consolidated with Bureau of Biological Survey into Fish and Wildlife Service in Department of the Interior by Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees. The Bureau had been previously transferred to Department of the Interior by Reorg. Plan No. II of 1939, §4(e), also set out in the Appendix to Title 5.

For transfer of certain personal property and functions, insofar as they pertain to the Air Force, from Secretary of the Army and Department of the Army, to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order Nos. 6, eff. Jan. 15, 1948; 39, May 18, 1949; 40 [App. B(69)], July 22, 1949.

"Department of Education" substituted in text for "Office of Education" pursuant to sections 301(b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(b)(2) and 3507 of this title and which transferred Office of Education to Department of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Office of Education transferred to Federal Security Agency by Reorg. Plan No. I of 1939, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, set out in the Appendix to Title 5.

Office of Education created and placed in Department of the Interior by act of July 20, 1868, ch. 176, 15 Stat. 106, which abolished Department of Education. In appropriation act of July 12, 1870, ch. 251, 16 Stat. 242, the Office was designated Bureau of Education. This designation was retained until the act of May 14, 1930, ch. 273, 46 Stat. 281, 319, which made appropriations for "Office of Education".

NATIONAL MUSEUM

National Museum was not created by any express statutory provision for that purpose. It was first mentioned in an appropriation for postage for "the National Museum in the Smithsonian Institution," contained in act June 20, 1874, ch. 328, §1, 18 Stat. 103. An appropriation for a building for the use of the National Museum was made by act Mar. 3, 1879, ch. 182, §1, 20 Stat. 397, and annual appropriations have continuously been made for expenses of heating, etc., such building.

§92. Admissions to marine biological station for pursuit of investigations

The professors, instructors, and students of the several land-grant, agricultural, and mechanical colleges of the United States shall be admitted to the marine biological station on the Gulf of Mexico on the coast of Florida, to pursue such investigation in fish culture and biology as may be practicable, without cost to the Government, under such rules and regulations as may be from time to time prescribed by the Secretary of Interior.

(Mar. 1, 1911, ch. 189, §2, 36 Stat. 964; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; Aug. 1, 1914, ch. 223, §1, 38 Stat. 665; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, §3, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231.)

CODIFICATION

Section consists of section 2 of act Mar. 1, 1911. Section 1 thereof authorizing the establishment of the marine biological station on the Gulf coast of the State of Florida, referred to in text, on the condition that the State of Florida donate the necessary land and water rights, is not classified to the Code. The provisions of said section 1 requiring donation of the required land and water rights by the State were amended by act Aug. 1, 1914, ch. 223, §1, 38 Stat. 665, which authorized the donation of the required land and water rights by a corporation, firm, or individual in addition to the State.

TRANSFER OF FUNCTIONS

Bureau of Fisheries in Department of Commerce which administered marine biological station referred to in text under supervision of Secretary of Commerce transferred to Department of the Interior under direction of Secretary of the Interior by Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, and by Reorg. Plan No. III of 1940, set out in the Appendix to Title 5. Bureau of Fisheries consolidated with Bureau of Biological Survey into Fish and Wildlife Service in Department of the Interior and under supervision of Secretary of the Interior, which was succeeded by United States Fish and Wildlife Service, see section 742b of Title 16, Conservation.

"Secretary of Commerce" substituted in text for "Secretary of Commerce and Labor" pursuant to act Mar. 4, 1913, which changed name of Department of Commerce and Labor to Department of Commerce.

STATION AT SARASOTA, FLORIDA

The Fish and Wildlife Service established a marine biological station at Sarasota, Florida, during the year 1948.

DISPOSAL OF STATION

Secretary of Commerce was authorized to dispose of the marine biological station at Key West, Fla., by act Apr. 29, 1929, ch. 2, 46 Stat. 2.

Under communication of the Fish and Wildlife Service dated Nov. 12, 1940, it was stated the land on which was situated this station was reconveyed to the Key West Realty Company by quit claim deed executed by the Secretary of Commerce.

§§93, 94. Repealed. Oct. 31, 1951, ch. 654, §1(41), (42), 65 Stat. 703

Section 93, act Nov. 19, 1919, ch. 118, 41 Stat. 360, which related to sale of machine tools to trade,

technical, and public schools and universities, had been transferred to section 1180a of former Title 10, Army and Air Force, and was later repealed by act Oct. 31, 1951.

Section 94, act May 26, 1928, ch. 760, 45 Stat. 753, which related to transfer of obsolete aeronautical equipment to museums, schools and colleges, had been transferred to section 1180b of former Title 10, Army and Air Force, was later repealed by act Oct. 31, 1951.

CHAPTER 6—AMERICAN PRINTING HOUSE FOR THE BLIND

Sec.
101. Annual appropriations.
102. Application of appropriations.
103. Publications for National Library for the Blind.
104. Annual reports by trustees.
105. Books for Library of Congress.
106. Purchases through the General Services Administration.
106a. Financial and program audit by Secretary.

§101. Annual appropriations

For the purpose of enabling the American Printing House for the Blind more adequately to provide books and apparatus for the education of the blind, there is hereby authorized to be appropriated annually to it, such sum as the Congress may determine; which sum shall be expended in accordance with the requirements of sections 101, 102, and 104 of this title, under rules and regulations prescribed by the Secretary of Education, to promote the education of the blind.

(Mar. 3, 1879, ch. 186, §§1, 2, 20 Stat. 468; June 25, 1906, ch. 3536, 34 Stat. 460; Aug. 4, 1919, ch. 31, 41 Stat. 272; Feb. 8, 1927, ch. 76, 44 Stat. 1060; Aug. 23, 1937, ch. 736, 50 Stat. 744; May 22, 1952, ch. 321, 66 Stat. 89; Aug. 2, 1956, ch. 882, §2, 70 Stat. 939; Pub. L. 87–294, §4, Sept. 22, 1961, 75 Stat. 627; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 100–630, title IV, §§402(a), 403, Nov. 7, 1988, 102 Stat. 3316.)

CODIFICATION

Prior to amendment by Pub. L. 100–630, section was comprised of two sentences. The first sentence was based on provisions of acts Mar. 3, 1879, and June 25, 1906, and established a perpetual trust fund for purposes of aiding education of the blind in the United States through the American Printing House for the Blind and a permanent annual appropriation thereof, to be expended for purposes authorized by sections 101, 102, and 104 of this title. The second sentence was based on provisions of act Aug. 4, 1919, as amended. See 1988 Amendment note below.

AMENDMENTS

1988—Pub. L. 100–630, §402(a), which provided that the perpetual trust fund and permanent annual appropriations thereof established by the Act of Mar. 3, 1879, as amended by the Act of June 25, 1906, are terminated, was executed by striking the first sentence of this section which read as follows: "The sum of $250,000, set apart as a perpetual trust fund for the purpose of aiding the education of the blind in the United States, through the American Printing House for the Blind, shall be credited on the books of the Treasury Department as a perpetual trust fund for that purpose, to be held by the Secretary of the Treasury; and the sum of $10,000, being equivalent to 4 per centum on the principal of said trust fund, is appropriated, out of any moneys in the Treasury not otherwise appropriated, and such appropriation shall be deemed a permanent annual appropriation and shall be expended in the manner and for the purposes authorized by sections 101, 102, and 104 of this title." See Codification note above.

Pub. L. 100–630, §403, struck out "In addition to the permanent appropriation of $10,000, made in this section".

1961—Pub. L. 87–294 struck out provisions which authorized an annual appropriation of not more than $400,000, inserted provisions authorizing an annual appropriation of such sum as the Congress may determine, and required expenditure of such sum under rules and regulations prescribed by the Secretary of Health, Education, and Welfare.

1956—Act Aug. 2, 1956, increased appropriation authorization from $250,000 to $400,000.

1952—Act May 22, 1952, amended second sentence generally, increasing appropriation authorization from $115,000 to $250,000.

1937—Act Aug. 23, 1937, amended second sentence generally, increasing appropriation authorization from $65,000 to $115,000.

1927—Act Feb. 8, 1927, amended second sentence generally, increasing appropriation authorization from $40,000 to $65,000.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–630, title IV, §402(b), Nov. 7, 1988, 102 Stat. 3316, provided that: "This section [amending this section] shall take effect on October 1, 1989."

EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87–294, §5, Sept. 22, 1961, 75 Stat. 627, provided that: "The amendments made by this Act [amending this section and section 102 of this title] shall be effective immediately after the date of its enactment [Sept. 22, 1961]."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–630, title IV, §401, Nov. 7, 1988, 102 Stat. 3316, provided that: "This title [amending this section and enacting provisions set out as notes under this section] may be cited as the 'American Printing House for the Blind Amendments of 1988'."

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Secretary of the Treasury over administration of appropriations for American Printing House for Blind (except function relating to administration of perpetual trust fund) transferred to Federal Security Agency, and annual report and vouchers of trustees directed to be furnished to Federal Security Administrator by Reorg. Plan No. II of 1939, §201(b), eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, set out in the Appendix to Title 5.

COMPENSATION TO AMERICAN PRINTING HOUSE FOR THE BLIND FOR VESTED RIGHTS

Pub. L. 100–630, title IV, §404, Nov. 7, 1988, 102 Stat. 3316, provided that: "Any and all rights of the American Printing House for the Blind determined to have vested in the perpetual trust fund established by the Act of March 3, 1879 [see Codification note above], shall be deemed to be compensated by the appropriation to the American Printing House for the Blind for fiscal year 1990."

INEFFECTIVENESS OF REFERENCES TO PERPETUAL TRUST FUND AND ANNUAL APPROPRIATIONS

Pub. L. 100–630, title IV, §405, Nov. 7, 1988, 102 Stat. 3317, provided that: "Notwithstanding any Federal law, reference to the perpetual trust fund and permanent annual appropriations thereof established by the Act of March 3, 1879 [see Codification note above], shall not be given any effect."

§102. Application of appropriations

The Secretary of Education is authorized to pay over semiannually, to the trustees of the American Printing House for the Blind, located in Louisville, Kentucky, and chartered in 1858 by the Legislature of Kentucky, upon requisition of their president, countersigned by their treasurer, one-half of such annual appropriation upon the following conditions:

(1) Purposes and methods of expenditures

First. (A) Such appropriation shall be expended by the trustees of the American Printing House for the Blind each year in manufacturing and furnishing books and other materials specially adapted for instruction of the blind; and the total amount of such books and other materials so manufactured and furnished by such appropriation shall each year be distributed among all the public and private nonprofit institutions in the States, Territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, in which blind pupils are educated. Each public and private nonprofit institution for the education of the blind shall receive, in books and other materials, upon requisition of its superintendent, that portion of the appropriation as is shown by the ratio between the number of blind pupils in that institution and the total number of blind pupils in all of the public and private nonprofit institutions in which blind pupils are educated. Each chief State school officer shall receive, in books and other materials, upon requisition, that portion of the appropriation as is shown by the ratio between the number of blind pupils in public and private nonprofit institutions (in the State) in which blind pupils are educated, other than institutions to which the preceding sentence is applicable, and the total number of blind pupils in the public and private nonprofit institutions in which blind pupils are educated in all of the States, Territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia. The ratio referred to in each of the two immediately preceding sentences shall be computed upon the first Monday in January of each year; and for purposes of such sentences the number of blind pupils in public and private nonprofit institutions in which blind pupils are educated shall be authenticated in such manner and as often as the trustees of the American Printing House for the Blind shall require. For purposes of sections 101, 102, and 104 of this title, an institution for the education of the blind is any institution which provides education exclusively for the blind, or exclusively for the blind and other handicapped children (in which case special classes are provided for the blind); the chief State school officer of a State is the superintendent of public elementary and secondary schools in such State or, if there is none, such other official as the Governor certifies to have comparable responsibility in the State; and a blind pupil is a blind individual pursuing a course of study in an institution of less than college grade.

(B) The portion of the appropriation received by each chief State school officer, in such books and other materials under subparagraph (A) of this paragraph which represents the number of blind pupils in private nonprofit institutions in such State in which blind pupils are educated shall be distributed among such institutions on the basis of the number of blind pupils in each such institution as compared to the total number of such pupils in all of the private nonprofit institutions in which blind pupils are educated in such State.

(C) All books and other materials furnished pursuant to sections 101, 102, and 104 of this title, and control and administration of their use, shall vest only in a public agency. Such books and materials made available pursuant to sections 101, 102 and 104 of this title for use of teachers and blind pupils in any State, Territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia in any school shall be limited to those books and materials which have been approved by an appropriate educational authority or agency of such State, Territory, possession, Commonwealth, or District, or any local educational authority thereof, for use, or are used, in a public elementary or secondary school therein.

(2) Buildings

Second. No part of the appropriation shall be expended in the erection or leasing of buildings; but the trustees of the American Printing House for the Blind may use each year a reasonable sum of the annual appropriation for salaries and other expenses of experts and other staff to assist special committees which may be appointed in performance of their functions, and for expenses of such special committees.

(3) Sales of books and apparatus at cost

Third. No profit shall be put on any books or tangible apparatus for the instruction of the blind manufactured or furnished by the trustees of said American Printing House for the Blind, located in Louisville, Kentucky; and the price put upon each article so manufactured or furnished shall

only be its actual cost.

(4) Income withheld when not properly used

Fourth. The Secretary of the Treasury of the United States shall have the authority to withhold the appropriation whenever he shall receive satisfactory proof that the trustees of said American Printing House for the Blind, located in Louisville, Kentucky, are not using the appropriation for the benefit of the blind in the public and private nonprofit institutions for the education of the blind in the United States.

(5) Bond of treasurer

Fifth. Before any money be paid to the treasurer of the American Printing House for the Blind by the Secretary of the Treasury of the United States, the treasurer of the American Printing House for the Blind shall execute a bond, with two approved sureties, to the amount of $20,000, conditioned that the money so received shall be expended according to this law and all amendments thereto, which shall be held by the Secretary of the Treasury of the United States, and shall be renewed every two years.

(6) Ex officio trustees

Sixth. The superintendent of each public institution for the education of the blind (or his designee) and the chief State school officer (or his designee), of each State and possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, shall each, ex officio, be a member of the Board of Trustees of the American Printing House for the Blind only for purposes of administering sections 101, 102 and 104 of this title.

(Mar. 3, 1879, ch. 186, §3, 20 Stat. 468; June 25, 1906, ch. 3536, 34 Stat. 460; Aug. 2, 1956, ch. 882, §1, 70 Stat. 938; Pub. L. 87–294, §§1–3, Sept. 22, 1961, 75 Stat. 627; Pub. L. 91–230, title VIII, §811(a), (b), Apr. 13, 1970, 84 Stat. 194, 195; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692.)

CODIFICATION

For purposes of codification, the provisions of section 3 of act Mar. 3, 1879, were changed as follows: provision providing for payment of the semi-annual interest upon the bonds was substituted for one providing for payment of one-half the annual appropriation, the word "income" was substituted for "appropriation", and the word "interest" was substituted for "money" in par. (5), to conform to the modification of act Mar. 3, 1879, by act June 25, 1906, as shown in the note set out under section 101 of this title.

AMENDMENTS

1970—Par. First. Pub. L. 91–230, §811(a), designated existing provisions as subpar. (A), made provisions applicable to private nonprofit institutions, and added subpars. (B) and (C).

Par. Fourth. Pub. L. 91–230, §811(b), made provisions applicable to private nonprofit institutions.

1961—Pub. L. 87–294, §1, substituted "Secretary of Health, Education, and Welfare" for "Secretary of the Treasury of the United States" and struck out "permanent" before "annual appropriation" in opening clause.

Par. Second. Pub. L. 87–294, §2, authorized the trustees to use each year a reasonable sum of the annual appropriation for salaries and other expenses of experts and other staff to assist special committees which may be appointed in performance of their functions, and for expenses of such special committees.

Par. Sixth. Pub. L. 87–294, §3, substituted "superintendent of each public institution for the education of the blind (or his designee) and the chief State school officer (or his designee), of each State and possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, shall" for "superintendents of the various public institutions for the education of the blind in the United States shall", and limited the duties of the Board to the administration of sections 101, 102, and 104 of this title.

1956—Par. First. Act Aug. 2, 1956, authorized wider distribution of books and other special instructional material for the blind.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–294 effective immediately after Sept. 22, 1961, see section 5 of Pub. L. 87–294, set out as a note under section 101 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Secretary of Health, Education, and Welfare" in provision preceding par. (1) pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Transfer of functions with respect to American Printing House for the Blind to Federal Security Agency, see note set out under section 101 of this title.

§103. Publications for National Library for the Blind

Two copies of each of the publication printed by the American Printing House for the Blind shall be furnished free of charge to the National Library for the Blind located at 1729 H Street Northwest, Washington, District of Columbia.

(Nov. 4, 1919, ch. 93, §1, 41 Stat. 332.)

§104. Annual reports by trustees

The trustees of said American Printing House for the Blind shall annually make to the Secretary of Education a report of the items of their expenditure of the appropriation aforesaid during the year preceding their report, and shall annually furnish him with a voucher from each public or private nonprofit institution for the education of the blind, showing that the amount of books and tangible apparatus due has been received.

(Mar. 3, 1879, ch. 186, §4, 20 Stat. 469; June 25, 1906, ch. 3536, 34 Stat. 460; 1939 Reorg. Plan No. II, §201(b), eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; 1953 Reorg. Plan No. 1, §5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 91–230, title VIII, §811(c), Apr. 13, 1970, 84 Stat. 195; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692.)

CODIFICATION

The word "appropriation" substituted in text for "income" to conform to the modification of act Mar. 3, 1879, by act June 25, 1906, as shown in the note set out under section 101 of this title.

AMENDMENTS

1970—Pub. L. 91–230 made provision applicable to a private nonprofit institution.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Transfer of functions with respect to American Printing House for the Blind to Federal Security Agency, see note set out under section 101 of this title.

§105. Books for Library of Congress

The distribution of embossed books manufactured by the American Printing House for the Blind

at Louisville, Kentucky, out of the income of the fund provided by sections 101, 102, and 104 of this title, shall include one copy of every book so manufactured to be deposited in the Library of Congress at Washington.

(Mar. 4, 1913, ch. 142, §1, 37 Stat. 748.)

§106. Purchases through the General Services Administration

On and after September 8, 1978, the American Printing House for the Blind is authorized to make purchases through the General Services Administration.

(Pub. L. 95–355, title I, §100, Sept. 8, 1978, 92 Stat. 531.)

CODIFICATION

Section is from the Second Supplemental Appropriations Act, 1978, and contained additional provisions relating to purchases by Howard University, Gallaudet University, and the National Technical Institute for the Deaf, which are set out in sections 130 and 4362 of this title.

§106a. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the American Printing House for the Blind shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, §301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and contained additional provisions relating to Howard University, Gallaudet University, and the National Technical Institute for the Deaf, which are set out as sections 130a and 4363 of this title, respectively.

CHAPTER 6A—VENDING FACILITIES FOR BLIND IN FEDERAL BUILDINGS

Sec.

107. Operation of vending facilities.
107a. Federal and State responsibilities.
107b. Application for designation as State licensing agency; cooperation with Secretary; furnishing initial stock.
107b–1. Access to information with State licensing agencies; election and responsibilities of Committee of Blind Vendors.
107b–2. Omitted.
107b–3. Audit of nonappropriated fund activities.
107c. Repealed.
107d. Expenditures.
107d–1. Grievances of blind licensees.
107d–2. Arbitration.
107d–3. Vending machine income.
107d–4. Training programs for maximum vocational potential for blind.
107e. Definitions.
107e–1. Repealed.

§107. Operation of vending facilities

(a) Authorization

For the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this chapter shall be authorized to operate vending facilities on any Federal property.

(b) Preferences regulations; justification for limitation on operation

In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this chapter; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 107d–3 of this title to achieve and protect such priority), and

(2) wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register.

(June 20, 1936, ch. 638, §1, 49 Stat. 1559; Aug. 3, 1954, ch. 655, §4(a), 68 Stat. 663; Pub. L. 93–516, title II, §202, Dec. 7, 1974, 88 Stat. 1623; Pub. L. 93–651, title II, §202, Nov. 21, 1974, 89 Stat. 2–8.)

CODIFICATION

The content of Pub. L. 93–516, including provisions thereof which amended and enacted various sections of this chapter, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this chapter should be deemed to have been amended by Pub. L. 93–651, Nov. 21, 1974, 89 Stat. 2–3, in exactly the same manner as it was amended by Pub. L. 93–516.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–516 designated first sentence of existing provisions as subsec. (a), substituted "purposes" for "purpose", "vending facilities" for "vending stands", and struck out "where such vending stands may be properly and satisfactorily operated by blind persons". An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (b). Pub. L. 93–516 designated second sentence of existing provisions as subsec. (b), in the provisions preceding par. (1) of subsec. (b) as so designated, substituted reference to vending facilities for reference to vending stands, substituted provisions requiring that priority be given to blind persons for provisions requiring that preference be given so far as feasible to blind persons, substituted provisions authorizing the Secretary after consultation with the Administrator of General Services, and other heads of departments, agencies, or instrumentalities of the United States in control of maintenance, operation, and

protection of Federal property to prescribe regulations for provisions authorizing the head of each department or agency in control of the maintenance, operation, and protection of Federal property after consultation with the Secretary and with the approval of the President to prescribe regulations, struck out provisions that such regulations assure such preference including assignment of vending machine income to achieve and protect such preference for such blind persons without unduly inconveniencing such departments and agencies or adversely affecting the interests of the United States, and added pars. (1) and (2) and provisions following par. (2). An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Act Aug. 3, 1954, provided that in authorizing the operation of vending stands preference shall be given, so far as feasible, to blind persons.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954, set out as a note under section 49b of Title 29, Labor.

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–516, title II, §200, Dec. 7, 1974, 88 Stat. 1622, provided that: "This title [enacting sections 107b–1 to 107b–3 and 107d–1 to 107d–4 of this title, amending this section, sections 107a, 107b, 107d, 107e of this title, and section 5108 of Title 5, Government Organization and Employees, repealing sections 107c and 107e–1 of this title, and enacting provisions set out as notes under this section and section 702 of Title 29, Labor] may be cited as the 'Randolph-Sheppard Act Amendments of 1974'."

An identical provision is in section 200 of Pub. L. 93–651. See Codification note above.

SHORT TITLE OF 1954 AMENDMENT

Act Aug. 3, 1954, ch. 655, §1, 68 Stat. 652, provided that: "This Act [enacting section 107e–1 of this title and amending this section and sections 107a, 107b, 107e, and 107f of this title and sections 31 to 41, 42, 49b, and 49g of Title 29, Labor] may be cited as the 'Vocational Rehabilitation Amendments of 1954'."

SHORT TITLE

Act June 20, 1936, ch. 638, §11, as added by Pub. L. 108–136, div. A, title VIII, §852(c), Nov. 24, 2003, 117 Stat. 1556, provided that: "This Act [enacting this chapter] may be cited as the 'Randolph-Sheppard Act'."

The act June 20, 1936 is also popularly known as the "Randolph-Sheppard Vending Stand Act".

CONGRESSIONAL FINDINGS

Pub. L. 93–516, title II, §201, Dec. 7, 1974, 88 Stat. 1622, provided that: "The Congress finds—

"(1) after review of the operation of the blind vending stand program authorized under the Randolph-Sheppard Act of June 20, 1936 [this chapter], that the program has not developed, and has not been sustained, in the manner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

"(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

"(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

"(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

"(B) establish guidelines for the operation of the program by State licensing agencies,

"(C) require coordination among the several entities with responsibility for the program,

"(D) establish a priority for vending facilities operated by blind vendors on Federal property,

"(E) establish administrative and judicial procedures under which fair treatment of blind vendors, State licensing agencies, and the Federal Government is assured,

"(F) require stronger administration and oversight functions in the Federal office carrying out the program, and

"(G) accomplish other legislative and administrative objectives which will permit the Randolph-Sheppard program to flourish."

An identical provision is in section 201 of Pub. L. 93–651. See Codification note above.

§107a. Federal and State responsibilities

(a) Functions of Secretary; surveys; designation of State licensing agencies; qualifications for license; evaluation of programs

The Secretary of Education shall—

(1) Insure that the Rehabilitation Services Administration is the principal agency for carrying out this chapter; and the Commissioner shall, within one hundred and eighty days after enactment of the Randolph-Sheppard Act Amendments of 1974, establish requirements for the uniform application of this chapter by each State agency designated under paragraph (5) of this subsection, including appropriate accounting procedures, policies on the selection and establishment of new vending facilities, distribution of income to blind vendors, and the use and control of set-aside funds under section 107b(3) of this title;

(2) Through the Commissioner, make annual surveys of concession vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service;

(3) Make surveys throughout the United States of industries with a view to obtaining information that will assist blind persons to obtain employment;

(4) Make available to the public, and especially to persons and organizations engaged in work for the blind, information obtained as a result of such surveys;

(5) Designate as provided in section 107b of this title the State agency for the blind in each State, or, in any State in which there is no such agency, some other public agency to issue licenses to blind persons who are citizens of the United States for the operating of vending facilities on Federal and other property in such State for the vending of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State; and

(6) Through the Commission,[1] (A) conduct periodic evaluations of the program authorized by this chapter, including upward mobility and other training required by section 107d–4 of this title, and (B) take such other steps, including the issuance of such rules and regulations, as may be necessary or desirable in carrying out the provisions of this chapter.

(b) Duty of State licensing agencies to prefer blind

The State licensing agency shall, in issuing each such license for the operation of a vending facility, give preference to blind persons who are in need of employment. Each such license shall be issued for an indefinite period but may be terminated by the State licensing agency if it is satisfied that the facility is not being operated in accordance with the rules and regulations prescribed by such licensing agency. Such licenses shall be issued only to applicants who are blind within the meaning of section 107e of this title.

(c) Selection of location and type of facility

The State licensing agency designated by the Secretary is authorized, with the approval of the head of the department or agency in control of the maintenance, operation, and protection of the Federal property on which the facility is to be located but subject to regulations prescribed pursuant to section 107 of this title, to select a location for such facility and the type of facility to be provided.

(d) Buildings occupied by United States departments, agencies, and instrumentalities required to provide sites for facilities; exceptions

(1) After January 1, 1975, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building unless, after consultation with the head of such department, agency, or instrumentality and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B)

if a building is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied on such date by such department, agency, or instrumentality, is to be substantially altered or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind person. Each such department, agency, or instrumentality shall provide notice to the appropriate State licensing agency of its plans for occupation, acquisition, renovation, or relocation of a building adequate to permit such State agency to determine whether such building includes a satisfactory site or sites for a vending facility.

(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, or (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which, (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility except that each such department, agency, and instrumentality shall make every effort to lease property in privately owned buildings capable of accommodating a vending facility.

(3) For the purposes of this subsection, the term "satisfactory site" means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person.

(e) State licensing agency in States having vocational rehabilitation plans

In any State having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the State licensing agency designated under paragraph (5) of subsection (a) of this section shall be the State agency designated under section 101(a)(2)(A) of such Rehabilitation Act of 1973 [29 U.S.C. 721(a)(2)(A)].

(June 20, 1936, ch. 638, §2, 49 Stat. 1559; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, §6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 3, 1954, ch. 655, §4(b)–(d), 68 Stat. 663; Pub. L. 93–516, title II, §203, Dec. 7, 1974, 88 Stat. 1623; Pub. L. 93–651, title II, §203, Nov. 21, 1974, 89 Stat. 2–8; Pub. L. 96–88, title III, §301(a)(4)(B), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 104–66, title I, §1041(i), Dec. 21, 1995, 109 Stat. 715; Pub. L. 105–220, title IV, §414(a), Aug. 7, 1998, 112 Stat. 1241.)

REFERENCES IN TEXT

For the date of the enactment of the Randolph-Sheppard Act Amendments of 1974, referred to in subsec. (a)(1), see Codification note below.

The Vocational Rehabilitation Act, referred to in subsec. (e), is act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which was classified to chapter 4 (§31 et seq.) of Title 29, Labor, and was repealed by Pub. L. 93–112, title V, §500(a), Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of Title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973.

The Rehabilitation Act of 1973, referred to in subsec. (e), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 203 thereof which amended this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 1422 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended by Pub. L. 93–651, title II, §203, Nov. 21,

1974, 89 Stat. 2–8, 2–9, in exactly the same manner as it was amended by Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–220 substituted "section 101(a)(2)(A)" for "section 101(a)(1)(A)".

1995—Subsec. (a)(6)(A). Pub. L. 104–66 struck out "and annually submit to the appropriate committees of Congress a report based on such evaluations," after "section 107d–4 of this title,".

1974—Subsec. (a)(1). Pub. L. 93–516, §203(a)(1), added par. (1). Former par. (1) redesignated (2). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(2). Pub. L. 93–516, §203(a)(1), (2), redesignated former par. (1) as (2) and substituted "Through the Commissioner, make annual surveys of concessions vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service" for "Make surveys of concession-stand opportunities for blind persons on Federal and other property in the United States". Former par. (2) redesignated (3). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(3). Pub. L. 93–516, §203(a)(1), redesignated former par. (2) as (3). Former par. (3) redesignated (4). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(4). Pub. L. 93–516, §203(a)(1), redesignated former par. (3) as (4). Former par. (4) redesignated (5). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(5). Pub. L. 93–516, §203(a)(1), (3), redesignated former par. (4) as (5), substituted "State agency for the blind in each State, or, in any State in which there is no such agency, some other public agency to issue licenses to blind persons who are citizens of the United States for the operating of vending facilities" for "State commission for the blind in each State, or, in any State in which there is no such commission, some other public agency to issue licenses to blind persons who are citizens of the United States and at least twenty-one years of age for the operating of vending stands", and "foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State" for "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to section 107 of this title", and struck out proviso that effective four years after the enactment of the Vocational Rehabilitation Amendments of 1954, in States having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act, the licensing agency to be designated hereunder shall be the State agency designated pursuant to section 35(a)(1) of title 29 as the sole agency with respect to vocational rehabilitation of the blind, and that prior to such time, no license shall be granted except upon certification by a vocational rehabilitation agency that the individual is qualified to operate a vending stand. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(6). Pub. L. 93–516, §203(a)(1), (4), redesignated former par. (5) as (6), substantially reenacted existing provisions in cl. (B), and added cl. (A) and provisions preceding cl. (A). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (b). Pub. L. 93–516, §203(b), substituted "operation of a vending facility" for "operation of a vending stand", struck out one year residency requirement for giving preference, and in provisions relating to qualifications of applicants, struck out "but are able, in spite of such infirmity, to operate such stands". An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (c). Pub. L. 93–516, §203(c), substituted "facility" for "stand" in three places. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsecs. (d), (e). Pub. L. 93–516, §203(d), added subsecs. (d) and (e). An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Act Aug. 3, 1954, added to the list of articles which may be vended, articles dispensed automatically or in containers or wrappings received by the stand and to provide that after four years the agency designated under section 35(a)(1) of title 29 shall be the sole State agency for vocational rehabilitation of the blind and to require, prior to that time, certification by agencies as a condition for issuing licenses.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954, set out as a note under section 49b of Title 29, Labor.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Secretary of Health, Education, and Welfare" in subsec. (a) pursuant to sections 301(a)(4)(B) and 507 of Pub. L. 96–88 which are classified to sections 3441(a)(4)(B) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of this title.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

"Federal Security Administrator" substituted for "Office of Education under the Federal Security Agency, subject to the direction of the Commissioner of Education and such rules and regulations as he may, with the approval of the Federal Security Administrator, prescribe" in subsec. (a) and for "Office of Education" in subsec. (c) by Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5, which transferred functions of Office of Education and Commissioner of Education under sections 107 to 107f of this title to Federal Security Administrator. Federal Security Agency Order 62, July 16, 1946, 11 F.R. 7943, provided that these functions shall be performed under supervision and direction of Commissioner for Special Services by Director of Vocational Rehabilitation and such officers and employees of Office of Vocational Rehabilitation as Director shall designate.

Office of Education originally established in Department of the Interior from which it was transferred to Federal Security Agency by Reorg. Plan No. I of 1939, §201, which is set out in the Appendix to Title 5.

FEDERAL SUPPORT FOR THE RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM

Memorandum of President of the United States, Jan. 20, 2012, 77 F.R. 3917, provided:

Memorandum for the Heads of Executive Departments and Agencies

Thousands of Americans who are blind have embraced the entrepreneurial spirit that helps define our Nation as a land of opportunity. Through the Federal Randolph-Sheppard Vending Facility Program administered by the Department of Education, talented and creative individuals who are blind have acquired the management training and business skills necessary to realize the American dream—a lifetime of economic opportunity, independence, and self-sufficiency for themselves and their families.

For 75 years, blind business managers have successfully operated food services and commercial ventures at Federal, State, and private buildings and locations nationwide. We honor and celebrate this program's historic achievements. We also trust that the Randolph-Sheppard Program will continue to be a leading model for providing high-quality entrepreneurial opportunities for blind individuals. From a simple snack shop, to tourist services at the Hoover Dam, to full food-services operations at military installations, blind entrepreneurs have provided exceptional customer service to Federal and State employees, the Armed Forces, and the general public. With proven ability, they have challenged preconceived notions about disability.

The Randolph-Sheppard Act (20 U.S.C. 107 *et seq.*) created the Vending Facility Program requiring qualified blind individuals be given a priority to operate vending facilities on Federal properties. This program is responsible today for providing entrepreneurial opportunities for over 2,500 individuals who are blind. In turn, these business managers have hired thousands of workers, many of whom are individuals with disabilities. Every American, including persons with disabilities, deserves the opportunity to succeed without limits, earn equal pay for equal jobs, and aspire to full-time, career-oriented employment.

Continued support and cooperation are needed from executive departments, agencies, and offices (agencies) to extend the Randolph-Sheppard priority to qualified blind managers through the State licensing agencies that implement the program. Therefore, I direct all agencies that have property management responsibilities to ensure that agency officials, when pursuing the establishment and operation of vending facilities (including cafeterias and military dining facilities) as defined in 20 U.S.C. 107e, issue permits and contracts in compliance with the Randolph-Sheppard Program and consistent with existing regulations and law. I further direct the Secretary of Education, through the Commissioner of the Rehabilitation Services Administration, to submit a report to the President on agencies' implementation of the Randolph-Sheppard Program not later than 1 year from the date of this memorandum.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its

officers, employees, or agents, or any other person.

The Secretary of Education is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[1] *So in original. Probably should be "Commissioner,".*

§107b. Application for designation as State licensing agency; cooperation with Secretary; furnishing initial stock

A State agency for the blind or other State agency desiring to be designated as the licensing agency shall, with the approval of the chief executive of the State, make application to the Secretary and agree—

(1) to cooperate with the Secretary in carrying out the purpose of this chapter;

(2) to provide for each licensed blind person such vending facility equipment, and adequate initial stock of suitable articles to be vended therefrom, as may be necessary: *Provided*, *however*, That such equipment and stock may be owned by the licensing agency for use of the blind, or by the blind individual to whom the license is issued: *And provided further*, That if ownership of such equipment is vested in the blind licensee, (A) the State licensing agency shall retain a first option to repurchase such equipment and (B) in the event such individual dies or for any other reason ceases to be a licensee or transfers to another vending facility, ownership of such equipment shall become vested in the State licensing agency (for transfer to a successor licensee) subject to an obligation on the part of the State licensing agency to pay to such individual (or to his estate) the fair value of his interest therein as later determined in accordance with regulations of the State licensing agency and after opportunity for a fair hearing;

(3) that if any funds are set aside, or caused to be set aside, from the net proceeds of the operation of the vending facilities such funds shall be set aside, or caused to be set aside, only to the extent necessary for and may be used only for the purposes of (A) maintenance and replacement of equipment; (B) the purchase of new equipment; (C) management services; (D) assuring a fair minimum return to operators of vending facilities; and (E) retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such State agency, after such agency provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes: *Provided, however*, That in no event shall the amount of such funds to be set aside from the net proceeds of any vending facility exceed a reasonable amount which shall be determined by the Secretary;

(4) to make such reports in such form and containing such information as the Secretary may from time to time require and to comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports;

(5) to issue such regulations, consistent with the provisions of this chapter, as may be necessary for the operation of this program;

(6) to provide to any blind licensee dissatisfied with any action arising from the operation or administration of the vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d–1 of this title.

(June 20, 1936, ch. 638, §3, 49 Stat. 1560; 1946 Reorg. Plan No. 2, §6, eff. July 16, 1946, 11 F.R 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 3, 1954, ch. 655, §4(e), 68 Stat. 664; Pub. L. 93–516, title II, §204, Dec. 7, 1974, 88 Stat. 1625; Pub. L. 93–651, title II, §204, Nov. 21, 1974, 89 Stat. 2–10.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 204 thereof which amended this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the

31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended by Pub. L. 93–651, title II, §204, Nov. 21, 1974, 89 Stat. 2–10, in exactly the same manner as it was amended by Pub. L. 93–516.

AMENDMENTS

1974—Pub. L. 93–516, §204(a)(1), substituted "A State agency" for "A State commission" in provisions preceding par. (1). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Par. (2). Pub. L. 93–516, §204(a)(2), substituted "vending facility" for "vending stand" in two places. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Par. (3). Pub. L. 93–516, §204(a)(2), (b), (c), in provisions preceding subpar. (A), substituted "the net proceeds of the operation of the vending facilities" for "the proceeds of the operation of the vending stands", in subpar. (D), substituted "vending facilities" for "vending stands", added subpar. (E), and in proviso following subpar. (E) substituted "the net proceeds of any vending facility" for "the proceeds of any vending stand". An identical amendment was made by Pub. L. 93–651. See Codification note above.

Par. (6). Pub. L. 93–516, §204(a)(3), substituted "vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d–1 of this title" for "vending stand program an opportunity for a fair hearing". An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Act Aug. 3, 1954, amended section generally and, among other changes, added pars. (3) to (6).

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954, set out as a note under section 49b of Title 29, Labor.

TRANSFER OF FUNCTIONS

For transfer of functions, see note set out under section 107a of this title.

§107b–1. Access to information with State licensing agencies; election and responsibilities of Committee of Blind Vendors

In addition to other requirements imposed in this title and in this chapter upon State licensing agencies, such agencies shall—

(1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the State vending facility program;

(2) conduct the biennial election of a Committee of Blind Vendors who shall be fully representative of all blind licensees in the State program,[1] and

(3) insure that such committee's responsibilities include (A) participation, with the State agency, in major administrative decisions and policy and program development, (B) receiving grievances of blind licensees and serving as advocates for such licensees, (C) participation, with the State agency, in the development and administration of a transfer and promotion system for blind licensees, (D) participation, with the State agency, in developing training and retraining programs, and (E) sponsorship, with the assistance of the State agency, of meetings and instructional conferences for blind licensees.

(Pub. L. 93–516, title II, §209, Dec. 7, 1974, 88 Stat. 1630; Pub. L. 93–651, title II, §209, Nov. 21, 1974, 89 Stat. 2–15.)

REFERENCES IN TEXT

This title, referred to in text, is title II of Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617, as amended, known as the "Randolph-Sheppard Act Amendments of 1974". For complete classification of such title to the Code, see Short Title of 1974 Amendment note set out under section 107 of this title and Tables.

CODIFICATION

Section was enacted as part of the Randolph-Sheppard Act Amendments of 1974, and not as part of the Randolph-Sheppard Vending Stand Act which comprises this chapter.

The content of Pub. L. 93–516, including provisions of section 209 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, §209, Nov. 21, 1974, 89 Stat. 2–15, in exactly the same manner as it was enacted by Pub. L. 93–516.

[1] *So in original. The comma probably should be a semicolon.*

§107b–2. Omitted

CODIFICATION

Section, Pub. L. 93–516, title II, §210, Dec. 7, 1974, 88 Stat. 1630, required the Secretary to promulgate national standards for funds set aside, to study and report the feasibility of establishing retirement, pension, and health insurance systems for blind licensees, and to evaluate the income assignment methods and required the State agencies to submit certain reports.

The content of Pub. L. 93–516, including provisions of section 210 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, §210, Nov. 21, 1974, 89 Stat. 2–15, in exactly the same manner as it was enacted by Pub. L. 93–516.

§107b–3. Audit of nonappropriated fund activities

The Comptroller General is authorized to conduct regular and periodic audits of all nonappropriated fund activities which receive income from vending machines on Federal property, under such rules and regulations as he may prescribe. In the conduct of such audits he and his duly authorized representatives shall have access to any relevant books, documents, papers, accounts, and records of such activities as he deems necessary.

(Pub. L. 93–516, title II, §211, Dec. 7, 1974, 88 Stat. 1630; Pub. L. 93–651, title II, §211, Nov. 21, 1974, 89 Stat. 2–15.)

CODIFICATION

Section was enacted as part of the Randolph-Sheppard Act Amendments of 1974, and not as part of the Randolph-Sheppard Vending Stand Act which comprises this chapter.

The content of Pub. L. 93–516, including provisions of section 211 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, §211, Nov. 21, 1974, 89 Stat. 2–15, in exactly the same manner as it was enacted by Pub. L. 93–516.

§107c. Repealed. Pub. L. 93–516, title II, §205, Dec. 7, 1974, 88 Stat. 1626

Section, act June 20, 1936, ch. 638, §4, 49 Stat. 1560; Reorg. Plan No. 2 of 1946, §6, eff. July 16, 1946, 11

F.R. 7873, 60 Stat. 1095; Reorg. Plan No. 1 of 1953, §§5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, related to provisions authorizing the Secretary to cooperate with State boards for rehabilitation of handicapped persons, established by the several States pursuant to sections 31 to 42b of Title 29, Labor, as amended and supplemented, in carrying out the provisions of this chapter. See section 701 et seq. of Title 29.

The content of Pub. L. 93–516, including provisions of section 205 thereof which repealed this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been repealed by Pub. L. 93–651, title II, §205, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was repealed by Pub. L. 93–516.

§107d. Expenditures

(a) Personal services, rent, printing, etc.

The Secretary is authorized to make such expenditures out of any money appropriated therefor (including expenditures for personal services and rent at the seat of government and elsewhere, books of reference and periodicals, for printing and binding, and for traveling expenses) as he may deem necessary to carry out the provisions of this chapter.

(b) Preference to blind persons in employment

The Secretary shall, in employing such additional personnel as may be necessary, give preference to blind persons who are capable of discharging the required duties.

(June 20, 1936, ch. 638, §4, formerly §5, 49 Stat. 1560; 1946 Reorg. Plan No. 2, §6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; renumbered §4 and amended Pub. L. 93–516, title II, §§206, 208(d), Dec. 7, 1974, 88 Stat. 1626, 1629; Pub. L. 93–651, title II, §§206, 208(d), Nov. 21, 1974, 89 Stat. 2–11, 2–14.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of sections 206 and 208(d) thereof which amended and renumbered this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended and renumbered by Pub. L. 93–651, title II, §§206, 208(d), Nov. 21, 1974, 89 Stat. 2–11, 2–14, in exactly the same manner as it was amended and renumbered by Pub. L. 93–516.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–516, §208(d), struck out requirement that at least 50 percent of the additional personnel be blind persons. An identical amendment was made by Pub. L. 93–651. See Codification note above.

TRANSFER OF FUNCTIONS

For transfer of functions, see note set out under section 107a of this title.

§107d–1. Grievances of blind licensees

(a) Hearing and arbitration

Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to a State licensing agency a request for a full evidentiary hearing, which shall be provided by such agency in accordance with section 107b(6) of

this title. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 107d–2 of this title, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this chapter.

(b) Noncompliance by Federal departments and agencies; complaints by State licensing agencies; arbitration

Whenever any State licensing agency determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this chapter or any regulations issued thereunder (including a limitation on the placement or operation of a vending facility as described in section 107(b) of this title and the Secretary's determination thereon) such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 107d–2 of this title, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this chapter.

(June 20, 1936, ch. 638, §5, as added Pub. L. 93–516, title II, §206, Dec. 7, 1974, 88 Stat. 1626; Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–11.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 5 of act of June 20, 1936, which was classified to section 107d of this title, was renumbered section 4 by Pub. L. 93–516, §206.

§107d–2. Arbitration

(a) Notice and hearing

Upon receipt of a complaint filed under section 107d–1 of this title, the Secretary shall convene an ad hoc arbitration panel as provided in subsection (b) of this section. Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency action for purposes of chapter 7 of such title 5.

(b) Composition of panel; designation of chairman; termination of violations

(1) The arbitration panel convened by the Secretary to hear grievances of blind licensees shall be composed of three members appointed as follows:

(A) one individual designated by the State licensing agency;

(B) one individual designated by the blind licensee; and

(C) one individual, not employed by the State licensing agency or, where appropriate, its parent agency, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (1)(A), (B), or (C), the Secretary shall designate such member on behalf of such party.

(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

(A) one individual, designated by the State licensing agency;

(B) one individual, designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

(C) one individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (2)(A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this chapter, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

(c) Publication of decisions in Federal Register

The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

(d) Payment of costs by the Secretary

The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

(June 20, 1936, ch. 638, §6, as added Pub. L. 93–516, title II, §206, Dec. 7, 1974, 88 Stat. 1626; Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–11.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 6 of act June 20, 1936, which was classified to section 107e of this title, was renumbered section 9 by Pub. L. 93–516, §206.

§107d–3. Vending machine income

(a) Accrual to blind licensee and alternatively to State agency; ceiling on amount for individual licensee

In accordance with the provisions of subsection (b) of this section, vending machine income obtained from the operation of vending machines on Federal property shall accrue (1) to the blind licensee operating a vending facility on such property, or (2) in the event there is no blind licensee operating such facility on such property, to the State agency in whose State the Federal property is located, for the uses designated in subsection (c) of this section, except that with respect to income which accrues under clause (1) of this subsection, the Commissioner may prescribe regulations imposing a ceiling on income from such vending machines for an individual blind licensee. In the event such a ceiling is imposed, no blind licensee shall receive less vending machine income under such ceiling than he was receiving on January 1, 1974. No limitation shall be imposed on income from vending machines, combined to create a vending facility, which are maintained, serviced, or operated by a blind licensee. Any amounts received by a blind licensee that are in excess of the amount permitted to accrue to him under any ceiling imposed by the Commissioner shall be

disbursed to the appropriate State agency under clause (2) of this subsection and shall be used by such agency in accordance with subsection (c) of this section.

(b) Direct competition between vending machine and vending facility; proportion of accrued income from such vending machines for individual licensee

(1) After January 1, 1975, 100 per centum of all vending machine income from vending machines on Federal property which are in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section. "Direct competition" as used in this section means the existence of any vending machines or facilities operated on the same premises as a blind vending facility except that vending machines or facilities operated in areas serving employees the majority of whom normally do not have direct access to the blind vending facility shall not be considered in direct competition with the blind vending facility. After January 1, 1975, 50 per centum of all vending machine income from vending machines on Federal property which are not in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section, except that with respect to Federal property at which at least 50 per centum of the total hours worked on the premises occurs during periods other than normal working hours, 30 per centum of such income shall so accrue.

(2) The head of each department, agency, and instrumentality of the United States shall insure compliance with this section with respect to buildings, installations, and facilities under his control, and shall be responsible for collection of, and accounting for, such vending machine income.

(c) Disposal of accrued vending machine income by State licensing agency

All vending machine income which accrues to a State licensing agency pursuant to subsection (a) of this section shall be used to establish retirement or pension plans, for health insurance contributions, and for provision of paid sick leave and vacation time for blind licensees in such State, subject to a vote of blind licensees as provided under section 107b(3)(E) of this title. Any vending machine income remaining after application of the first sentence of this subsection shall be used for the purposes specified in sections 107b(3)(A), (B), (C), and (D) of this title, and any assessment charged to blind licensees by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

(d) Income from vending machines in certain locations excepted

Subsections (a) and (b)(1) of this section shall not apply to income from vending machines within retail sales outlets under the control of exchange or ships' stores systems authorized by title 10, or to income from vending machines operated by the Veterans Canteen Service, or to income from vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

(e) Regulations establishing priority for operation of cafeterias

The Secretary, through the Commissioner, shall prescribe regulations to establish a priority for the operation of cafeterias on Federal property by blind licensees when he determines, on an individual basis and after consultation with the head of the appropriate installation, that such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees, whether by contract or otherwise.

(f) Existing arrangements more favorable to blind licensees unaffected

This section shall not operate to preclude preexisting or future arrangements, or regulations of departments, agencies, or instrumentalities of the United States, under which blind licensees (1) receive a greater percentage or amount of vending machine income than that specified in subsection (b)(1) of this section, or (2) receive vending machine income from individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

(g) Regulations for compliance

The Secretary shall take such action and promulgate such regulations as he deems necessary to

assure compliance with this section.

(June 20, 1936, ch. 638, §7, as added Pub. L. 93–516, title II, §206, Dec. 7, 1974, 88 Stat. 1627; Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–12.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–12, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 7 of act June 20, 1936, was classified to section 107e–1 of this title, prior to repeal by Pub. L. 93–516, §205.

§107d–4. Training programs for maximum vocational potential for blind

The Commissioner shall insure, through promulgation of appropriate regulations, that uniform and effective training programs, including on-the-job training, are provided for blind individuals, through services under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.]. He shall further insure that State agencies provide programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under this chapter, and that follow-along services are provided to such trainees to assure that their maximum vocational potential is achieved.

(June 20, 1936, ch. 638, §8, as added Pub. L. 93–516, title II, §206, Dec. 7, 1974, 88 Stat. 1628; Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–13.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in text, is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–13, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 8 of act June 20, 1936, which was classified to section 107f of this title, was renumbered section 10 by Pub. L. 93–516, §206.

§107e. Definitions

As used in this chapter—

(1) "blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an

angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select;

(2) "Commissioner" means the Commissioner of the Rehabilitation Services Administration;

(3) "Federal property" means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States;

(4) "Secretary" means the Secretary of Education;

(5) "State" means a State, territory, possession, Puerto Rico, or the District of Columbia;

(6) "United States" includes the several States, territories, and possessions of the United States, Puerto Rico, and the District of Columbia;

(7) "vending facility" means automatic vending machines, cafeterias, snack bars, cart services, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may by regulation prescribe as being necessary for the sale of the articles or services described in section 107a(a)(5) of this title and which may be operated by blind licensees; and

(8) "vending machine income" means receipts (other than those of a blind licensee) from vending machine operations on Federal property, after cost of goods sold (including reasonable service and maintenance costs), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind licensee) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States.

(June 20, 1936, ch. 638, §9, formerly §6, 49 Stat. 1560; Aug. 3, 1954, ch. 655, §4(f), 68 Stat. 664; renumbered §9 and amended Pub. L. 93–516, title II, §§206, 207, Dec. 7, 1974, 88 Stat. 1626, 1628; Pub. L. 93–651, title II, §§206, 207, Nov. 21, 1974, 89 Stat. 2–11, 2–13; Pub. L. 96–88, title III, §301(a)(4)(B), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of sections 206 and 207 thereof which amended and renumbered this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended and renumbered by Pub. L. 93–651, title II, §§206, 207, Nov. 21, 1974, 89 Stat. 2–11, 2–13, in exactly the same manner as it was amended and renumbered by Pub. L. 93–516.

AMENDMENTS

1974—Pub. L. 93–516, §207, replaced letter designations with number designations, inserted definitions of "Commissioner", "vending facility", and "vending machine income", and in definition of "blind person" substituted provisions that such person meant a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees, and that in determining whether a person is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select, for provisions that such person meant a person having not more than 10 per centum visual acuity in the better eye with correction and that such blindness shall be certified by a duly licensed ophthalmologist, in definition of "United States" inserted reference to Puerto Rico, in definition of "State" inserted reference to Puerto Rico, and in definition of "Federal property" inserted reference to Department of Defense and United States Postal Service. An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Subsecs. (d), (e). Act Aug. 3, 1954, added subsecs. (d) and (e).

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954, set out as a note under section 49b of Title 29, Labor.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Secretary of Health, Education, and Welfare" in par. (4) pursuant to sections 301(a)(4)(B) and 507 of Pub. L. 96–88 which are classified to sections 3441(a)(4)(B) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of this title.

§107e–1. Repealed. Pub. L. 93–516, title II, §205, Dec. 7, 1974, 88 Stat. 1626

Section, act June 20, 1936, ch. 638, §7, as added Aug. 3, 1954, ch. 655, §4(g), 68 Stat. 664, related to designation and status of states acting as licensing agents before July 1, 1954.

The content of Pub. L. 93–516, including provisions of section 205 thereof which repealed this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been repealed by Pub. L. 93–651, title II, §205, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was repealed by Pub. L. 93–516.

§107f. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary for carrying out the provisions of this chapter.

(June 20, 1936, ch. 638, §10, formerly §7, 49 Stat. 1560; renumbered §8, Aug. 3, 1954, ch. 655, §4(g), 68 Stat. 664; renumbered §10, Pub. L. 93–516, title II, §206, Dec. 7, 1974, 88 Stat. 1626; Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–11.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which renumbered this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been renumbered by Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was amended by Pub. L. 93–516, title II, §206, Nov. 21, 1974, 88 Stat. 1626.

CHAPTER 7—INSTRUCTION AS TO NATURE AND EFFECT OF ALCOHOLIC DRINKS AND NARCOTICS

Sec.

111. Study in certain schools of effect of alcoholic drinks and narcotics.

112. Enforcement of section 111.

113. Teachers' certificates dependent on passing examination on effect of alcoholic drinks and narcotics.

§111. Study in certain schools of effect of alcoholic drinks and narcotics

The nature of alcoholic drinks and narcotics, and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the common or public schools, and in the military and naval schools, and shall be studied and taught as thoroughly and in the same manner as other like required branches are in said schools, by the use of textbooks in the hands of pupils where other branches are thus studied in said schools, and by all pupils in all said schools throughout the Territories, in the Military and Naval Academies of the United States, and in the District of Columbia, and in all Indian and colored schools in the Territories of the United States.

(May 20, 1886, ch. 362, §1, 24 Stat. 69.)

§112. Enforcement of section 111

It shall be the duty of the proper officers in control of any school described in section 111 of this title to enforce the provisions of this chapter; and any such officer, school director, committee, superintendent, or teacher who shall refuse or neglect to comply with the requirements of this chapter, or shall neglect or fail to make proper provisions for the instruction required and in the manner specified by section 111 of this title, for all pupils in each and every school under his jurisdiction, shall be removed from office, and the vacancy filled as in other cases.

(May 20, 1886, ch. 362, §2, 24 Stat. 69.)

§113. Teachers' certificates dependent on passing examination on effect of alcoholic drinks and narcotics

No certificate shall be granted to any person to teach in the public schools of the District of Columbia or Territories who has not passed a satisfactory examination in physiology and hygiene, with special reference to the nature and the effects of alcoholic drinks and other narcotics upon the human system.

(May 20, 1886, ch. 362, §3, 24 Stat. 69.)

CHAPTER 8—HOWARD UNIVERSITY

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

121. Annual report of president and directors.
122. Limitation on use of appropriations.
123. Annual appropriations; inspection by Secretary of Education.
124. Transfer of Freedmen's Hospital to Howard University.
125. Employees of hospital.
126. Authorization of appropriations for construction of hospital facilities.
127. Transfer of facilities by University or cessation of operation as teaching hospital facilities; recovery of value by United States.
128. Authorization of appropriations for partial support of operation of facilities; separate account.
129. Financial policy; report to Congress.
130. Purchases through the General Services Administration.
130a. Financial and program audit by Secretary.

SUBCHAPTER II—ENDOWMENT

130aa. Definitions.
130aa–1. Program authorized.
130aa–2. Investments.
130aa–3. Withdrawals and expenditures.
130aa–4. Enforcement.
130aa–5. Authorization of appropriations.

SUBCHAPTER I—GENERAL PROVISIONS

§121. Annual report of president and directors

The president and directors of Howard University shall report to the Secretary of Education the condition of the institution on the 1st of July of each year, embracing therein the number of pupils received and discharged or leaving the same for any cause during the preceding year, and the number remaining; also, the branches of knowledge and industry taught and the progress made therein together with a statement showing the receipts of the institution and from what sources, and its disbursements, and for what objects.

(July 1, 1898, ch. 546, §1, 30 Stat. 624; 1940 Reorg. Plan No. IV, §11(c), eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692.)

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this subchapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Department of the Interior relating to administration of Howard University transferred to Federal Security Agency to be administered under direction and supervision of Federal Security Administrator, and annual report required to be furnished to Secretary of the Interior by President and directors of said University was directed to be furnished to Federal Security Administrator, by Reorg. Plan No. IV of 1940, set out in the Appendix to Title 5.

SIMILAR PROVISIONS

A similar requirement of a report of the expenditures of the University accompanied the appropriation for the same purposes in the following prior acts:

Mar. 3, 1893, ch. 208, 27 Stat. 595.

Aug. 5, 1892, ch. 380, 27 Stat. 372.

Mar. 3, 1891, ch. 542, 26 Stat. 973.

§122. Limitation on use of appropriations

No part of the appropriations made by Congress for the Howard University shall be used, directly or indirectly, for the support of the theological department of said university, nor for the support of any sectarian, denominational, or religious instruction therein; and no part thereof shall be paid to said university until it shall accord to the Secretary of Education, or to his designated agent or agents, authority to visit and inspect such university and to control and supervise the expenditure therein of all moneys paid under said appropriations.

(Mar. 3, 1899, ch. 424, 30 Stat. 1101; 1940 Reorg. Plan No. IV, §11(c), eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692.)

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this subchapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Department of the Interior relating to administration of Howard University transferred to Federal Security Agency to be administered under direction and supervision of Federal Security Administrator by Reorg. Plan No. IV of 1940, set out as a note in the Appendix to Title 5.

PRIOR PROVISIONS

Similar prior provisions were contained in act July 1, 1898, ch. 546, 30 Stat. 624.

§123. Annual appropriations; inspection by Secretary of Education

Annual appropriations are authorized to aid in the construction, development, improvement, endowment, and maintenance of the university, no part of which shall be used for religious instruction. The university shall at all times be open to inspection by the Secretary of Education and shall be inspected by the said Secretary at least once each year.

(Mar. 2, 1867, ch. 162, §8, 14 Stat. 439; Dec. 13, 1928, ch. 26, 45 Stat. 1021; 1940 Reorg. Plan No. IV, §11(c), eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; Aug. 7, 1946, ch. 770, §1(60), 60 Stat. 871; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 98–480, title II, §208, Oct. 17, 1984, 98 Stat. 2247.)

AMENDMENTS

1984—Pub. L. 98–480 inserted "endowment," after "improvement,".

1946—Act Aug. 7, 1946, repealed third sentence which required that an annual report of the affairs of the university be presented to Congress in the report of Office of Education.

1928—Act Dec. 13, 1928, authorized annual appropriations for the university, prohibited use of funds for religious instruction, made the university subject to inspection at least once a year by the Bureau of Education, and substituted provision that the annual report of the university's affairs be presented to Congress by the Bureau for provision that the Board of Trustees publish such an annual report.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–480 effective Oct. 1, 1984, see section 209 of Pub. L. 98–480, set out as an Effective Date note under section 130aa of this title.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88 which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this subchapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Office of Education transferred to Federal Security Agency by Reorg. Plan No. I of 1939, §§201, 204, eff. July 1, 1939, set out in the Appendix to Title 5.

Office of Education created and placed in Department of the Interior by the act of July 20, 1868, ch. 176, 15 Stat. 106, which abolished the Department of Education. In the appropriation act of July 12, 1870, ch. 251, 16 Stat. 242, the Office was designated the Bureau of Education. This designation was retained until the act of

May 14, 1930, ch. 273, 46 Stat. 281, 319, which made appropriations for the "Office of Education."

REPORTS CONTINUED

Office of Education was directed to continue its inspections of Howard University in accordance with provisions of existing law, by Reorg. Plan No. IV of 1940, set out in the Appendix to Title 5, Government Organization and Employees.

§124. Transfer of Freedmen's Hospital to Howard University

(a) Purpose; authorization; agreement

For the purpose of assisting in the provision of teaching hospital resources for Howard University, thereby assisting the university in the training of medical and allied personnel and in providing hospital services for the community, the Secretary of Health, Education, and Welfare shall, pursuant to agreement with the board of trustees of Howard University, transfer to Howard University, without reimbursement, all right, title, and interest of the United States in certain lands in the District of Columbia, together with the buildings and improvements thereon and the personal property used in connection therewith (as determined by the Secretary), commonly known as Freedmen's Hospital.

(b) Congressional intent

It is the intent of Congress (1) that the transfer of Freedmen's Hospital to Howard University be effected as soon as practicable, (2) to assure the well-being of patients at Freedmen's Hospital during the period of transition, and (3) that the transfer be effected with minimum dislocation of the present hospital staff and maximum consideration of their interests as employees.

(c) Report to Congress

The Secretary of Health, Education, and Welfare shall report to the Congress the terms of the agreement for such transfer.

(Pub. L. 87–262, §1, Sept. 21, 1961, 75 Stat. 542.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Howard University and Department of Health, Education, and Welfare transferred to Secretary of Education by section 3441(a)(2)(M) of this title.

REPEAL OF LAWS APPLICABLE TO FREEDMEN'S HOSPITAL

Pub. L. 87–262, §7, Sept. 21, 1961, 75 Stat. 544, provided that: "All laws heretofore applicable specifically to Freedmen's Hospital are, to the extent of such applicability, repealed, effective with the transfer of Freedmen's Hospital pursuant to section 1 [this section]."

TRANSFER OF FUNDS

Pub. L. 87–262, §8, Sept. 21, 1961, 75 Stat. 544, provided that: "All unexpended balances of appropriations, allocations, and other funds, available or to be made available, of Freedmen's Hospital are, effective with the transfer of Freedmen's Hospital pursuant to section 1 [this section], transferred to Howard University for use in the operation of the Howard University Hospital facilities, except to the extent (determined by the Director of the Bureau of the Budget [Director of the Office of Management and Budget]) required to meet obligations already incurred and not assumed by the university."

§125. Employees of hospital

(a) Opportunity to transfer; guarantee of rights and benefits

The agreement for transfer of Freedmen's Hospital referred to in section 124 of this title shall include provisions to assure that—

(1) all individuals who are career or career-conditional employees of the hospital on the day preceding the effective date of the transfer of the hospital, except those in positions with respect to which they have been notified not less than six months prior to the effective date of such transfer

that their positions are to be abolished, will be offered an opportunity to transfer to Howard University;

(2) Howard University—

(A) will not reduce the salary levels for such employees who transfer,

(B) will deposit currently (i) in the civil service retirement and disability fund referred to in section 8348 of title 5, the employee deductions and agency contributions required by subchapter III of chapter 83 of title 5, and (ii) in the fund referred to in section 8714 of title 5, the employee deductions and agency contributions required by chapter 87 of title 5.

(C) will provide other benefits for such employees as nearly equivalent as may be practicable to those generally applicable, on the effective date of the transfer of the hospital, to civilian employees of the United States, and

(D) in determining the seniority rights of its employees, Howard University will credit service with Freedmen's Hospital performed by such employees who transfer, on the same basis as it would credit such service had it been performed for such University;

(3) the transfer will become effective not later than the beginning of the second month which begins after construction of the new hospital facilities authorized by section 126 of this title is commenced.

(b) Placement of employees in comparable Federal positions

The Department of Health, Education, and Welfare shall make every reasonable effort to place in other comparable Federal positions all individuals who are career or career-conditional employees of Freedmen's Hospital on September 21, 1961 and who do not transfer to Howard University.

(c) Services performed in the employ of United States

Each individual who is an employee of Freedmen's Hospital on September 21, 1961 and who transfers to Howard University shall, so long as he is continuously in the employ of Howard University, be regarded as continuing in the employ of the United States for the purposes of subchapter III of chapter 83 of title 5, chapter 87 of title 5. For purposes of section 3121(b) of title 26 and section 410 of title 42, service performed by such individual during the period of his employment at Howard University shall be regarded as though performed in the employ of the United States.

(Pub. L. 87–262, §2, Sept. 21, 1961, 75 Stat. 542; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

CODIFICATION

In subsec. (a)(2)(B), "civil service retirement and disability fund referred to in section 8348 of title 5" substituted for "civil service retirement and disability fund required by the Act of May 22, 1920" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Previously, act May 22, 1920, ch. 195, 41 Stat. 614, was superseded by act May 29, 1930, known as the Civil Service Retirement Act of 1930, which was generally amended by act July 31, 1956, ch. 804, §401, 70 Stat. 743.

In subsecs. (a)(2)(B) and (c), "subchapter III of chapter 83 of title 5" substituted for "the Civil Service Retirement Act" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

In subsec. (a)(2)(B), "fund referred to in section 8714 of title 5" substituted for "the fund created by section 5(c) of the Federal Employees' Group Life Insurance Act of 1954" and, in subsecs. (a)(2)(B) and (c), "chapter 87 of title 5" substituted for "the Federal Employees' Group Life Insurance Act of 1954", on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Howard University and Department of Health, Education, and Welfare transferred to Secretary of Education

by section 3441(a)(2)(M) of this title.

§126. Authorization of appropriations for construction of hospital facilities

For the purpose specified in section 124 of this title, there are authorized to be appropriated such sums as may be necessary for the construction of a building or buildings and facilities, including equipment, and for remodeling of existing buildings (including repair and replacement of equipment) which are to be combined with the building or buildings and facilities so constructed, to provide a hospital with a capacity of not to exceed five hundred beds.

(Pub. L. 87–262, §3, Sept. 21, 1961, 75 Stat. 543.)

§127. Transfer of facilities by University or cessation of operation as teaching hospital facilities; recovery of value by United States

If, within twenty years after the completion of construction (as determined by the Secretary of Health, Education, and Welfare) of the new hospital facilities authorized by section 126 of this title, any of such facilities, or of the facilities transferred pursuant to section 124 of this title and combined with such new facilities, are transferred by Howard University to any other person or entity (except a transfer to the United States) or cease to be operated by the university as teaching hospital facilities, the United States shall be entitled to recover from the transferee or the university, in the case of a transfer, or from the university, if there is no transfer, an amount equal to the then value of such facilities (or so much thereof as is involved in the transfer, as the case may be), such value to be determined by agreement of the parties or by action brought in the United States District Court for the District of Columbia.

(Pub. L. 87–262, §4, Sept. 21, 1961, 75 Stat. 543.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Howard University and Department of Health, Education, and Welfare transferred to Secretary of Education by section 3441(a)(2)(M) of this title.

§128. Authorization of appropriations for partial support of operation of facilities; separate account

In order to facilitate operation of teaching hospital facilities at Howard University, there are authorized to be appropriated annually to the university such sums as the Congress may determine, for the partial support of the operation of such facilities giving consideration to the cost imposed by the provisions of section 125 of this title and the portion of the agreement under sections 124 to 129 of this title relating to such provisions. The cost of operating such facilities, the appropriations pursuant to this section, and any other income derived from such operation or available for such purpose shall be identified and accounted for separately in the accounts of the university.

(Pub. L. 87–262, §5, Sept. 21, 1961, 75 Stat. 543.)

§129. Financial policy; report to Congress

It is declared to be the policy of the Congress that, to the extent consistent with good medical teaching practice, the Howard University Hospital facilities shall become progressively more self-supporting. In order to further this policy, the President shall submit to the Congress a report, based on a study of the financing of the operation of the hospital, containing his recommendations on the rate at which, consistent with the above policy, Federal financial participation in such cost of operation shall be reduced. Such report shall be submitted not later than the end of the second

calendar year following the year in which the construction of the new hospital facilities, authorized by section 126 of this title, is completed.

(Pub. L. 87–262, §6, Sept. 21, 1961, 75 Stat. 544.)

§130. Purchases through the General Services Administration

On and after September 8, 1978, Howard University is authorized to make purchases through the General Services Administration.

(Pub. L. 95–355, title I, §100, Sept. 8, 1978, 92 Stat. 531.)

CODIFICATION

Section is from the Second Supplemental Appropriations Act, 1978, and contained additional provisions relating to purchases by the American Printing House for the Blind, Gallaudet University, and the National Technical Institute for the Deaf, which are set out in sections 106 and 4362 of this title.

§130a. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to Howard University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, §301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and contained additional provisions relating to the American Printing House for the Blind, Gallaudet University, and the National Technical Institute for the Deaf, which are set out as sections 106a and 4363 of this title, respectively.

SUBCHAPTER II—ENDOWMENT

§130aa. Definitions

For purposes of this subchapter—

(1) the term "endowment fund" means a fund, or a tax exempt foundation, established and maintained by Howard University for the purpose of generating income for its support, but which shall not include real estate;

(2) the term "endowment fund corpus" means an amount equal to the grants awarded under this subchapter plus an amount equal to such grants provided by Howard University;

(3) the term "endowment fund income" means an amount equal to the total value of the endowment fund established under this subchapter minus the endowment fund corpus;

(4) the term "Secretary" means the Secretary of Education; and

(5) the term "University" means the Howard University established by the Act of March 2, 1867.

(Pub. L. 98–480, title II, §202, Oct. 17, 1984, 98 Stat. 2245.)

REFERENCES IN TEXT

Act of March 2, 1867, referred to in par. (5), is act Mar. 2, 1867, ch. 162, 14 Stat. 438, as amended. Section 8 of this Act is classified to section 123 of this title. For complete classification of this Act to the Code, see

Tables.

EFFECTIVE DATE

Pub. L. 98–480, title II, §209, Oct. 17, 1984, 98 Stat. 2247, provided that: "This title [see Short Title note below] shall take effect on October 1, 1984."

SHORT TITLE

Pub. L. 98–480, title II, §201, Oct. 17, 1984, 98 Stat. 2245, provided that: "This title [enacting this subchapter, amending section 123 of this title, and enacting provisions set out as a note above] may be cited as the 'Howard University Endowment Act'."

§130aa–1. Program authorized

(a) The Secretary is authorized to establish an endowment program, in accordance with the provisions of this subchapter, for the purpose of establishing or increasing endowment funds, providing additional incentives to promote fundraising activities, and encouraging independence and self-sufficiency at the University.

(b)(1) From the funds appropriated pursuant to this subchapter for endowments in any fiscal year for the University, the Secretary is authorized to make grants to Howard University. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this subchapter such provisions deemed necessary by the Secretary to assure that the purposes of this subchapter will be achieved.

(2) The University may receive a grant under this section only if it has deposited in the endowment fund established under this subchapter an amount equal to such grant and has adequately assured the Secretary that it will administer the endowment fund in accordance with the requirements of this subchapter. The source of funds for this institutional match shall not include Federal funds or funds derived from an existing endowment fund.

(3) The period of any grant under this section shall not exceed twenty years, and during such period the University shall not withdraw or expend any of its endowment fund corpus. Upon the expiration of any grant period, the University may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(Pub. L. 98–480, title II, §203, Oct. 17, 1984, 98 Stat. 2245.)

§130aa–2. Investments

(a) The University shall invest its endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the law of the District of Columbia, such as federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(b) The University, in investing its endowment fund corpus and income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own business affairs.

(Pub. L. 98–480, title II, §204, Oct. 17, 1984, 98 Stat. 2246.)

§130aa–3. Withdrawals and expenditures

(a) Defrayment of expenses; restrictions on use of income or corpus; limits on withdrawals or expenditures

The University may withdraw and expend its endowment fund income to defray any expenses necessary to its operation, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services

programs, technical assistance, and research. No endowment fund income or corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor entered into after January 1, 1981. Except as provided in subsection (b) of this section, the University shall not, in the aggregate, withdraw or expend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) Authority of Secretary; withdrawal or expenditure beyond limits; circumstances demonstrating necessity

The Secretary is authorized to permit the University to withdraw or expend more than 50 per centum of its total aggregate endowment income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(A) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(B) a life-threatening situation occasioned by a natural disaster or arson; or

(C) another unusual occurrence or exigent circumstance.

(c) Repayment of Federal share of amounts improperly expended or withdrawn; endowment fund corpus; income

(1) If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof).

(2) The University shall not withdraw or expend any endowment fund corpus. If the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to 50 per centum of the amount withdrawn or expended (representing the Federal share thereof) plus any income earned thereon.

(Pub. L. 98–480, title II, §205, Oct. 17, 1984, 98 Stat. 2246.)

§130aa–4. Enforcement

(a) After notice and an opportunity for a hearing, the Secretary is authorized to terminate and recover any grant awarded under this subchapter if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 130aa–3 of this title;

(2) fails to invest its endowment fund corpus or income in accordance with the investment standards set forth in section 130aa–2 of this title; or

(3) fails to account properly to the Secretary concerning investments and expenditures of its endowment fund corpus or income.

(b) If the Secretary terminates a grant under subsection (a) of this section, the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this subchapter [1] plus any income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this subchapter and to protect the financial interest of the United States.

(Pub. L. 98–480, title II, §206, Oct. 17, 1984, 98 Stat. 2247.)

CODIFICATION

This subchapter, the first time it appears in subsec. (b), was in the original "this Act" which was translated as reading "this title", meaning title II of Pub. L. 98–480, Oct. 17, 1984, 98 Stat. 2236, as the probable intent of Congress.

[1] *See Codification note below.*

§130aa–5. Authorization of appropriations

There is authorized to be appropriated $2,000,000 for the purposes authorized under section 130aa–1 of this title. Funds appropriated under this section shall remain available until expended.

(Pub. L. 98–480, title II, §207, Oct. 17, 1984, 98 Stat. 2247.)

CHAPTER 9—NATIONAL TRAINING SCHOOL FOR BOYS

§§131 to 152. Omitted

CODIFICATION

Sections provided for the National Training School for Boys which was governed and managed by a Board of Trustees until July 1, 1939, at which time 1939 Reorg. Plan No. 2 (4 F.R. 2731, 53 Stat. 1431) abolished the Board of Trustees and transferred the School and its functions (including the functions of the Board of Trustees) to the Department of Justice, to be administered by the Director of the Bureau of Prisons, under the direction and supervision of the Attorney General. The School was so operated until May 15, 1968, when it was closed pursuant to order of the Attorney General.

Section 131, act May 27, 1908, ch. 200, §1, 35 Stat. 380, provided that District reform school for boys should be known as National Training School for Boys.

Section 132, acts May 3, 1876, ch. 90, §1, 19 Stat. 49; May 27, 1908, ch. 200, §1, 35 Stat. 380, dealt with appointment of a board of trustees to govern and manage the school.

Section 133, act June 4, 1880, ch. 121, §1, 21 Stat. 156, provided that one of the District commissioners should be a trustee of the school.

Section 134, act May 3, 1876, ch. 90, §16, 19 Stat. 52, provided for appointment of two consulting trustees of the school.

Section 135, acts May 3, 1876, ch. 90, §2, 19 Stat. 49; May 27, 1908, ch. 200, §1, 35 Stat. 380, dealt with corporate capacity and powers of the board of trustees.

Section 136, acts May 3, 1876, ch. 90, §15, 19 Stat. 52; June 5, 1900, ch. 715, 31 Stat. 267, authorized board of trustees to make by-laws, rules, and regulations.

Section 137, act May 3, 1876, ch. 90, §14, 19 Stat. 51, dealt with contracts and purchases, the executive officer, and annual reports.

Section 138, act May 3, 1876, ch. 90, §3, 19 Stat. 49, dealt with appointment and compensation of a superintendent and other employees of the school.

Section 139, acts May 3, 1876, ch. 90, §4, 19 Stat. 49; June 10, 1921, ch. 18, §304, 42 Stat. 24, dealt with appointment, bonding, and duties of a treasurer of the school.

Section 140, act May 3, 1876, ch. 90, §5, 19 Stat. 50, dealt with bonding of the superintendent.

Section 141, act May 3, 1876, ch. 90, §6, 19 Stat. 50, dealt with powers and duties of the superintendent and subordinate employees.

Section 142, act May 3, 1876, ch. 90, §7, 19 Stat. 50, provided that superintendent be in charge of lands and other property of the school, books of accounts, register of boys, and examination of school and accounts.

Section 143, act Mar. 3, 1881, ch. 134, §1, 21 Stat. 459, dealt with a report of school officers to District commissioners.

Section 144, acts Aug. 6, 1890, ch. 724, §1, 26 Stat. 307; Mar. 3, 1905, ch. 1483, 33 Stat. 1211, dealt with disposition of proceeds of the school farm and shops.

Section 145, acts May 3, 1876, ch. 90, §8, 19 Stat. 50; June 5, 1900, ch. 715, 31 Stat. 266, dealt with commitment of boys under age 17 to the school.

Section 146, acts May 3, 1876, ch. 90, §9, 19 Stat. 51; June 5, 1900, ch. 715, 31 Stat. 267, related to period of detention.

Section 147, act May 3, 1876, ch. 90, §10, 19 Stat. 51, limited number of boys at the school to number that can be properly accommodated.

Section 148, act May 3, 1876, ch. 90, §11, 19 Stat. 51, dealt with penalties for enticing boy from school or harboring escaped boy, and for arrest and return of escapees.

Section 149, act May 3, 1876, ch. 90, §12, 19 Stat. 51, dealt with employment and instruction of boys, apprenticing, and indentures of apprenticeship.

Section 150, act Feb. 26, 1909, ch. 217, §1, 35 Stat. 657, dealt with release on parole of juvenile offenders committed to the school.

Section 151, act Feb. 26, 1909, ch. 217, §2, 35 Stat. 657, authorized board of trustees to parole boys, subject to approval of Attorney General in certain cases.

Section 152, acts May 3, 1876, ch. 90, §13, 19 Stat. 51; Aug. 1, 1914, ch. 223, §1, 38 Stat. 657; Mar. 28, 1918, ch. 28, §1, 40 Stat. 494, dealt with District support of boys committed, accounts, payment, and rates.

CHAPTER 10—NATIONAL TRAINING SCHOOL FOR GIRLS

§§161 to 174. Omitted

CODIFICATION

Sections provided for the National Training School for Girls. Act Aug. 3, 1951, ch. 291, §1, 65 Stat. 154, provided that no new commitments to the National Training School for Girls should be made after Aug. 3, 1951. Act July 31, 1953, ch. 299, §1, 67 Stat. 286, redesignated the National Training School for Girls as the Industrial Home School for Colored Girls and authorized construction of a new Industrial Home School for Colored Children near Laurel, Maryland. Act July 1, 1954, ch. 449, §1, 68 Stat. 385, provided that the Industrial Home School for Colored Girls shall be combined with and become a part of the Industrial Home School for Colored Children. Act Sept. 4, 1957, Pub. L. 85–285, §1, 71 Stat. 610, provided in part for the disposition of the land of the United States reserved for a site for the National Training School for Girls by the Act of July 14, 1892 (27 Stat. 165), as amended.

Section 161, act June 26, 1912, ch. 182, §1, 37 Stat. 171, provided that District reform school for girls should be known as National Training School for Girls.

Section 162, acts July 9, 1888, §§1, 7, 25 Stat. 245, 246; June 26, 1912, ch. 182, §1, 37 Stat. 171; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, dealt with incorporation.

Section 163, acts July 9, 1888, ch. 595, §2, 25 Stat. 245; June 26, 1912, ch. 182, §1, 37 Stat. 171; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, provided authority to establish and maintain a training school for girls within District of Columbia.

Section 164, acts July 9, 1888, ch. 595, §3, 25 Stat. 246; May 27, 1908, ch. 200, §1, 35 Stat. 380; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, provided same power and authority as board of trustees of National Training School for Boys had in relation to boys.

Section 165, acts May 3, 1876, ch. 90, §15, 19 Stat. 52; July 9, 1888, ch. 595, §5, 25 Stat. 246; Feb. 25, 1901, ch. 478, 31 Stat. 810; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, authorized making of by-laws, rules, and regulations.

Section 166, acts July 9, 1888, ch. 595, §4, 25 Stat. 246; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, dealt with appointment and compensation of officers and employees.

Section 167, acts Feb. 28, 1923, ch. 148, §1, 42 Stat. 1358; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, dealt with control over inmates.

Section 168, acts July 9, 1888, ch. 595, §6, 25 Stat. 246; June 26, 1912, ch. 182, §1, 37 Stat. 171, dealt with applicability of laws relating to National Training School for Boys to school for girls.

Section 169, acts May 3, 1876, ch. 90, §8, 19 Stat. 50; July 9, 1888, ch. 595, §6, 25 Stat. 245; Feb. 25, 1901, ch. 478, 31 Stat. 809; Mar. 19, 1906, ch. 960, §8, 34 Stat. 73; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208; Aug. 3, 1951, ch. 291, §3, 65 Stat. 154, related to commitment of girls under 17 years of age.

Section 170, acts May 3, 1876, ch. 90, §9, 19 Stat. 51; July 9, 1888, ch. 595, §6, 25 Stat. 245; Feb. 25, 1901, ch. 478, 31 Stat. 810; June 26, 1912, ch. 182, §1, 37 Stat. 171, related to period of detention.

Section 171, act Apr. 15, 1910, ch. 164, §1, 36 Stat. 300, dealt with release on parole of juvenile offenders committed to the school.

Section 172, acts Apr. 15, 1910, ch. 164, §2, 36 Stat. 300; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, authorized parole of girls, subject to approval of the Attorney General in certain cases.

Section 173, act June 5, 1920, ch. 234, §1, 41 Stat. 865, dealt with disbursement of appropriations for the school.

Section 174, act July 9, 1888, ch. 595, §8, 25 Stat. 246, reserved to Congress the right to alter, amend, or repeal this chapter.

CHAPTER 11—NATIONAL ARBORETUM

Sec.

191. Establishment; site; acquisition of land.
192. Omitted.
193. Administration of arboretum.
194. Advisory council.
195. Gifts, bequests, or devises for benefit of National Arboretum; separate fund in the Treasury.
196. Concessions, fees, and voluntary services.
197. Construction of Chinese Garden at the National Arboretum.

§191. Establishment; site; acquisition of land

The Secretary of Agriculture is authorized and directed to establish and maintain a national arboretum for purposes of research and education concerning tree and plant life. For the purposes of this chapter, (1) the President is authorized to transfer to the jurisdiction of the Secretary of Agriculture by Executive order any land which now belongs to the United States within or adjacent to the District of Columbia located along the Anacostia River north of Benning Bridge, and (2) the Secretary of Agriculture is authorized in his discretion to acquire, within the limits of the appropriation authorized by this chapter by private purchase, condemnation proceedings, or gift, land so located or other land within or adjacent to the District of Columbia: *Provided*, That the purchase price of any part of said land shall not exceed the full value assessment of such property last made before purchase thereof plus 25 per centum of such assessed value.

(Mar. 4, 1927, ch. 505, §1, 44 Stat. 1422.)

TRANSFER OF FUNCTIONS

Functions of all officers, agencies and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Authority of President under this section to transfer to jurisdiction of Secretary of Agriculture for purposes of this chapter any land belonging to United States within or adjacent to District of Columbia located along Anacostia River north of Benning Bridge delegated to Administrator of General Services, see section 1(18) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

FACILITIES TO HOUSE BONSAI COLLECTIONS

Pub. L. 103–111, title I, Oct. 21, 1993, 107 Stat. 1051, provided in part: "That hereafter, facilities to house bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94–129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) [now 40 U.S.C. 8106] shall not apply to the construction of such facilities".

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 102–341, title I, Aug. 14, 1992, 106 Stat. 878.

Pub. L. 102–142, title I, Oct. 28, 1991, 105 Stat. 883.

Pub. L. 101–506, title I, Nov. 5, 1990, 104 Stat. 1320.

Pub. L. 101–161, title I, Nov. 21, 1989, 103 Stat. 956.

Pub. L. 100–460, title I, Oct. 1, 1988, 102 Stat. 2234.

Pub. L. 100–202, §101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–327.

Pub. L. 99–500, §101(a) [title I], Oct. 18, 1986, 100 Stat. 1783, 1783–5, and Pub. L. 99–591, §101(a) [title I], Oct. 30, 1986, 100 Stat. 3341, 3341–5.

§192. Omitted

CODIFICATION

Section, act Mar. 4, 1927, ch. 505, §2, 44 Stat. 1422, authorized appropriation of $300,000 to be expended for acquisition of land specified in section 191 of this title.

§193. Administration of arboretum

In order to stimulate research and discovery the national arboretum established by the Secretary of Agriculture in accordance with the provisions of this chapter shall be under competent scientific direction. The arboretum shall be administered by the Secretary of Agriculture separately from the agricultural, horticultural, and forestry stations of the Department of Agriculture, but it shall be so correlated with them as to bring about the most effective utilization of its facilities and discoveries.

(Mar. 4, 1927, ch. 505, §3, 44 Stat. 1422.)

§194. Advisory council

The Secretary of Agriculture is authorized to create an advisory council in relation to the plan and development of the national arboretum to be established under this chapter, to include representatives of national organizations interested in the work of the arboretum.

(Mar. 4, 1927, ch. 505, §4, 44 Stat. 1422.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§195. Gifts, bequests, or devises for benefit of National Arboretum; separate fund in the Treasury

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to solicit, accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture.

(Mar. 4, 1927, ch. 505, §5, as added Pub. L. 94–129, Nov. 13, 1975, 89 Stat. 683; amended Pub. L. 104–127, title VIII, §890(a), Apr. 4, 1996, 110 Stat. 1181.)

AMENDMENTS

1996—Pub. L. 104–127 inserted "solicit," after "authorized to" in first sentence.

§196. Concessions, fees, and voluntary services

(a) In general

Notwithstanding chapters 1 to 11 and section 1302 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, the Secretary of Agriculture, in furtherance of the mission of the National Arboretum, may—

(1) negotiate concessions and agreements for the National Arboretum with nonprofit scientific or educational organizations, the interests of which are complementary to the mission of the National Arboretum, or nonprofit organizations that support the purpose of the National Arboretum, except that the net proceeds of the organizations from the concessions or agreements, as applicable, shall be used exclusively for—

(A) the research and educational work for the benefit of the National Arboretum; and

(B) the operation and maintenance of the facilities of the National Arboretum, including enhancements, upgrades, restoration, and conservation;

(2) provide by concession, on such terms as the Secretary of Agriculture considers appropriate and necessary, for commercial services for food, drink, and nursery sales, if an agreement for a permanent concession under this paragraph is negotiated with a qualified person submitting a proposal after due consideration of all proposals received after the Secretary of Agriculture provides reasonable public notice of the intent of the Secretary to enter into such an agreement;

(3) dispose of excess property, including excess plants and fish, in a manner designed to maximize revenue from any sale of the property, including by way of public auction, except that this paragraph shall not apply to the free dissemination of new varieties of seeds and germ plasm in accordance with section 2201 of title 7;

(4) charge such fees as the Secretary of Agriculture considers reasonable for temporary use by individuals or groups of National Arboretum facilities and grounds for any purpose consistent with the mission of the National Arboretum;

(5) charge such fees as the Secretary of Agriculture considers reasonable for the use of the National Arboretum for commercial photography or cinematography;

(6) publish, in print and electronically and without regard to laws relating to printing by the Federal Government, informational brochures, books, and other publications concerning the National Arboretum or the collections of the Arboretum; and

(7) license use of the National Arboretum name and logo for public service or commercial uses.

(b) Use of funds

Any funds received or collected by the Secretary of Agriculture as a result of activities described in subsection (a) of this section shall be retained in a special fund in the Treasury. Amounts in the special fund shall be available to the Secretary of Agriculture, without further appropriation, for the use and benefit of the National Arboretum as the Secretary of Agriculture considers appropriate.

(c) Acceptance of voluntary services

The Secretary of Agriculture may accept the voluntary services of organizations described in subsection (a)(1) of this section, and the voluntary services of individuals (including employees of the National Arboretum), for the benefit of the National Arboretum.

(d) Recognition of donors

A nonprofit organization that entered into a concession or agreement under subsection (a)(1) may recognize donors if that recognition is approved in advance by the Secretary of Agriculture. In considering whether to approve such recognition, the Secretary shall broadly exercise the discretion of the Secretary to the fullest extent allowed under Federal law.

(Mar. 4, 1927, ch. 505, §6, as added Pub. L. 104–127, title VIII, §890(b), Apr. 4, 1996, 110 Stat. 1181; amended Pub. L. 105–185, title VI, §601(b), June 23, 1998, 112 Stat. 585; Pub. L. 113–79, title VII, §7602, Feb. 7, 2014, 128 Stat. 911.)

CODIFICATION

In subsec. (a), "chapters 1 to 11 and section 1302 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113–79, §7602(1), added par. (1) and struck out former par. (1) which read as follows: "negotiate agreements granting concessions at the National Arboretum to nonprofit scientific or educational organizations the interests of which are complementary to the mission of the National Arboretum, except that the net proceeds of the organizations from the concessions shall be used exclusively for research and educational work for the benefit of the National Arboretum;".

Subsec. (d). Pub. L. 113–79, §7602(2), added subsec. (d).

1998—Subsec. (b). Pub. L. 105–185 substituted "Treasury. Amounts in the special fund shall be available to the Secretary of Agriculture, without further appropriation," for "Treasury".

§197. Construction of Chinese Garden at the National Arboretum

A Chinese Garden may be constructed at the National Arboretum established under this chapter with—

(1) funds accepted under section 195 of this title;

(2) authorities provided to the Secretary of Agriculture under section 196 of this title; and

(3) appropriations provided for this purpose.

(Mar. 4, 1927, ch. 505, §7, as added Pub. L. 110–234, title VII, §7415, May 22, 2008, 122 Stat. 1256, and Pub. L. 110–246, §4(a), title VII, §7415, June 18, 2008, 122 Stat. 1664, 2017.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

CHAPTER 12—FOREIGN AND EXCHANGE STUDENTS

Sec.

221. Instructions of citizens from American republics; Government maintained professional educational institutions.

221a. Instructions of citizens from American republics; United States Military Academy; restrictions; saving provision.

222 to 224. Repealed.

225. Fund for education of Iranian students in United States.

226. Cooperative public and private sector program for providing scholarships to students from the Caribbean and Central America.

§221. Instructions of citizens from American republics; Government maintained professional educational institutions

The President is authorized, in his discretion and under such regulations as he may prescribe by Executive order, to permit citizens of the American republics to receive instruction, with or without charge therefor, at professional educational institutions and schools maintained and administered by the Government of the United States or by departments or agencies thereof: *Provided*, That such citizens shall agree to comply with all regulations for the government of the institutions and schools at which they may be under instruction and to exert every effort to accomplish successfully the courses of instruction prescribed: *And provided further*, That the regulations prescribed by the President under the authority of this section shall contain provisions limiting the admission of citizens of the American republics to primary schools maintained and administered by the

Government of the United States so that there will under no circumstances be any curtailment of the admission of citizens of the United States eligible to receive instruction therein.

(June 24, 1938, ch. 644, 52 Stat. 1034; July 14, 1941, ch. 292, 55 Stat. 589; June 26, 1946, ch. 493, §1, 60 Stat. 311.)

CODIFICATION

Section originally provided that "not more than one citizen of any American republic shall receive instruction at the same time in the United States Military Academy and not more than one in the United States Naval Academy." This phrase has been omitted in view of acts July 14, 1941, and June 26, 1946. See sections 4344, 6957, and 9344 of Title 10, Armed Forces.

§221a. Instructions of citizens from American republics; United States Military Academy; restrictions; saving provision

After June 26, 1946, no person shall have authority to permit citizens of the American Republics to receive instruction at the United States Military Academy under the provisions of section 221 of this title. Any person who is receiving instruction at the United States Military Academy on June 26, 1946, under authority of section 221 of this title, may, in the discretion of the President, be permitted to continue to receive such instruction and, if so permitted, shall thereafter be deemed to be receiving instruction under the provisions of sections 4344 and 9344 of title 10.

(June 26, 1946, ch. 493, §2, 60 Stat. 312.)

CODIFICATION

Words "sections 4344 and 9344 of title 10" substituted in text for "section 1 of this Act", meaning section 1 of act June 27, 1946, ch. 493, 60 Stat. 311, on authority of act Aug. 10, 1956, §49(b), ch. 1041, 70A Stat. 640, the first section of which enacted Title 10, Armed Forces.

§§222 to 224. Repealed. Pub. L. 87–256, §111(a)(4), Sept. 21, 1961, 75 Stat. 538

Sections, act Aug. 24, 1949, ch. 505, §§1–3, 63 Stat. 630, authorized the creation of a special deposit account for sums due or paid by the Republic of Finland to the United States as interest on or in retirement of the principal of the debt incurred under the act of Feb. 25, 1919, as refunded by the agreement dated May 1, 1923, pursuant to authority contained in sections 805 to 809 of former Title 31, Money and Finance, or of any other indebtedness incurred by Finland and owing to the United States as a result of World War I, provided for the use of such fund for exchange of students, professors, etc., for the interchange of books and technical equipment, and for disbursements from the account. See section 2451 et seq. of Title 22, Foreign Relations and Intercourse, particularly section 2455.

CONTINUATION OF CERTAIN EXECUTIVE ORDERS, AGREEMENTS, DETERMINATIONS, REGULATIONS, CONTRACTS, APPOINTMENTS, AND OTHER ACTIONS

Continuation in full force and effect, and applicability to the appropriate provisions of the Mutual Educational and Cultural Exchange Act of 1961, set out in section 2451 et seq. of Title 22, Foreign Relations and Intercourse, until modified or superseded by appropriate authority, of all Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of these sections, see section 111(b) of Pub. L. 87–256, set out as a note under section 2451 of Title 22.

§225. Fund for education of Iranian students in United States

There is authorized to be appropriated, out of any funds in the Treasury of the United States not otherwise appropriated, the sum of $110,000, which sum shall be expended by the Secretary of State in his discretion for the education of Iranian students in the United States, in accordance with the

obligation of the United States arising out of the agreement contained in an exchange of notes between this Government and the Iranian Government of July 25, July 29, November 9, and November 15, 1924, which agreement settled a claim asserted by the United States.

The said sum of $110,000 shall be deemed a trust fund received by the Secretary of State under the provisions of section 2668a of title 22, and shall be expended as therein provided. The said sum shall be deemed to constitute the fund of $110,000 received by the United States from the Iranian Government in four installments between December 24, 1924, and March 29, 1925, pursuant to the afore-mentioned notes, and deposited in the Treasury of the United States on June 24, 1925, which fund shall be deemed, insofar as the same may be necessary, to have been heretofore appropriated as a trust fund under section 2668a of title 22 and sections 1321 and 1322(a) of title 31. The Secretary of the Treasury shall make payments out of the said fund to or for the account of such persons, in such amounts, at such times, and on such terms, as the Secretary of State or his designee shall certify and the certificates of the Secretary of State or his designee issued hereunder shall be conclusive as to the propriety of payments so made. The expenditure of the said sum by the United States shall constitute full performance of the obligation of the United States to the Iranian Government or any other person arising out of the said notes and shall discharge the Secretary of State and the Secretary of the Treasury with respect to any accountability therefor.

(Sept. 29, 1950, ch. 1110, §§1, 2, 64 Stat. 1081.)

CODIFICATION

Words "section 2668a of title 22" substituted in text for "the Act of February 27, 1896, (29 Stat. 32, title 31, U.S.C. sec. 547)" and "the said Act of February 27, 1896" to reflect the transfer of section 547 of Title 31, Money and Finance, to section 2668a of Title 22, Foreign Relations and Intercourse.

Words "sections 1321 and 1322(a) of title 31" substituted in text for "the Permanent Appropriation Repeal Act, 1934, as amended, section 20 (48 Stat. 1233, 31 U.S.C., sec. 725(s) [31 U.S.C. 725s]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31.

§226. Cooperative public and private sector program for providing scholarships to students from the Caribbean and Central America

(a) Statement of purpose

It is the purpose of this section to encourage the establishment of partnerships between State governments, universities, community colleges, and businesses to support scholarships for talented socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States in order to—

(1) improve the diversity and quality of educational opportunities for such students;

(2) assist the development efforts of eligible countries by providing training and educational assistance to persons who can help address the social and economic needs of these countries;

(3) expand opportunities for cross-cultural studies and exchanges and improve the exchange of understanding and principles of democracy;

(4) promote positive and productive relationships between the United States and its neighbor countries in the Caribbean and Central American regions;

(5) give added visibility and focus to the "scholarship diplomacy" efforts of the United States Government by leveraging the monies available for this purpose through the development of partnerships among Federal, State, and local governments and the business and academic communities; and

(6) promote community involvement with the scholarship program as a tool for broadening and strengthening the "American experience" for foreign students.

(b) Establishment of scholarship program

The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable socially and economically disadvantaged

students from eligible countries in the Caribbean and Central America to study in the United States.

(c) Grants to States

In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students' respective countries.

(d) Agreement with States

The Administrator and each participating State shall agree on a program regarding the educational opportunities available within the State, the selection and assignment of scholarship recipients, and related issues. To the maximum extent practicable, each State shall be given flexibility in designing its program.

(e) Federal share

The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(f) Non-Federal share

The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) Forgiveness of scholarship assistance

The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) Private sector participation

To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) Funding

Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(j) Definitions

As used in this section—

(1) The term "eligible country" means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.].

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 101–382, title II, §231, Aug. 20, 1990, 104 Stat. 661.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (i) and (j)(1)(A), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of

1961 are classified generally to part I (§2151 et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of chapter 32 of Title 22, Foreign Relations and Intercourse. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of Title 22, see section 2293(d)(1) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (j)(1)(B), is title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to chapter 15 (§2701 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 19 and Tables.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 13—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

SUBCHAPTER I—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

Sec.

231 to 241–1. Omitted or Repealed.

SUBCHAPTER II—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

241a to 241b–1. Repealed or Transferred.

PART A—BASIC GRANTS

SUBPART 1—GRANTS TO LOCAL EDUCATIONAL AGENCIES

241c. Repealed.

SUBPART 2—STATE OPERATED PROGRAMS

241c–1 to 241c–5. Repealed.

PART B—SPECIAL INCENTIVE GRANTS

241d to 241d–2. Repealed.

PART C—SPECIAL GRANTS

241d–11, 241d–12. Repealed.

PART D—GENERAL PROVISIONS

241e to 241o. Repealed.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN

241aa to 241ff. Repealed.

SUBCHAPTER IV—GENERAL

242 to 246. Repealed, Transferred, or Omitted.

SUBCHAPTER I—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

§§231 to 235. Omitted

CODIFICATION

Sections, act Sept. 10, 1949, ch. 582, 63 Stat. 697, related to Federal aid to local school agencies to provide educational opportunities to children in federally affected areas, received appropriations of $7,500,000 only for the fiscal year 1950.

§§236 to 239. Repealed. Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965

Section 236, acts Sept. 30, 1950, ch. 1124, title I, §1, formerly §1, 64 Stat. 1100, renumbered title I, §1, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 27; Apr. 28, 1988, Pub. L. 100–297, title II, §2012(b), 102 Stat. 294, related to Congressional declaration of policy and authorization of appropriations. See section 7701 of this title.

Section 237, acts Sept. 30, 1950, ch. 1124, title I, §2, formerly §2, 64 Stat. 1101; Aug. 8, 1953, ch. 402, §1, 67 Stat. 530; Aug. 12, 1955, ch. 868, §1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, §201, 70 Stat. 970; Aug. 12, 1958, Pub. L. 85–620, title II, §201, 72 Stat. 559; Oct. 3, 1961, Pub. L. 87–344, title I, §102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §302, formerly §32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§2, 5, 79 Stat. 27, 36; Jan. 2, 1968, Pub. L. 90–247, title II, §204(a)–(c), title III, §301(e), 81 Stat. 808, 813; Apr. 13, 1970, Pub. L. 91–230, title II, §201(b), 84 Stat. 154; Aug. 21, 1974, Pub. L. 93–380, title III, §303(a)(1), 88 Stat. 522; Apr. 21, 1976, Pub. L. 94–273, §3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §1001(a), 92 Stat. 2306; Oct. 19, 1984, Pub. L. 98–511, title III, §301(a)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§2011(a)(1), 2012(a), 2013, 102 Stat. 294; May 11, 1989, Pub. L. 101–26, §2(a), 103 Stat. 54; May 30, 1990, Pub. L. 101–305, §7(a), 104 Stat. 259; Nov. 16, 1990, Pub. L. 101–589, title VII, §722(a), 104 Stat. 2912, related to Federal contributions to local educational agencies. See section 7702 of this title.

Section 238, acts Sept. 30, 1950, ch. 1124, title I, §3, formerly §3, 64 Stat. 1102; Aug. 8, 1953, ch. 402, §2, 67 Stat. 530; Aug. 12, 1955, ch. 868, §1, 69 Stat. 713; Aug. 1, 1956, ch. 852, §10, 70 Stat. 909; Aug. 3, 1956, ch. 915, title II, §§202–206, 70 Stat. 970, 971; Aug. 12, 1958, Pub. L. 85–620, title II, §202, 72 Stat. 559; June 25, 1959, Pub. L. 86–70, §18(d)(1)–(3), 73 Stat. 144, 145; July 12, 1960, Pub. L. 86–624, §14(d)(1)–(3), 74 Stat. 414; Oct. 3, 1961, Pub. L. 87–344, title I, §102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §302, formerly §32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§2, 3(a), 4(d)(2), 5, 79 Stat. 27, 34–36; Nov. 1, 1965, Pub. L. 89–313, §4(a), 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89–750, title II, §201, 80 Stat. 1210; Jan. 2, 1968, Pub. L. 90–247, title II, §§204(d), 205(a), 206, title III, §301(e), 81 Stat. 808, 809, 813; Apr. 13, 1970, Pub. L. 91–230, title II, §§201(b), 202, 84 Stat. 154, 155; Aug. 21, 1974, Pub. L. 93–380, title III, §§304(a)(1), (b)(1), 305(a)(1), 88 Stat. 522, 523; Apr. 21, 1976, Pub. L. 94–273, §3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §§1001(b), 1002, 1003(a), (b), (d), 1004, 1031(a), title XI, §1101(a), 92 Stat. 2306, 2307, 2312, 2313; Aug. 13, 1981, Pub. L. 97–35, title V, §505(a)(2), 95 Stat. 442; Sept. 24, 1983, Pub. L. 98–94, title XII, §1255(b), 97 Stat. 701; Oct. 19, 1984, Pub. L. 98–511, title III, §§301(a)(1)–(3), 303(a), 98 Stat. 2388; Nov. 8, 1984, Pub. L. 98–619, title III, §300, 98 Stat. 3323; July 2, 1986, Pub. L. 99–349, title I, 100 Stat. 739, 740; Apr. 28, 1988, Pub. L. 100–297, title II, §§2011(a)(1), 2012(a), 2014, 2019, 102 Stat. 294, 300; May 11, 1989, Pub. L. 101–26, §2(b), 103 Stat. 54; May 30, 1990, Pub. L. 101–305, §3(a), (b), 104 Stat. 255, 256; Oct. 30, 1990, Pub. L. 101–476, title IX, §901(a)(3), (f)(1), 104 Stat. 1142, 1151; Aug. 17, 1991, Pub. L. 102–103, title IV, §401, 105 Stat. 508, related to payments to local school agencies. See section 7703 of this title.

Section 239, acts Sept. 30, 1950, ch. 1124, title I, §4, formerly §4, 64 Stat. 1104; Aug. 8, 1953, ch. 402, §§3–5, 67 Stat. 532–534; Aug. 12, 1955, ch. 868, §§1, 2, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, §§207, 208, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, §203, 72 Stat. 560; Oct. 3, 1961, Pub. L. 87–344, title I, §102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §302, formerly §32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§3(b), 5, 79 Stat. 34, 36; Jan. 2, 1968, Pub. L. 90–247, title III, §301(e), 81 Stat. 813; Apr. 13, 1970, Pub. L. 91–230, title II, §201(b), 84 Stat. 154; Aug. 21, 1974, Pub. L. 93–380, title III, §303(a)(2), 88 Stat. 522; Apr. 21, 1976, Pub. L. 94–273, §3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §1001(c), 92 Stat. 2306; Oct. 19, 1984, Pub. L. 98–511, title III, §301(a)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II,

§§2011(a)(1), 2012(a), 102 Stat. 294, related to sudden and substantial increases in attendance resulting from activities of the United States.

EFFECTIVE DATE OF REPEAL

Pub. L. 103–382, §3(a)(3)(B), Oct. 20, 1994, 108 Stat. 3519, provided that: "Part C [§331, repealing sections 236 to 239, 240 to 241–1, 242 to 244, and 631 to 647 of this title] of title III of this Act and the amendments made by such part shall take effect on October 1, 1994."

§239a. Repealed. Pub. L. 97–35, title V, §542(1), Aug. 13, 1981, 95 Stat. 458

Section, act Sept. 30, 1950, ch. 1124, title I, §4A, as added Oct. 3, 1980, Pub. L. 96–374, title XIII, §1341, 95 Stat. 1500, related to payments for special programs for alien children who fled from Cambodia, Vietnam, Laos, Cuba, or Haiti. See provisions set out as notes under section 1522 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 547 of Pub. L. 97–35, set out as a note under section 1522 of Title 8, Aliens and Nationality.

§§240 to 241–1. Repealed. Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965

Section 240, acts Sept. 30, 1950, ch. 1124, title I, §5, formerly §5, 64 Stat. 1106; Aug. 8, 1953, ch. 402, §§6, 7, 67 Stat. 534; Aug. 3, 1956, ch. 915, title II, §209, 70 Stat. 972; renumbered title I, §5, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 27; Nov. 3, 1966, Pub. L. 89–750, title II, §§202, 203, 80 Stat. 1211, 1212; Oct. 16, 1968, Pub. L. 90–576, title III, §305(a), 82 Stat. 1097; Apr. 13, 1970, Pub. L. 91–230, title II, §203(c)(4), 84 Stat. 156; June 23, 1972, Pub. L. 92–318, title IV, §411(c)(1), 86 Stat. 338; Aug. 21, 1974, Pub. L. 93–380, title III, §§304(c)(1), (2), (d)(2), 305(a)(2), 88 Stat. 522, 523, 529; Apr. 21, 1976, Pub. L. 94–273, §3(5), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94–482, title III, §330(a), (b)(1)–(3), 90 Stat. 2221; Nov. 1, 1978, Pub. L. 95–561, title X, §§1003(c), 1005, 1006(a), 1007, 1008, title XI, §1101(b), (c), (e), 92 Stat. 2306–2309, 2313, 2315; Aug. 6, 1979, Pub. L. 96–46, §3(b), 93 Stat. 342; Oct. 31, 1983, Pub. L. 98–139, title III, 97 Stat. 889; Dec. 8, 1983, Pub. L. 98–211, §23, 97 Stat. 1419; Aug. 22, 1984, Pub. L. 98–396, title I, §101, 98 Stat. 1393; Oct. 19, 1984, Pub. L. 98–511, title III, §303(b)(1), 98 Stat. 2389; Apr. 28, 1988, Pub. L. 100–297, title II, §§2011(a)(1), (2), 2015, 102 Stat. 294, 296; May 11, 1989, Pub. L. 101–26, §2(c)–(e), 103 Stat. 54, 55; May 30, 1990, Pub. L. 101–305, §3(c), (d), 104 Stat. 256, 257; Nov. 16, 1990, Pub. L. 101–589, title VII, §722(d), 104 Stat. 2913; Aug. 17, 1991, Pub. L. 102–103, title IV, §402, 105 Stat. 508; Nov. 13, 1991, Pub. L. 102–159, §2, 105 Stat. 1042; Oct. 23, 1992, Pub. L. 102–484, div. A, title III, §387, 106 Stat. 2397, related to payments to local educational agencies. See section 7705 of this title.

Section 241, acts Sept. 30, 1950, ch. 1124, title I, §6, formerly §6, 64 Stat. 1107; Aug. 8, 1953, ch. 402, §8, 67 Stat. 535; Aug. 1, 1955, ch. 446, 69 Stat. 433; Aug. 1, 1956, ch. 852, §10, 70 Stat. 909; May 6, 1960, Pub. L. 86–449, title V, §501, 74 Stat. 89; renumbered title I, §6, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§2, 4(d)(2), 79 Stat. 27, 35; July 21, 1965, Pub. L. 89–77, §2, 79 Stat. 243; Nov. 3, 1966, Pub. L. 89–750, title II, §204, 80 Stat. 1212; Apr. 13, 1970, Pub. L. 91–230, title IV, §401(f)(1), 84 Stat. 173; Nov. 1, 1978, Pub. L. 95–561, title X, §§1009, 1031(a), 92 Stat. 2309, 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §§2011(a)(1), 2016, 102 Stat. 294, 299; Oct. 7, 1991, Pub. L. 102–119, §23(a), 105 Stat. 604, related to education of children where local agencies cannot supply facilities.

Section 241–1, acts Sept. 30, 1950, ch. 1124, title I, §7, as added Nov. 1, 1965, Pub. L. 89–313, §2, 79 Stat. 1159; amended Jan. 2, 1968, Pub. L. 90–247, title II, §218, 81 Stat. 811; Oct. 21, 1968, Pub. L. 90–608, ch. IV, §402, 82 Stat. 1194; Apr. 13, 1970, Pub. L. 91–230, title II, §201(c), 84 Stat. 154; Dec. 31, 1970, Pub. L. 91–606, title III, §301(e), 84 Stat. 1759; 1973 Reorg. Plan No. I, §§1, 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089; Dec. 10, 1973, Ex. Ord. No. 11749, §2(2), 38 F.R. 34177; May 22, 1974, Pub. L. 93–288, title VII, §702(e), formerly title VI, §602(e), 88 Stat. 163, renumbered title VII, §702(e), Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), 108 Stat. 3100; Aug. 21, 1974, Pub. L. 93–380, title III, §§303(a)(3), 305(a)(3), 88 Stat. 522, 532; Apr. 21, 1976, Pub. L. 94–273, §3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §1010(a), 92 Stat. 2310; July 20, 1979, Ex. Ord. No. 12148, §4–106, 44 F.R. 43239; Aug. 6, 1979, Pub. L. 96–46, §3(a), 93 Stat. 342; Oct. 17, 1979, Pub. L. 96–88, title III, §301(b)(2), title V, §507, 93 Stat. 679, 692; Oct. 19, 1984, Pub. L. 98–511, title III, §301(a)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§2011(a)(1), (b), 2012(a), 2017, 102 Stat. 294, 299; Nov. 23, 1988, Pub. L. 100–707,

title I, §109(i), 102 Stat. 4709, related to assistance for current school expenditures in cases of certain disasters.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1994, see section 3(a)(3)(B) of Pub. L. 103–382, set out as a note under section 236 of this title.

SUBCHAPTER II—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

§§241a, 241b. Repealed. Pub. L. 95–561, title I, §101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241a, act Sept. 30, 1950, ch. 1124, title II, §101, formerly §201, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 27, renumbered and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(2), 110, 81 Stat. 786, 787; Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(2), 84 Stat. 126, set out the Congressional declaration of policy with regard to the program of assistance to local educational agencies for the education of children of low-income families.

Section 241b, act Sept. 30, 1950, ch. 1124, title II, §102, formerly §202, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 27, amended Nov. 3, 1966, Pub. L. 89–750, title I, §101, 80 Stat. 1191, and renumbered and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(2), 110, title III, §301(a), 81 Stat. 786, 787, 813; Apr. 13, 1970, Pub. L. 91–230, title I, §§101(a), 113(b)(3), 84 Stat. 121, 126; Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(1), 88 Stat. 488; Apr. 21, 1976, Pub. L. 94–273, §2(12), 90 Stat. 375; Sept. 24, 1977, Pub. L. 95–112, §2(a)(1), 91 Stat. 911, set out the duration of the period during which the Commissioner could make payments for grants made on the basis of entitlements under this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§241b–1. Transferred

CODIFICATION

Section, Pub. L. 93–380, title I, §101(a)(10), Aug. 21, 1974, 88 Stat. 501, which authorized appropriations for assistance to local educational agencies whose total basic grants allotment was 90 percent or less than the allotment during the preceding year, was transferred to section 2713 of this title and subsequently omitted from the Code.

PART A—BASIC GRANTS

SUBPART 1—GRANTS TO LOCAL EDUCATIONAL AGENCIES

§241c. Repealed. Pub. L. 95–561, title I, §101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, 1950, ch. 1124, title II, §103, formerly §203, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 28, amended July 21, 1965, Pub. L. 89–77, §3, 79 Stat. 243; Nov. 1, 1965, Pub. L. 89–313, §6(a), 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89–750, title I, §§102, 103(a), 104, 105(a), (b)(1), (2), (c), 106, 107, 108(b)(1), 113(b), 117(a)(2), (3), 80 Stat. 1191–1195, 1197, 1198, and renumbered and amended Jan. 2,

1968, Pub. L. 90–247, title I, §§101, 103(a), 104(a), (b), 105, 107(a), 108(a)(2), 110, 81 Stat. 783–787; Oct. 16, 1968, Pub. L. 90–576, title III, §307, 82 Stat. 1097; Apr. 13, 1970, Pub. L. 91–230, title I, §§101(b), 103, 104(a), 105(a), (b), 106, 107, 113(a), 84 Stat. 121–124, 126; June 23, 1972, Pub. L. 92–318, title IV, §411(b)(1), (2), title V, §508, 86 Stat. 338, 352; Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(A)(i)(II), (ii), (B)–(D), 88 Stat. 488, 490, 491; Apr. 21, 1976, Pub. L. 94–273, §49(a)–(c), 90 Stat. 382, authorized grants to local educational agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBPART 2—STATE OPERATED PROGRAMS

§§241c–1 to 241c–5. Repealed. Pub. L. 95–561, title I, §101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241c–1, act Sept. 30, 1950, ch. 1124, title II, §121, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 491, provided for programs for handicapped children.

Another section 121 of act Sept. 30, 1950, as added by Pub. L. 91–230, title I, §113(b)(6), Apr. 13, 1970, 84 Stat. 126, and renumbered section "126" by Pub. L. 93–380, was classified to section 241d of this title.

Section 241c–2, act Sept. 30, 1950, title II, §122, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 492, provided for programs for migratory children.

Another section 122 of act Sept. 30, 1950, as added by Pub. L. 91–230, title I, §113(b)(6), Apr. 13, 1970, 84 Stat. 126, and renumbered section "127" by Pub. L. 93–380, was classified to section 241d–1 of this title.

Section 241c–3, act Sept. 30, 1950, ch. 1124, title II, §123, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 494, provided for programs for neglected or delinquent children.

Another section 123 of act Sept. 30, 1950, as added by Pub. L. 91–230, title I, §113(b)(6), Apr. 13, 1970, 84 Stat. 127, and renumbered section "128" by Pub. L. 93–380, was classified to section 241d–2 of this title.

Section 241c–4, act Sept. 30, 1950, ch. 1124, title II, §124, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 494, provided for the reservation of funds for territories.

Section 241c–5, act Sept. 30, 1950, ch. 1124, title II, §125, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 495, and amended Apr. 21, 1976, Pub. L. 94–273, §3(8), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94–482, title V, §501(b)(1)(A), (o), 90 Stat. 2236, 2238; Sept. 24, 1977, Pub. L. 95–112, §2(a)(1), 91 Stat. 911, related to minimum payments for State operated programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

PART B—SPECIAL INCENTIVE GRANTS

§§241d to 241d–2. Repealed. Pub. L. 95–561, title I, §101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241d, act Sept. 30, 1950, ch. 1124, title II, §126, formerly §121, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 126, renumbered Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94–482, title V, §501(b)(1)(B), 90 Stat. 2236, related to maximum entitlement for special incentive grants.

A prior section 241d, act Sept. 30, 1950, ch. 1124, title I, §104, formerly §204, as added by Pub. L. 89–10, title I, §2, Apr. 11, 1965, 79 Stat. 30, and renumbered by Pub. L. 90–247, title I, §110, Jan. 2, 1968, 81 Stat. 787, making provision for special incentive grants to local educational agencies, was repealed by Pub. L.

89–750, title I, §108(a), Nov. 3, 1966, 80 Stat. 1195. Such repeal, pursuant to section 191 of Pub. L. 89–750, was effective with respect to fiscal years beginning after June 30, 1966.

Provisions (for amount and distribution of special incentive grants) similar to those comprising this section, as added by Pub. L. 91–230, were contained in act Sept. 30, 1950, ch. 1124, title I, §121(a), formerly title II, §221(a), as added and renumbered Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(5), 110, 81 Stat. 786, 787 (classified to section 241h–1(a) of this title), prior to repeal thereof by Pub. L. 91–230, §113(b)(6).

Section 241d–1, act Sept. 30, 1950, ch. 1124, title II, §127, formerly §122, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 126, renumbered Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94–482, title V, §501(a)(1), 90 Stat. 2235, related to application made for special incentive grants by States.

Provisions (for application and information therein) similar to those comprising part of this section were contained in act Sept. 30, 1950, ch. 1124, title I, §121(b), formerly title II, §221(b), as added and renumbered Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(5), 110, 81 Stat. 786, 787 (formerly classified to former section 241h–1(b) of this title), prior to repeal thereof by Pub. L. 91–230, §113(b)(6).

Section 241d–2, act Sept. 30, 1950, ch. 1124, title II, §128, formerly §123, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 127, renumbered Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94–482, title V, §501(a)(1), 90 Stat. 2235, defined "effort index".

Provisions (defining "State effort index" and "national effort index") similar to those comprising this section were contained in act Sept. 30, 1950, ch. 1124, title I, §121(c), formerly title II, §221(c), as added and renumbered Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(5), 110, 81 Stat. 786, 787 (formerly classified to former section 241h–1(c) of this title), prior to repeal thereof by Pub. L. 91–230, §113(b)(6).

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

PART C—SPECIAL GRANTS

§241d–11. Repealed. Pub. L. 95–561, title I, §101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, 1950, ch. 1124, title II, §131, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(4)(A), 88 Stat. 495, related to eligibility for and maximum amount of special grants.

A prior section 241d–11, act Sept. 30, 1950, ch. 1124, title II, §131, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 127, which also related to eligibility and maximum amount of special grants for urban and rural schools serving areas with the highest concentrations of children from low-income families, was repealed by Pub. L. 93–380, title I, §101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496, effective July 1, 1975.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§241d–12. Repealed. Pub. L. 93–380, title I, §101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496

Section, act Sept. 30, 1950, ch. 1124, title II, §132, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 128, related to uses of funds for such special grants.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, pursuant to Pub. L. 93–380, §101(a)(4)(B).

PART D—GENERAL PROVISIONS

§§241e to 241h. Repealed. Pub. L. 95–561, title I, §101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241e, act Sept. 30, 1950, ch. 1124, title II, §141, formerly §205, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 30, amended Nov. 3, 1966, Pub. L. 89–750, title I, §§103(b), 108(b)(1), (2), 110, 111(a)–(e), 80 Stat. 1192, 1195, 1196, renumbered title I, §105 and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§103(b), 106, 108(a)(2), 109, 110, 81 Stat. 783, 784, 786, 787, renumbered §141 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§108, 109(a), 110, 111(b), 113(b)(3), (4), (7), 84 Stat. 124–126, 128; June 23, 1972, Pub. L. 92–318, title V, §507(a), (b), 86 Stat. 352; Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(5), (9)(A), (B), 88 Stat. 496, 500; Oct. 12, 1976, Pub. L. 94–482, title V, §501(b)(1)(C), (D), 90 Stat. 2236, related to applications for grants by local agencies.

Section 241e–1, act Sept. 30, 1950, ch. 1124, title II, §141A, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(6), 88 Stat. 497, related to participation of children enrolled in private schools.

Section 241f, act Sept. 30, 1950, ch. 1124, title II, §142, formerly §206, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 31, amended Nov. 1, 1965, Pub. L. 89–313, §6(b), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89–750, title I, §103(c)(1), 80 Stat. 1193, renumbered §106, and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787, and renumbered §142 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§111(a), 113(b)(3), (4), 84 Stat. 125, 126; Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(9)(D), (E), 88 Stat. 500, related to assurances required from States desiring to participate.

Section 241g, act Sept. 30, 1950, ch. 1124, title II, §143, formerly §207, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 32, amended Nov. 1, 1965, Pub. L. 89–313, §7(a), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89–750, title I, §§103(c)(2), 108(b)(3), 112, 113(a), 80 Stat. 1193, 1195, 1197, renumbered §107 and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§102, 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787 and renumbered §143 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§113(b)(3), (4), (8), 114, 84 Stat. 126, 129, 130; Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(9)(C), (F), (G), title VIII, §843(a)(1), 88 Stat. 500, 611; Oct. 12, 1976, Pub. L. 94–482, title III, §323(a)(1), 90 Stat. 2217, related to payment of funds.

Section 241h, act Sept. 30, 1950, ch. 1124, title II, §144, formerly §208, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89–750, title I, §114, 80 Stat. 1197, renumbered §108 and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§107(b), 110, 81 Stat. 785, 787, renumbered §144 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(3), (4), (c), (d), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(7), (9)(H), 88 Stat. 498, 500, related to adjustments necessitated by appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§§241h–1, 241i. Repealed. Pub. L. 91–230, title I, §113(b)(6), title IV, §401(g)(1), Apr. 13, 1970, 84 Stat. 126, 174

Section 241h–1, act Sept. 30, 1950, ch. 1124, title II, §121, formerly §221, as added and renumbered Jan. 2, 1968, Pub. L. 90–247, §§108(a)(5), 110, 81 Stat. 786, 787, and amended Apr. 13, 1970, Pub. L. 91–230, title I, §101(c), 84 Stat. 121, related to special incentive grants and provided in: subsec. (a) for amount and distribution of such grants; subsec. (b) for application for grant and disapproval only after notice and opportunity for hearing; subsec. (c) definitions of "State effort index" and "national effort index"; and subsec. (d) authorization of appropriations of $50,000,000 for fiscal year ending June 30, 1969, and for each of the succeeding fiscal years ending prior to July 1, 1973.

Section 241i, act Sept. 30, 1950, ch. 1124, title II, §145, formerly §209, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 33, renumbered §231 and further renumbered §131, Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(4), 110, 81 Stat. 786, 787, and renumbered §145, Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(4), 84 Stat. 126, related to labor standards requirements (prevailing wage rates). See section 1232b of this title.

§§241j to 241*o*. Repealed. Pub. L. 95–561, title I, §101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241j, act Sept. 30, 1950, ch. 1124, title II, §146, formerly §210, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89–750, title I, §103(c)(3), 80 Stat. 1193, renumbered §232, amended and further renumbered §132, Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(4), (b), 110, 81 Stat. 786, 787, and renumbered §146, and amended Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(4), (9), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(9)(I), 88 Stat. 501, related to withholding of funds for noncompliance with assurances.

Section 241k, act Sept. 30, 1950, ch. 1124, title II, §147, formerly §211, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89–750, title I, §103(c)(4), 80 Stat. 1193, renumbered §233, amended and further renumbered §133, Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(4), (b), 110, 81 Stat. 786, 787, renumbered §147, and amended Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(4), (10), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(9)(J), 88 Stat. 501, related to judicial review.

Section 241l, act Sept. 30, 1950, ch. 1124, title II, §148, formerly §212, as added Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 34, amended Nov. 3, 1966, Pub. L. 89–750, title I, §115, 80 Stat. 1197, renumbered §234, amended and further renumbered §134, Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(4), 110, 114, 81 Stat. 786–788, and renumbered §148, and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§112, 113(b)(4), 84 Stat. 125, 126; Aug. 21, 1974, Pub. L. 93–380, title VIII, §845(a), 88 Stat. 612; Apr. 21, 1976, Pub. L. 94–273, §3(8), 90 Stat. 376; Sept. 24, 1977, Pub. L. 95–112, §2(a)(3), 91 Stat. 911, created National Advisory Council on the Education of Disadvantaged Children.

Section 241m, act Sept. 30, 1950, ch. 1124, title II, §149, formerly §213, as added Nov. 3, 1966, Pub. L. 89–750, title I, §109, 80 Stat. 1195, renumbered §235, and further renumbered §135, Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(4), 110, 81 Stat. 786, 787, and renumbered §149, Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(4), 84 Stat. 126, related to treatment of earnings for purposes of aid to families with dependent children.

Section 241n, act Sept. 30, 1950, ch. 1124, title II, §150, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(8), 88 Stat. 499, related to allocation of funds within school districts of local educational agencies.

Section 241o, act Sept. 30, 1950, ch. 1124, title II, §151, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(8), 88 Stat. 499; amended Apr. 21, 1976, Pub. L. 94–273, §3(8), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94–482, title V, §501(b)(1)(E), (p), 90 Stat. 2236, 2238, related to system of program evaluation.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN

§§241aa, 241bb. Repealed. Pub. L. 100–297, title V, §5352(1), Apr. 28, 1988, 102 Stat. 414

Section 241aa, act Sept. 30, 1950, ch. 1124, title III, §302, as added June 23, 1972, Pub. L. 92–318, title IV, §411(a), 86 Stat. 335; amended Nov. 1, 1978, Pub. L. 95–561, title XI, §1142(a), 92 Stat. 2329; Oct. 19, 1984, Pub. L. 98–511, title V, §513(a)(8), 98 Stat. 2400, related to Congressional declaration of policy.

Section 241bb, act Sept. 30, 1950, ch. 1124, title III, §303, as added June 23, 1972, Pub. L. 92–318, title IV, §411(a), 86 Stat. 335; amended Aug. 21, 1974, Pub. L. 93–380, title VI, §§631(b), 632(b), 88 Stat. 585, 586; Apr. 21, 1976, Pub. L. 94–273, §3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title XI, §§1141(b), 1143, 92 Stat. 2328, 2329; Oct. 19, 1984, Pub. L. 98–511, title V, §513(a)(1)–(3), (8), 98 Stat. 2399, 2400, related to grants to local educational agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§241bb–1. Repealed. Pub. L. 100–297, title V, §5116(1), Apr. 28, 1988, 102 Stat. 381

Section, Pub. L. 95–561, title XI, §1146, Nov. 1, 1978, 92 Stat. 2330, deemed certain tribal schools to be local educational agencies for purposes of section 241bb(a) of this title.

§§241cc to 241ff. Repealed. Pub. L. 100–297, title V, §5352(1), Apr. 28, 1988, 102 Stat. 414

Section 241cc, act Sept. 30, 1950, ch. 1124, title III, §304, as added June 23, 1972, Pub. L. 92–318, title IV, §411(a), 86 Stat. 335; amended Nov. 1, 1978, Pub. L. 95–561, title XI, §1142(b), 92 Stat. 2329; Oct. 19, 1984, Pub. L. 98–511, title V, §513(a)(8), 98 Stat. 2400; Oct. 27, 1986, Pub. L. 99–570, title IV, §4133(b)(1), 100 Stat. 3207–133, set forth uses of Federal funds.

Section 241dd, act Sept. 30, 1950, ch. 1124, title III, §305, as added June 23, 1972, Pub. L. 92–318, title IV, §411(a), 86 Stat. 336; amended Nov. 1, 1978, Pub. L. 95–561, title XI, §1144, 92 Stat. 2329; Oct. 19, 1984, Pub. L. 98–511, title V, §513(a)(4), (8), 98 Stat. 2399, 2400, related to conditions for approval of grants.

Section 241ee, act Sept. 30, 1950, ch. 1124, title III, §306, as added June 23, 1972, Pub. L. 92–318, title IV, §411(a), 86 Stat. 337; amended Nov. 1, 1978, Pub. L. 95–561, title XI, §1150(f), 92 Stat. 2333; Aug. 22, 1984, Pub. L. 98–396, title I, 98 Stat. 1390; Oct. 19, 1984, Pub. L. 98–511, title V, §513(a)(8), 98 Stat. 2400, related to payments to local educational agencies.

Section 241ff, act Sept. 30, 1950, ch. 1124, title III, §307, as added June 23, 1972, Pub. L. 92–318, title IV, §411(a), 86 Stat. 337; amended Nov. 1, 1978, Pub. L. 95–561, title XI, §1145, 92 Stat. 2330; Oct. 19, 1984, Pub. L. 98–511, title V, §513(a)(5), 98 Stat. 2399, related to authorization of appropriations and adjustments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER IV—GENERAL

§§242 to 244. Repealed. Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965

Section 242, acts Sept. 30, 1950, ch. 1124, title IV, §401, formerly §7, 64 Stat. 1107, renumbered title III, §301, Apr. 11, 1965, Pub. L. 89–10, title I, §3(c)(1), 79 Stat. 35; amended Nov. 3, 1966, Pub. L. 89–750, title II, §205, 80 Stat. 1212; Apr. 13, 1970, Pub. L. 91–230, title IV, §401(f)(1), 84 Stat. 173, and renumbered title IV, §401, June 23, 1972, Pub. L. 92–318, title IV, §411(a), 86 Stat. 334; Apr. 28, 1988, Pub. L. 100–297, title II, §2011(a)(1), 102 Stat. 294, related to supervision over schools.

Section 243, acts Sept. 30, 1950, ch. 1124, title IV, §402, formerly §8, 64 Stat. 1108; Aug. 8, 1953, ch. 402, §9, 67 Stat. 536; Aug. 4, 1955, ch. 543, ch. 11, §202, 69 Stat. 485; Aug. 12, 1955, ch. 868, §1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, §210, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, §204, 72 Stat. 560; renumbered title III, §302, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §3(c), 79 Stat. 35; Apr. 13, 1970, Pub. L. 91–230, title IV, §401(c)(1), 84 Stat. 173; renumbered title IV, §402, June 23, 1972, Pub. L. 92–318, title IV, §411(a), 86 Stat. 334; Aug. 13, 1981, Pub. L. 97–35, title V, §505(c)(1), 95 Stat. 442; Apr. 28, 1988, Pub. L. 100–297, title II, §2011(a)(1), 102 Stat. 294, related to utilization of services and facilities of other Federal agencies.

Section 244, acts Sept. 30, 1950, ch. 1124, title IV, §403, formerly §9, 64 Stat. 1108; Aug. 8, 1953, ch. 402, §10, 67 Stat. 536; Aug. 1, 1956, ch. 852, §10, 70 Stat. 909; Aug. 3, 1956, ch. 915, title II, §211, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, §205, 72 Stat. 560; June 25, 1959, Pub. L. 86–70, §18(d)(4), 73 Stat. 145; July 12, 1960, Pub. L. 86–624, §14(d)(4), 74 Stat. 414; Oct. 16, 1964, Pub. L. 88–665, title XI, §1102(b), 78 Stat. 1109, renumbered title III, §303, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§3(c)(1), 4(a)–(c), (d)(1), (e), 79 Stat. 35; Nov. 1, 1965, Pub. L. 89–313, §6(c), 79 Stat. 1162; Nov. 3, 1966, Pub. L.

89–750, title I, §117(a)(1), (b), title II, §206, 80 Stat. 1198, 1199, 1213; Jan. 2, 1968, Pub. L. 90–247, title II, §201, 81 Stat. 806; Apr. 13, 1970, Pub. L. 91–230, title II, §203(b), 84 Stat. 156; Aug. 12, 1970, Pub. L. 91–375, §§4(a), 6(o), 84 Stat. 773, 783; renumbered title IV, §403, June 23, 1972, Pub. L. 92–318, title IV, §411(a), 86 Stat. 334, and amended Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(9)(K), title III, §304(d)(1), 88 Stat. 501, 523; Apr. 21, 1976, Pub. L. 94–273, §49(d), 90 Stat. 382; Oct. 12, 1976, Pub. L. 94–482, title V, §501(n), 90 Stat. 2237; Nov. 1, 1978, Pub. L. 95–561, title I, §101(b), title X, §§1011–1014, 1031(a), 92 Stat. 2200, 2310–2312; Apr. 28, 1988, Pub. L. 100–297, title II, §§2011(a)(1), (3), 2021, 102 Stat. 294, 300; May 30, 1990, Pub. L. 101–305, §3(f), 104 Stat. 257; Oct. 30, 1990, Pub. L. 101–476, title IX, §901(a)(3), (f)(2), 104 Stat. 1142, 1151, defined terms for purposes of this chapter. See section 7713 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1994, see section 3(a)(3)(B) of Pub. L. 103–382, set out as a note under section 236 of this title.

§244a. Transferred

CODIFICATION

Section, act July 16, 1940, ch. 629, 54 Stat. 761, which related to school facilities for children of Government employees and other residents in Indian reservations, national parks, and national monuments, was transferred to section 7713a of this title.

§245. Repealed. Pub. L. 85–620, title II, §206, Aug. 12, 1958, 72 Stat. 561

Section, act Sept. 30, 1950, ch. 1124, §10, as added Aug. 8, 1953, ch. 402, §11, 67 Stat. 536; amended Aug. 12, 1955, ch. 868, §1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, §212, 70 Stat. 972, related to election by States to receive payments with respect to education of Indian children.

EFFECTIVE DATE OF REPEAL

Pub. L. 85–620, title II, §207, Aug. 12, 1958, 72 Stat. 561, provided that: "The amendments made by this title [amending sections 237, 238, 239, 243, 244 of this title and repealing this section] shall be effective for the period beginning July 1, 1958."

§246. Omitted

Section, Pub. L. 93–380, title VIII, §842, Aug. 21, 1974, 88 Stat. 610; Pub. L. 94–482, title III, §326, Oct. 12, 1976, 90 Stat. 2220; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to development and submission of State equalization plans by not later than Oct. 1, 1978.

CHAPTER 14—SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

§§251 to 255, 271 to 280, 291 to 302, 311. Omitted

CODIFICATION

The act of Sept. 23, 1950, ch. 995, 64 Stat. 967, as amended by acts Aug. 8, 1953, ch. 400, §§1, 2, 67 Stat. 522, 528; Aug. 2, 1954, ch. 649, title VIII, §808(a), 68 Stat. 645; Aug. 31, 1954, ch. 1149, §§1–7, 68 Stat. 1005, 1006; Aug. 12, 1955, ch. 868, §§4–7, 69 Stat. 713–715; Aug. 1, 1956, ch. 852, §11, 70 Stat. 909; Aug. 3, 1956, ch. 915, title I, §§101–109, 70 Stat. 968, 969; Aug. 21, 1957, Pub. L. 85–161, 71 Stat. 403; Sept. 2, 1957, Pub. L. 85–267, §§1–8, 71 Stat. 593, 594; Aug. 28, 1958, Pub. L. 85–791, §32, 72 Stat. 951, formerly

classified to this chapter, was completely amended and renumbered by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548, and reclassified to chapter 19 (§631 et seq.) of this title, and was subsequently repealed by Pub. L. 103–382, title III, §331(a), Oct. 20, 1994, 108 Stat. 3965.

Sections 251 to 254, act Sept. 23, 1950, ch. 995, title I, §§101 to 104, 64 Stat. 967, 968, authorized appropriations, provided for State applications for funds, allotments and payments to States, and to withholding of certification.

Section 255, acts Sept. 23, 1950, ch. 995, title I, §105, 64 Stat. 969; Aug. 8, 1953, ch. 400, §2(m), 67 Stat. 529, related to delegation of functions and payment of expenses.

Section 271, act Sept. 23, 1950, ch. 995, title II, §201, 64 Stat. 969, contained declaration of policy for school construction in federally-affected areas.

Section 272, acts Sept. 23, 1950, ch. 995, title II, §202, 64 Stat. 969; Aug. 2, 1954, ch. 649, title VIII, §808(a), 68 Stat. 645, authorized payments to local education agencies.

Section 273, acts Sept. 23, 1950, ch. 995, title II, §203, 64 Stat. 971; Aug. 12, 1955, ch. 868, §4, 69 Stat. 713, related to payments where effect of Federal activities, would be temporary, and for donation of temporary school activities.

Section 274, act Sept. 23, 1950, ch. 995, title II, §204, 64 Stat. 972, related to children for whom local agencies cannot provide education.

Section 275, acts Sept. 23, 1950, ch. 995, title II, §205, 64 Stat. 972; Aug. 8, 1953, ch. 400, §2(a), 67 Stat. 528, related to applications for assistance, construction projects, and reimbursement.

Section 276, act Sept. 23, 1950, ch. 995, title II, §206, 64 Stat. 973, provided for certification and payment of funds.

Section 277, acts Sept. 23, 1950, ch. 995, title II, §207, 64 Stat. 974; Aug. 8, 1953, ch. 400, §2(b), 67 Stat. 528; Aug. 28, 1958, Pub. L. 85–791, §32, 72 Stat. 951, related to withholding of certification and judicial review.

Section 278, act Sept. 23, 1950, ch. 995, title II, §208, 64 Stat. 975, provided for administration of act Sept. 23, 1950.

Section 279, acts Sept. 23, 1950, ch. 995, title II, §209, 64 Stat. 975; Aug. 8, 1953, ch. 400, §2(c)–(f), 67 Stat. 528; Aug. 31, 1954, ch. 1149, §7, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, §101, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, §1, 71 Stat. 593, related to use of other Federal agencies; transfer and availability of appropriations, and additional grants for non-Federal share.

Section 280, acts Sept. 23, 1950, ch. 995, title II, §210, 64 Stat. 976; Aug. 8, 1953, ch. 400, §2(g)–(l), 67 Stat. 528; Aug. 1, 1956, ch. 852, §11, 70 Stat. 909; Aug. 3, 1956, ch. 915, title I, §102, 70 Stat. 968; Aug. 21, 1957, Pub. L. 85–161, 71 Stat. 403, contained definitions of terms used in act Sept. 23, 1950.

Section 291, act Sept. 23, 1950, ch. 995, title III, §301, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 522; amended Aug. 31, 1954, ch. 1149, §1, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, §103, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, §2, 71 Stat. 593, stated purpose of former sections 291 to 302 of this title and authorized appropriations.

Section 292, act Sept. 23, 1950, ch. 995, title III, §302, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 522, provided for annual apportionment of funds.

Section 293, act Sept. 23, 1950, ch. 995, title III, §303, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 522; amended Aug. 31, 1954, ch. 1149, §2, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, §104, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, §3, 71 Stat. 593, related to dates for filing applications, and to priorities.

Section 294, act Sept. 23, 1950, ch. 995, title III, §304, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 522; amended Aug. 31, 1954, ch. 1149, §3, 68 Stat. 1005; Aug. 12, 1955, ch. 868, §5, 69 Stat. 714; Aug. 3, 1956, ch. 915, title I, §105, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, §4, 71 Stat. 593, related to Federal share of cost of projects.

Section 295, act Sept. 23, 1950, ch. 995, title III, §305, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 523; amended Aug. 31, 1954, ch. 1149, §§4, 5, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, §106, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, §5, 71 Stat. 593, prescribed limitations on total payments to local agencies.

Section 296, act Sept. 23, 1950, ch. 995, title III, §306, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 524; amended Aug. 3, 1956, ch. 915, title I, §107, 70 Stat. 969, related to filing and approval of application for assistance.

Section 297, act Sept. 23, 1950, ch. 995, title III, §307, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 525, related to payments to local agencies.

Section 298, act Sept. 23, 1950, ch. 995, title III, §308, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 525; amended Aug. 12, 1955, ch. 868, §7, 69 Stat. 715, related to availability of appropriations, special fund for additional grants, and to payments in cases affected by change in regulations.

Section 299, act Sept. 23, 1950, ch. 995, title III, §309, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 525;

amended Aug. 12, 1955, ch. 868, §4, 69 Stat. 713, prescribed procedure in cases of temporary Federal activities, and authorized donation of temporary school facilities.

Section 300, act Sept. 23, 1950, ch. 995, title III, §310, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 526; amended Aug. 31, 1954, ch. 1149, §6, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, §108, 70 Stat. 969; Sept. 2, 1957, Pub. L. 85–267, §6, 71 Stat. 593, provided for children for whom local agencies are unable to provide education.

Section 301, act Sept. 23, 1950, ch. 995, title III, §311, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 526, authorized withholding of payments for noncompliance.

Section 302, act Sept. 23, 1950, ch. 995, title III, §312, as added Sept. 2, 1957, Pub. L. 85–267, §7, 71 Stat. 593, defined base year and increase period.

Section 311, act Sept. 23, 1950, ch. 995, title IV, §401, as added Aug. 8, 1953, ch. 400, §1, 67 Stat. 526; amended Aug. 12, 1955, ch. 868, §6, 69 Stat. 715; Aug. 3, 1956, ch. 915, title I, §109, 70 Stat. 969; Sept. 2, 1957, Pub. L. 85–267, §8, 71 Stat. 594, authorized assistance in other federally-affected areas.

CHAPTER 15—STUDIES AND RESEARCH ON PROBLEMS IN EDUCATION

§§331 to 332b. Omitted

CODIFICATION

Sections constituted the Cooperative Research Act and terminated on and after July 1, 1975, under provisions of section 402(c)(1) of Pub. L. 93–380. See provisions of Special Projects Act, section 1851 et seq. of this title.

Section 331, acts July 26, 1954, ch. 576, §1, 68 Stat. 533; Apr. 11, 1965, Pub. L. 89–10, title IV, §401, 79 Stat. 44, related to Congressional declaration of purpose.

Section 331a, act July 26, 1954, ch. 576, §2, as added Apr. 11, 1965, Pub. L. 89–10, title IV, §401, 79 Stat. 44; amended Nov. 3, 1966, Pub. L. 89–750, title I, §141, 80 Stat. 1202; Jan. 2, 1968, Pub. L. 90–247, title VII, §706, 81 Stat. 820; Apr. 13, 1970, Pub. L. 91–230, title I, §143(c), title VIII, §§808, 809(c), 84 Stat. 151, 193, 194; June 23, 1972, Pub. L. 92–318, title III, §303(a)(1), 86 Stat. 333, authorized grants, contracts, and jointly financed arrangements for exemplary projects and management studies, provided for an annual report to Congress, and provided for establishment of an Advisory Council on Research and development, its membership, and appointment of a Chairman.

Section 332, act July 26, 1954, ch. 576, §3, formerly §2, 68 Stat. 533, renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title IV, §§401, 402, 79 Stat. 44, 46; June 23, 1972, Pub. L. 92–318, title III, §303(a)(2), 86 Stat. 333, authorized appropriations for fiscal years ending June 30, 1973, 1974, and 1975 of $58,000,000; $68,000,000; and $78,000,000 respectively.

Section 332a, act July 26, 1954, ch. 576, §4, as added Apr. 11, 1965, Pub. L. 89–10, title IV, §403, 79 Stat. 46; amended Nov. 3, 1966, Pub. L. 89–750, title I, §142, 80 Stat. 1203; Apr. 13, 1970, Pub. L. 91–230, title IV, §401(g)(2), title VIII, §810, 84 Stat. 174, 194, related to construction of regional facilities, authorizing appropriation of $100,000,000 in the aggregate for fiscal years ending June 30, 1966, through 1970, in subsec. (a); subsec. (b) relating to findings of Commissioner, grants for construction, transfer of title, and operation of facility; subsec. (c), as originally enacted, relating to labor standards; subsec. (d) relating to methods of payment, and subsec. (e) defining "research and related purposes".

Section 332b, act July 26, 1954, ch. 576, §5, as added Apr. 11, 1965, Pub. L. 89–10, title IV, §403, 79 Stat. 47; amended Nov. 3, 1966, Pub. L. 89–750, title I, §143, 80 Stat. 1203, provided for definitions of "State", "State educational agency", "nonprofit", and "construction" and "cost of construction".

§§333 to 337. Repealed. Pub. L. 91–230, title I, §143(b), Apr. 13, 1970, 84 Stat. 151

Section 333, act July 26, 1954, ch. 577, §1, 68 Stat. 533, provided for establishment of a National Advisory Committee on Education in the Department of Health, Education, and Welfare.

Section 334, act July 26, 1954, ch. 577, §2, 68 Stat. 533, provided for composition of the National Advisory

Committee on Education, term of office, and ex officio membership of the Commissioner of Education.

Section 335, act July 26, 1954, ch. 577, §3, 68 Stat. 534, required minimum of three meetings each calendar year.

Section 336, act July 26, 1954, ch. 577, §4, 68 Stat. 534, authorized National Advisory Committee to make recommendations, appoint consultants, and submit an annual report to Congress.

Section 337, act July 26, 1954, ch. 577, §5, 68 Stat. 534, authorized travel expenses and per diem payments but denied compensation to members of the National Advisory Committee.

Sections 333 to 337 were generally superseded by provisions of section 868 of this title providing for a National Council on Quality in Education.

CHAPTER 16—PUBLIC LIBRARY SERVICES AND CONSTRUCTION

§§351 to 351g. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 351, acts June 19, 1956, ch. 407, §2, 70 Stat. 293; Feb. 11, 1964, Pub. L. 88–269, §1(a)(1), 78 Stat. 11; July 19, 1966, Pub. L. 89–511, §2, 80 Stat. 313; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1660; Oct. 7, 1977, Pub. L. 95–123, §4(a), 91 Stat. 1095; Oct. 17, 1984, Pub. L. 98–480, title I, §102, 98 Stat. 2236, related to congressional declaration of policy.

Section 351a, act June 19, 1956, ch. 407, §3, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1660; amended Oct. 19, 1973, Pub. L. 93–133, §4(a), 87 Stat. 466; Oct. 7, 1977, Pub. L. 95–123, §4(b), 91 Stat. 1095; Oct. 17, 1984, Pub. L. 98–480, title I, §103(a), (b)(1), 98 Stat. 2237; Nov. 22, 1985, Pub. L. 99–159, title III, §301, 99 Stat. 902; Mar. 15, 1990, Pub. L. 101–254, §§2, 16(a), 23(b), 104 Stat. 101, 105, 113; July 25, 1991, Pub. L. 102–73, title VIII, §802(e)(1), 105 Stat. 361, provided definitions for this chapter.

Section 351b, act June 19, 1956, ch. 407, §4, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1662; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(b), 87 Stat. 58; Oct. 7, 1977, Pub. L. 95–123, §2, 91 Stat. 1095; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 4, 98 Stat. 2237; Oct. 31, 1988, Pub. L. 100–569, title I, §101, 102 Stat. 2862; Mar. 15, 1990, Pub. L. 101–254, §3, 104 Stat. 101; Oct. 20, 1994, Pub. L. 103–382, title III, §375(a), 108 Stat. 3978, related to authorization and availability of appropriations and provided for transition to advance funding method of timing appropriation action.

Section 351c, act June 19, 1956, ch. 407, §5, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1662; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(c), 87 Stat. 58; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 105, 98 Stat. 2237, 2238; Nov. 22, 1985, Pub. L. 99–159, title III, §302(a), 99 Stat. 902; Mar. 15, 1990, Pub. L. 101–254, §§4(a), 22(b), 104 Stat. 102, 107; July 25, 1991, Pub. L. 102–73, title VIII, §802(e)(2), 105 Stat. 361, related to allotments to States and Indian tribes.

Section 351d, act June 19, 1956, ch. 407, §6, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1663; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(c), 87 Stat. 59; Aug. 21, 1974, Pub. L. 93–380, title VIII, §841(b), 88 Stat. 609; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b), 106, 98 Stat. 2237, 2239; Nov. 22, 1985, Pub. L. 99–159, title III, §302(b), 99 Stat. 903; Mar. 15, 1990, Pub. L. 101–254, §§4(b)–6, 104 Stat. 102, 103, required States desiring to receive an allotment under this chapter to have basic State plan in effect, submit annual programs and long-range program, and establish State Advisory Council on Libraries, provided procedure and grounds for Secretary to terminate or limit payments to States, procedure for judicial review of Secretary's final actions, procedure for receipt of allotments and allocations by Indian tribes, and required Secretary to coordinate programs under this chapter.

Section 351e, act June 19, 1956, ch. 407, §7, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1665; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(d), 87 Stat. 59; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 107, 98 Stat. 2237, 2239; Mar. 15, 1990, Pub. L. 101–254, §7(a), 104 Stat. 103; July 25, 1991, Pub. L. 102–73, title VIII, §802(e)(3), (4), 105 Stat. 361, 362, related to prerequisites for payments, calculation and promulgation of Federal share for each State, and payment to Indian tribes.

Section 351f, act June 19, 1956, ch. 407, §8, as added Oct. 7, 1977, Pub. L. 95–123, §3(a), 91 Stat. 1095; amended Oct. 17, 1984, Pub. L. 98–480, title I, §108, 98 Stat. 2240, permitted expenditure of funds received under subchapters I and II of this chapter for administrative costs in connection with programs and activities carried out under subchapters I, II, and III of this chapter.

Section 351g, act June 19, 1956, ch. 407, §9, as added Mar. 15, 1990, Pub. L. 101–254, §8(a), 104 Stat. 104, prohibited contracting out or transferring from Federal Government certain activities or functions of

Department of Education Research Library.

SHORT TITLE

Act June 19, 1956, ch. 407, §1, 70 Stat. 293, as amended by Pub. L. 88–269, §10(a), Feb. 11, 1964, 78 Stat. 16, which provided that this chapter be cited as the "Library Services and Construction Act", was repealed by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

SUBCHAPTER I—PUBLIC LIBRARY SERVICES

§§352 to 354. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 352, acts June 19, 1956, ch. 407, title I, §101, formerly §3, 70 Stat. 293; Aug. 31, 1960, Pub. L. 86–679, §1, 74 Stat. 571; renumbered title I, §101, and amended Feb. 11, 1964, Pub. L. 88–269, §§1(a)(2), 2, 7(a), 78 Stat. 11–13; July 19, 1966, Pub. L. 89–511, §3, 80 Stat. 313; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1666; Oct. 7, 1977, Pub. L. 95–123, §4(c), 91 Stat. 1096; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 109, 98 Stat. 2237, 2240; Mar. 15, 1990, Pub. L. 101–254, §§9–12, 16(b), 24(2), 104 Stat. 104, 105, 113, authorized Secretary to make grants to States for public library services.

Section 353, acts June 19, 1956, ch. 407, title I, §102, formerly §4, 70 Stat. 293; Aug. 1, 1956, ch. 852, §25(a), 70 Stat. 911; Aug. 31, 1960, Pub. L. 86–679, §2, 74 Stat. 571; Sept. 25, 1962, Pub. L. 87–688, §5(a)(1), 76 Stat. 587; renumbered title I, §102, and amended Feb. 11, 1964, Pub. L. 88–269, §§1(b), 3, 7(a), 78 Stat. 11–13; July 19, 1966, Pub. L. 89–511, §§4, 12(a), 80 Stat. 313, 318; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1667; Oct. 7, 1977, Pub. L. 95–123, §§3(b), 4(d), (e), 91 Stat. 1095, 1096; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 110, 98 Stat. 2237, 2240; Nov. 22, 1985, Pub. L. 99–159, title III, §§303(b), 304, 99 Stat. 903; Mar. 15, 1990, Pub. L. 101–254, §§13, 14, 104 Stat. 105, enumerated uses of Federal funds and provided for reservation of State allotments.

Section 354, acts June 19, 1956, ch. 407, title I, §103, formerly §5, 70 Stat. 293; renumbered title I, §103, and amended Feb. 11, 1964, Pub. L. 88–269, §§1(c), 4, 7(a), 78 Stat. 11–13; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1667; Oct. 7, 1977, Pub. L. 95–123, §§4(f), 5, 91 Stat. 1096, 1097; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 111, 98 Stat. 2237, 2241; Mar. 15, 1990, Pub. L. 101–254, §§7(b), 15, 104 Stat. 103, 105, required States to submit annual program for library services with certain specific content requirements, limited reduction of funds to urban resource library, and provided for ratable reduction of required State expenditures.

A prior section 355, acts June 19, 1956, ch. 407, title I, §104, formerly §6, 70 Stat. 295; Aug. 1, 1956, ch. 852, §25(b), (c), 70 Stat. 911; Aug. 31, 1960, Pub. L. 86–679, §§3, 4, 74 Stat. 571; Sept. 25, 1962, Pub. L. 87–688, §5(a)(2), (3), 76 Stat. 587; renumbered and amended Feb. 11, 1964, Pub. L. 88–269, §§5, 6, 7(a), (c)–(e), 78 Stat. 12–14; July 19, 1966, Pub. L. 89–511, §§5, 8, 12(a), (b), 80 Stat. 313, 318, related to the conditions under which payments were to be made to States, the amount of such payments, and the determination and promulgation of the Federal share, and was omitted in the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER II—PUBLIC LIBRARY CONSTRUCTION AND TECHNOLOGY ENHANCEMENT

§§355a to 355c. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 355a, act June 19, 1956, ch. 407, title II, §201, as added Feb. 11, 1964, Pub. L. 88–269, §7(a), 78 Stat. 13; amended July 19, 1966, Pub. L. 89–511, §6, 80 Stat. 313; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84

Stat. 1668; Oct. 17, 1984, Pub. L. 98–480, title I, §103(b)(1), 98 Stat. 2237; Mar. 15, 1990, Pub. L. 101–254, §16(c)(2), (3), 104 Stat. 106, related to grants to States for public library construction and library and information technology enhancement.

Section 355b, act June 19, 1956, ch. 407, title II, §202, as added Feb. 11, 1964, Pub. L. 88–269, §7(a), 78 Stat. 13; amended July 19, 1966, Pub. L. 89–511, §§7, 12(a), 80 Stat. 313, 318; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1668; Oct. 7, 1977, Pub. L. 95–123, §6, 91 Stat. 1097; Oct. 17, 1984, Pub. L. 98–480, title I, §112(a), (b)(1), 98 Stat. 2241; Mar. 15, 1990, Pub. L. 101–254, §16(c)(3), (4), 104 Stat. 106, related to Federal share of cost of construction and technology enhancement projects carried under State plans and recovery by United States of value of grant.

Section 355c, act June 19, 1956, ch. 407, title II, §203, as added Feb. 11, 1964, Pub. L. 88–269, §7(a), 78 Stat. 13; amended Apr. 13, 1970, Pub. L. 91–230, title IV, §401(g)(3), 84 Stat. 174; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1668; Oct. 17, 1984, Pub. L. 98–480, title I, §103(b)(1), 98 Stat. 2237; Mar. 15, 1990, Pub. L. 101–254, §§16(c)(3), (5), 17, 104 Stat. 106, required submission of annual program for construction and technology enhancement of public libraries by any State desiring to receive grant from its allotment and specified contents of such program.

A prior section 355d, act June 19, 1956, ch. 407, title II, §204, as added Feb. 11, 1964, Pub. L. 88–269, §7(a), 78 Stat. 14; amended July 19, 1966, Pub. L. 89–511, §§5(b), (8), 80 Stat. 313, related to payment to States of Federal share and determination of amount of such payment, and was omitted in the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER III—INTERLIBRARY COOPERATION AND RESOURCE SHARING

§§355e to 355e–4. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 355e, act June 19, 1956, ch. 407, title III, §301, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 314; amended Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1668; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 113(b), 98 Stat. 2237, 2242; Mar. 15, 1990, Pub. L. 101–254, §18(a), 104 Stat. 106, authorized Secretary to make grants to States for interlibrary cooperation and resource sharing.

Section 355e–1, act June 19, 1956, ch. 407, title III, §302, as added and amended July 19, 1966, Pub. L. 89–511, §§9, 12(a), 80 Stat. 314, 318; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1669; Mar. 15, 1990, Pub. L. 101–254, §16(d), 104 Stat. 106, related to payment and amount of Federal share of cost of carrying out State plans submitted and approved under section 355e–2 of this title.

Section 355e–2, act June 19, 1956, ch. 407, title III, §303, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 314; amended Nov. 24, 1967, Pub. L. 90–154, §1, 81 Stat. 509; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1669; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 113(c), 98 Stat. 2237, 2242, required submission of annual program for interlibrary cooperation by any State desiring to receive grant from its allotment and specified contents of such program.

Section 355e–3, act June 19, 1956, ch. 407, title III, §304, as added Oct. 17, 1984, Pub. L. 98–480, title I, §113(d), 98 Stat. 2242; amended Mar. 15, 1990, Pub. L. 101–254, §18, 104 Stat. 106, related to statewide resource sharing plans in State annual and long-term programs.

A prior section 355e–3, act June 19, 1956, ch. 407, title III, §304, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 314, set forth the criteria for approval by the Commissioner of State plans for interlibrary cooperation, prior to the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

Section 355e–4, act June 19, 1956, ch. 407, title III, §305, as added Mar. 15, 1990, Pub. L. 101–254, §19, 104 Stat. 106, related to statewide preservation cooperation plans in State annual and long-range programs, specified plan compliance requirements, authorized use of funds to carry out such plans, and granted State library administrative agency authority to contract part or all of preservation program under this section to other agencies or institutions.

Prior sections 355f to 358 were omitted in the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

Prior sections 355f to 355f–7 comprised former subchapter IV of this chapter relating to specialized State library services.

Prior sections 356 to 358 comprised former subchapter V of this chapter relating to the administration of this chapter.

Section 355f, act June 19, 1956, ch. 407, title IV, §401, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 315, authorized appropriations for State institutional library services.

Section 355f–1, act June 19, 1956, ch. 407, title IV, §402, as added and amended July 19, 1966, Pub. L. 89–511, §§9, 12(a), 80 Stat. 315, 318, set forth the amount of allotments authorized to be made by the Commissioner to States, Guam, etc.

Section 355f–2, act June 19, 1956, ch. 407, title IV, §403, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 315; amended Nov. 24, 1967, Pub. L. 90–154, §2, 81 Stat. 509, related to the payment to the States of the Federal share and the determination of the amount of such payment.

Section 355f–3, act June 19, 1956, ch. 407, title IV, §404, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 316; amended Nov. 24, 1967, Pub. L. 90–154, §3, 81 Stat. 509, set forth the criteria for approval by the Commissioner of State plans for institutional library services.

Section 355f–4, act June 19, 1956, ch. 407, title IV, §411, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 316, authorized appropriations for State library services to the physically handicapped.

Section 355f–5, act June 19, 1956, ch. 407, title IV, §412, as added and amended July 19, 1966, Pub. L. 89–511, §§9, 12(a), 80 Stat. 316, 318, set forth the amount of allotments authorized to be made by the Commissioner to States, Guam, etc.

Section 355f–6, act June 19, 1956, ch. 407, title IV, §413, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 317; amended Nov. 24, 1967, Pub. L. 90–154, §4, 81 Stat. 509, related to the payment to the States of the Federal share and the determination of the amount of such payment.

Section 355f–7, act June 19, 1956, ch. 407, title IV, §414, as added July 19, 1966, Pub. L. 89–511, §9, 80 Stat. 317; amended Nov. 24, 1967, Pub. L. 90–154, §5, 81 Stat. 509, set forth the criteria for approval by the Commissioner of State plans for library services to the physically handicapped.

Section 356, act June 19, 1956, ch. 407, title V, §501, formerly §7, 70 Stat. 295, renumbered §301 and amended Feb. 11, 1964, Pub. L. 88–269, §7(f), (g), 78 Stat. 14, renumbered §501, July 19, 1966, Pub. L. 89–511, §10(b), 80 Stat. 317, authorized the Commissioner to withhold payments to the States, enumerated the grounds for such withholding, and provided that notice and an opportunity for a hearing to be accorded to the appropriate State agency.

Section 357, act June 19, 1956, ch. 407, title V, §502, formerly §8, 70 Stat. 295, renumbered §302 and amended Feb. 11, 1964, Pub. L. 88–269, §§1(d), 7(f), 8, 78 Stat. 11, 14, 15, renumbered §502 and amended July 19, 1966, Pub. L. 89–511, §10(b), (c), (e), 80 Stat. 317, 318, set forth the administrative provisions of this chapter.

Section 357a, act June 19, 1956, ch. 407, title V, §503, formerly §303, as added Feb. 11, 1964, Pub. L. 88–269, §7(h), 78 Stat. 14, renumbered and amended July 19, 1966, Pub. L. 89–511, §10(b), 80 Stat. 317, provided for the reallotment of unused funds under conditions determined by the Commissioner.

Section 358, act June 19, 1956, ch. 407, title V, §504, formerly §9, 70 Stat. 296; Aug. 1, 1956, ch. 852, §25(d), 70 Stat. 911; Aug. 31, 1960, Pub. L. 86–679, §5, 74 Stat. 572; Sept. 25, 1962, Pub. L. 87–688, §5(a)(3), 76 Stat. 587, renumbered §304 and amended Feb. 11, 1964, Pub. L. 88–269, §§1(e), 7(b), (f), 9, 78 Stat. 11, 14, 16, renumbered §504, and amended July 19, 1966, Pub. L. 89–511, §§10(b), 12(a), 80 Stat. 317, 318; Nov. 24, 1967, Pub. L. 90–154, §6, 81 Stat. 509, defined the terms "State", "State library administrative agency", "public library", "construction", and "Secretary".

SUBCHAPTER IV—LIBRARY SERVICES FOR INDIAN TRIBES

§§361 to 366. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 361, act June 19, 1956, ch. 407, title IV, §401, as added Oct. 17, 1984, Pub. L. 98–480, title I, §114, 98 Stat. 2243, related to congressional findings and purpose of this subchapter and authorization of grants.

A prior section 361, act June 19, 1956, ch. 407, title IV, §401, as added May 3, 1973, Pub. L. 93–29, title VIII, §801(a), 87 Stat. 57; amended Oct. 17, 1984, Pub. L. 98–480, title I, §103(b)(1), 98 Stat. 2237, related to grants to States for older readers services, prior to the general amendment of this subchapter by section 114 of

Pub. L. 98–480.

Section 362, act June 19, 1956, ch. 407, title IV, §402, as added Oct. 17, 1984, Pub. L. 98–480, title I, §114, 98 Stat. 2243, specified permitted uses of funds, required maintenance of funding level for public library services, and provided that nothing in this chapter be construed to prohibit restricted collections of tribal cultural materials with funds made available under this chapter.

A prior section 362, act June 19, 1956, ch. 407, title IV, §402, as added May 3, 1973, Pub. L. 93–29, title VIII, §801(a), 87 Stat. 57, related to use of Federal funds and the amount of the Federal share for the cost of carrying out State plans for the provision of older readers' services, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 363, act June 19, 1956, ch. 407, title IV, §403, as added Oct. 17, 1984, Pub. L. 98–480, title I, §114, 98 Stat. 2244, related to applications for library services to Indians.

A prior section 363, act June 19, 1956, ch. 407, title IV, §403, as added May 3, 1973, Pub. L. 93–29, title VIII, §801(a), 87 Stat. 58; amended Oct. 17, 1984, Pub. L. 98–480, title I, §103(b)(1), 98 Stat. 2237, related to State annual programs for library services for the elderly, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 364, act June 19, 1956, ch. 407, title IV, §404, as added Oct. 17, 1984, Pub. L. 98–480, title I, §114, 98 Stat. 2244, required submission of plans for library services, on or near Indian reservation, by Indian tribes desiring to receive special project grant.

A prior section 364, act June 19, 1956, ch. 407, title IV, §404, as added May 3, 1973, Pub. L. 93–29, title VIII, §801(a), 87 Stat. 58; amended Oct. 1, 1973, Pub. L. 93–113, title VI, §601(d), 87 Stat. 416; Oct. 17, 1984, Pub. L. 98–480, title I, §103(b)(1), 98 Stat. 2237, related to administrative coordination between programs for older readers services under this subchapter with other programs for older Americans, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 365, act June 19, 1956, ch. 407, title IV, §405, as added Oct. 17, 1984, Pub. L. 98–480, title I, §114, 98 Stat. 2244, provided for coordination of programs under this subchapter with other programs for Indians.

Section 366, act June 19, 1956, ch. 407, title IV, §406, as added Nov. 22, 1985, Pub. L. 99–159, title III, §305, 99 Stat. 903, excluded Indian tribes and Indians in California, Oklahoma, and Alaska from provisions of this subchapter requiring that services be provided on or near Indian reservations, or to only those Indians who live on or near Indian reservations.

A prior subchapter IV of this chapter, comprising sections 355f to 355f–7 of this title, related to specialized State library services, prior to the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER V—FOREIGN LANGUAGE MATERIALS ACQUISITION

§371. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, act June 19, 1956, ch. 407, title V, §501, as added Oct. 17, 1984, Pub. L. 98–480, title I, §115, 98 Stat. 2244; amended Mar. 15, 1990, Pub. L. 101–254, §20, 104 Stat. 107, related to grants for foreign language material acquisition.

A prior subchapter V of this chapter, comprising sections 356 to 358 of this title, related to administration of this chapter, prior to the general amendment of this chapter by Pub. L. 91–600, §2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER VI—LIBRARY LITERACY PROGRAMS

§375. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, act June 19, 1956, ch. 407, title VI, §601, as added Oct. 17, 1984, Pub. L. 98–480, title I, §115, 98

Stat. 2245; amended Mar. 15, 1990, Pub. L. 101–254, §21, 104 Stat. 107; July 25, 1991, Pub. L. 102–73, title V, §502, 105 Stat. 356, related to State and local library grants.

SUBCHAPTER VII—EVALUATION AND ASSESSMENT

§381. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, act June 19, 1956, ch. 407, title VII, §701, as added Mar. 15, 1990, Pub. L. 101–254, §22(a), 104 Stat. 107, authorized Secretary to carry out program for purpose of evaluating and assessing programs authorized under this chapter.

SUBCHAPTER VIII—LIBRARY LEARNING CENTER PROGRAMS

PART A—FAMILY LEARNING CENTERS

§§385 to 385e. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 385, act June 19, 1956, ch. 407, title VIII, §801, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 107, related to congressional statement of purpose of this part.

Section 385a, act June 19, 1956, ch. 407, title VIII, §802, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 108, related to grants for family learning centers.

Section 385b, act June 19, 1956, ch. 407, title VIII, §803, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 108, provided that funds made available under this part be used for initiation, expansion, and improvement of public library services, acquisition of resources and materials in print and electronic formats, and acquisition of computer hardware and software.

Section 385c, act June 19, 1956, ch. 407, title VIII, §804, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 108, related to application to Secretary by local public library wishing to receive grant under this part.

Section 385d, act June 19, 1956, ch. 407, title VIII, §805, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 109, provided for selection of family learning centers via competitive process, required equitable distribution of grants among States and between urban and rural communities under this subchapter, and established maximum amount per grant for any fiscal year.

Section 385e, act June 19, 1956, ch. 407, title VIII, §806, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 109; amended Oct. 20, 1994, Pub. L. 103–382, title III, §375(b), 108 Stat. 3979, authorized appropriations to carry out this part.

PART B—LIBRARY LITERACY CENTERS

§§386 to 386g. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 386, act June 19, 1956, ch. 407, title VIII, §811, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 109, related to congressional statement of purpose of this part.

Section 386a, act June 19, 1956, ch. 407, title VIII, §812, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 110, related to grants to States for library literacy centers.

Section 386b, act June 19, 1956, ch. 407, title VIII, §813, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 110, required any State wishing to receive grant to submit to Secretary, through its State library administrative agency, application containing certain required information and assurances, and permitted Secretary to consider priority programs and services in approving such application.

Section 386c, act June 19, 1956, ch. 407, title VIII, §814, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 111, required library literacy centers to use funds made available under this part to initiate, expand, and improve literacy services and programs, and provided that no more than 25 percent of grant be used by each center to acquire literacy education computers and computer software.

Section 386d, act June 19, 1956, ch. 407, title VIII, §815, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 111, required any local public library desiring to participate in programs and services conducted pursuant to this part to submit application to State or library literacy center, as selected by State under section 386f of this title, and listed requisite content of such application.

Section 386e, act June 19, 1956, ch. 407, title VIII, §816, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 112, related to State advisory committees to assist in coordinating services and programs assisted under this part.

Section 386f, act June 19, 1956, ch. 407, title VIII, §817, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 112, related to selection of literacy learning centers.

Section 386g, act June 19, 1956, ch. 407, title VIII, §818, as added Mar. 15, 1990, Pub. L. 101–254, §23(a), 104 Stat. 113; amended Oct. 20, 1994, Pub. L. 103–382, title III, §375(c), 108 Stat. 3979, related to authorization of appropriations for this part.

CHAPTER 17—NATIONAL DEFENSE EDUCATION PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

401 to 403. Omitted or Repealed.

SUBCHAPTER II—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER LEARNING

421 to 429. Omitted or Repealed.

SUBCHAPTER III—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

PART A—GRANTS TO STATES

441 to 445. Omitted.

PART B—GRANTS TO LOCAL EDUCATIONAL AGENCIES

451 to 455. Omitted.

SUBCHAPTER IV—NATIONAL DEFENSE FELLOWSHIPS

461 to 465. Omitted.

SUBCHAPTER V—GUIDANCE, COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS

PART A—STATE PROGRAMS

481 to 485. Omitted.

PART B—COUNSELING AND GUIDANCE TRAINING INSTITUTES

491. Omitted.

SUBCHAPTER VI—FOREIGN STUDIES AND LANGUAGE DEVELOPMENT

PART A—CENTERS AND RESEARCH AND STUDIES

511 to 513. Repealed.

PART B—LANGUAGE INSTITUTES

521. Repealed.

SUBCHAPTER VII—RESEARCH AND EXPERIMENTATION IN MORE EFFECTIVE UTILIZATION OF TELEVISION, RADIO, MOTION PICTURES, AND RELATED MEDIA FOR EDUCATIONAL PURPOSES

PART A—RESEARCH AND EXPERIMENTATION

541, 542. Omitted.

PART B—DISSEMINATION OF INFORMATION ON NEW EDUCATIONAL MEDIA

551. Omitted.

PART C—GENERAL PROVISIONS

561 to 563. Omitted.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

581 to 589. Omitted or Repealed.

SUBCHAPTER IX—INSTITUTES

PART I—GENERAL

591, 592. Omitted.

PART II—INTERNATIONAL AFFAIRS

601, 602. Omitted.

SUBCHAPTER I—GENERAL PROVISIONS

§401. Omitted

CODIFICATION

The programs provided for in this chapter have not been funded for a number of years. See Codification notes set out under sections 421, 441, 451, 461, 481, 541, and 591 of this title.

Section, Pub. L. 85–864, title I, §101, Sept. 2, 1958, 72 Stat. 1581; Pub. L. 88–665, title I, §101, Oct. 16, 1964, 78 Stat. 1100, provided findings and declaration of policy for National Defense Education Act of 1958.

§402. Repealed. Pub. L. 91–230, title IV, §401(f)(2), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 85–864, title I, §102, Sept. 2, 1958, 72 Stat. 1582, prohibited Federal control of education (curriculum, program of instruction, administration, or personnel of any educational institution or school system. See section 1232a of this title.

§403. Omitted

CODIFICATION

Section, Pub. L. 85–864, title I, §103, Sept. 2, 1958, 72 Stat. 1582; Pub. L. 86–70, §18(a)(1), June 25, 1959, 73 Stat. 144; Pub. L. 86–624, §14(a)(1), July 12, 1960, 74 Stat. 413; Pub. L. 88–210, title II, §201, formerly §21, Dec. 18, 1963, 77 Stat. 415, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title I, §§102, 103, Oct. 16, 1964, 78 Stat. 1100; Pub. L. 89–329, title IV, §491, formerly §461, Nov. 8, 1965, 79 Stat. 1251, renumbered Pub. L. 90–575, title I, §141, Oct. 16, 1968, 82 Stat. 1030; Pub. L. 89–752, §16(b), Nov. 3, 1966, 80 Stat. 1245; Pub. L. 90–575, title I, §174(a), title III, §351(c), Oct.

16, 1968, 82 Stat. 1035, 1058; Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272; Pub. L. 94–482, title V, §501(m)(1), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 96–88, title III, §301(a)(1), (2)(F), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms "State", "institution of higher education", "Secretary", "State educational agency", "school-age population", "elementary school", "secondary school", "public", "nonprofit", "local educational agency", "school of nursing", "collegiate school of nursing", "associate degree school of nursing", and "accredited". See Codification note set out under section 401 of this title.

SUBCHAPTER II—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER LEARNING

§§421 to 425. Omitted

CODIFICATION

This subchapter has not been funded since fiscal year 1975.

Section 421, Pub. L. 85–864, title II, §201, Sept. 2, 1958, 72 Stat. 1583; Pub. L. 87–344, title II, §201(a), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, §202(a), formerly §22(a), Dec. 18, 1963, 77 Stat. 415, renumbered Pub. L. 90–576, title II, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §201, Oct. 16, 1964, 75 Stat. 1100; Pub. L. 89–752, §15, Nov. 3, 1966, 80 Stat. 1245; Pub. L. 90–575, title I, §171(a), Oct. 16, 1968, 82 Stat. 1034; Pub. L. 91–95, §3, Oct. 22, 1969, 83 Stat. 143; Pub. L. 92–318, title I, §137(a)(1), June 23, 1972, 86 Stat. 272; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for the years ending June 30, 1959, to June 30, 1972, and each of the next three fiscal years as necessary, for low-interest loans to students in institutes of higher education under sections 421 to 425 and 427 to 429 of this title.

Section 422, Pub. L. 85–864, title II, §202, Sept. 2, 1958, 72 Stat. 1583; Pub. L. 87–344, title II, §201(b), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, §202(b), formerly §22(b), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §202, Oct. 16, 1964, 78 Stat. 1101; Pub. L. 90–575, title I, §171(b), Oct. 16, 1968, 82 Stat. 1034; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States from funds appropriated under section 421 of this title.

Section 423, Pub. L. 85–864, title II, §203, Sept. 2, 1958, 72 Stat. 1584; Pub. L. 88–210; title II, §202(c), formerly §22(c), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §203, Oct. 16, 1964, 78 Stat. 1101; Pub. L. 90–575, title I, §174(b), Oct. 16, 1968, 82 Stat. 1035; Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to Federal capital contributions to State institutions of higher education.

Section 424, Pub. L. 85–864, title II, §204, Sept. 2, 1958, 72 Stat. 1584; Pub. L. 88–665, title II, §204(a), Oct. 16, 1964, 78 Stat. 1101; Pub. L. 89–329, title IV, §§492, 496(b), formerly §§462, 466(b), Nov. 8, 1965, 79 Stat. 1252, 1254, renumbered and amended Pub. L. 90–575, title I, §§141, 172, 175, Oct. 16, 1968, 82 Stat. 1030, 1034, 1035; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to conditions of agreements between Secretary of Education and institutions of higher education and reimbursement of administrative expenses to such institutions.

Section 425, Pub. L. 85–864, title II, §205, Sept. 2, 1958, 72 Stat. 1584; Pub. L. 87–293, title I, §20, Sept. 22, 1961, 75 Stat. 623; Pub. L. 87–400, §1(a), Oct. 5, 1961, 75 Stat. 832; Pub. L. 88–210, title II, §202(d)(1), (2), formerly §22(d)(1), (2), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §205(a), (b), Oct. 16, 1964, 78 Stat. 1101, 1102; Pub. L. 89–253, §31(a), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–329, title IV, §§493(a), (b), 494(a), 495(a), 496(a), formerly §§463(a), (b), 464(a), 465(a), 466(a), Nov. 8, 1965, 79 Stat. 1252, 1253; Pub. L. 89–572, §5(a), Sept. 13, 1966, 80 Stat. 765; Pub. L. 89–752, §16(a), Nov. 3, 1966, 80 Stat. 1245; Pub. L. 89–794, title XI, §1101(a), Nov. 8, 1966, 80 Stat. 1476; renumbered and amended Pub. L. 90–575, title I, §§141, 173(a), Oct. 16, 1968, 82 Stat. 1030, 1034; Pub. L. 91–230, title V, §501(a), Apr. 13, 1970, 84 Stat. 174; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to terms of loans made to students from loan funds established by institutions of higher education.

§426. Repealed. Pub. L. 92–318, title I, §137(d)(2), June 23, 1972, 86 Stat. 280

Section, Pub. L. 85–864, title II, §206, Sept. 2, 1958, 72 Stat. 1586; Pub. L. 87–344, title II, §201(c), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, §202(e), formerly §22(e), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §206, Oct. 16, 1964, 78 Stat. 1102; Pub. L. 90–575, title I, §171(c), Oct. 16, 1968, 82 Stat. 1034, provided for distributions of assets from student loan funds. See section 1087ff of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective June 23, 1972, see section 137(d)(2) of Pub. L. 92–318.

§§427 to 429. Omitted

CODIFICATION

This subchapter has not been funded since fiscal year 1975.

Section 427, Pub. L. 85–864, title II, §207, Sept. 2, 1958, 72 Stat. 1587; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to loans to help finance an institution's capital contribution to a student loan fund.

Section 428, Pub. L. 85–864, title II, §208, Sept. 2, 1958, 72 Stat. 1587; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to cover reductions in amounts of student loans.

Section 429, Pub. L. 85–864, title II, §209, Sept. 2, 1958, 72 Stat. 1587; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, contained administrative provisions relating to modification of agreements and loans, compromise, waiver, or release of rights, and finality and conclusiveness of financial transactions and vouchers of the Secretary.

SUBCHAPTER III—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

PART A—GRANTS TO STATES

§§441 to 445. Omitted

CODIFICATION

This part has not been funded since the fiscal year ending prior to Oct. 1, 1978.

Section 441, Pub. L. 85–864, title III, §301, Sept. 2, 1958, 72 Stat. 1588; Pub. L. 87–344, title II, §202(a), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §203(a), formerly §23(a), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §302, Oct. 16, 1964, 78 Stat. 1103; Pub. L. 89–329, title IV, §497(a)(2), formerly §467(a)(2), Nov. 8, 1965, 79 Stat. 1254; Pub. L. 89–752, §17(b), Nov. 3, 1966, 80 Stat. 1245; renumbered and amended Pub. L. 90–575, title I, §141, title III, §§301(a), (b), 304(b), Oct. 16, 1968, 82 Stat. 1030, 1052, 1053; Pub. L. 91–230, title VIII, §807(a)(3), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title V, §502, June 23, 1972, 86 Stat. 345; Pub. L. 93–380, title VI, §651(a), Aug. 21, 1974, 88 Stat. 588; Pub. L. 94–482, title III, §301, title V, §501(k)(1), Oct. 12, 1976, 90 Stat. 2215, 2237; Pub. L. 95–112, §4, Sept. 24, 1977, 91 Stat. 912, authorized appropriations for the fiscal year ending June 30, 1959, through the fiscal year ending prior to Oct. 1, 1978, for payments to State educational agencies under sections 441 to 445 of this title.

Section 442, Pub. L. 85–864, title III, §302, Sept. 2, 1958, 72 Stat. 1588; Pub. L. 86–70, §18(a)(2), June 25, 1959, 73 Stat. 144; Pub. L. 86–624, §14(a)(2)(A), (C), July 12, 1960, 74 Stat. 413; Pub. L. 87–344, title II, §202(b), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §203(b), formerly §23(b), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §303, Oct. 16, 1964, 78 Stat. 1103; Pub. L. 90–575, title III, §§303(b), 304(b), 351(b), Oct. 16, 1968, 82 Stat.

1053, 1058; Pub. L. 94–482, title V, §501(m)(2), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States from funds appropriated under section 441 of this title.

Section 443, Pub. L. 85–864, title III, §303, Sept. 2, 1958, 72 Stat. 1589; Pub. L. 88–210, title II, §203(c), formerly §23(c), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §304, Oct. 16, 1964, 78 Stat. 1103; Pub. L. 89–329, title IV, §497(a)(1), formerly §467(a)(1), Nov. 8, 1965, 79 Stat. 1254; Pub. L. 89–752, §17(a), Nov. 3, 1966, 80 Stat. 1245; renumbered and amended Pub. L. 90–575, title I, §141, title III, §§302, 304(b), Oct. 16, 1968, 82 Stat. 1030, 1052, 1053; Pub. L. 91–230, title VIII, §807(a)(1), (2), Apr. 13, 1970, 84 Stat. 192; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the requirements of State plans of any State desiring to receive payments under sections 441 to 445 of this title.

Section 444, Pub. L. 85–864, title III, §304, Sept. 2, 1958, 72 Stat. 1589; Pub. L. 87–344, title II, §202(c), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §203(d), formerly §23(d), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §305, Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §301(c), Oct. 16, 1968, 82 Stat. 1052; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States with plans approved under section 443 of this title.

Section 445, Pub. L. 85–864, title III, §305, Sept. 2, 1958, 72 Stat. 1590; Pub. L. 88–665, title III, §306, Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §303(a), Oct. 16, 1968, 82 Stat. 1053; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to loans to private nonprofit elementary and secondary schools in any State.

PART B—GRANTS TO LOCAL EDUCATIONAL AGENCIES

§§451 to 455. Omitted

CODIFICATION

This part has not been funded since fiscal year 1971.

Section 451, Pub. L. 85–864, title III, §311, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1054, authorized appropriations for the years ending June 30, 1969, to June 30, 1971, for carrying out the provisions of sections 451 to 455 of this title.

Section 452, Pub. L. 85–864, title III, §312, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1054; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to local educational agencies from funds appropriated under section 451 of this title.

Section 453, Pub. L. 85–864, title III, §313, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1054; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for funds by local educational agencies, approved by the appropriate State educational agency.

Section 454, Pub. L. 85–864, title III, §314, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1055; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the requirements for applications of States desiring to participate in programs under sections 451 to 455 of this title.

Section 455, Pub. L. 85–864, title III, §315, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1055; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States for distribution to eligible local educational agencies of such States.

SUBCHAPTER IV—NATIONAL DEFENSE FELLOWSHIPS

§§461 to 465. Omitted

CODIFICATION

Fellowships under this subchapter have not been authorized since the fiscal year ending June 30, 1973.

Section 461, Pub. L. 85–864, title IV, §401, Sept. 2, 1958, 72 Stat. 1590, authorized appropriations to carry out sections 461 to 465 of this title.

Section 462, Pub. L. 85–864, title IV, §402, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 87–344, title II, §203, Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §204(a), (b), formerly §24(a), (b), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title IV, §401, Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §§311(a), 312(a), Oct. 16, 1968, 82 Stat. 1056; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the number of fellowships to be awarded.

Section 463, Pub. L. 85–864, title IV, §403, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 88–665, title IV, §402(a)–(c), Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §§311(b), 312(c), 314, Oct. 16, 1968, 82 Stat. 1056, 1057; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, contained requirements and limitations relating to the awarding of fellowships.

Section 464, Pub. L. 85–864, title IV, §404, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 88–210, title II, §204(c), formerly §24(c), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title IV, §403, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §313(a), Oct. 16, 1968, 82 Stat. 1056; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payment of stipends to persons awarded scholarships and payments to institutions of higher education at which such persons were pursuing courses of study.

Section 465, Pub. L. 85–864, title IV, §405, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for conditions relating to continued receipt of payments under section 464 of this title to persons awarded fellowships.

SUBCHAPTER V—GUIDANCE, COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS

PART A—STATE PROGRAMS

§§481 to 485. Omitted

CODIFICATION

This subchapter is no longer funded and was superseded by title III of the Elementary and Secondary Education Act of 1965, which was classified to subchapter II of chapter 24 of this title. Subchapter II of chapter 24 of this title was omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965 by Pub. L. 95–561.

Section 481, Pub. L. 85–864, title V, §501, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 87–344, title II, §204(a), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §205(a), formerly, §25(a), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §501, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §321(a), Oct. 16, 1968, 82 Stat. 1057, authorized appropriations for the years ending June 30, 1963, to June 30, 1971, for making grants to State educational agencies under sections 481 to 484 of this title.

Section 482, Pub. L. 85–864, title V, §502, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 88–210, title II, §205(b), formerly §25(b), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 90–575, title III, §351(b), Oct. 16, 1968, 82 Stat. 1058, related to allotments to States from sums appropriated under section 481 of this title.

Section 483, Pub. L. 85–864, title V, §503, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 88–210, title II, §205(c), formerly §25(c), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §502, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §322, Oct. 16, 1968, 82 Stat. 1057, related to requirements of State plans of any State desiring to receive payments under sections 481 to 484 of this title.

Section 484, Pub. L. 85–864, title V, §504, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 87–344, title II, §204(b), (c), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §205(d), formerly §25(d), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §503,

Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §321(b), Oct. 16, 1968, 82 Stat. 1057, related to payments to States with plans approved under section 483 of this title.

Section 485, Pub. L. 85–864, title V, §505, as added Pub. L. 88–665, title V, §504, Oct. 16, 1964, 78 Stat. 1106, defined "junior colleges or technical institutes" as used in this subchapter.

PART B—COUNSELING AND GUIDANCE TRAINING INSTITUTES

§491. Omitted

CODIFICATION

Section, Pub. L. 85–864, title V, §511, Sept. 2, 1958, 72 Stat. 1593; Pub. L. 87–344, title II, §204(d), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §205(e), formerly §25(e), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §505, Oct. 16, 1964, 78 Stat. 1106, authorized appropriations for the years ending June 30, 1959 and 1960 and the eight succeeding fiscal years for operation by institutes of higher education of institutes for advanced study. For further details see Codification note set out under section 481 of this title.

SUBCHAPTER VI—FOREIGN STUDIES AND LANGUAGE DEVELOPMENT

PART A—CENTERS AND RESEARCH AND STUDIES

§§511 to 513. Repealed. Pub. L. 96–374, title VI, §601(c)(1), Oct. 3, 1980, 94 Stat. 1471

Section 511, Pub. L. 85–864, title VI, §601, Sept. 2, 1958, 72 Stat. 1593; Pub. L. 87–344, title II, §205(a), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §206(a), formerly §26(a), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title VI, §601(a), Oct. 16, 1964, 78 Stat. 1106; Pub. L. 89–698, title II, §201, Oct. 29, 1966, 80 Stat. 1069; Pub. L. 90–575, title III, §331(a), Oct. 16, 1968, 82 Stat. 1057; Pub. L. 92–318, title I, §182(a), June 23, 1972, 86 Stat. 311, provided for language and area centers and programs. See section 1121 et seq. of this title.

Section 512, Pub. L. 85–864, title VI, §602, Sept. 2, 1958, 72 Stat. 1594; Pub. L. 94–482, title III, §302(d), Oct. 12, 1976, 90 Stat. 2216; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of research and studies. See section 1125 of this title.

Section 512a, Pub. L. 85–864, title VI, §603, as added Pub. L. 94–482, title III, §302(b), Oct. 12, 1976, 90 Stat. 2215; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for a program of grants and contracts for promotion of cultural understanding.

Section 513, Pub. L. 85–864, title VI, §604, formerly §603, Sept. 2, 1958, 72 Stat. 1594; Pub. L. 88–665, title VI, §601(b), Oct. 16, 1964, 78 Stat. 1107; Pub. L. 90–575, title III, §331(b), Oct. 16, 1968, 82 Stat. 1057; Pub. L. 92–318, title I, §182(b), June 23, 1972, 86 Stat. 312; renumbered and amended Pub. L. 94–482, title III, §302(b), (c), Oct. 12, 1976, 90 Stat. 2215, 2216; Pub. L. 95–43, §1(c), June 15, 1977, 91 Stat. 219; Pub. L. 96–49, §15, Aug. 13, 1979, 93 Stat. 354, authorized appropriations for foreign studies and language development program. See section 1130b of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393 of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

PART B—LANGUAGE INSTITUTES

§521. Repealed. Pub. L. 88–665, title VI, §602, Oct. 16, 1964, 78 Stat. 1107

Section, Pub. L. 85–864, title VI, §611, Sept. 2, 1958, 72 Stat. 1594; Pub. L. 87–344, title II, §205(b), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §206(b), formerly §26(b), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064, authorized appropriation of $7,250,000 for fiscal year ending June 30, 1959 and each of six succeeding fiscal years for language institutes.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1964, see section 602 of Pub. L. 88–665.

SUBCHAPTER VII—RESEARCH AND EXPERIMENTATION IN MORE EFFECTIVE UTILIZATION OF TELEVISION, RADIO, MOTION PICTURES, AND RELATED MEDIA FOR EDUCATIONAL PURPOSES

PART A—RESEARCH AND EXPERIMENTATION

§§541, 542. Omitted

CODIFICATION

This subchapter has not been funded since the fiscal year ending in 1968.

Section 541, Pub. L. 85–864, title VII, §701, Sept. 2, 1958, 72 Stat. 1595; Pub. L. 88–210, title II, §207(a), formerly §27(a), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, directed Secretary of Education, in cooperation with Advisory Committee on New Educational Media, to conduct, assist, and foster research and experimentation in development and evaluation of projects involving communication media of possible value to State or local educational agencies.

Section 542, Pub. L. 85–864, title VII, §702, Sept. 2, 1958, 72 Stat. 1595; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized Secretary to make grants-in-aid or contracts for projects of research or experimentation referred to in section 541 of this title.

PART B—DISSEMINATION OF INFORMATION ON NEW EDUCATIONAL MEDIA

§551. Omitted

CODIFICATION

Section, Pub. L. 85–864, title VII, §731, Sept. 2, 1958, 72 Stat. 1595; Pub. L. 88–210, title II, §207(b), formerly §27(b), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to functions of Secretary of Education with respect to dissemination of information on new educational media. See Codification note set out under sections 541, 542 of this title.

PART C—GENERAL PROVISIONS

§§561 to 563. Omitted

CODIFICATION

This subchapter has not been funded since the fiscal year ending in 1968.

Section 561, Pub. L. 85–864, title VII, §761, Sept. 2, 1958, 72 Stat. 1596; Pub. L. 88–210, title II, §207(c), formerly §27(c), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 91–230, title IV, §401(h)(1), Apr. 13, 1970, 84 Stat. 174; Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to establishment, functions and utilization of services of Advisory Committee on New Educational Media.

Section 562, Pub. L. 85–864, title VII, §762, Sept. 2, 1958, 72 Stat. 1597; Pub. L. 90–575, title III, §341, Oct. 16, 1968, 82 Stat. 1058; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to securing of assistance and advice of experts in utilization and adaptation of new media and technology for educational purposes.

Section 563, Pub. L. 85–864, title VII, §763, Sept. 2, 1958, 72 Stat. 1597; Pub. L. 87–344, title II, §206, Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §207(d), formerly §27(d), Dec. 18, 1963; 77 Stat. 419, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title VII, §701, Oct. 16, 1964, 78 Stat. 1107, authorized appropriations for fiscal year ending June 30, 1959, and for each of nine succeeding fiscal years to carry out provisions of this subchapter.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

§581. Omitted

CODIFICATION

The programs provided for in this chapter have not been funded for a number of years. See Codification notes set out under section 421, 441, 451, 461, 481, 541, and 591 of this title.

Section, Pub. L. 85–864, title X, §1001, Sept. 2, 1958, 72 Stat. 1602; Pub. L. 87–835, §3, Oct. 16, 1962, 76 Stat. 1070; Pub. L. 90–575, title I, §176, Oct. 16, 1968, 82 Stat. 1035; Pub. L. 91–230, title IV, §401(c)(4), Apr. 13, 1970, 84 Stat. 173; Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, contained the general administrative provisions for the National Defense Education Act of 1958 [this chapter] including provisions as to reports to Congress, development of policies and procedures, consultation with agencies, agency functions and authority under other laws, restriction on loans, fellowships and stipends, oath or affirmation, statement of conviction, registration of Communist organization, criminal penalties, and authority to refuse or revoke fellowship awards.

§§582, 583. Repealed. Pub. L. 91–230, title IV, §401(h)(1), Apr. 13, 1970, 84 Stat. 174

Section 582, Pub. L. 85–864, title X, §1002, Sept. 2, 1958, 72 Stat. 1602, authorized Commissioner to appoint advisory committees to advise and consult with respect to administration of National Defense Act, prescribed a membership of twelve, four each from fields of science (engineering, mathematics, or science), humanities, and other appropriate fields, and provided for compensation ($50 per day limitation) and travel expenses of committee members.

Section 583, Pub. L. 85–864, title X, §1003, Sept. 2, 1958, 72 Stat. 1603, exempted members of advisory committees or information councils from conflict-of-interest laws, with certain exceptions.

§§584 to 589. Omitted

CODIFICATION

The programs provided for in this chapter have not been funded for a number of years. See Codification notes set out under sections 421, 441, 451, 461, 481, 541, and 591 of this title.

Section 584, Pub. L. 85–864, title X, §1004, Sept. 2, 1958, 72 Stat. 1603; Pub. L. 88–665, title VIII, §801, Oct. 16, 1964, 78 Stat. 1107; Pub. L. 90–575, title III, §304(c), Oct. 16, 1968, 82 Stat. 1055; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to administration of State plans, including the requirements for approval of State plans, notice and hearing prior to disapproval of a State plan, and restrictions on payments to States for failure to comply with provisions of this chapter.

Section 585, Pub. L. 85–864, title X, §1005, Sept. 2, 1958, 72 Stat. 1604; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for judicial review where a State was dissatisfied with Secretary's final action with respect to the approval of its State plan or with respect to restriction of payments to the State for failure to maintain compliance with conditions governing original approval of such plan.

Section 586, Pub. L. 85–864, title X, §1006, Sept. 2, 1958, 72 Stat. 1604, provided that payments to any individual or to any State or Federal agency, institution of higher education, or any other organization, pursuant to a grant, loan, or contract, could be made in installments, and in advance or by way of reimbursement, and, in case of grants or loans, with necessary adjustments on account of overpayments or underpayments.

Section 587, Pub. L. 85–864, title X, §1007, Sept. 2, 1958, 72 Stat. 1604, authorized appropriations for fiscal year ending June 30, 1959, and for each fiscal year thereafter, of such sums as might be necessary for administrative costs, including administrative expenses of State commissions.

Section 588, Pub. L. 85–864, title X, §1008, Sept. 2, 1958, 72 Stat. 1605; Pub. L. 86–70, §18(a)(3), June 25, 1959, 73 Stat. 144; Pub. L. 86–624, §14(a)(3), July 12, 1960, 74 Stat. 413; Pub. L. 88–210, title II, §208(a), formerly §28(a), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 90–575, title III, §351(a), Oct. 16, 1968, 82 Stat. 1058; Pub. L. 94–482, title V, §501(m)(3), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to territories and possessions from amounts reserved by Secretary under provisions relating to allotments to States and educational institutions.

Section 589, Pub. L. 85–864, title X, §1009, Sept. 2, 1958, 72 Stat. 1605; Pub. L. 87–344, title II, §208, Oct. 3, 1961, 75 Stat. 761; Pub. L. 88–210, title II, §208(b), formerly §28(b), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title VIII, §802, Oct. 16, 1964, 78 Stat. 1107, authorized appropriations for fiscal year ending June 30, 1959, and each of nine succeeding fiscal years for grants to States for improvement of statistical services of State educational agencies and prescribed terms and conditions for such grants.

SUBCHAPTER IX—INSTITUTES

PART I—GENERAL

§§591, 592. Omitted

CODIFICATION

This part has not been funded since the fiscal year ending June 30, 1968.

Section 591, Pub. L. 85–864, title XI, §1101, as added Pub. L. 88–665, title IX, §901(a), Oct. 16, 1964, 78 Stat. 1107; amended Pub. L. 89–329, title II, §225, title IV, §497(b), formerly §467(b), Nov. 8, 1965, 79 Stat. 1228, 1254, renumbered Pub. L. 90–575, title I, §141, Oct. 16, 1968, 82 Stat. 1030; Pub. L. 90–247, title VII, §705, Jan. 2, 1968, 81 Stat. 820; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for fiscal years ending June 30, 1965, to June 30, 1968, for grants to institutions of higher education for operation of institutes for advanced study.

Section 592, Pub. L. 85–864, title XI, §1102, as added Pub. L. 88–665, title IX, §901(a), Oct. 16, 1964, 78 Stat. 1108; amended Pub. L. 89–698, title II, §202(2), Oct. 29, 1966, 80 Stat. 1070, related to receipt of stipends by individuals attending institutes for advanced study.

PART II—INTERNATIONAL AFFAIRS

§§601, 602. Omitted

CODIFICATION

This part has not been funded since the fiscal year ending June 30, 1968.

Section 601, Pub. L. 85–864, title XI, §1111, as added Pub. L. 89–698, title II, §202(3), Oct. 29, 1966, 80 Stat. 1070; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for fiscal years ending June 30, 1967 and June 30, 1968, for international affairs institutes for secondary school teachers.

Section 602, Pub. L. 85–864, title XI, §1112, as added Pub. L. 89–698, title II, §202(3), Oct. 29, 1966, 80 Stat. 1070; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized payment of stipends to individuals studying in programs assisted under section 601 of this title.

CHAPTER 18—GRANTS FOR TEACHING IN THE EDUCATION OF HANDICAPPED CHILDREN

§§611 to 618. Repealed. Pub. L. 91–230, title VI, §662(2), (4), Apr. 13, 1970, 84 Stat. 188

Section 611, Pub. L. 85–926, §1, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 88–164, title III, §301(a)(1)–(3), (b), Oct. 31, 1963, 77 Stat. 294; Pub. L. 90–576, title III, §304, Oct. 16, 1968, 82 Stat. 1096, authorized grants to public or non-profit institutions and enumerated certain uses of the grants.

Section 612, Pub. L. 85–926, §2, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 86–158, title II, §201, Aug. 14, 1959, 73 Stat. 346; Pub. L. 88–164, title III, §301(a)(3), Oct. 31, 1963, 77 Stat. 294, authorized grants to State educational agencies for fellowships.

Section 613, Pub. L. 85–926, §3, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 88–164, title III, §301(a)(4), Oct. 31, 1963, 77 Stat. 294, related to payment of grants.

Section 614, Pub. L. 85–926, §4, Sept. 6, 1958, 72 Stat. 1777, required submission of report to Commissioner, including financial statement.

Section 615, Pub. L. 85–926, §5, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 89–105, §7, Aug. 4, 1965, 79 Stat. 430, defined terms "nonprofit institution", "State educational agency" and "State".

Section 616, Pub. L. 85–926, §6, Sept. 6, 1958, 72 Stat. 1777, authorized delegation of functions.

Section 617, Pub. L. 85–926, §7, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 88–164, title III, §301(a)(4), Oct. 31, 1963, 77 Stat. 294; Pub. L. 89–105, §8, Aug. 4, 1965, 79 Stat. 430; Pub. L. 90–170, §6, Dec. 4, 1967, 81 Stat. 530, authorized appropriations of $19,500,000; $29,500,000; $34,000,000; $37,500,000; and $55,000,000 for fiscal years ending June 30, 1966, 1967, 1968, 1969, and 1970, respectively.

Section 618, Pub. L. 88–164, title III, §302, Oct. 31, 1963, 77 Stat. 295; Pub. L. 89–105, §§4, 5, Aug. 4, 1965, 79 Stat. 429, 430; Pub. L. 90–247, title I, §156, Jan. 2, 1968, 81 Stat. 805, related to research and demonstration projects: authorization of appropriations, installments, advances, or reimbursements, and conditions; advisory committees; panel or experts; compensation and travel expenses; delegation of functions; construction, equipping and operation of facilities; wages of laborers and authority and functions of Secretary of Labor; definition of "construction" and "cost of construction"; and definition of "research and related purposes".

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1971, see section 662 of Pub. L. 91–230.

CHAPTER 18A—EARLY EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

§§621 to 624. Repealed. Pub. L. 91–230, title VI, §662(5), Apr. 13, 1970, 84 Stat. 188

Sections 621 to 624, Pub. L. 90–538, §§2–5, Sept. 30, 1968, 82 Stat. 901, 902, popularly known as the "Handicapped Children's Early Education Assistance Act", related to the following subject matter:

Section 621, experimental preschool and early education programs for handicapped children: authorization, special problems of the handicapped, National distribution, urban and rural areas, and scope of activities and services; community coordination of programs; and Federal share and non-Federal contributions.

Section 622, evaluation.

Section 623, definition of handicapped children.

Section 624, appropriations authorization.

For general subject matter of these sections, see sections 1423, 1425, 1401(1), and 1426 of this title, respectively.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1971, see section 662 of Pub. L. 91–230.

CHAPTER 19—SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

CODIFICATION

Act Sept. 23, 1950, ch. 995, 64 Stat. 967, as amended, was classified to chapter 14 (§251 et seq.) of this title prior to general amendment by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548.

§§631 to 647. Repealed. Pub. L. 103–382, title III, §331(a), Oct. 20, 1994, 108 Stat. 3965

Section 631, act Sept. 23, 1950, ch. 995, §1, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 548; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2031(b), 102 Stat. 301, related to Congressional declaration of purpose and authorization of appropriations.

Section 632, act Sept. 23, 1950, ch. 995, §2, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 548; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to annual apportionment of funds and use of remainder of funds.

Section 633, act Sept. 23, 1950, ch. 995, §3, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 548; amended Oct. 3, 1961, Pub. L. 87–344, title I, §101(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §301(a), formerly §31(a), 77 Stat. 419, renumbered title III, §301(a), Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1101(a), 78 Stat. 1109; Nov. 3, 1966, Pub. L. 89–750, title II, §221, 80 Stat. 1213; Jan. 2, 1968, Pub. L. 90–247, title III, §301(d)(1), 81 Stat. 813; Apr. 13, 1970, Pub. L. 91–230, title II, §§201(a)(1), 203(c)(3), 84 Stat. 154, 156; Aug. 21, 1974, Pub. L. 93–380, title III, §301(a)(1), 88 Stat. 521; Apr. 21, 1976, Pub. L. 94–273, §2(13), 90 Stat. 375; Nov. 1, 1978, Pub. L. 95–561, title X, §1021(a), 92 Stat. 2311; Oct. 19, 1984, Pub. L. 98–511, title III, §301(b)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§2031(a)(1), 2032(a)(1), 102 Stat. 301, related to dates for filing applications and priorities.

Section 634, act Sept. 23, 1950, ch. 995, §4, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 549; amended Nov. 3, 1966, Pub. L. 89–750, title II, §224, 80 Stat. 1214; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to Federal share of cost of any project.

Section 635, act Sept. 23, 1950, ch. 995, §5, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 549; amended Nov. 1, 1965, Pub. L. 89–313, §5, 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89–750, title II, §§222(a), (e), 223, 226, 227, 80 Stat. 1213–1215; Jan. 2, 1968, Pub. L. 90–247, title II, §§205(b), 207, 81 Stat. 809; Apr. 13, 1970, Pub. L. 91–230, title II, §§203(a)(3), 204, 84 Stat. 155, 157; May 21, 1970, Pub. L.

91–260, 84 Stat. 254; Aug. 21, 1974, Pub. L. 93–380, title III, §302(a), 88 Stat. 521; Nov. 1, 1978, Pub. L. 95–561, title X, §1022, 92 Stat. 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to limitation on total payments to local agencies.

Section 636, act Sept. 23, 1950, ch. 995, §6, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 551; amended Apr. 13, 1970, Pub. L. 91–230, title IV, §401(g)(4), 84 Stat. 174; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to applications for payment.

Section 637, act Sept. 23, 1950, ch. 995, §7, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 552; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to payments to local agencies.

Section 638, act Sept. 23, 1950, ch. 995, §8, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 552; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to additional payments in unusual cases.

Section 639, act Sept. 23, 1950, ch. 995, §9, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 553; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to procedure in cases of temporary Federal activities and donation of temporary school facilities.

Section 640, act Sept. 23, 1950, ch. 995, §10, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 553; amended May 6, 1960, Pub. L. 86–449, title V, §502, 74 Stat. 89; July 21, 1965, Pub. L. 89–77, §1, 79 Stat. 243; Nov. 3, 1966, Pub. L. 89–750, title II, §§228, 229, 80 Stat. 1215; Nov. 1, 1978, Pub. L. 95–561, title X, §§1023, 1031(b)(1), 92 Stat. 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to children for whom local agencies are unable to provide education.

Section 641, act Sept. 23, 1950, ch. 995, §11, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 554; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), (2), 102 Stat. 301, related to withholding of payments for noncompliance.

Section 642, act Sept. 23, 1950, ch. 995, §12, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 554; amended Apr. 13, 1970, Pub. L. 91–230, title IV, §401(f)(3), (g)(4), 84 Stat. 173, 174; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to administration of this chapter.

Section 643, act Sept. 23, 1950, ch. 995, §13, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 554; amended Apr. 13, 1970, Pub. L. 91–230, title IV, §401(c)(3), 84 Stat. 173; Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, related to Federal departments and agencies under this chapter.

Section 644, act Sept. 23, 1950, ch. 995, §14, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 555; amended Oct. 3, 1961, Pub. L. 87–344, title I, §101(b), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §301(b), formerly §31(b), 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1101(b), 78 Stat. 1109; Nov. 3, 1966, Pub. L. 89–750, title II, §225, 80 Stat. 1214; Jan. 2, 1968, Pub. L. 90–247, title II, §203, 81 Stat. 807; Apr. 13, 1970, Pub. L. 91–230, title II, §§205(a), 206, 84 Stat. 158, 159; Apr. 28, 1988, Pub. L. 100–297, title II, §§2032(a)(1), 2034, 102 Stat. 301, related to assistance in other federally-affected areas.

Section 645, act Sept. 23, 1950, ch. 995, §15, as added Aug. 12, 1958, Pub. L. 85–620, title I, §101, 72 Stat. 556; amended June 25, 1959, Pub. L. 86–70, §18(c), 73 Stat. 144; July 12, 1960, Pub. L. 86–624, §14(c), 74 Stat. 414; Oct. 3, 1961, Pub. L. 87–344, title I, §101(c), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §301(c), formerly §31(c), 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1101(c), (d), 78 Stat. 1109; Nov. 3, 1966, Pub. L. 89–750, title II, §§222(b)–(d), 230–232, 80 Stat. 1213–1216; Jan. 2, 1968, Pub. L. 90–247, title II, §201, title III, §301(d)(2), 81 Stat. 806, 813; Apr. 13, 1970, Pub. L. 91–230, title II, §§201(a)(2), 203(a)(1), (2), 84 Stat. 154, 155; Aug. 12, 1970, Pub. L. 91–375, §§4(a), 6(o), 84 Stat. 773, 783; Aug. 21, 1974, Pub. L. 93–380, title III, §301(a)(2), 88 Stat. 521; Nov. 1, 1978, Pub. L. 95–561, title X, §§1021(b), 1031(b)(2), 92 Stat. 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §§2031(a)(3), 2032(a)(1), (3), 102 Stat. 301, defined terms used in this chapter.

Section 646, act Sept. 23, 1950, ch. 995, §16, as added Nov. 1, 1965, Pub. L. 89–313, §1, 79 Stat. 1158; amended Jan. 2, 1968, Pub. L. 90–247, title II, §217, 81 Stat. 810; Oct. 21, 1968, Pub. L. 90–608, ch. IV, §402, 82 Stat. 1194; Apr. 13, 1970, Pub. L. 91–230, title II, §201(c), 84 Stat. 154; Dec. 31, 1970, Pub. L. 91–606, title III, §301(f), 84 Stat. 1759; 1973 Reorg. Plan No. 1, §§1, 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089; Dec. 10, 1973, Ex. Ord. No. 11749, §2(2), 38 F.R. 34177; May 22, 1974, Pub. L. 93–288, title VII, §702(f), formerly title VI, §602(f), 88 Stat. 164, renumbered title VII, §702(f), Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), 108 Stat. 3100; Aug. 21, 1974, Pub. L. 93–380, title III, §§301(b), 302(b), 88 Stat. 521, 522; Apr. 21, 1976, Pub. L. 94–273, §3(6), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §§1010(b), 1021(a), 1024, 92 Stat. 2310–2312; July 20, 1979, Ex. Ord. No. 12148, §4–106,

44 F.R. 43239; Oct. 19, 1984, Pub. L. 98–511, title III, §301(b)(2), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§2031(a)(2), 2032(a)(1), (b), 2033, 102 Stat. 301; Nov. 23, 1988, Pub. L. 100–707, title I, §109(j), 102 Stat. 4709, related to assistance in cases of certain disasters.

Section 647, act Sept. 23, 1950, ch. 995, §17, as added Nov. 1, 1965, Pub. L. 89–313, §3, 79 Stat. 1161; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, provided that announcement of decrease in or cessation of Federal activities in certain areas not to affect determination of payment.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1994, see section 3(a)(3)(B) of Pub. L. 103–382, set out as a note under section 236 of this title.

CHAPTER 20—GRANTS FOR TEACHING IN THE EDUCATION OF THE DEAF

§§671 to 676. Omitted

Chapter consisted of Pub. L. 87–276, Sept. 22, 1961, 75 Stat. 575, in its entirety. Under the terms of section 6(b) thereof, as amended, the provisions of Pub. L. 87–276 terminated on June 30, 1964. See section 1401 et seq. of this title and section 2495 of Title 42, The Public Health and Welfare.

Section 671, Pub. L. 87–276, §1, Sept. 22, 1961, 75 Stat. 575, authorized Commissioner of Education to conduct a program of grants-in-aid to help provide courses of training and study for teachers of the deaf and to improve existing courses.

Section 672, Pub. L. 87–276, §2, Sept. 22, 1961, 75 Stat. 575, provided for making of payments by Commissioner under such a program.

Section 673, Pub. L. 87–276, §3, Sept. 22, 1961, 75 Stat. 575, defined "nonprofit", "accredited", and "approved".

Section 674, Pub. L. 87–276, §4, Sept. 22, 1961, 75 Stat. 576, authorized Commissioner to delegate his functions under this chapter except the making of regulations.

Section 675, Pub. L. 87–276, §5, Sept. 22, 1961, 75 Stat. 576, established Advisory Committee on the Training of Teachers of the Deaf to review and otherwise make recommendations in connection with grants-in-aid program.

Section 676, Pub. L. 87–276, §6, Sept. 22, 1961, 75 Stat. 576; Pub. L. 88–164, title III, §301(c), Oct. 31, 1963, 77 Stat. 295, authorized appropriations up through fiscal year ending June 30, 1964, and provided for termination of this chapter on June 30, 1964. Pub. L. 91–230, title VI, §662(4), Apr. 13, 1970, 84 Stat. 188, repealed title III of Pub. L. 88–164, cited above.

CHAPTER 20A—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

§§681 to 685. Repealed. Pub. L. 99–371, title II, §210(d), formerly title IV, §410(d), Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210(d), Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 681, Pub. L. 89–36, §2, June 8, 1965, 79 Stat. 125, stated purpose of and authorized appropriations for National Technical Institute for the Deaf. See section 4331 of this title.

Section 682, Pub. L. 89–36, §3, June 8, 1965, 79 Stat. 125; Pub. L. 96–88, title III, §301(a)(1), (2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, defined "Secretary", "institution of higher education", and "construction". See section 4351 of this title.

Section 683, Pub. L. 89–36, §4, June 8, 1965, 79 Stat. 125, related to proposals for establishing and operating a National Technical Institute for the Deaf.

Section 684, Pub. L. 89–36, §5, June 8, 1965, 79 Stat. 126, related to entering into an agreement for establishment and operation of a National Technical Institute for the Deaf. See section 4332 of this title.

Section 685, Pub. L. 89–36, §6, June 8, 1965, 79 Stat. 127, related to a National Advisory Board for the establishment of a national technical institute for the deaf.

SHORT TITLE

Pub. L. 89–36, §1, June 8, 1965, 79 Stat. 125, which provided that this chapter be cited as the "National Technical Institute for the Deaf Act", was repealed by Pub. L. 99–371, title II, §210(d), formerly title IV, §410(d), Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210(d), Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151.

§686. Transferred

Section, Pub. L. 95–355, title I, §100, Sept. 8, 1978, 92 Stat. 531, which authorized National Technical Institute for the Deaf to make purchases through General Services Administration, was transferred to section 4362 of this title.

CHAPTER 20B—GALLAUDET COLLEGE

SUBCHAPTER I—CONTINUATION AND ADMINISTRATION

§§691 to 691g. Repealed. Pub. L. 99–371, title II, §210(d), formerly title IV, §410(a), Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210(a), Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 691, act June 18, 1954, ch. 324, §1, 68 Stat. 265, directed that Gallaudet College be successor to Columbia Institution for the Deaf. See section 4301(a) of this title.

Section 691a, act June 18, 1954, ch. 324, §2, 68 Stat. 265, stated purposes of Gallaudet College. See section 4301(b) of this title.

Section 691b, acts June 18, 1954, ch. 324, §3, 68 Stat. 265; Sept. 13, 1960, Pub. L. 86–776, §4, 74 Stat. 917; Oct. 17, 1979, Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, 93 Stat. 677, 692, related to property rights of Gallaudet College, assumption of outstanding liabilities and obligations against corporation under any former name, and conveyance or mortgage of property. See section 4302 of this title.

Section 691c, act June 18, 1954, ch. 324, §4, 68 Stat. 265, related to gifts of property to Gallaudet College. See section 4352(a) of this title.

Section 691d, acts June 18, 1954, ch. 324, §5, 68 Stat. 265; July 23, 1968, Pub. L. 90–415, §§1, 2, 82 Stat. 397, related to composition and appointment, etc., of Board of Directors of Gallaudet College. See section 4303(a) of this title.

Section 691e, act June 18, 1954, ch. 324, §6, 68 Stat. 266, related to powers of Board of Directors of Gallaudet College. See section 4303(b) of this title.

Section 691f, acts June 18, 1954, ch. 324, §7, 68 Stat. 266; Oct. 17, 1979, Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, 93 Stat. 677, 692, related to financial transactions and accounts of Gallaudet College and an annual report to Secretary of Education. See sections 4353 and 4354(a) of this title.

Section 691g, act June 18, 1954, ch. 324, §8, 68 Stat. 266, authorized appropriations for Gallaudet College.

§§691h, 691i. Transferred

Section 691h, R.S. §441; Mar. 4, 1911, ch. 285, 36 Stat. 1422; 1940 Reorg. Plan No. IV, §11, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234; 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; June 18, 1954, ch. 324, §1, 68 Stat. 265; Oct. 17, 1979, Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, 93 Stat. 677, 692, which charged Secretary of Education with supervision of public business of Gallaudet College, was transferred to section 4361 of this title.

Section 691i, Pub. L. 95–355, title I, §100, Sept. 8, 1978, 92 Stat. 531, which authorized Gallaudet College to make purchases through General Services Administration, was transferred to section 4362 of this title.

SUBCHAPTER II—MODEL SECONDARY SCHOOL FOR THE DEAF

§§693 to 693b. Repealed. Pub. L. 99–371, title II, §210(c), formerly title IV, §410(c), Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210(c), Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 693, Pub. L. 89–694, §2, Oct. 15, 1966, 80 Stat. 1027, authorized appropriations for a model secondary school for the deaf.

Section 693a, Pub. L. 89–694, §3, Oct. 15, 1966, 80 Stat. 1027; Pub. L. 96–88, title III, §301(a)(2)(N), title V, §507, Oct. 17, 1979, 93 Stat. 677, 695, defined "Secretary", "construction", and "secondary school". See section 4351 of this title.

Section 693b, Pub. L. 89–694, §4, Oct. 15, 1966, 80 Stat. 1027, related to an agreement with Gallaudet College to establish a model secondary school. See section 4322 of this title.

SHORT TITLE

Pub. L. 89–694, §1, Oct. 15, 1966, 80 Stat. 1027, which provided that this subchapter be cited as the "Model Secondary School for the Deaf Act", was repealed by Pub. L. 99–371, title II, §210(c), formerly title IV, §410(c), Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210(c), Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151.

SUBCHAPTER III—DEMONSTRATION ELEMENTARY SCHOOL FOR THE DEAF

§§695 to 695c. Repealed. Pub. L. 99–371, title II, §210(b), formerly title IV, §410(b), Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210(b), Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 695, Pub. L. 91–587, §1, Dec. 24, 1970, 84 Stat. 1579, authorized Gallaudet College to operate Kendall School as a demonstration elementary school for the deaf. See section 4311 of this title.

Section 695a, Pub. L. 91–587, §2, Dec. 24, 1970, 84 Stat. 1579, defined "elementary school" and "construction". See section 4351 of this title.

Section 695b, Pub. L. 91–587, §3, Dec. 24, 1970, 84 Stat. 1579, authorized appropriations for establishment and operation, including construction and equipment, of demonstration elementary school.

Section 695c, Pub. L. 91–587, §4, Dec. 24, 1970, 84 Stat. 1579, related to design and construction of facilities of demonstration elementary school.

CHAPTER 21—HIGHER EDUCATION FACILITIES

CONTINUATION OF PROGRAMS

Pub. L. 92–318, §161(b)(1), June 23, 1972, 86 Stat. 303, provided that: "The programs authorized by title VII of the Higher Education Act of 1965 [title VII of Pub. L. 89–329, which was classified to section 1132a et seq. of this title, prior to being amended generally by Pub. L. 105–244] shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963 [this chapter]."

§701. Omitted

CODIFICATION

Section, Pub. L. 88–204, §2, Dec. 16, 1963, 77 Stat. 363, related to congressional findings and declaration of policy.

SUBCHAPTER I—GRANTS FOR CONSTRUCTION OF UNDERGRADUATE ACADEMIC FACILITIES

§§711 to 721. Repealed. Pub. L. 92–318, title I, §161(b)(2), June 23, 1972, 86 Stat. 303

Section 711, Pub. L. 88–204, title I, §101, Dec. 16, 1963, 77 Stat. 364; Pub. L. 89–329, title VII, §701(b), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89–752, §2(a), (b), Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, title IV, §401(a)(1), (2), Oct. 16, 1968, 82 Stat. 1059, authorized appropriations for grants for construction of undergraduate academic facilities.

Section 712, Pub. L. 88–204, title I, §102, Dec. 16, 1963, 77 Stat. 364; Pub. L. 89–752, §2(c), Nov. 3, 1966, 80 Stat. 1241 provided for allotment of funds.

Section 713, Pub. L. 88–204, title I, §103, Dec. 16, 1963, 77 Stat. 365; Pub. L. 89–329, title VII, §702(a)(1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89–752, §2(d), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title IV, §§401(a)(4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided for allotments for public community colleges and technical institutes, providing in former subsec. (a) for basis of computation and minimum amount; subsec. (b) availability of funds; subsec. (c) reallotment of unreserved funds at close of fiscal year and factors considered; subsec. (d) allotment ratio, specification and promulgation thereof, and definition of high school graduate.

Section 714, Pub. L. 88–204, title I, §104, Dec. 16, 1963, 77 Stat. 366; Pub. L. 89–329, title VII, §702(b)(1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89–752, §2(d), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title IV, §§401(a)(4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided for allotments for institutions of higher education other than public community colleges and technical institutes, providing in former subsec. (a) for considerations and determinations affecting allotments and minimum; subsec. (b) availability of funds; and subsec. (c) reallotment of unreserved funds at close of fiscal year and factors considered.

Section 715, Pub. L. 88–204, title I, §105, Dec. 16, 1963, 77 Stat. 367; Pub. L. 89–329, title VII, §702(a)(3), (4), (b)(3), (c)(1), Nov. 8, 1965, 79 Stat. 1267, 1268; Pub. L. 89–752, §3(a), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title IV, §401(a)(3), Oct. 16, 1968, 82 Stat. 1059, provided for State commissions and plans and authorized expenditures.

Section 716, Pub. L. 88–204, title I, §106, Dec. 16, 1963, 77 Stat. 368; Pub. L. 89–329, title VII, §701(a), Nov. 8, 1965, 79 Stat. 1266; Pub. L. 90–575, title IV, §402(a)(1), (b)(1), Oct. 16, 1968, 82 Stat. 1059, 1060, related to eligibility of institutions for grants and expansion of student enrollment capacity.

Section 717, Pub. L. 88–204, title I, §107, Dec. 16, 1963, 77 Stat. 368; Pub. L. 89–329, title VII, §702(c)(2), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 90–575, title IV, §§402(a)(2), 405(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided basic criteria for determining priorities and Federal share.

Section 718, Pub. L. 88–204, title I, §108, Dec. 16, 1963, 77 Stat. 369; Pub. L. 90–575, title IV, §402(a)(3), Oct. 16, 1968, 82 Stat. 1059, related to applications for grants, providing in former subsec. (a) for submission of applications by institutions; subsec. (b) conditions for approval; and subsec. (c) amendments of applications.

Section 719, Pub. L. 88–204, title I, §109, Dec. 16, 1963, 77 Stat. 370, provided for reservation and payment of grant.

Section 720, Pub. L. 88–204, title I, §110, Dec. 16, 1963, 77 Stat. 370, provided for disapproval of State plans, notice and hearing, findings of Commissioner, and notification of non-eligibility.

Section 721, Pub. L. 88–204, title I, §111, Dec. 16, 1963, 77 Stat. 370, related to judicial review, providing in former subsec. (a) for appeal by State of Commissioner's final action to court of appeals; subsec. (b)

findings of Commissioner conclusive if substantially supported, remand for taking further evidence, and new or modified findings conclusive if supported; subsec. (c) jurisdiction of court of appeals and review by Supreme Court.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1972, see section 161(b)(2) of Pub. L. 92–318.

SUBCHAPTER II—GRANTS FOR CONSTRUCTION OF GRADUATE ACADEMIC FACILITIES

§§731, 732. Repealed. Pub. L. 92–318, title I, §161(b)(2), June 23, 1972, 86 Stat. 303

Section 731, Pub. L. 88–204, title II, §201, Dec. 16, 1963, 77 Stat. 371; Pub. L. 89–329, title VII, §§701(c), 702(d), Nov. 8, 1965, 79 Stat. 1267, 1268; Pub. L. 89–752, §4, Nov. 3, 1966, 80 Stat. 1242; Pub. L. 90–575, title IV, §401(b), Oct. 16, 1968, 82 Stat. 1059, authorized appropriations for grants for construction of graduate academic facilities.

Section 732, Pub. L. 88–204, title II, §202, Dec. 16, 1963, 77 Stat. 371; Pub. L. 90–575, title II, §291(b)(2), title IV, §405(b), Oct. 16, 1968, 82 Stat. 1050, 1061, related to grants, providing in subsec. (a) for eligible institutions and requirement of an application; subsec. (b) maximum allowable percentile of development cost; subsec. (c) action by panel of specialists required for application approval and considerations affecting approval; and subsec. (d) maximum amount of payments in any fiscal year.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1972, see section 161(b)(2) of Pub. L. 92–318.

§733. Repealed. Pub. L. 90–575, title II, §291(b)(1), Oct. 16, 1968, 82 Stat. 1050

Section, Pub. L. 88–204, title II, §203, Dec. 16, 1963, 77 Stat. 371, established an Advisory Committee on Graduate Education.

SUBCHAPTER III—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

§§741 to 745. Omitted

CODIFICATION

Section 741, Pub. L. 88–204, title III, §301, Dec. 16, 1963, 77 Stat. 372, authorized the Commissioner to make loans for construction of academic facilities.

Section 742, Pub. L. 88–204, title III, §302, Dec. 16, 1963, 77 Stat. 372, prescribed the maximum amount of loans allowable within any State.

Section 743, Pub. L. 88–204, title III, §303, Dec. 16, 1963, 77 Stat. 372; Pub. L. 89–329, title VII, §§702(e), 703(a), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 89–429, §4(a), May 24, 1966, 80 Stat. 166; Pub. L. 89–752, §5, Nov. 3, 1966, 80 Stat. 1242; Pub. L. 90–575, title IV, §§401(c), 402(a)(4), Oct. 16, 1968, 82 Stat. 1059, 1060, related to eligibility conditions, amounts and terms of loans, and authorization of appropriations.

Section 744, Pub. L. 88–204, title III, §304, Dec. 16, 1963, 77 Stat. 373; Pub. L. 89–752, §7, Nov. 3, 1966, 80 Stat. 1243, related to finality and conclusiveness of Commissioner's transactions and additional powers and duties of Commissioner.

Section 745, Pub. L. 88–204, title III, §305, as added Pub. L. 89–429, §4(b), May 24, 1966, 80 Stat. 166, related to Revolving Loan Fund.

§746. Repealed. Pub. L. 92–318, title I, §161(b)(3), June 23, 1972, 86 Stat. 303

Section, Pub. L. 88–204, title III, §306, as added Pub. L. 90–575, title IV, §403, Oct. 16, 1968, 82 Stat. 1060, related to annual interest grants, providing in: subsec. (a) for power of Commissioner; subsec. (b) for maximum period and amount and approval by Secretary; subsec. (c) for authorization of appropriations and limitation on aggregate amount of contracts; subsec. (d) for maximum amount of funds usable in one State; and subsec. (e) certain prerequisites and nature of financing.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1972, see section 161(b)(3) of Pub. L. 92–318.

SUBCHAPTER IV—GENERAL PROVISIONS

§751. Omitted

CODIFICATION

Section, Pub. L. 88–204, title IV, §401, Dec. 16, 1963, 77 Stat. 374; Pub. L. 89–329, title VII, §702(c)(3), (f), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 89–752, §§6, 8, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title IV, §§402(a)(5), 405(a), Oct. 16, 1968, 82 Stat. 1060, 1061, defined "academic facilities", "construction", "equipment", "development cost", "Federal share", "higher education building agency", "institution of higher education", "public community college and public technical institute", "cooperative graduate center", "cooperative graduate center board", "high school", "nonprofit educational institution", "public educational institution", and "State".

§752. Repealed. Pub. L. 91–230, title IV, §401(c)(6), (h)(2), Apr. 13, 1970, 84 Stat. 173, 174

Section, Pub. L. 88–204, title IV, §402, Dec. 16, 1963, 77 Stat. 377, related to Federal administration as to higher education facilities, providing in subsecs. (a) and (b) for delegation of functions by Commissioner and for utilization of services and facilities of other agencies and payment for services in advance or by way of reimbursement, now superseded by section 1231 of this title, and in subsec. (c) for appointment of advisory committees and for compensation ($75 per day limitation) and travel expenses of members of such advisory committees.

§§753 to 756. Omitted

CODIFICATION

Section 753, Pub. L. 88–204, title IV, §403, Dec. 16, 1963, 77 Stat. 378, related to labor standards on projects assisted by grant or loan.

Section 754, Pub. L. 88–204, title IV, §404, Dec. 16, 1963, 77 Stat. 378, related to period of Federal interest in project and recovery of payments.

Section 755, Pub. L. 88–204, title IV, §405, Dec. 16, 1963, 77 Stat. 378, related to method of payment.

Section 756, Pub. L. 88–204, title IV, §406, Dec. 16, 1963, 77 Stat. 379, related to authorization of appropriations for administration.

§757. Repealed. Pub. L. 91–230, title IV, §401(f)(4), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 88–204, title IV, §407, Dec. 16, 1963, 77 Stat. 379, prohibited Federal control of education (personnel, curriculum, methods of instruction, or administration), and was superseded by section 1232a of

this title.

§758. Omitted

CODIFICATION

Section, Pub. L. 88–204, title IV, §408, as added Pub. L. 89–769, §7(a), Nov. 6, 1966, 80 Stat. 1318; amended Pub. L. 90–21, title I, §101, May 29, 1967, 81 Stat. 36; Pub. L. 90–575, title IV, §404, Oct. 16, 1968, 82 Stat. 1061; Pub. L. 91–606, title III, §301(g), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 93–288, title VII, §702(g), formerly title VI, §602(g), May 22, 1974, 88 Stat. 164, renumbered title VII, §702(g), Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100, related to assistance for higher education construction in major disaster areas.

CHAPTER 22—NATIONAL COUNCIL ON THE ARTS

§§781 to 788. Repealed. Pub. L. 91–346, §5(d)(3)(B), July 20, 1970, 84 Stat. 445

For general subject matter of sections 781 to 788, see section 955 of this title.

Section 781, Pub. L. 88–579, §2, Sept. 3, 1964, 78 Stat. 905, set forth a Congressional declaration of policy to encourage and promote the Nation's artistic and cultural progress by establishing a National Council on the Arts.

Section 782, Pub. L. 88–579, §3, Sept. 3, 1964, 78 Stat. 905, proscribed Federal control over policy or program determination in the administration of this chapter.

Section 783, Pub. L. 88–579, §4, Sept. 3, 1964, 78 Stat. 905, established in the Executive Office of the President a National Council on the Arts. See section 955 of this title and notes thereunder.

Section 784, Pub. L. 88–579, §5, Sept. 3, 1964, 78 Stat. 905; Pub. L. 89–209, §6(d)(1), (2), Sept. 29, 1965, 79 Stat. 849, 850, provided for appointment, composition, terms of office and vacancies in the National Council on the Arts.

Section 785, Pub. L. 88–579, §6, Sept. 3, 1964, 78 Stat. 906; Pub. L. 89–209, §5(d)(2)(A), Sept. 29, 1965, 79 Stat. 847; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 223, provided for appointment of a Chairman of the National Council on the Arts, his term of office and reimbursement for his expenses.

Section 786, Pub. L. 88–579, §7, Sept. 3, 1964, 78 Stat. 906; Pub. L. 89–209, §6(d)(3), (4), Sept. 29, 1965, 79 Stat. 850, provided that the National Council on the Arts meet at the call of the Chairman at least twice a year, established 14 Council members as constituting a quorum, and set forth functions and duties of the Council.

Section 787, Pub. L. 88–579, §8, Sept. 3, 1964, 78 Stat. 907, provided for compensation of Council members.

Section 788, Pub. L. 88–579, §9, Sept. 3, 1964, 78 Stat. 907, authorized appointment of and compensation for secretarial, clerical, and other staff and further authorized procurement by the Chairman of temporary and intermittent services.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1970, see section 5(d)(3)(B) of Pub. L. 91–346.

§789. Repealed. Pub. L. 89–209, §6(d)(5), Sept. 29, 1965, 79 Stat. 850

Section, Pub. L. 88–579, §10, Sept. 3, 1964, 78 Stat. 907; Pub. L. 89–125, Aug. 13, 1965, 79 Stat. 518, authorized $150,000 per annum to be appropriated to the Council to carry out the purpose of this chapter. See section 960 of this title.

Section was also repealed by Pub. L. 91–346, §5(d)(3)(B), July 20, 1970, 84 Stat. 445.

§790. Repealed. Pub. L. 91–346, §5(d)(3)(B), July 20, 1970, 84 Stat. 445

Section, Pub. L. 88–579, §11, Sept. 3, 1964, 78 Stat. 907, provided that this chapter would not invalidate any act of Congress or Executive order vesting authority in the Commission of Fine Arts or any other Federal advisory body nor would this chapter authorize the National Council on the Arts to undertake any duty or responsibility which belongs to any other Federal advisory body established as of Sept. 3, 1964.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1970, see section 5(d)(3)(B) of Pub. L. 91–346.

CHAPTER 23—TRAINING AND FELLOWSHIP PROGRAMS FOR COMMUNITY DEVELOPMENT

Sec.

801. Congressional findings and purpose.
802. Fellowships for city planning, management, housing specialists, and persons with general capacity in urban affairs and problems.
803. Matching grants to States.
803a. Project grants and contracts.
804. Limitation on grants to any one State.
805. Technical assistance, studies, and publication of information.
806. Authorization of appropriations; availability of funds.
807. Definitions; authorization of appropriations for administrative and other expenses.

§801. Congressional findings and purpose

(a) Need for training and research related to community development

The Congress finds that the rapid expansion of the Nation's urban areas and urban population has caused severe problems in urban and suburban development and created a national need to (1) provide special training in skills needed for economic and efficient community development, and (2) support research in new or improved methods of dealing with community development problems.

(b) Fellowships for specialists and personnel in urban affairs; grants to institutions of higher education; assistance to States and localities

It is the purpose of this chapter to provide fellowships for the graduate training of professional city and regional planning, management, and housing specialists, and professionally trained personnel with a general capacity in urban affairs and problems: to make grants to and contracts with institutions of higher education (or combinations of such institutions) to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of graduate or professional students to enter the public service; and to assist and encourage the States and localities, in cooperation with public and private universities and colleges and urban centers and with business firms and associations, labor unions, and other interested associations and organizations, to (1) organize, initiate, develop, and expand programs which will provide special training in skills needed for economic and efficient community development to those technical, professional, and other persons with the capacity to master and employ such skills who are, or are training to be, employed by a governmental or public body which has responsibility for community development, or by a private nonprofit organization which is conducting or has responsibility for housing and community development programs, and (2) support State and local research that is needed in connection with housing programs and needs, public improvement programing, code problems, efficient land use, urban transportation, and similar community development problems.

(Pub. L. 88–560, title VIII, §801, Sept. 2, 1964, 78 Stat. 802; Pub. L. 90–448, title XVII, §1707(a), Aug. 1, 1968, 82 Stat. 605; Pub. L. 91–152, title III, §307, Dec. 24, 1969, 83 Stat. 392; Pub. L. 93–383, title IV, §402(a), Aug. 22, 1974, 88 Stat. 691.)

CODIFICATION

Pub. L. 93–383, §402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–383 expanded purposes of chapter to include graduate training in regional planning and for training of personnel with a general capacity in urban affairs and problems and authorizing grants and contracts with institutions of higher education for training of graduate or professional students.

1969—Subsec. (a). Pub. L. 91–152 inserted a comma before "and (2)".

Subsec. (b). Pub. L. 91–152 inserted provision that it is the purpose of this chapter to grant fellowships for the graduate training of professional city planning and urban and housing technicians and specialists.

1968—Subsec. (b). Pub. L. 90–448 provided for cooperation with business firms and associations, labor unions, and other interested associations or organizations, included employment by a private nonprofit organization which is conducting or has responsibility for housing and community development programs, and substituted "technical, professional, and other persons with the capacity to master and employ such skills" for "technical and professional people."

§802. Fellowships for city planning, management, housing specialists, and persons with general capacity in urban affairs and problems

(a) Criteria

The Secretary is authorized to provide fellowships for the graduate training of professional city planning, management, and housing specialists, and other persons who wish to develop a general capacity in urban affairs and problems as herein provided. Persons shall be selected for such fellowships solely on the basis of ability and upon the recommendation of the Urban Studies Fellowship Advisory Board established pursuant to subsection (b) of this section. Fellowships shall be solely for training in public and private nonprofit institutions of higher education having programs of graduate study in the field of city planning or in related fields (including architecture, civil engineering, economics, municipal finance, public administration, urban affairs, and sociology) which programs are oriented to training for careers in city and regional planning, housing, urban renewal, and community development.

(b) Urban Studies Fellowship Board

There is hereby established the Urban Studies Fellowship Advisory Board (hereinafter referred to as the "Board"), which shall consist of nine members to be appointed by the Secretary as follows: Three from public institutions of higher learning and three from private nonprofit institutions of higher education, who are the heads of departments which provide academic courses appropriately related to the fields referred to in subsection (a) of this section, and three from national organizations which are directly concerned with problems relating to urban, regional, and community development. The Board shall meet upon the request of the Secretary and shall make recommendations to him with respect to persons to be selected for fellowships under this section. Members of the Board shall be entitled to receive transportation expenses and a per diem in lieu of subsistence as authorized for members of advisory committees created pursuant to section 1701h of title 12.

(Pub. L. 88–560, title VIII, §802, Sept. 2, 1964, 78 Stat. 802; Pub. L. 89–117, title XI, §1103(a), Aug. 10, 1965, 79 Stat. 503; Pub. L. 90–19, §21(d), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title XVII, §1707(a)(2), (3), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91–152, title III, §307, Dec. 24, 1969, 83 Stat. 392; Pub. L. 93–383, title IV, §402(b), Aug. 22, 1974, 88 Stat. 691.)

CODIFICATION

Pub. L. 93–383, §402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 expanded authority of Secretary to include fellowships in graduate training in city management and for persons wishing to develop a general capacity in urban affairs and added urban affairs to authorized fields of study.

1969—Pub. L. 91–152 substituted provisions authorizing the Secretary to grant fellowships solely on the basis of ability for training in city planning at public and private nonprofit institutions of higher education and establishing the Urban Studies Fellowship Advisory Board for provisions authorizing the Secretary to make matching grants to States to assist in programs providing special training in community development and to support local research and setting forth the provisions required in any plan submitted to the Secretary in order to obtain grants. The former provisions of this section are now set forth in section 803 of this title with minor amendments.

1968—Subsec. (a)(1). Pub. L. 90–448 substituted "technical, professional, and other persons with the capacity to master and employ such skills" for "technical and professional people", and inserted provisions to include employment by a private nonprofit organization which is conducting or has responsibility for housing and community development programs.

1967—Subsecs. (a), (b). Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing.

1965—Subsec. (d). Pub. L. 89–117 substituted "$30,000,000" for "$10,000,000".

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§803. Matching grants to States

(a) Purposes

Subject to the provisions of this chapter and in accordance with regulations prescribed by him, the Secretary may make matching grants to States to assist in—

(1) organizing, initiating, developing, or expanding programs to provide special training in skills needed for economic and efficient community development to those technical, professional, and other persons with the capacity to master and employ such skills who are, or are training to be, employed by a governmental or public body which has responsibilities for community development, or by a private nonprofit organization which is conducting or has responsibility for housing and community development programs; and

(2) supporting State and local research that is needed in connection with housing programs and needs, public improvement programing, code problems, efficient land use, urban transportation, and similar community development problems, and collecting, collating, and publishing statistics and information relating to such research.

(b) Training in housing management

Grants may be made under subsection (a) of this section to support (1) the training of persons, especially persons of low income, in acquiring the skills needed in the management of housing for low- and moderate-income persons, and (2) research and the dissemination of information with respect to the problems involved in the management of housing for low- and moderate-income persons.

(c) State plan; required provisions

No grants may be made to a State under this section unless the Secretary has approved a plan for the State which—

(1) sets forth the proposed use of the funds and the objectives to be accomplished;

(2) explains the method by which the required amounts from non-Federal sources will be obtained;

(3) provides such fiscal control and fund accounting procedures as may be reasonably necessary

to assure proper disbursement of, and accounting for, Federal funds paid to the State under this section;

(4) designates an officer or agency of the State government who has responsibility and authority for the administration of a statewide research and training program as the officer or agency with responsibility and authority for the execution of the State's program under this section; and

(5) provides that such officer or agency will make such reports to the Secretary, in such form, and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this section.

(d) Matching funds from non-Federal sources

No grant may be made under this section for any use unless an amount at least equal to such grant is made available from non-Federal sources for the same purpose and for concurrent use.

(Pub. L. 88–560, title VIII, §803, Sept. 2, 1964, 78 Stat. 803; Pub. L. 89–117, title XI, §1103(b), Aug. 10, 1965, 79 Stat. 503; Pub. L. 91–152, title III, §307, Dec. 24, 1969, 83 Stat. 393; Pub. L. 91–609, title IX, §904, Dec. 31, 1970, 84 Stat. 1809.)

AMENDMENTS

1970—Subsecs. (b) to (d). Pub. L. 91–609 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1969—Pub. L. 91–152 substituted provisions authorizing the Secretary to make matching grants to States to assist in programs providing special training in community development and to support State and local research, provisions setting forth the required contents of any plan submitted to the Secretary in order to obtain grants, and provisions requiring the matching from non-Federal sources of any grant made pursuant to this section, for provisions requiring not more than 10 per centum of the total amount appropriated be used for making grants to any one State. The former provisions of this section are now set forth in section 804 of this title with minor amendments.

1965—Pub. L. 89–117 substituted "appropriated for the purposes of this subchapter" for "authorized to be appropriated by section 802(d) of this title".

§803a. Project grants and contracts

(a) Authorization; purposes; application

The Secretary is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects (1) for the preparation of graduate or professional students in the fields of city and regional planning and management, housing, and urban affairs, or (2) for research into, or development or demonstration of, improved methods of education for these professions. Such grants or contracts may include payment of all or part of the cost of programs or projects.

(b) Contents; use of payments

(1) A grant or contract authorized by this section shall be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

(A) sets forth programs, activities, research, or development for which a grant is authorized under this section;

(B) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

(C) provides for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(2) Payments under this section may be used, in accordance with regulations of the Secretary, and subject to the terms and conditions set forth in an application approved under paragraph (1), to pay part of the compensation of students employed in professions referred to in subsection (a)(1) of this section, except students employed in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this subsection.

(Pub. L. 88–560, title VIII, §804, as added Pub. L. 93–383, title IV, §402(c)(2), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

Pub. L. 93–383, §402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

§804. Limitation on grants to any one State

Not more than 10 per centum of the total amount appropriated for the purposes of this chapter may be used for making grants to any one State.

(Pub. L. 88–560, title VII, §805, formerly §804, Sept. 2, 1964, 78 Stat. 803; Pub. L. 90–19, §21(d), May 25, 1967, 81 Stat. 26; Pub. L. 91–152, title III, §307, Dec. 24, 1969, 83 Stat. 394; renumbered §805, Pub. L. 93–383, title IV, §402(c)(1), Aug. 22, 1974, 88 Stat. 692.)

AMENDMENTS

1969—Pub. L. 91–152 substituted provisions that not more than 10 per centum of the total amount appropriated be used for making grants to any one State for provisions that authorized the Secretary to provide technical assistance, etc., to State and local bodies. The former provisions of the section are now set forth in section 805 of this title with minor amendments.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing.

§805. Technical assistance, studies, and publication of information

In order to carry out the purpose of this chapter, the Secretary is authorized to provide technical assistance to State and local governmental or public bodies and to undertake such studies and publish and distribute such information, either directly or by contract, as he shall determine to be desirable. Nothing contained in this chapter shall limit any authority of the Secretary under any other provision of law.

(Pub. L. 88–560, title VIII, §806, formerly §805, Sept. 2, 1964, 78 Stat. 803; Pub. L. 90–19, §21(e), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title XVII, §1707(b), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91–152, title III, §307, Dec. 24, 1969, 83 Stat. 394; renumbered §806, Pub. L. 93–383, title IV, §402(c)(1), Aug. 22, 1974, 88 Stat. 692.)

AMENDMENTS

1969—Pub. L. 91–152 substituted provisions authorizing the Secretary to provide technical assistance, etc., to State and local bodies to carry out the purposes of this chapter for provisions defining "State" and "Secretary" and authorizing to be appropriated such sums as may be necessary for administrative and other expenses. The former provisions of this section are now set forth in section 807 of this title with minor amendments.

1968—Subsec. (a). Pub. L. 90–448 inserted "Guam, American Samoa, the Trust Territory of the Pacific Islands,".

1967—Subsec. (a). Pub. L. 90–19 substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

§806. Authorization of appropriations; availability of funds

There is authorized to be appropriated for the purpose of making grants and providing fellowships under this chapter, without fiscal year limitation, not to exceed $30,000,000, which amount shall be increased by $3,500,000 on July 1, 1974, and by $3,500,000 on July 1, 1975. Any amounts appropriated under this section shall remain available until expended.

(Pub. L. 88–560, title VIII, §807, formerly §806, as added Pub. L. 91–152, title III, §307, Dec. 24, 1969, 83 Stat. 394; renumbered §807 and amended Pub. L. 93–383, title IV, §402(c)(1), (d), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

Pub. L. 93–383, §402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Pub. L. 93–383, §402(d), inserted provisions increasing amount by $3,500,000 on July 1, 1974, and by $3,500,000 on July 1, 1975.

§807. Definitions; authorization of appropriations for administrative and other expenses

(a) As used in this chapter the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands; and the term "Secretary" means the Secretary of Housing and Urban Development.

(b) There are authorized to be appropriated such sums as may be necessary for administrative and other expenses in carrying out this chapter.

(Pub. L. 88–560, title VIII, §808, formerly §807, as added Pub. L. 91–152, title III, §307, Dec. 24, 1969, 83 Stat. 394; renumbered §808, Pub. L. 93–383, title IV, §402(c)(1), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

This chapter formerly consisted of subchapters I and II prior to its general reorganization by Pub. L. 91–152, title III, §307, Dec. 24, 1969, 83 Stat. 394. Former subchapter II, consisting of section 811, Pub. L. 88–560, VIII, §810, Sept. 2, 1964, 78 Stat. 803; Pub. L. 90–19, §21(d), (f), May 25, 1967, 81 Stat. 26; Pub. L. 90–66, Aug. 19, 1967, 81 Stat. 167, was omitted in the general reorganization of this chapter by Pub. L. 91–152. For subject matter of former section 811, see section 802 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 24—GRANTS FOR EDUCATIONAL MATERIALS, FACILITIES AND SERVICES, AND STRENGTHENING OF EDUCATIONAL AGENCIES

CODIFICATION

Titles I to IX of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which were classified to this chapter (§821 et seq.), subchapter II (§241a et seq.) of chapter 13, and subchapter I (§1801 et seq.) of chapter 40 of this title, were amended generally by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2152, known as the Education Amendments of 1978, and the Elementary and Secondary Education Act of 1965 was transferred to chapter 47 (§2701 et seq.) of this title. Subsequently, that act was amended generally by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, and transferred to chapter 70 (§6301 et seq.) of this title.

SUBCHAPTER I—SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

§§821 to 827. Omitted

CODIFICATION

Sections were omitted in the general revision of title II of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 36, by Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2201.

Section 821, Pub. L. 89–10, title II, §201, Apr. 11, 1965, 79 Stat. 36; Pub. L. 89–750, title I, §121, Nov. 3, 1966, 80 Stat. 1199; Pub. L. 90–247, title III, §301(b), Jan. 2, 1968, 81 Stat. 813; Pub. L. 91–230, title I, §121(a), Apr. 13, 1970, 84 Stat. 130; Pub. L. 93–380, title I, §102(a), Aug. 21, 1974, 88 Stat. 501; Pub. L. 95–112, §2(b)(1), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants for the acquisition of books and school library resources for fiscal years ending prior to Oct. 1, 1979.

Section 822, Pub. L. 89–10, title II, §202, Apr. 11, 1965, 79 Stat. 36; Pub. L. 89–750, title I, §122, Nov. 3, 1966, 80 Stat. 1199; Pub. L. 90–247, title I, §121, Jan. 2, 1968, 81 Stat. 788; Pub. L. 91–230, title I, §121(b), Apr. 13, 1970, 84 Stat. 130; Pub. L. 92–318, title IV, §421(b)(1)(A), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title I, §102(b), title VIII, §843(a), Aug. 21, 1974, 88 Stat. 502, 611, authorized additional appropriations for the territories and provided for the allotment of funds to States.

Section 823, Pub. L. 89–10, title II, §203, Apr. 11, 1965, 79 Stat. 37; Pub. L. 89–750, title I, §123, Nov. 3, 1966, 80 Stat. 1200; Pub. L. 92–318, title V, §509(a)(1), June 23, 1972, 86 Stat. 353, set out the requirements for State plans.

Section 824, Pub. L. 89–10, title II, §204, Apr. 11, 1965, 79 Stat. 38; Pub. L. 91–230, title I, §121(c), Apr. 13, 1970, 84 Stat. 130; Pub. L. 94–482, title V, §501(c), Oct. 12, 1976, 90 Stat. 2236; Pub. L. 95–112, §2(b)(2), Sept. 24, 1977, 91 Stat. 911, made provision for payments to States.

Section 825, Pub. L. 89–10, title II, §205, Apr. 11, 1965, 79 Stat. 38, provided for public control of furnished materials.

Section 826, Pub. L. 89–10, title II, §206, Apr. 11, 1965, 79 Stat. 39, related to the administration of State plans.

Section 827, Pub. L. 89–10, title II, §207, Apr. 11, 1965, 79 Stat. 39, related to judicial review of the Commissioner's final action.

SUBCHAPTER II—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

§841. Omitted

CODIFICATION

Section, Pub. L. 89–10, title III, §301, Apr. 11, 1965, 79 Stat. 39; Pub. L. 89–750, title I, §131, Nov. 3, 1966, 80 Stat. 1201; Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 788; Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 130; Pub. L. 93–380, title I, §103(a), Aug. 21, 1974, 88 Stat. 502; Pub. L. 94–482, title V, §501(a)(2), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95–112, §2(c)(1), Sept. 24, 1977, 91 Stat. 911, which authorized appropriations for the making of grants for supplementary educational centers and services for fiscal years ending prior to Oct. 1, 1979, was omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, §301, Nov. 1, 1978, 92 Stat. 2210.

APPROPRIATION UNDER NATIONAL DEFENSE PROVISIONS AS APPROPRIATION UNDER THIS SECTION

Pub. L. 91–230, title I, §131(c), Apr. 13, 1970, 84 Stat. 141, provided that any appropriation for the

purposes of title V of the National Defense Education Act of 1958, section 481 et seq. of this title, for any fiscal year ending after June 30, 1970, was to be deemed to have been appropriated pursuant to this section.

§§842 to 844a. Omitted

CODIFICATION

Sections were omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, §301, Nov. 1, 1978, 92 Stat. 2210.

Section 842, Pub. L. 89–10, title III, §302, Apr. 11, 1965, 79 Stat. 40; Pub. L. 89–750, title I, §132, Nov. 3, 1966, 80 Stat. 1201; Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 789; Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 131; Pub. L. 92–318, title IV, §421(b)(1)(B), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title I, §103(b), title VIII, §843(a), Aug. 21, 1974, 88 Stat. 502, 611, provided for the allotment of appropriated funds for supplementary educational centers and services.

Section 843, Pub. L. 89–10, title III, §303, Apr. 11, 1965, 79 Stat. 40; Pub. L. 89–750, title I, §152(b), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 790; Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 132; Pub. L. 92–318, title V, §509(a)(2), June 23, 1972, 86 Stat. 353, related to the uses of Federal funds for supplementary educational centers and services.

Section 844, Pub. L. 89–10, title III, §304, Apr. 11, 1965, 79 Stat. 41; Pub. L. 89–750, title I, §§133, 134, Nov. 3, 1966, 80 Stat. 1201, 1202; Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 791; Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 133, related to the content and form of applications for grant funds for supplementary educational centers and services.

Section 844a, Pub. L. 89–10, title III, §305, as added Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 792; amended Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 135; Pub. L. 93–380, title I, §103(c), title IV, §402(c)(2)(i), Aug. 21, 1974, 88 Stat. 502, 546; Pub. L. 94–273, §3(8), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, §2(c)(2), Sept. 24, 1977, 91 Stat. 911, set out the requisites for State plans for supplementary educational centers and services.

A prior section 305 of Pub. L. 89–10 was renumbered section 307 by section 131 of Pub. L. 90–247 and was set out as section 845 of this title.

§844b. Repealed. Pub. L. 93–380, title IV, §402(c)(2)(ii), Aug. 21, 1974, 88 Stat. 546

Section, Pub. L. 89–10, title III, §306, as added Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 796; amended Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 139, provided for special programs and projects.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 402(c)(2) of Pub. L. 93–380.

§§845 to 848. Omitted

CODIFICATION

Section 845, Pub. L. 89–10, title III, §307, formerly §305, Apr. 11, 1965, 79 Stat. 43, renumbered and amended Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 796; Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 139; Pub. L. 93–380, title I, §103(d), title IV, §402(c)(2)(iii), title VIII, §843(a)(2), Aug. 21, 1974, 88 Stat. 502, 546, 611; Pub. L. 94–482, title III, §323(a)(2), Oct. 12, 1976, 90 Stat. 2217, which related to the payments to States to carry out plans for supplementary educational centers and services, was omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, §301, Nov. 1, 1978, 92 Stat. 2210.

Section 846, Pub. L. 89–10, title III, §306, Apr. 11, 1965, 79 Stat. 43, required the establishment of an Advisory Committee on Supplementary Educational Centers and Services in the Office of Education, specified its membership and functions and provided for the compensation of its members, and was omitted in the general reorganization of this subchapter by Pub. L. 90–247.

Sections 847 and 847a were omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, §301, Nov. 1, 1978, 92 Stat. 2210.

Section 847, Pub. L. 89–10, title III, §308, formerly §307, Apr. 11, 1965, 79 Stat. 44, renumbered Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 797; amended Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 140, related to the recovery of payments to supplementary educational centers and services.

Section 847a, Pub. L. 89–10, title III, §309, as added Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 797; amended Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 140; Pub. L. 93–380, title VIII, §845(b), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–273, §3(8), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, §2(c)(3), Sept. 24, 1977, 91 Stat. 911, provided for the establishment of a National Advisory Council on Supplementary Centers and Services.

Section 848, Pub. L. 89–10, title III, §310, formerly §308, Apr. 11, 1965, 79 Stat. 44, renumbered Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 798, which related to labor standards for grant-assisted construction projects, was eliminated in the general amendment of this subchapter by section 131(a)(1) of Pub. L. 91–230. See section 1232b of this title.

SUBCHAPTER III—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

PART A—GRANTS TO STRENGTHEN STATE DEPARTMENTS OF EDUCATION

§§861 to 865. Omitted

CODIFICATION

Sections were omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

Section 861, Pub. L. 89–10, title V, §501, Apr. 11, 1965, 79 Stat. 47; Pub. L. 89–750, title I, §151, Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90–247, title I, §141, Jan. 2, 1968, 81 Stat. 799; Pub. L. 91–230, title I, §§141, 143(a)(4)(B), Apr. 13, 1970, 84 Stat. 141, 142; Pub. L. 93–380, title I, §104(a), Aug. 21, 1974, 88 Stat. 503; Pub. L. 95–112, §2(e)(1), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants to strengthen State departments of education for fiscal years ending prior to Oct. 1, 1979.

Section 862, Pub. L. 89–10, title V, §502, Apr. 11, 1965, 79 Stat. 48; Pub. L. 89–750, title I, §152(c), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90–247, title I, §§142(a), 143, 145(b)(1), (2), Jan. 2, 1968, 81 Stat. 799, 800; Pub. L. 91–230, title I, §143(a)(4)(B), Apr. 13, 1970, 84 Stat. 142; Pub. L. 93–380, title VIII, §843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611, related to the apportionment of grant funds among States.

Section 863, Pub. L. 89–10, title V, §503, Apr. 11, 1965, 79 Stat. 49; Pub. L. 89–750, title I, §§152(a), 154, Nov. 3, 1966, 80 Stat. 1203, 1204; Pub. L. 90–247, title I, §§144, 145(a), Jan. 2, 1968, 81 Stat. 799, 800; Pub. L. 91–230, title I, §§142(a), 143(a)(4)(C), Apr. 13, 1970, 84 Stat. 142; Pub. L. 92–318, title V, §509(a)(3), June 23, 1972, 86 Stat. 353, related to programs and activities covered.

Section 864, Pub. L. 89–10, title V, §504, Apr. 11, 1965, 79 Stat. 50; Pub. L. 89–750, title I, §152(d), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 91–230, title I, §143(a)(4)(B), Apr. 13, 1970, 84 Stat. 142, related to the findings prerequisite to the approval of applications for apportioned funds.

Section 865, Pub. L. 89–10, title V, §505, Apr. 11, 1965, 79 Stat. 51; Pub. L. 90–247, title I, §§145(b)(3), 146, Jan. 2, 1968, 81 Stat. 800, related to special project grants.

PART B—LOCAL EDUCATIONAL AGENCIES

§§866 to 866d. Omitted

CODIFICATION

Sections were omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

Section 866, Pub. L. 89–10, title V, §521, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 142; amended Pub. L. 93–380, title I, §104(b), Aug. 21, 1974, 88 Stat. 503; Pub. L. 95–112, §2(e)(2), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants to local educational agencies for fiscal years ending prior to Oct. 1, 1979.

A prior section 866, Pub. L. 89–10, title V, §506, Apr. 11, 1965, 79 Stat. 51, provided for payments to States: installments; advances or reimbursement; and adjustments, prior to repeal by Pub. L. 91–230, title I, §143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Section 866a, Pub. L. 89–10, title V, §522, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143; amended Pub. L. 93–380, title VIII, §843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611, related to the apportionment of grant funds among States.

Section 866b, Pub. L. 89–10, title V, §523, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143, related to grants from apportioned funds and to the programs and activities covered.

Section 866c, Pub. L. 89–10, title V, §524, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, related to the approval of applications by the Commissioner.

Section 866d, Pub. L. 89–10, title V, §525, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, related to the approval of applications by State educational agencies.

PART C—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

§§867 to 867c. Omitted

CODIFICATION

Sections were omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

Section 867, Pub. L. 89–10, title V, §531, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 145; amended Pub. L. 93–380, title I, §104(c), title VIII, §843(a)(2), (3), Aug. 21, 1974, 88 Stat. 503, 611; Pub. L. 95–112, §2(e)(3), Sept. 24, 1977, 91 Stat. 911, authorized the appropriation of funds for comprehensive planning and evaluation grants for fiscal years ending prior to Oct. 1, 1979.

A prior section 867, Pub. L. 89–10, title V, §507, Apr. 11, 1965, 79 Stat. 51, as amended, was renumbered §553 by Pub. L. 91–230, title I, §143(a)(3), Apr. 13, 1970, 84 Stat. 142, and was classified to section 869b of this title which was repealed by Pub. L. 91–648, title IV, §403, Jan. 5, 1971, 84 Stat. 1925.

Section 867a, Pub. L. 89–10, title V, §532, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 146, related to comprehensive planning and evaluation grants and to the establishment and functioning of State planning and evaluation agencies.

Section 867b, Pub. L. 89–10, title V, §533, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 147, related to the form and content of grant applications.

Section 867c, Pub. L. 89–10, title V, §534, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 148, related to the required annual reports.

§868. Omitted

CODIFICATION

Section, Pub. L. 89–10, title V, §541, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 148; amended Pub. L. 95–112, §2(e)(4), Sept. 24, 1977, 91 Stat. 912, which provided for the

establishment of a National Council on Quality in Education and State advisory councils, was omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

A prior section 868, Pub. L. 89–10, title V, §508, Apr. 11, 1965, 79 Stat. 54, which provided for administration of State plan, was repealed by Pub. L. 91–230, title I, §143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Provisions similar to those comprising subsecs. (a)(1), (2)(A), (E), and (a)(3) of this section were contained in section 510(a), (b), (d) of Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 54, which was classified to section 870(a), (b), (d) of this title, prior to repeal of section 870 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91–230, respectively.

PART E—GENERAL PROVISIONS

§§869, 869a. Omitted

CODIFICATION

Section 869, Pub. L. 89–10, title V, §551, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 150, which related to the administration of plans, to hearings, and to the steps following a failure to comply with the provisions related of this subchapter, was omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

A prior section 869, Pub. L. 89–10, title V, §509, Apr. 11, 1965, 79 Stat. 54, which provided for judicial review, was repealed by Pub. L. 91–230, title I, §143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Provisions similar to those comprising this section were contained in section 508 of Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 54, which was classified to section 868 of this title, prior to repeal of section 868 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91–230, respectively.

Section 869a, Pub. L. 89–10, title V, §552, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 151, which provided for judicial review of Commissioner's decision concerning approval of application or withholding of payments, was omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

Provisions similar to those comprising this section were contained in section 509 of Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 54, which was classified to section 869 of this title, prior to repeal of section 869 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91–230, respectively.

§869b. Repealed. Pub. L. 91–648, title IV, §403, Jan. 5, 1971, 84 Stat. 1925

Section, Pub. L. 89–10, title V, §553, formerly §507, Apr. 11, 1965, 79 Stat. 51, amended Pub. L. 89–750, title I, §153, Nov. 3, 1966, 80 Stat. 1204; renumbered and amended Pub. L. 91–230, title I, §143(a)(3), Apr. 13, 1970, 84 Stat. 142, relating to interchange of personnel of Office of Education with States, provided in subsec. (a), definitions; subsec. (b), authorization for interchange and period of assignment; subsec. (c), Federal personnel assigned to States, compensation, continuation of Federal employment benefits, and disability; subsec. (d), reimbursement by States for services of assigned Federal personnel; subsec. (e), travel expenses of assigned Federal personnel; subsec. (f), State personnel assigned duty with Office of Education; subsec. (g), conflict of interest, disability of State personnel assigned with Office of Education; subsec. (h), travel expenses of assigned personnel; and subsec. (i), assignments of personnel subject to regulations of Commissioner.

EFFECTIVE DATE OF REPEAL

Repeal effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91–648, set out as an Effective Date note under section 3371 of Title 5, Government Organization and Employees.

§870. Repealed. Pub. L. 91–230, title I, §143(a)(4)(A), title IV, §401(h)(3), Apr. 13, 1970, 84 Stat. 142, 174

Section, Pub. L. 89–10, title V, §510, Apr. 11, 1965, 79 Stat. 54, related to the Advisory Council on State Departments of Education, providing in: subsec. (a) for its appointment by the Secretary within ninety days after April 11, 1965 and its functions; subsec. (b) for the membership and their qualifications; subsec. (c) for engagement of technical, clerical, and other assistance and access to pertinent data of the Department; subsec. (d) for an annual report to the Secretary and transmittal of it to the President and Congress; and (e) for compensation ($100 per day limitation, including travel time) and travel expenses of members of the Council.

SUBCHAPTER IV—EDUCATION OF HANDICAPPED CHILDREN

§§871 to 880a. Repealed. Pub. L. 91–230, title VI, §662(3), Apr. 13, 1970, 84 Stat. 188

Section 871, Pub. L. 89–10, title VI, §601, formerly §601(a), as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered §601 and amended Pub. L. 90–247, title I, §§151(4), 152(b)(2), title III, §301(c)(1), Jan. 2, 1968, 81 Stat. 800, 803, 813, authorized grants to States for education of handicapped children.

Section 872, Pub. L. 89–10, title VI, §602, formerly §601(b), as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered §602 and amended Pub. L. 90–247, title I, §§151(4), 152(b)(3), title III, §301(c)(2), Jan. 2, 1968, 81 Stat. 800, 803, 813, authorized appropriations of $50,000,000; $150,000,000; $162,500,000; and $200,000,000 for fiscal years ending June 30, 1967, 1968, 1969, 1970, respectively.

Section 873, Pub. L. 89–10, title VI, §603, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1205; amended Pub. L. 90–247, title I, §§152(b)(3), 153 Jan. 2, 1968, 81 Stat. 803, 804, related to allotment of appropriated funds: additional appropriation for outlying areas, payments to Secretaries of Interior and Defense, allotment among States; determination of population figures by Commissioner; reallotment.

Section 874, Pub. L. 89–10, title VI, §604, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1205; amended Pub. L. 90–247, title I, §151(4), Jan. 2, 1968, 81 Stat. 800, related to submission of State plans to Commissioner and requirements of such plans.

Section 875, Pub. L. 89–10, title VI, §605, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1207, provided for payments.

Section 876, Pub. L. 89–10, title VI, §606, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1207; amended Pub. L. 90–247, title I, §151(4), Jan. 2, 1968, 81 Stat. 800, related to administration of State plans.

Section 877, Pub. L. 89–10, title VI, §607, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1207, provided for judicial review: jurisdiction, record; findings, substantial evidence, remand; review by United States Supreme Court.

Section 877a, Pub. L. 89–10, title VI, §608, as added Pub. L. 90–247, title I, §151(5), Jan. 2, 1968, 81 Stat. 801, related to regional resource centers: authorization of appropriations of $7,500,000; $7,750,000; and $10,000,000 for fiscal years ending June 30, 1968, 1969, and 1970, respectively; availability of appropriations for grants and contracts, functions of centers; considerations governing approval, of application; and manner of payment, adjustment of overpayments and underpayments.

Section 877b, Pub. L. 89–10, title VI, §609, as added Pub. L. 90–247, title I, §151(5), Jan. 2, 1968, 81 Stat. 801, related to model centers for deaf-blind children: Congressional declaration of purpose; authorization of Secretary to make grants and contracts; considerations governing making of grants or contracts; necessary services to be provided by centers; payment of costs of research, development, training and dissemination; definition of "construction"; recovery of payments; determination of children who are both deaf and blind; manner of payment, adjustment of overpayments and underpayments; and authorization of appropriations of $1,000,000; $3,000,000; and $7,000,000 for fiscal years ending June 30, 1968, 1969, and 1970, respectively.

Section 877c, Pub. L. 89–10, title VI, §610, as added Pub. L. 90–247, title I, §151(5), Jan. 2, 1968, 81 Stat. 803, authorized grants or contracts to improve recruitment of educational personnel and dissemination of information concerning educational opportunities for handicapped.

Section 878, Pub. L. 89–10, title VI, §611, formerly §608, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1207; renumbered §611, Pub. L. 90–247, title I, §151(3), Jan. 2, 1968, 81 Stat. 800, provided

for National Advisory Committee on Handicapped Children: membership; functions, annual report, recommendations; compensation, travel and per diem expenses; advisory professional and technical personnel.

Section 879, Pub. L. 89–10, title VI, §612, formerly §609, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1208; renumbered §612, Pub. L. 90–247, title I, §151(3), Jan. 2, 1968, 81 Stat. 800, provided for a bureau for education and training of the handicapped.

Section 880, Pub. L. 89–10, title VI, §613, formerly §610, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1208; renumbered §613, Pub. L. 90–247, title I, §151(3), Jan. 2, 1968, 81 Stat. 800, provided for labor standards requirement (prevailing wage rates).

Section 880a, Pub. L. 89–10, title VI, §614, formerly §602, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered §614, Pub. L. 90–247, title I, §152(a), Jan. 2, 1968, 81 Stat. 803, defined "handicapped children".

Such sections 871 to 877 comprised Part A—Assistance to States for education of handicapped children.

Section 877a comprised Part B—Regional resource centers for improvement of education of handicapped children.

Section 877b comprised Part C—Centers and services for deaf-blind children.

Section 877c comprised Part D—Recruitment of personnel and information on education of handicapped.

Sections 878 to 880a comprised Part E—General provisions.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1971, see section 662 of Pub. L. 91–230.

SHORT TITLE

Section 615 of Pub. L. 89–10, as added by Pub. L. 90–247, title I, §154, Jan. 2, 1968, 81 Stat. 804, which provided that title VI of Pub. L. 89–10 [enacting this subchapter] was to be cited as the "Education of the Handicapped Act", was repealed by Pub. L. 91–230, title VI, §662(3), Apr. 13, 1970, 84 Stat. 188.

SUBCHAPTER IV–A—BILINGUAL EDUCATION

§880b. Omitted

CODIFICATION

Section 880b, Pub. L. 89–10, title VII, §702, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 503, which set out the Congressional declaration of policy with regard to bilingual education and authorized appropriations for fiscal years through the 1978 fiscal year, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

A prior section 880b, Pub. L. 89–10, title VII, §702, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, provided for Congressional declaration of policy and defined "children of limited English-speaking ability". Such provision remaining in effect through June 30, 1975, to the extent not inconsistent with the amendment made by section 105 of Pub. L. 93–380, see section 105(a)(2)(A) of Pub. L. 93–380, title I, Aug. 21, 1974, 88 Stat. 503.

SHORT TITLE

Pub. L. 89–10, title VII, §701, as added by Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, and reenacted by Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 503, which provided that this subchapter be cited as the "Bilingual Education Act", was omitted in the general revision of this subchapter, title VII of the Elementary and Secondary Education Act of 1965, as added by Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268. See Codification note above.

§880b–1. Omitted

CODIFICATION

Section 880b–1, Pub. L. 89–10, title VII, §703, as added and amended Pub. L. 93–380, title I, §105(a)(1), (b), Aug. 21, 1974, 88 Stat. 504, 512, which made general provisions for the bilingual education program, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

A prior section 880b–1, Pub. L. 89–10, title VII, §703, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; amended Pub. L. 91–230, title I, §151, Apr. 13, 1970, 84 Stat. 151, authorized appropriation of 15, 30, 40, 80, 100, and 135 million dollars for fiscal years ending June 30, 1968 through 1973, respectively, and for distribution of funds.

§§880b–2 to 880b–5. Omitted

CODIFICATION

Sections 880b–2 to 880b–5, were to remain in effect through June 30, 1975. See section 105(a)(2)(A) of Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 512.

Section 880b–2, Pub. L. 89–10, title VII, §704, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 817, related to uses for Federal funds.

Section 880b–3, Pub. L. 89–10, title VII, §705, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 817 related to applications for grants, providing in subsec.: (a) for time of and contents of applications; (b) conditions for approval; and (c) amendments.

Section 880b–3a, Pub. L. 89–10, title VII, §706, as added Pub. L. 91–230, title I, §152(a), Apr. 13, 1970, 84 Stat. 151; amended Pub. L. 92–318, title IV, §452, June 23, 1972, 86 Stat. 345, provided for children in schools on or near reservations, subsec. (a) relating to local educational agency status of Indian institution or organization and subsec. (b) to payments to Secretary of Interior and criteria for such payments.

Section 880b–4, Pub. L. 89–10, title VII, §707, formerly §706, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 819; renumbered §707 and amended Pub. L. 91–230, title I, §152(a), (b), Apr. 13, 1970, 84 Stat. 151, 152, related to payments to applicants.

Section 880b–5, Pub. L. 89–10, title VII, §708, formerly §707, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 819; renumbered §708 and amended Pub. L. 91–230, title I, §§152(a), 153, title IV, §401(h)(3), Apr. 13, 1970, 84 Stat. 151, 152, 174; Pub. L. 93–380, title VIII, §845(c), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–482, title V, §501(a)(21), Oct. 12, 1976, 90 Stat. 2236, related to establishment of an Advisory Committee on Education of Bilingual Children.

§880b–6. Repealed. Pub. L. 91–230, title IV, §401(g)(5), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–10, title VII, §709, formerly §708, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 819; renumbered §709 Pub. L. 91–230, title I, §152(a), Apr. 13, 1970, 84 Stat. 151, related to labor standards requirement (prevailing wage rates).

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§§880b–7 to 880b–9. Omitted

CODIFICATION

Sections were omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b–7, Pub. L. 89–10, title VII, §721, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974,

88 Stat. 506, provided for bilingual education programs.

Section 880b–8, Pub. L. 89–10, title VII, §722, as added Pub. L. 93–380, Title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 507, related to Indian children in schools.

Section 880b–9, Pub. L. 89–10, title VII, §723, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 508; amended Pub. L. 94–273, §3(7), Apr. 21, 1976, 90 Stat. 376; S. Res. 4, Feb. 4, 1977, related to grants and contract for training.

PART B—ADMINISTRATION

§§880b–10, 880b–11. Omitted

CODIFICATION

Sections were omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b–10, Pub. L. 89–10, title VII, §731, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 509; amended Pub. L. 94–273, §3(7), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title V, §501(d)(1), Oct. 12, 1976, 90 Stat. 2237, established the Office of Bilingual Education.

Section 880b–11, Pub. L. 89–10, title VII, §732, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 510; amended Pub. L. 94–482, title V, §501(a)(21), (d)(2), Oct. 12, 1976, 90 Stat. 2236, 2237, provided for the establishment of the National Advisory Council on Bilingual Education.

APPOINTMENT OF NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Pub. L. 93–380, title I, §105(a)(2)(B), Aug. 21, 1974, 88 Stat. 512, provided for the appointment of the National Advisory Council on Bilingual Education, which Council was provided for by section 880b–11, within 90 days after Aug. 21, 1974. See Codification note above.

PART C—SUPPORTIVE SERVICES AND ACTIVITIES

§§880b–12, 880b–13. Omitted

CODIFICATION

Sections were omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b–12, Pub. L. 89–10, title VII, §741, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, provided for the administration of the research and demonstration projects program.

Section 880b–13, Pub. L. 89–10, title VII, §742, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511; amended Pub. L. 94–482, title V, §501(d)(3), Oct. 12, 1976, 90 Stat. 2237, related to research and demonstration projects.

SUBCHAPTER V—GENERAL PROVISIONS

§881. Transferred

CODIFICATION

Section, Pub. L. 89–10, title VIII, §801, formerly title VI, §601, Apr. 11, 1965, 79 Stat. 55, renumbered title

VII, §701, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, §801, and amended Pub. L. 90–247, title I, §§142(b), 152(c), title VII, §§702, 703, Jan. 2, 1968, 81 Stat. 799, 803, 816, 819; Pub. L. 91–230, title I, §162, Apr. 13, 1970, 84 Stat. 152; Pub. L. 94–193, §1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–482, title V, §501(l), Oct. 12, 1976, 90 Stat. 2237, which related to definitions, was renumbered Pub. L. 89–10, title X, §1001 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3381 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

§882. Repealed. Pub. L. 91–230, title IV, §401(h)(3), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–10, title VIII, §802, formerly title VI, §602, Apr. 11, 1965, 79 Stat. 57, renumbered title VII, §702, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, §802, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, provided for appointment of advisory council and for compensation ($100 per day limitation, including travel time) and travel expenses of the members.

§§883 to 885. Transferred

CODIFICATION

Section 883, Pub. L. 89–10, title VIII, §803, formerly title VI, §603, Apr. 11, 1965, 79 Stat. 57; renumbered title VII, §703, and amended Pub. L. 89–750, title I, §§111(f), 161, Nov. 3, 1966, 80 Stat. 1196, 1204; renumbered title VIII, §803, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; amended Pub. L. 91–230, title I, §163, title IV, §401(c)(2), Apr. 13, 1970, 84 Stat. 152, 173, was comprised of subsecs. (a) to (c). Subsecs. (a) and (b) were repealed by Pub. L. 91–230, title IV, §401(c)(2), Apr. 13, 1970, 84 Stat. 173. Subsec. (c), which related to federal administration, was renumbered Pub. L. 89–10, title X, §1002 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3382 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 884, Pub. L. 89–10, title VIII, §804, as added Pub. L. 93–380, title I, §106, Aug. 21, 1974, 88 Stat. 512, which related to limitations on refund of payments, was renumbered Pub. L. 89–10, title X, §1003 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3383 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

A prior section 884, Pub. L. 89–10, title VIII, §804, formerly title VI, §604, Apr. 11, 1965, 79 Stat. 57; renumbered title VII, §704, and amended Pub. L. 89–750, title I, §§161, 181, Nov. 3, 1966, 80 Stat. 1204, 1209; renumbered title VIII, §804, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution or system, selection of library resources, textbooks, or other printed or published instructional material, and assignment or transportation of students or teachers in order to overcome racial imbalance), was repealed by Pub. L. 91–230, title IV, §401(f)(5), Apr. 13, 1970, 84 Stat. 173.

Section 885, Pub. L. 89–10, title VIII, §805, formerly title VI, §605, Apr. 11, 1965, 79 Stat. 58; renumbered title VII, §705, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered title VIII, §805, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, which prohibited the use of funds for religious worship or instruction, was renumbered Pub. L. 89–10, title X, §1004 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284 and transferred to section 3384 of this title. Section 1004 of Pub. L. 89–10, as so renumbered, was amended by Pub. L. 95–561, title IX, §901(b), Nov. 1, 1978, 92 Stat. 2305, by substituting provisions waiving requirements for certain jurisdictions for those prohibiting use of funds for religious worship or instruction.

§886. Repealed. Pub. L. 91–230, title IV, §401(d)(4), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 89–10, title VIII, §806, formerly title VII, §706, as added Pub. L. 89–750, title I, §171, Nov. 3, 1966, 80 Stat. 1209; renumbered §806 and amended Pub. L. 90–247, title I, §171, title VII, §702, Jan. 2, 1968, 81 Stat. 805, 816, provided for dissemination of information and authorization of appropriations of $1,500,000; $3,500,000; $3,700,000; and $4,000,000 for fiscal years ending June 30, 1967, 1968, 1969, and 1970.

TERMINATION OF SECTION

Pub. L. 90–576, title III, §303(e), Oct. 16, 1968, 82 Stat. 1096, which provided that this section shall become ineffective the first fiscal year for which funds are appropriated to carry out the provisions of section 6 of this title, was repealed by section 401(d)(3) of Pub. L. 91–230.

§§887, 887a. Omitted

CODIFICATION

Section 887, Pub. L. 89–10, title VIII, §807, formerly title VII, §707, as added and renumbered Pub. L. 90–247, title I, §172, title VII, §702, Jan. 2, 1968, 81 Stat. 806, 816; amended Pub. L. 91–230, title I, §161, Apr. 13, 1970, 84 Stat. 152; Pub. L. 93–380, title I, §107(a), Aug. 21, 1974, 88 Stat. 512; Pub. L. 95–112, §2(f)(1), Sept. 24, 1977, 91 Stat. 912, which related to dropout prevention projects, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 887a, Pub. L. 89–10, title VIII, §808, as added Pub. L. 91–230, title I, §164, Apr. 13, 1970, 84 Stat. 153; amended Pub. L. 93–380, title I, §108(a), Aug. 21, 1974, 88 Stat. 513; Pub. L. 95–112, §2(f)(2), Sept. 24, 1977, 91 Stat. 912, which related to school nutrition and health services for children from low-income families, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

§887b. Repealed. Pub. L. 93–380, title IV, §402(c)(3), Aug. 21, 1974, 88 Stat. 546

Section, Pub. L. 89–10, title VIII, §809, as added Pub. L. 91–230, title I, §164, Apr. 13, 1970, 84 Stat. 154; amended Pub. L. 93–380, title I, §109(a), Aug. 21, 1974, 88 Stat. 513, related to correction education services, providing in subsecs. (a) for grants for research and demonstration projects; (b) for appointment and functions of advisory committees and furnishing of advice and recommendations of Federal officials and other persons and organizations to the Commissioner; and (c) for authorization of $500,000 for fiscal years ending June 30, 1974, and 1975.

Section 109(b) of Pub. L. 93–380 made such authorizations effective on and after July 1, 1974.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 402(c)(3) of Pub. L. 93–380.

§§887c to 887c–2. Transferred

CODIFICATION

Section 887c, Pub. L. 89–10, title VIII, §810, as added Pub. L. 92–318, title IV, §421(a), June 23, 1972, 86 Stat. 339; amended Pub. L. 93–380, title VI, §§631(a), 632(a), Aug. 21, 1974, 88 Stat. 585, 586, which related to improvement of educational opportunities for Indian children, was renumbered Pub. L. 89–10, title X, §1005, by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3385 of this title, and was subsequently repealed by Pub. L. 100–297, title V, §5352(2), Apr. 28, 1988, 102 Stat. 414.

Section 887c–1, Pub. L. 92–318, title IV, §422, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(1), 1152(a), Nov. 1, 1978, 92 Stat. 2329, 2333, which related to special educational training programs for teachers of Indian people, was transferred to section 3385a of this title, and was subsequently repealed by Pub. L. 100–297, title V, §5352(4), Apr. 28, 1988, 102 Stat. 414.

Section 887c–2, Pub. L. 92–318, title IV, §423, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(2), 1152(b), Nov. 1, 1978, 92 Stat. 2329, 2333, which related fellowships for Indian students, was transferred to section 3385b of this title, and was subsequently repealed by Pub. L. 100–297, title V, §5352(4), Apr. 28, 1988, 102 Stat. 414.

§887d. Repealed. Pub. L. 95–561, title III, §301(b)(1)(F), Nov. 1, 1978, 92 Stat. 2228

Section, Pub. L. 89–10, title VIII, §811, as added Pub. L. 92–318, title V, §505(a)(3), June 23, 1972, 86 Stat. 348; amended Pub. L. 93–380, title IV, §407(a), Aug. 21, 1974, 88 Stat. 553, related to consumers' education programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 1979, see section 301(b)(1) of Pub. L. 95–561.

CONGRESSIONAL DECLARATION OF FINDINGS AND PURPOSE

Pub. L. 92–318, §505(a)(1), (2), June 23, 1972, 86 Stat. 348, provided the findings and purpose of Congress for this section.

§887e. Transferred

CODIFICATION

Section, Pub. L. 89–10, title VIII, §812, as added Pub. L. 93–380, title I, §110, Aug. 21, 1974, 88 Stat. 513, which provided for open meetings of educational agencies, was renumbered Pub. L. 89–10, title X, §1006, by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3386 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

§888. Repealed. Pub. L. 91–230, title IV, §401(e)(1), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 90–247, §2, Jan. 2, 1968, 81 Stat. 783, which was not enacted as part of Pub. L. 89–10 which comprised this subchapter, provided for citation of authority and uniform application of rules and regulations.

SUBCHAPTER VI—ETHNIC HERITAGE PROGRAM

§§900 to 900a–5. Omitted

CODIFICATION

Sections were omitted in the general revision of title IX of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title IX, as added Pub. L. 92–318, title V, §504(a), June 23, 1972, 86 Stat. 347, by Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2292.

Section 900, Pub. L. 89–10, title IX, §901, as added Pub. L. 92–318, title V, §504(a), June 23, 1972, 86 Stat. 346, contained the Congressional statement of policy with regard to the ethnic heritage program.

Section 900a, Pub. L. 89–10, title IX, §902, as added Pub. L. 92–318, title V, §504(a), June 23, 1972, 86 Stat. 347, authorized grants for the ethnic heritage studies program.

Section 900a–1, Pub. L. 89–10, title IX, §903, as added Pub. L. 92–318, title V, §504(a), June 23, 1972, 86 Stat. 347; amended Pub. L. 93–380, title I, §111(b), Aug. 21, 1974, 88 Stat. 513, described the authorized activities for the ethnic heritage program.

Section 900a–2, Pub. L. 89–10, title IX, §904, as added Pub. L. 92–318, title V, §504(a), June 23, 1972, 86 Stat. 347, related to the form and content of applications for assistance.

Section 900a–3, Pub. L. 89–10, title IX, §905, as added Pub. L. 92–318, title V, §504(a), June 23, 1972, 86 Stat. 347, related to the administration of the program.

Section 900a–4, Pub. L. 89–10, title IX, §906, as added Pub. L. 92–318, title V, §504(a), June 23, 1972, 86 Stat. 348, established the National Advisory Council on Ethnic Heritage Studies.

Section 900a–5, Pub. L. 89–10, title IX, §907, as added Pub. L. 92–318, title V, §504(a), June 23, 1972, 86 Stat. 348; amended Pub. L. 93–380, title I, §111(a)(1), Aug. 21, 1974, 88 Stat. 513, authorized appropriations

for fiscal years through fiscal year 1978.

CHAPTER 25—PAY AND PERSONNEL PROGRAM FOR OVERSEAS TEACHERS

Sec.

901. Definitions.
902. Regulations of Secretary of Defense.
903. Administration.
904. Leave.
905. Quarters, quarters allowances, and storage.
906. Entitlements in addition to basic compensation.
907. Applicability of other laws.

§901. Definitions

For the purposes of this chapter, the term—

(1) "teaching position" means those duties and responsibilities which—

(A) are performed on a school-year basis principally in a school operated by the Department of Defense in an overseas area for dependents of members of the Armed Forces and dependents of civilian employees of the Department of Defense, or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense; and

(B) involve—

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

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

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

(2) "teacher" means an individual—

(A) who is a citizen of the United States or, in the case of a teaching position that involves instruction in the host-nation language, a local national when a citizen of the United States is not reasonably available to provide such instruction,

(B) who is a civilian, and

(C) who is employed in a teaching position described in paragraph (1).

(3) "overseas area" means any area situated outside the United States.

(4) "United States", when used in a geographical sense, means the several States of the United States of America, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Islands).

(Pub. L. 86–91, §2, July 17, 1959, 73 Stat. 213; Pub. L. 104–201, div. A, title XVI, §1606(a), Sept. 23, 1996, 110 Stat. 2736; Pub. L. 105–85, div. A, title X, §1073(c)(9)(A), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 113–291, div. A, title V, §564, Dec. 19, 2014, 128 Stat. 3384.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in par. (4), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was formerly classified to section 2351 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

2014—Par. (2)(A). Pub. L. 113–291 inserted "or, in the case of a teaching position that involves instruction in the host-nation language, a local national when a citizen of the United States is not reasonably available to provide such instruction" before comma at end.

1997—Par. (1)(A). Pub. L. 105–85 made technical corrections to Pub. L. 104–201, §1606(a)(1). See 1996 Amendment note below.

1996—Par. (1)(A). Pub. L. 104–201, §1606(a)(1), as amended by Pub. L. 105–85, inserted "or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense;" after "Defense,".

Par. (2)(C). Pub. L. 104–201, §1606(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: "whose services are required on a school-year basis in a teaching position."

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title X, §1073(c), Nov. 18, 1997, 111 Stat. 1904, provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

SHORT TITLE

Pub. L. 86–91, §1, July 17, 1959, 73 Stat. 213, provided that: "This Act [enacting this chapter and provisions now contained in section 5102(c)(22) of Title 5, Government Organization and Employees] may be cited as the 'Defense Department Overseas Teachers Pay and Personnel Practices Act'."

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§902. Regulations of Secretary of Defense

(a) Employment, compensation, etc., of teachers

Not later than the ninetieth day following July 17, 1959, the Secretary of Defense shall prescribe and issue regulations to carry out the purposes of this chapter. Such regulations shall govern—

(1) the establishment of teaching positions;

(2) the fixing of basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population;

(3) the entitlement of teachers to compensation;

(4) the payment of compensation to teachers;

(5) the appointment of teachers;

(6) the conditions of employment of teachers;

(7) the length of the school year or school years applicable to teaching positions;

(8) the leave system for teachers;

(9) quarters, allowances, and additional compensation for teachers; and

(10) such other matters as may be relevant and appropriate to the purposes of this chapter.

(b) Effective date of regulations

The regulations prescribed and issued by the Secretary of Defense under subsection (a) of this section shall become effective on such date as the Secretary of Defense shall prescribe but not later than the ninetieth day following the date of issuance of such regulations.

(Pub. L. 86–91, §4, July 17, 1959, 73 Stat. 214; Pub. L. 89–391, §1(a), Apr. 14, 1966, 80 Stat. 117.)

CODIFICATION

Section was formerly classified to section 2352 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Subsec. (a)(2). Pub. L. 89–391 substituted provisions for issuance of regulations to fix basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population for former provisions fixing basic compensation for teaching positions in relation to rates of basic compensation for similar positions in the United States.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89–391, §2, Apr. 14, 1966, 80 Stat. 118, provided that: "The amendments made by the first section of this Act [amending this section and section 903 of this title] shall become effective on the first day of the first pay period which begins after the date of enactment of this Act [Apr. 14, 1966]."

§903. Administration

(a) Employment and salary practices

The Secretary of Defense shall conduct the employment and salary practices applicable to teachers and teaching positions in the Department of Defense in accordance with this chapter, other applicable law, and the regulations prescribed and issued by the Secretary of Defense under section 902 of this title.

(b) Determination of exempt positions and individuals; establishment of annual salary rate

Subject to section 5103 of title 5, the Secretary of Defense—

(1) shall determine the applicability of paragraph (22) of section 5102(c) of title 5 to positions and individuals in the Department of Defense; and

(2) shall establish the appropriate annual salary rate in accordance with this chapter for each such position and individual to which such paragraph (22) is determined to be applicable.

(c) Rates of basic compensation

The Secretary of Defense shall fix the basic compensation for teachers and teaching positions in the Department of Defense at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population.

(d) Issuance of regulations by Secretary of Defense

The Secretary of Defense may prescribe and issue such regulations as he deems appropriate to carry out his functions under this chapter.

(Pub. L. 86–91, §5, July 17, 1959, 73 Stat. 214; Pub. L. 86–370, §6(b), Sept. 23, 1959, 73 Stat. 652; Pub. L. 89–391, §1(b), (c), Apr. 14, 1966, 80 Stat. 117; Pub. L. 96–470, title I, §104(b), Oct. 19, 1980, 94 Stat. 2238; Pub. L. 104–201, div. A, title XVI, §1606(b), Sept. 23, 1996, 110 Stat. 2737; Pub. L. 105–85, div. A, title X, §1073(c)(9)(B), (C), Nov. 18, 1997, 111 Stat. 1904.)

CODIFICATION

In subsec. (b), "section 5103 of title 5" and "paragraph (22) of section 5102(c) of title 5" substituted for "section 202 of the Classification Act of 1949" and "paragraph (33) of section 202 of such Act, added by section 3 of this Act" respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of section 1(b) and (c) of Pub. L. 89–391 for amendment of subsec. (c) of this section and addition of other provisions as another subsec. (c), have been executed in the Code as an amendment of subsec. (c) of this section and addition of subsec. (e) of this section, respectively.

Section was formerly classified to section 2353 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85, §1073(c)(9)(B), made technical correction to Pub. L. 104–201, §1606(b)(1)(A). See 1996 Amendment note below.

Subsec. (b)(1). Pub. L. 105–85, §1073(c)(9)(C), made technical correction to Pub. L. 104–201, §1606(b)(2)(B). See 1996 Amendment note below.

1996—Subsec. (a). Pub. L. 104–201, §1606(b)(1)(B), substituted "the Department of Defense" for "his military department".

Pub. L. 104–201, §1606(b)(1)(A), as amended by Pub. L. 105–85, §1073(c)(9)(B), substituted "Secretary of Defense shall" for "secretary of each military department in the Department of Defense shall".

Subsec. (b). Pub. L. 104–201, §1606(b)(2)(A), substituted "Secretary of Defense—" for "secretary of each military department—" in introductory provisions.

Subsec. (b)(1). Pub. L. 104–201, §1606(b)(2)(B), as amended by Pub. L. 105–85, §1073(c)(9)(C), substituted "the Department of Defense;" for "his military department,".

Subsec. (c). Pub. L. 104–201, §1606(b)(3), substituted "Secretary of Defense" for "Secretary of each military department" and "the Department of Defense" for "his military department".

Subsec. (d). Pub. L. 104–201, §1606(b)(4), substituted "Secretary of Defense" for "Secretary of each military department".

1980—Subsec. (e). Pub. L. 96–470 struck out subsec. (e) which required the Secretary of Defense, on or before the 15th day of January in each calendar year beginning after Apr. 14, 1966, to report to the respective Committees on Post Office and Civil Service of the Senate and House of Representatives information on teachers separated from teaching positions subsequent to the close of the immediately preceding full school year and the number of new teachers appointed to teaching positions at the beginning of the school year current at time of the report, including the number of such new teachers obtained through voluntary reciprocal interchange agreements with school jurisdictions in the United States.

1966—Subsec. (c). Pub. L. 89–391, §1(b), substituted provisions for fixing the basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population for former provisions fixing such rates in relation to the rates of basic compensation for similar positions in the United States but not exceeding the highest rate of basic compensation for similar positions of a comparable level of duties and responsibilities under the municipal government of the District of Columbia.

Subsec. (e). Pub. L. 89–391, §1(c), inserted provisions designated as subsec. (c) to section 5 of Pub. L. 86–91, but codified as subsec. (e) of this section.

1959—Subsec. (b). Pub. L. 86–370 substituted "(33)" for "(32)" in two places.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title X, §1073(c), Nov. 18, 1997, 111 Stat. 1904, provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendments of this section by Pub. L. 89–391 effective on first day of first pay period beginning after Apr. 14, 1966, see section 2 of Pub. L. 89–391, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–370 effective on first day of first pay period which begins after Sept. 23, 1959, see section 7(b) of Pub. L. 86–370, set out as a note under section 3 of Title 35, Patents.

TEACHERS EMPLOYED BY CANAL ZONE GOVERNMENT SCHOOL SYSTEM ON SEPTEMBER 30, 1979

Subsec. (c) of this section not to apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under subsec. (c) of this section equal or exceed the rates of basic compensation then in effect for teachers who were so transferred, see section 3671(c)(1) of Title 22, Foreign Relations and Intercourse.

§904. Leave

(a) Entitlement; amount

Subject to the regulations prescribed and issued by the Secretary of Defense under section 902 of this title, each teacher (other than an individual employed as a substitute teacher) shall be entitled to cumulative leave, with pay, which shall accrue at the rate of one day for each calendar month, or part thereof, of a school year, except that if the school year includes more than eight months, any such teacher who shall have served for the entire school year shall be entitled to ten (or, if such teacher is employed in a supervisory position or higher, not less than ten and not more than thirteen) days of cumulative leave with pay.

(b) Saturdays, Sundays, holidays, and nonwork days

Saturdays, Sundays, regularly scheduled holidays, and other administratively authorized nonwork days shall not be considered to be days of leave for the purposes of subsection (a) of this section.

(c) Purposes for taking leave

Subject to the regulations prescribed and issued by the Secretary of Defense, leave earned by any teacher under subsection (a) of this section may be used by such teacher—

(1) for maternity purposes,

(2) in the event of the illness of such teacher,

(3) in the event of illness, contagious disease, or death in the immediate family of such teacher, and

(4) in the event of any personal emergency.

If appropriate advance notice is given of the intended absence of a teacher, not to exceed three days of such leave may be granted for any purpose in each school year to such teacher.

(d) Credit for persons holding teaching positions and for employees transferred, promoted or reappointed

Any individual—

(1) who is holding a position which is determined to be a teaching position, or

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

shall be credited, for the purposes of the leave system provided by this section, with the annual and sick leave to his credit immediately prior to the effective date of such determination, transfer, promotion, or reappointment. Sick leave so credited shall be included in the leave provided for in subsection (a) of this section. Annual leave so credited shall not be included in the leave provided for in such subsection but shall be used under regulations which shall be prescribed by the Secretary of Defense.

(e) Excess of maximum amount of accumulated leave; reduction

In any case in which the amount of sick leave, which is to the credit of any individual under a different leave system immediately prior to the date on which he becomes subject as a teacher to the leave system provided by this section and which is included in the leave provided for in subsection (a) of this section, is in excess of the maximum amount of accumulated leave allowable under subparagraph (2) of such subsection, such excess shall remain to the credit of such teacher until used, but the use during any leave year of an amount in excess of the aggregate amount which shall have accrued during such year shall reduce automatically the maximum allowable amount of accumulated leave at the beginning of the next leave year until such amount no longer exceeds the maximum amount allowable under subparagraph (2) of subsection (a) of this section.

(f) Liquidation of unused leave upon separation

Any annual leave remaining, upon his separation from the service, to the credit of an individual

within the purview of this section shall be liquidated in accordance with section 5551 of title 5, except that leave earned or included under subsection (a) of this section shall not be liquidated.

(g) Transfer of leave credit for teachers transferred, promoted or reappointed to positions under different leave system

In the case of any teacher who is transferred, promoted, or reappointed, without break in service, to a position under a different leave system, the annual leave, and any other leave earned or credited under this section, which is to his credit immediately prior to such transfer, promotion, or reappointment, shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Director of the Office of Personnel Management.

(h) Voluntary leave transfer and bank programs

The Director of Dependents' Education, in consultation with the Director of the Office of Personnel Management—

(1) shall establish for teachers a voluntary leave transfer program similar to the one under subchapter III of chapter 63 of title 5; and

(2) may establish for teachers a voluntary leave bank program similar to the one under subchapter IV of chapter 63 of title 5.

Only leave described in the last sentence of subsection (c) of this section (relating to leave that may be used by a teacher for any purpose) may be transferred under any program established under this subsection.

(Pub. L. 86–91, §6, July 17, 1959, 73 Stat. 214; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 98–369, div. B, title II, §2204, July 18, 1984, 98 Stat. 1059; Pub. L. 103–425, §1, Oct. 31, 1994, 108 Stat. 4369.)

CODIFICATION

In subsec. (f), "section 5551 of title 5" substituted for "the Act of December 21, 1944 (5 U.S.C. 61b and the following)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2354 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–425, §1(1), inserted "(or, if such teacher is employed in a supervisory position or higher, not less than ten and not more than thirteen)" after "ten".

Subsec. (d). Pub. L. 103–425, §1(2), substituted "Secretary of Defense" for "Secretary of the military department concerned" in concluding provisions.

Subsec. (h). Pub. L. 103–425, §1(3), added subsec. (h).

1984—Subsec. (a). Pub. L. 98–369 struck out provisions which had directed that not more than seventy-five days of leave could be accumulated to the credit of a teacher at any one time under this subsection.

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted for "United States Civil Service Commission" in subsec. (g), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§905. Quarters, quarters allowances, and storage

(a) Entitlement

Under regulations which shall be prescribed by or under authority of the President, each teacher (other than a teacher employed in a substitute capacity) shall be entitled, in addition to basic compensation, to quarters, quarters allowance, and storage as provided by this section.

(b) Furnishing of living quarters or grant of allowance

Each teacher (other than a teacher employed in a substitute capacity) shall be entitled, for each school year for which he performs services as a teacher, to quarters or a quarters allowance equal to those authorized by section 5912 of title 5.

(c) Recess periods

Each teacher (other than a teacher employed in a substitute capacity) who is performing services as a teacher at the close of a school year and agrees in writing to serve as a teacher for the next school year may be authorized, for the recess period immediately preceding such next school year—

(1) quarters or a quarters allowance equal to those authorized by section 5912 of title 5, or

(2) in lieu of such quarters or quarters allowance, storage (including packing, drayage, unpacking, and transportation to and from storage) of his household effects and personal possessions.

(d) Failure to report for service; liability to United States

If a teacher does not report for service at the beginning of the next school year, he shall, except for reasons beyond his control and acceptable to the Department of Defense, be obligated to the United States in an amount equal to any quarters allowance which he may have received under subsection (c) of this section or in an amount equal to the reasonable value of any quarters or storage which he may have received under such subsection, or both, as the case may be.

(e) Employment in other positions during recess periods

Quarters, quarters allowance, and storage provided under this section shall be in lieu of any quarters, quarters allowance, and storage to which he otherwise might be entitled by reason of employment in another position during any recess period between two school years.

(f) Lease of military family housing by teacher assigned to teach at Guantanamo Bay Naval Station, Cuba

(1) A teacher assigned to teach at Guantanamo Bay Naval Station, Cuba, who is not accompanied at such station by any dependent shall be offered for lease any available military family housing at such station that is suitable for occupancy by the teacher and is not needed to house members of the armed forces and dependents accompanying them or other civilian personnel and any dependents accompanying them.

(2) For any period for which military family housing is leased under paragraph (1) to a teacher described in such paragraph, the teacher shall receive a quarters allowance in the amount determined under subsection (b) of this section. The teacher is entitled to such quarters allowance without regard to whether other Government furnished quarters are available for occupancy by the teacher without charge to the teacher.

(Pub. L. 86–91, §7, July 17, 1959, 73 Stat. 216; Pub. L. 87–172, §1, Aug. 30, 1961, 75 Stat. 409; Pub. L. 107–314, div. A, title III, §342, Dec. 2, 2002, 116 Stat. 2515.)

CODIFICATION

In subsecs. (b) and (c)(1), "section 5912 of title 5" substituted for "the Act of June 26, 1930 (5 U.S.C. 118a)" on authority of Pub. L. 89–554, §7(b), June 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2355 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

2002—Subsec. (f). Pub. L. 107–314 added subsec. (f).

1961—Subsec. (d). Pub. L. 87–172 inserted "except for reasons beyond his control and acceptable to the Department of Defense".

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (a) of this section concerning authority to prescribe regulations relating to quarters and quarters allowances delegated to Secretary of State pursuant to Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, set out as a note under section 707 of Title 38, Veterans' Benefits.

Authority of President under subsec. (a) of this section to prescribe regulations relating to storage (including packing, drayage, unpacking, and transportation to and from storage) of household effects and personal possessions delegated to Administrator of General Services, see section 1(19) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Secretary of State empowered to prescribe regulations relating to cost-of-living allowances, see section 4(a) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of Title 5, Government Organization and Employees.

§906. Entitlements in addition to basic compensation

(a) Cost-of-living increase and additional compensation

Under regulations which shall be prescribed by or under authority of the President, each teacher (other than a teacher employed in a substitute capacity) shall be entitled, in addition to basic compensation, to—

(1) cost-of-living allowances equal to those authorized by section 5924 of title 5, and

(2) additional compensation equal to that authorized under section 5941 of title 5.

(b) Post differential

The cost-of-living allowances and additional compensation provided under subsection (a) of this section for any teacher shall be based on the teaching position in which he rendered services on a school-year basis, except that, if such teacher is employed in another position during any recess period between two school years, such allowances and compensation for such recess period shall be based on the position in which he is employed during such recess period.

(Pub. L. 86–91, §8, July 17, 1959, 73 Stat. 216; Pub. L. 96–465, title II, §2206(d), Oct. 17, 1980, 94 Stat. 2162.)

CODIFICATION

In subsec. (a)(2), "section 5941 of title 5" substituted for "section 207 of the Independent Offices Appropriation Act, 1949 (5 U.S.C. 118h)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2356 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1980—Subsec. (a)(1). Pub. L. 96–465 substituted reference to section 5924 of title 5 for reference to section 1131(2) of title 22.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (a) of this section concerning authority to prescribe regulations relating to cost of living allowances delegated to Secretary of State pursuant to Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, set out as a note under section 707 of Title 38, Veterans' Benefits.

Functions of President under subsec. (a) of this section delegated to Director of Bureau of the Budget, now Director of Office of Management and Budget, see section 1(10) of Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447, set out as a note under section 301 of Title 3, The President.

Secretary of State empowered to prescribe regulations relating to quarters and quarters allowance, see section 4(a) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of Title 5, Government Organization and Employees.

REGULATIONS APPLICABLE TO PAYMENT OF ADDITIONAL COMPENSATION

For provisions relating to payment of additional compensation authorized by subsec. (a)(2) of this section in accordance with the regulations contained in Ex. Ord. No. 10000, see section 1–101 of Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, set out as a note under section 707 of Title 38, Veterans' Benefits.

§907. Applicability of other laws

In the case of any teacher who—

(1) is performing services as a teacher at the close of a school year,

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

(3) is employed in another position in the recess period immediately preceding such next school year, or, during such recess period, receives quarters, allowances, or additional compensation referred to in sections 905 and 906 of this title, or both, as the case may be,

section 5533 of title 5 shall not apply to such teacher by reason of any such employment during a recess period or any such receipt of quarters, allowances, or additional compensation, or both, as the case may be.

(Pub. L. 86–91, §10(b), July 17, 1959, 73 Stat. 217; Pub. L. 88–448, title IV, §401(n), Aug. 19, 1964, 78 Stat. 492.)

CODIFICATION

"Section 5533 of title 5" substituted in text for "section 301 of the Dual Compensation Act" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2358(b) of Title 5 period to the general revision and enactment of Title 5 by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1964—Subsec. (b). Pub. L. 88–448 made section 301 of the Dual Compensation Act inapplicable and struck out provisions which referred to former section 62 of title 5 and section 6 of the act of May 10, 1916.

CHAPTER 25A—OVERSEAS DEFENSE DEPENDENTS' EDUCATION

Sec.

921. Defense dependents' education system.
922. Administration of defense dependents' education system.
923. Space-available enrollment of students; tuition.
923a. Enrollment of certain additional children on tuition-free basis.
924. Annual educational assessment.
925. Budget request for school construction funds for Director of Dependents' Education.
926. School system for dependents in overseas areas.
927. Allotment formula.
928. School advisory committees.
929. Advisory Council on Dependents' Education.
930. Study of defense dependents' education system.
931. Regulations; issuance and contents.
932. Definitions.

§921. Defense dependents' education system

(a) Establishment

The Secretary of Defense shall establish and operate a program (hereinafter in this chapter referred

to as the "defense dependents' education system") to provide a free public education through secondary school for dependents in overseas areas.

(b) Program purposes and activities

(1) The Secretary shall ensure that individuals eligible to receive a free public education under subsection (a) of this section receive an education of high quality.

(2) In establishing the defense dependents' education system under subsection (a) of this section, the Secretary shall provide programs designed to meet the special needs of—

(A) the handicapped,

(B) individuals in need of compensatory education,

(C) individuals with an interest in vocational education,

(D) gifted and talented individuals, and

(E) individuals of limited English-speaking ability.

(3) The Secretary shall provide a developmental preschool program to individuals eligible to receive a free public education under subsection (a) of this section who are of preschool age if a preschool program is not otherwise available for such individuals and if funds for such a program are available.

(c) Consultation requirements

The Secretary of Defense shall consult with the Secretary of Education on the educational programs and practices of the defense dependents' education system.

(d) Optional summer school programs

(1) The Secretary of Defense may provide optional summer school programs in the defense dependents' education system.

(2) The Secretary shall provide any summer school program under this subsection on the same financial basis as programs offered during the regular school year, except that the Secretary may charge reasonable fees for all or portions of such summer school programs to the extent that the Secretary determines appropriate.

(3) The amounts received by the Secretary in payment of the fees shall be available to the Department of Defense for defraying the costs of conducting summer school programs under this subsection.

(Pub. L. 95–561, title XIV, §1402, Nov. 1, 1978, 92 Stat. 2365; Pub. L. 99–145, title XII, §1204(b)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 102–484, div. A, title III, §382, Oct. 23, 1992, 106 Stat. 2392; Pub. L. 106–65, div. A, title III, §354(1), Oct. 5, 1999, 113 Stat. 572; Pub. L. 107–314, div. A, title III, §343, Dec. 2, 2002, 116 Stat. 2515.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this title", meaning title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, as amended, known as the Defense Dependents' Education Act of 1978, which enacted this chapter, section 489 of Title 37, Pay and Allowances of the Uniformed Services, and section 1769b of Title 42, The Public Health and Welfare, amended sections 1773 and 1789 of Title 42, and enacted provisions set out as notes under this section. For complete classification of this title to the Code, see Short Title note below and Tables.

AMENDMENTS

2002—Subsec. (d)(2). Pub. L. 107–314 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary shall provide in regulations for fees to be charged for the students enrolling in a summer school program under this subsection in amounts determined on the basis of family income."

1999—Subsec. (b)(1). Pub. L. 106–65 substituted "to receive" for "to recieve".

1992—Subsec. (d). Pub. L. 102–484 added subsec. (d).

1985—Subsec. (c). Pub. L. 99–145 added subsec. (c).

EFFECTIVE DATE

Pub. L. 95–561, title XIV, §1415, Nov. 1, 1978, 92 Stat. 2373, provided that:

"(a)(1) Except as provided in paragraph (2) this title [see Short Title note below] shall take effect on July 1, 1979.

"(2) Section 1407(b) [enacting section 926(b) of this title] and the amendments made by section 1407(c) [enacting section 429 of Title 37, Pay and Allowances of the Uniformed Services], 1408(a) [enacting section 1769b of Title 42, The Public Health and Welfare], and 1408(b) [amending sections 1773 and 1789 of Title 42] shall take effect on October 1, 1978.

"(b) Notwithstanding subsection (a) or any other provision of this title no provision of this title shall be construed to impair or prevent the taking effect of the provision of any other Act providing for the transfer of the functions described in this title to an executive department having responsibility for education."

SHORT TITLE

Pub. L. 95–561, title XIV, §1401, Nov. 1, 1978, 92 Stat. 2365, provided that: "This title [enacting this chapter, section 429 of Title 37, Pay and Allowances of the Uniformed Services, and section 1769b of Title 42, The Public Health and Welfare, amending sections 1773 and 1789 of Title 42, and enacting provisions set out as a note under this section] may be cited as the 'Defense Dependents' Education Act of 1978'."

REPORT ON CONDITION OF SCHOOLS UNDER JURISDICTION OF DEPARTMENT OF DEFENSE EDUCATION ACTIVITY

Pub. L. 110–181, div. B, title XXVIII, §2879, Jan. 28, 2008, 122 Stat. 564, provided that:

"(a) REPORT REQUIRED.—Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the conditions of schools under the jurisdiction of the Department of Defense Education Activity.

"(b) CONTENT.—The report required under subsection (a) shall include the following:

"(1) A description of each school under the control of the Secretary, including the location, year constructed, grades of attending children, maximum capacity, and current capacity of the school.

"(2) A description of the standards and processes used by the Secretary to assess the adequacy of the size of school facilities, the ability of facilities to support school programs, and the current condition of facilities.

"(3) A description of the conditions of the facility or facilities at each school, including the level of compliance with the standards described in paragraph (2), any existing or projected facility deficiencies or inadequate conditions at each facility, and whether any of the facilities listed are temporary structures.

"(4) An investment strategy planned for each school to correct deficiencies identified in paragraph (3), including a description of each project to correct such deficiencies, cost estimates, and timelines to complete each project.

"(5) A description of requirements for new schools to be constructed over the next 10 years as a result of changes to the population of military personnel.

"(c) USE OF REPORT AS MASTER PLAN FOR REPAIR, UPGRADE, AND CONSTRUCTION OF SCHOOLS.—The Secretary shall use the report required under subsection (a) as a master plan for the repair, upgrade, and construction of schools in the Department of Defense system that support dependents of members of the Armed Forces and civilian employees of the Department of Defense."

PILOT PROGRAM ON PRIVATE OPERATION OF DEFENSE DEPENDENTS' SCHOOLS

Pub. L. 104–106, div. A, title III, §355, Feb. 10, 1996, 110 Stat. 269, provided that:

"(a) PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program to evaluate the feasibility of using private contractors to operate schools of the defense dependents' education system established under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a)).

"(b) SELECTION OF SCHOOL FOR PROGRAM.—If the Secretary conducts the pilot program, the Secretary shall select one school of the defense dependents' education system for participation in the program and provide for the operation of the school by a private contractor for not less than one complete school year.

"(c) REPORT.—Not later than 30 days after the end of the first school year in which the pilot program is conducted, the Secretary shall submit to Congress a report on the results of the program. The report shall include the recommendation of the Secretary with respect to the extent to which other schools of the defense dependents' education system should be operated by private contractors."

§922. Administration of defense dependents' education system

(a) Operation; Director

The defense dependents' education system is operated through the field activity of the Department of Defense known as the Department of Defense Education Activity. That activity is headed by a Director, who is a civilian and is selected by the Secretary of Defense. The Director reports to an Assistant Secretary of Defense designated by the Secretary of Defense for purposes of this chapter.

(b) Implementation of program functions of Secretary of Defense through Director

Except with respect to the authority to prescribe regulations, the Secretary of Defense may carry out his functions under this chapter through the Director.

(c) Functions of Director

The Director shall—

(1) establish personnel policies, consistent with the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901 et seq.), for employees in the defense dependents' education system,

(2) have authority to transfer professional employees in the defense dependents' education system from one position to another,

(3) prepare a unified budget for each fiscal year, which shall include necessary funds for construction and operation and maintenance of facilities, for the defense dependents' education system for inclusion in the Department of Defense budget for that year,

(4) have authority to establish, in accordance with section 928 of this title, local school advisory committees,

(5) have authority to arrange for inservice and other training programs for employees in the defense dependents' education system, and

(6) perform such other functions as may be required or delegated by the Secretary of Defense or the Assistant Secretary of Defense designated under subsection (a) of this section.

(d) Establishment of regional or area offices; reports to Congress on reorganizations; authorized number of civilian employees

(1) The Director shall establish appropriate regional or area offices in order to provide for thorough and efficient administration of the defense dependents' education system.

(2) Whenever the Department of Defense Education Activity is reorganized in a manner that affects the defense dependents' education system, the Secretary of Defense shall submit a report to the Congress describing the reorganization.

(3) Subject to the approval of the Secretary of Defense, the Department of Defense Education Activity is authorized an appropriate number of civilian employees in its central office and such regional or area office as are established pursuant to paragraph (1).

(Pub. L. 95–561, title XIV, §1403, Nov. 1, 1978, 92 Stat. 2365; Pub. L. 106–65, div. A, title III, §354(2), Oct. 5, 1999, 113 Stat. 572; Pub. L. 106–398, §1 [[div. A], title X, §1087(g)(8)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294.)

REFERENCES IN TEXT

The Defense Department Overseas Teachers Pay and Personnel Practices Act, referred to in subsec. (c)(1), is Pub. L. 86–91, July 17, 1959, 73 Stat. 213, as amended, which is classified generally to chapter 25 (§901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

AMENDMENTS

2000—Subsec. (c)(6). Pub. L. 106–398 struck out "the" before "the Assistant Secretary of Defense".

1999—Pub. L. 106–65, §354(2)(A), amended section catchline.

Subsec. (a). Pub. L. 106–65, §354(2)(A), added subsec. (a) and struck out former subsec. (a) which read as follows:

"(1) There is established within the Department of Defense an office to be known as the Office of Dependents' Education.

"(2) The Office of Dependents' Education shall be headed by a Director of Dependents' Education (hereinafter in this chapter referred to as the 'Director'), who shall be a civilian and who shall be selected by

the Secretary of Defense and shall report to the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics."

Subsec. (b). Pub. L. 106–65, §354(2)(B), made technical amendment to reference in original act which appears in text as reference to this chapter.

Subsec. (c)(1). Pub. L. 106–65, §354(2)(C), inserted "(20 U.S.C. 901 et seq.)" after "Personnel Practices Act".

Subsec. (c)(2). Pub. L. 106–65, §354(2)(D), substituted a comma for the period at end.

Subsec. (c)(6). Pub. L. 106–65, §354(2)(E), substituted "the Assistant Secretary of Defense designated under subsection (a) of this section" for "Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics".

Subsec. (d)(1). Pub. L. 106–65, §354(2)(F), struck out "for the Office of Dependents' Education" after "area offices".

Subsec. (d)(2). Pub. L. 106–65, §354(2)(G), struck out first sentence which read: "Not later than six months after November 1, 1978, the Secretary of Defense shall submit to the Congress a report (A) describing the organization of the Office of Dependents' Education in accordance with paragraph (1), (B) describing the assignment of personnel to the central office of the Office of Dependents' Education and to such regional or area offices as are established pursuant to paragraph (1), and (C) detailing the personnel requirements of the defense dependents' education system." and substituted "Whenever the Department of Defense Education Activity" for "Whenever the Office of Dependents' Education", "in a manner that affects the defense dependents' education system" for "after the submission of the report required under the preceding sentence", and "a report" for "an additional report".

Subsec. (d)(3). Pub. L. 106–65, §354(2)(H), substituted "the Department of Defense Education Activity" for "the Office of Dependents' Education".

§923. Space-available enrollment of students; tuition

(a) Enrollment of ineligible child in system school

Subject to subsection (b) of this section and in accordance with regulations issued under subsection (c) of this section, the Director may authorize the enrollment in a school of the defense dependents' education system of a child not otherwise eligible to enroll in such a school if and to the extent that there is space available for such child in the school.

(b) Determination of amount of tuition; use of payments

(1) Except as otherwise provided under subsection (c) of this section, any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section.

(2) Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.

(c) Regulations respecting enrollment requirements

(1) The Secretary of Defense may by regulation identify classes of children who shall be eligible to enroll in schools of the defense dependents' education system under this section if and to the extent that there is space available, establish priorities among such classes, waive the tuition requirement of subsection (b)(1) of this section with respect to any such class, and issue such other regulations as may be necessary to carry out this section.

(2)(A) The Secretary shall include in the regulations prescribed under this subsection a requirement that children in the class of children described in subparagraph (B) shall be subject to the same tuition requirements, or waiver of tuition requirements, as children in the class of children described in subparagraph (C).

(B) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10;

(ii) were ordered to active duty from a location in the United States (other than in Alaska or Hawaii); and

(iii) are serving on active duty outside the United States or in Alaska or Hawaii.

(C) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10;

(ii) were ordered to active duty from a location outside the United States (or in Alaska or Hawaii); and

(iii) are serving on active duty outside the United States or in Alaska or Hawaii.

(d) Enrollment of certain children in overseas schools

(1) The Secretary of Defense may authorize the enrollment in schools of the defense dependents' education system of children in the following classes:

(A) Children of officers and employees of the United States (other than civilian officers and employees who are sponsors under section 932(2) of this title) stationed in overseas areas.

(B) Children of employees of contractors employed in carrying out work for the United States in overseas areas.

(C) Children of other citizens or nationals of the United States or of foreign nationals, if the Secretary determines that enrollment of such children is in the national interest.

(2) Notwithstanding subsection (c) of this section, the Secretary may not waive the tuition requirements of subsection (b)(1) of this section with respect to children referred to in paragraph (1).

(Pub. L. 95–561, title XIV, §1404, Nov. 1, 1978, 92 Stat. 2366; Pub. L. 99–145, title XII, §1205, Nov. 8, 1985, 99 Stat. 721; Pub. L. 101–189, div. A, title III, §325(b), Nov. 29, 1989, 103 Stat. 1415; Pub. L. 108–136, div. A, title V, §563, Nov. 24, 2003, 117 Stat. 1483.)

AMENDMENTS

2003—Pub. L. 108–136, §563(b), substituted "Space-available enrollment of students; tuition" for "Tuition-paying students" in section catchline.

Subsec. (c). Pub. L. 108–136, §563(a), designated existing provisions as par. (1) and added par. (2).

1989—Subsec. (d)(1)(A). Pub. L. 101–189 substituted "(other than civilian officers and employees who are sponsors under section 932(2) of this title)" for "(including employees of nonappropriated fund activities of the Department of Defense)".

1985—Subsec. (d). Pub. L. 99–145 added subsec. (d).

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title III, §325(c), Nov. 29, 1989, 103 Stat. 1415, provided that: "The amendments made by this section [amending this section and section 932 of this title] shall apply with respect to periods of enrollment in schools of the defense dependents' education system beginning after September 30, 1989."

§923a. Enrollment of certain additional children on tuition-free basis

(a) Enrollment authorized

Under regulations to be prescribed by the Secretary of Defense, the Secretary may authorize the enrollment in schools of the defense dependents' education system on a tuition-free basis of—

(1) the children of full-time, locally-hired employees of the Department of Defense in an overseas area if such employees are citizens or nationals of the United States; and

(2) the children of a foreign military member assigned to the Supreme Headquarters Allied Powers, Europe, but only in a school of the defense dependents' education system in Mons, Belgium.

(b) Funding

The Secretary may use funds available for the defense dependents' education system to provide for the education of children enrolled in the defense dependents' education system under subsection (a).

(c) Special rules regarding enrollment of dependents of foreign military members assigned to

Supreme Headquarters Allied Powers, Europe

(1) In the regulations required by subsection (a), the Secretary shall prescribe a methodology based on the estimated total number of dependents of sponsors under section 932(2) of this title enrolled in schools of the defense dependents' education system in Mons, Belgium, to determine the number of children described in paragraph (2) of subsection (a) who will be authorized to enroll under such subsection. The Secretary shall prescribe such methodology with the advice and assistance of the commander of the geographic combatant command with jurisdiction over Mons, Belgium.

(2) If the number of children described in paragraph (2) of subsection (a) who seek enrollment in schools of the defense dependents' education system in Mons, Belgium, exceeds the number authorized by the Secretary under paragraph (1), the Secretary may enroll the additional children on a space-available, tuition-free basis notwithstanding section 923(d)(2) of this title.

(Pub. L. 95–561, title XIV, §1404A, as added Pub. L. 109–163, div. A, title V, §571, Jan. 6, 2006, 119 Stat. 3270; amended Pub. L. 109–364, div. A, title V, §571(a), Oct. 17, 2006, 120 Stat. 2225; Pub. L. 110–181, div. A, title X, §1063(e)(1), Jan. 28, 2008, 122 Stat. 323; Pub. L. 111–84, div. A, title V, §535, Oct. 28, 2009, 123 Stat. 2292.)

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111–84, §535(a), struck out ", and only through the 2010–2011 school year" before period at end.

Subsec. (c)(1). Pub. L. 111–84, §535(b), inserted at end "The Secretary shall prescribe such methodology with the advice and assistance of the commander of the geographic combatant command with jurisdiction over Mons, Belgium."

2008—Pub. L. 110–181, §1063(e)(1), made technical correction to directory language of Pub. L. 109–163, §571, which enacted this section.

2006—Subsec. (a). Pub. L. 109–364, §571(a)(1), substituted "basis of—" for "basis of", designated part of existing provisions as par. (1), substituted "; and" for period at end, and added par. (2).

Subsec. (c). Pub. L. 109–364, §571(a)(2), added subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title X, §1063(e), Jan. 28, 2008, 122 Stat. 323, provided that the amendment made by section 1063(e) of Pub. L. 110–181 is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

§924. Annual educational assessment

(a) Contents

The Director shall assess each year the performance of the defense dependents' education system in providing an education of high quality to children enrolled in the system. Such assessment may include the use of educational assessment measures and such other means as the Director determines to be suitable for assessing student performance.

(b) Availability

The results of each annual assessment under subsection (a) of this section with respect to an individual enrolled in the defense dependents' education system shall be made available to the sponsor of such individual, and summary results of each such annual assessment shall be made available to Members of Congress and to professional employees in the system.

(Pub. L. 95–561, title XIV, §1405, Nov. 1, 1978, 92 Stat. 2366.)

§925. Budget request for school construction funds for Director of Dependents' Education

The President shall include in his budget for each fiscal year a separate request for funds for

construction of school facilities by the Director.

(Pub. L. 95–561, title XIV, §1406, Nov. 1, 1978, 92 Stat. 2367.)

§926. School system for dependents in overseas areas

(a) Establishment and operation

The Secretary of Defense shall establish and operate a school system for dependents in overseas areas as part of the defense dependents' education system.

(b) Tuition and assistance when schools unavailable

(1) Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary may provide tuition to allow dependents in an overseas area where a school operated by the Secretary is not reasonably available to attend schools other than schools established under subsection (a) of this section on a tuition-free basis. Schools to which tuition may be paid under this subsection may include private boarding schools in the United States. Any school to which tuition is paid under this subsection to allow a dependent in an overseas area to attend such school shall provide an educational program satisfactory to the Secretary.

(2)(A) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service of the Navy, may provide financial assistance to sponsors of dependents in overseas areas where schools operated by the Secretary of Defense under subsection (a) of this section are not reasonably available in order to assist the sponsors to defray the costs incurred by the sponsors for the attendance of the dependents at schools in such areas other than schools operated by the Secretary of Defense.

(B) The Secretary of Defense and the Secretary of Homeland Security shall each prescribe regulations relating to the availability of financial assistance under subparagraph (A). Such regulations shall, to the maximum extent practicable, be consistent with Department of State regulations relating to the availability of financial assistance for the education of dependents of Department of State personnel overseas.

(c) Continuation of enrollment for certain dependents of members of Armed Forces involuntarily separated

(1) A member of the Armed Forces serving on active duty on September 30, 1990, who is involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, 2001, and who has a dependent described in paragraph (2) who is enrolled in a school of the defense dependents' education system (or a school for which tuition is provided under subsection (b) of this section) on the date of that separation shall be eligible to enroll or continue the enrollment of that dependent at that school (or another school serving the same community) for the final year of secondary education of that dependent in the same manner as if the member were still on active duty.

(2) A dependent referred to in paragraph (1) is a dependent who on the date of the separation of the member has completed the eleventh grade and is likely to complete secondary education within the one-year period beginning on that date.

(d) Auxiliary services available to home school students

(1) A dependent who is educated in a home school setting, but who is eligible to enroll in a school of the defense dependents' education system, shall be permitted to use or receive auxiliary services of that school without being required to either enroll in that school or register for a minimum number of courses offered by that school. The dependent may be required to satisfy other eligibility requirements and comply with standards of conduct applicable to students actually enrolled in that school who use or receive the same auxiliary services.

(2) For purposes of paragraph (1), the term "auxiliary services" includes use of academic resources, access to the library of the school, after hours use of school facilities, and participation in music, sports, and other extracurricular and interscholastic activities.

(Pub. L. 95–561, title XIV, §1407, Nov. 1, 1978, 92 Stat. 2367; Pub. L. 101–510, div. A, title V,

§504(a), Nov. 5, 1990, 104 Stat. 1559; Pub. L. 103–160, div. A, title V, §561(n), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 105–261, div. A, title V, §561(k), title VI, §657, Oct. 17, 1998, 112 Stat. 2026, 2054; Pub. L. 106–398, §1 [[div. A], title V, §571(k)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 107–107, div. A, title III, §353, Dec. 28, 2001, 115 Stat. 1063; Pub. L. 107–296, title XVII, §1704(e)(7), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 110–181, div. A, title V, §574, Jan. 28, 2008, 122 Stat. 120.)

CODIFICATION

Section is comprised of section 1407 of Pub. L. 95–561. Subsec. (e), formerly subsec. (c), of section 1407 enacted section 489 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–181 inserted after first sentence "Schools to which tuition may be paid under this subsection may include private boarding schools in the United States."

2002—Subsec. (b)(2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" in two places.

2001—Subsec. (d). Pub. L. 107–107 added subsec. (d) and redesignated former subsec. (d) as (e). See Codification note above.

2000—Subsec. (c)(1). Pub. L. 106–398 substituted "December 31, 2001" for "September 30, 2001".

1998—Subsec. (b). Pub. L. 105–261, §657, inserted heading, designated existing provisions as par. (1), substituted "Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary" for "Under such circumstances as he may by regulation prescribe, the Secretary of Defense", and added par. (2).

Subsec. (c)(1). Pub. L. 105–261, §561(k), substituted "during the period beginning on October 1, 1990, and ending on September 30, 2001" for "during the nine-year period beginning on October 1, 1990".

1993—Subsec. (c)(1). Pub. L. 103–160 substituted "nine-year period" for "five-year period".

1990—Subsec. (c). Pub. L. 101–510 added subsec. (c) and redesignated former subsec. (c) as (d). See Codification note above.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§927. Allotment formula

(a) Establishment by regulation of minimum allotment formula; criteria

The Director shall by regulation establish a formula for determining the minimum allotment of funds necessary for the operation of each school in the defense dependents' education system. In establishing such formula, the Director shall take into consideration—

(1) the number of students served by a school and the size of the school;

(2) special cost factors for a school, including—

(A) geographic isolation of the school,

(B) a need for special staffing, transportation, or educational programs at the school, and

(C) unusual food and housing costs,

(3) the cost of providing academic services of a high quality as required by section 921(b)(1) of this title; and

(4) such other factors as the Director considers appropriate.

(b) Issuance, etc., of regulations

Any regulation under subsection (a) of this section shall be issued, and shall become effective, in accordance with the procedures applicable to regulations required to be issued by the Secretary of Education in accordance with section 1232 of this title.

(c) Applicability of certain provisions

(1) Children with disabilities

Notwithstanding the provisions of section 921(b)(3) of this title, the provisions of part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.], other than the funding and reporting provisions, shall apply to all schools operated by the Department of Defense under this chapter, including the requirement that children with disabilities, aged 3 to 5, inclusive, receive a free appropriate public education.

(2) Infants and toddlers with disabilities

The responsibility to provide comparable early intervention services to infants and toddlers with disabilities and their families in accordance with individualized family service plans described in section 636 of the Individuals with Disabilities Education Act [20 U.S.C. 1436] and to comply with the procedural safeguards set forth in part C of such Act [20 U.S.C. 1431 et seq.] shall apply with respect to all eligible dependents overseas.

(3) Implementation

In carrying out paragraph (2), the Secretary shall have in effect a comprehensive, coordinated, multidisciplinary program of early intervention services for infants and toddlers with disabilities among Department of Defense entities involved in the provision of such services to such individuals.

(Pub. L. 95–561, title XIV, §1409, Nov. 1, 1978, 92 Stat. 2369; Pub. L. 102–119, §24, Oct. 7, 1991, 105 Stat. 605; Pub. L. 106–65, div. A, title III, §354(3), Oct. 5, 1999, 113 Stat. 573; Pub. L. 108–446, title III, §305(b), Dec. 3, 2004, 118 Stat. 2804.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c)(1), (2), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Parts B and C of the Act are classified generally to subchapters II (§1411 et seq.) and III (§1431 et seq.), respectively, of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

2004—Subsec. (c)(2). Pub. L. 108–446 substituted "section 636" for "section 677" and "part C" for "part H".

1999—Subsec. (b). Pub. L. 106–65, §354(3)(A), substituted "Secretary of Education" for "Department of Health, Education, and Welfare" and made technical amendment to reference in original act which appears in text as reference to section 1232 of this title.

Subsec. (c)(1). Pub. L. 106–65, §354(3)(B), struck out "by academic year 1993–1994" after "public education".

Subsec. (c)(3). Pub. L. 106–65, §354(3)(C), substituted "Implementation" for "Implementation timelines" in heading, substituted "In carrying out paragraph (2), the Secretary shall have in effect a comprehensive" for "In carrying out the provisions of paragraph (2), the Secretary shall—", struck out the subpar. (A) designation and "in academic year 1991–1992 and the 2 succeeding academic years, plan and develop a comprehensive" before ", coordinated", substituted a period for the semicolon after "such individuals", and struck out subpars. (B) and (C) which related to implementation in academic years 1994–1995, 1995–1996, and succeeding academic years.

1991—Subsec. (c). Pub. L. 102–119 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The provisions of the Education for All Handicapped Children Act of 1975 shall apply with respect to all schools operated by the Department of Defense under this chapter."

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–119, §27, Oct. 7, 1991, 105 Stat. 608, provided that:

"(a) SECTIONS 8, 9, AND 10.—The amendments made by sections 8, 9, and 10 [amending sections 1423, 1431, 1434, and 1435 of this title] shall take effect on October 1, 1991, or on the date of enactment of this Act [Oct. 7, 1991], whichever is later.

"(b) SECTIONS 5, 12, 13, 14, 15, 17, AND 18.—The amendments made by sections 5, 12, 13, 14, 15, 17, and 18 [amending sections 1413, 1472, 1476, 1477, 1478, 1480, and 1482 of this title] shall take effect July 1, 1992, except that each State shall have the option to have any of the amendments apply earlier than such date.

"(c) REMAINING PROVISIONS.—The remaining sections of this Act [enacting section 1484a of this title,

amending this section, sections 241, 1087ee, 1400 to 1402, 1404, 1405, 1407, 1411 to 1417, 1419, 1421 to 1425, 1431 to 1433, 1435, 1442, 1443, 1451, 1452, 1461, 1471 to 1473, and 1475 to 1485 of this title, sections 2503 and 2504 of Title 25, Indians, sections 721, [former] 774, 777a, 795m, and 796d of Title 29, Labor, and sections 1396b, 1396n, 6022, 6024, 9835, 9855d, 9862, and 9886 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 1400 and 1484 of this title] and the amendments made by such sections shall take effect on the date of the enactment of this Act [Oct. 7, 1991]."

§928. School advisory committees

(a) Establishment; functions; membership

(1) The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation of the school, may make recommendations with respect to curriculum and budget matters, and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander. The membership of each such advisory committee shall include an equal number of parents of students enrolled in the school and of employees working at the school and, when appropriate, may include a student enrolled in the school. The membership of each such advisory committee shall also include one nonvoting member designated by the organization recognized as the exclusive bargaining representative of the employees working at the school.

(2) In the case of any military installation or overseas area where there is more than one school in the defense dependents' education system, the Director shall provide for the establishment of an advisory committee for such military installation or overseas area to advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

(b) Election of members; regulations respecting qualifications and election procedures

Except in the case of a nonvoting member designated under the last sentence of subsection (a)(1) of this section, members of a school advisory committee established under this section shall be elected by individuals of voting age residing in the area to be served by the advisory committee. The Secretary of Defense shall by regulation prescribe the qualifications for election to an advisory committee and procedures for conducting elections of advisory committee members.

(c) Members to serve without pay

Members of school advisory committees established under this section shall serve without pay.

(Pub. L. 95–561, title XIV, §1410, Nov. 1, 1978, 92 Stat. 2369; Pub. L. 96–88, title V, §508(j)(1), (2), Oct. 17, 1979, 93 Stat. 693; Pub. L. 99–145, title XII, §1204(b)(2), Nov. 8, 1985, 99 Stat. 720.)

AMENDMENTS

1985—Subsec. (a)(1). Pub. L. 99–145, §1204(b)(2)(A), included as member of the advisory committee the designee of the exclusive bargaining representative of the employees.

Subsec. (b). Pub. L. 99–145, §1204(b)(2)(B), (C), substituted "Except in the case of a nonvoting member designated under the last sentence of subsection (a)(1) of this section, members" for "Members" and "The Secretary of Defense" for "The Secretary of Education, in consultation with the Secretary of Defense,".

1979—Subsec. (a)(1). Pub. L. 96–88, §508(j)(1), substituted "parents" for "representatives of sponsors".

Subsec. (b). Pub. L. 96–88, §508(j)(2), empowered the Secretary of Education, in consultation with the Secretary of Defense, to prescribe election qualifications and procedures in regard to advisory committees rather than vesting such power in the Secretary of Defense exclusively.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–88, effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§929. Advisory Council on Dependents' Education

(a) Establishment; membership; Director

(1) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the "Council"). The Council shall be composed of—

(A) the Secretary of Defense and the Secretary of Education, or their respective designees;

(B) 12 individuals appointed jointly by the Secretary of Defense and the Secretary of Education who shall be individuals who have demonstrated an interest in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, and parents of students enrolled in the defense dependents' education system and the domestic dependent elementary and secondary schools established under section 2164 of title 10, and one student enrolled in either such system; and

(C) a representative of the Secretary of Defense and of the Secretary of Education.

(2) Individuals appointed to the Council from professional employee organizations shall be individuals designated by those organizations.

(3) The Secretary of Defense, or the Secretary's designee, and the Secretary of Education, or the Secretary's designee, shall serve as cochairmen of the Council.

(4) The Director shall be the Executive Secretary of the Council.

(b) Terms of office of members

The term of office of each member of the Council appointed under subsection (a)(2) of this section shall be three years, except that—

(1) of the members first appointed under such paragraph, four shall serve for a term of one year, four shall serve for a term of two years, and four shall serve for a term of three years, as determined by the Secretary of Defense and the Secretary of Education at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

No member appointed under subsection (a)(2) of this section shall serve more than two full terms on the Council.

(c) Meetings; functions

The Council shall meet at least two times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system, and of the domestic dependent elementary and secondary school system established under section 2164 of title 10, with respect to curriculum selection, administration, and operation of the system,

(2) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system and in the domestic dependent elementary and secondary school system,

(3) advise the Director on the design of the study and the selection of the contractor referred to in section 930(a)(2) of this title, and

(4) perform such other tasks as may be required by the Secretary of Defense.

(d) Compensation, etc., of members

Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, including traveltime, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Government service.

(e) Termination

The Council shall continue in existence until terminated by law.

(Pub. L. 95–561, title XIV, §1411, Nov. 1, 1978, 92 Stat. 2370; Pub. L. 96–88, title V, §508(j)(3)–(8), Oct. 17, 1979, 93 Stat. 693, 694; Pub. L. 99–145, title XII, §1204(b)(3)–(5), Nov. 8, 1985, 99 Stat. 720, 721; Pub. L. 106–65, div. A, title III, §354(4), Oct. 5, 1999, 113 Stat. 573; Pub. L. 113–291, div. A, title V, §565, Dec. 19, 2014, 128 Stat. 3384.)

AMENDMENTS

2014—Subsec. (a)(1)(B). Pub. L. 113–291, §565(b), inserted "and the domestic dependent elementary and secondary schools established under section 2164 of title 10" after "the defense dependents' education system" and "either" after "one student enrolled in".

Subsec. (c)(1). Pub. L. 113–291, §565(a)(1), inserted ", and of the domestic dependent elementary and secondary school system established under section 2164 of title 10," after "of the defense dependents' education system".

Subsec. (c)(2). Pub. L. 113–291, §565(a)(2), inserted "and in the domestic dependent elementary and secondary school system" before comma at end.

1999—Subsec. (d). Pub. L. 106–65 substituted "level IV of the Executive Schedule under section 5315 of title 5" for "grade GS–18 in section 5332 of title 5".

1985—Subsec. (a). Pub. L. 99–145, §1204(b)(3)(A), amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: "There is established in the Department of Education an Advisory Council on Dependents' Education (hereinafter in this section referred to as the 'Council'). The Council shall be composed of—

"(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, and the Administrator of Education for Overseas Dependents of such department, who shall be co-chairman of the Council;

"(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

"(3) a representative of the Secretary of Education and of the Secretary of Defense.

The Director shall be the Executive Secretary of the Council."

Subsec. (b)(1). Pub. L. 99–145, §1204(b)(4), inserted reference to Secretary of Defense.

Subsec. (c). Pub. L. 99–145, §1204(b)(5)(A), substituted "two times each year" for "four times each year" in provisions before par. (1).

Subsec. (c)(2), (3). Pub. L. 99–145, §1204(b)(5)(B), (C), redesignated par. (3) as (2), and struck out par. (2) which required the Council to make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under this chapter to the Secretary and Department of Education.

Subsec. (c)(4), (5). Pub. L. 99–145, §1204(b)(5)(C), (D), redesignated par. (5) as (4), and substituted Secretary of Defense for Secretary of Education. Former par. (4) redesignated (3).

1979—Subsec. (a). Pub. L. 96–88, §508(j)(3), substituted "Department of Education" for "Department of Defense" in text preceding par. (1).

Subsec. (a)(1). Pub. L. 96–88, §508(j)(4), provided that the Administrator of Education for Overseas Dependents of the Department of Education was to be a member of the council and its co-chairman.

Subsec. (a)(2). Pub. L. 96–88, §508(j)(5), substituted "Secretary of Education" for "Assistant Secretary", "demonstrated an interest" for "versed by training or experience", "parents of dependents" for "sponsors of students", and "dependents' education system" for "defense dependents' education system".

Subsec. (a)(3). Pub. L. 96–88, §508(j)(5), required membership on the Council for representatives of the Secretaries of Education and Defense and struck out requirements for representation of the Commissioner of Education, Director of the National Institute of Education, Director of the Educational Directorate of the National Science Foundation, Chairman of the National Endowment for the Arts, Chairman of the National Endowment for the Humanities, and the Secretaries of the military departments.

Subsec. (b)(1). Pub. L. 96–88, §508(j)(6), substituted "Secretary of Education" for "Assistant Secretary".

Subsec. (c)(2) to (5). Pub. L. 96–88, §508(j)(7), (8), added par. (2), redesignated former pars. (2), (3), and (4) as (3), (4), and (5), respectively, and in par. (5), as so redesignated, substituted "Secretary of Education" for "Assistant Secretary".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§930. Study of defense dependents' education system

(a) Scope; conduct and report to Director by contractor

(1) The Director may from time to time, but not more frequently than once a year, provide for a comprehensive study of the entire defense dependents' education system. Any such study shall include a detailed analysis of the education programs and the facilities of the system.

(2) Any study under paragraph (1) shall be conducted by a contractor selected by the Director after an open competition. After conducting such study, the contractor shall submit a report to the Director describing the results of the study and giving its assessment of the defense dependents' education system.

(b) Consultation requirements respecting study specifications and contractor selection

In designing the specifications for any study to be conducted pursuant to subsection (a)(1) of this section, and in selecting a contractor to conduct such study under subsection (a)(2) of this section, the Director shall consult with the Advisory Council on Dependents' Education established under section 929 of this title.

(c) Reporting requirements of Director

The Director shall submit to the Congress any report submitted to him under subsection (a)(2) of this section describing the results of a study carried out pursuant to subsection (a)(1) of this section, together with the recommendations, if any, of the contractor for legislation or any increase in funding needed to improve the defense dependents' education system. Notwithstanding any law, rule, or regulation to the contrary, such report shall not be submitted to any review before its transmittal to the Congress, but the Secretary of Defense shall, at the time of the transmittal of such report, submit to the Congress such recommendations as he may have with respect to legislation or any increase in funding needed to improve the defense dependents' education system.

(Pub. L. 95–561, title XIV, §1412, Nov. 1, 1978, 92 Stat. 2371; Pub. L. 96–46, §2(a)(8), Aug. 6, 1979, 93 Stat. 340; Pub. L. 106–65, div. A, title III, §354(5), Oct. 5, 1999, 113 Stat. 573.)

AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106–65, §354(5)(A), substituted "The Director may from time to time, but not more frequently than once a year, provide for" for "As soon as practicable after November 1, 1978, the Director shall provide for" and "system. Any such study" for "system, which".

Subsec. (a)(2). Pub. L. 106–65, §354(5)(B), substituted "Any study under paragraph (1)" for "The study required by this subsection" and struck out "not later than two years after July 1, 1979," after "shall submit a report to the Director".

Subsec. (b). Pub. L. 106–65, §354(5)(C), substituted "any study" for "the study".

Subsec. (c). Pub. L. 106–65, §354(5)(D), substituted "any report" for "not later than one year after July 1, 1979, the report" and "a study" for "the study".

Subsec. (d). Pub. L. 106–65, §354(5)(E), struck out subsec. (d) which read as follows: "The Director may provide for additional studies of the defense dependents' education system to be conducted in accordance with

the provisions of this section, but such studies shall not be conducted more frequently than once a year. A report of each study shall be submitted to the Congress in accordance with subsection (c) of this section, and the second sentence of such subsection shall apply with respect to the transmission of each such report."

1979—Subsec. (a)(2). Pub. L. 96–46 substituted "two years after July 1, 1979" for "one year after July 1, 1979".

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–46, §8, Aug. 6, 1979, 93 Stat. 343, provided that: "The amendments made by this Act [enacting section 3164 of this title, amending this section, sections 240, 241–1, 1211a, 1221–3, 1221h, 1226c, 1232g, 2308, 2310, 2603, 2721, 2733 to 2735, 2740, 2762, 2763, 2772, 2782, 2902, 3084, 3163, 3200, 3289, 3381 to 3386 of this title, and sections 2001, 2002, 2006, 2008, 2012 of Title 25, Indians, enacting a provision set out as a note under section 1221e of this title, and amending provisions set out as notes under sections 236, 1211b, 1221–1, 1231a, and 2701 of this title and section 13 of Title 25] shall take effect October 1, 1978."

§931. Regulations; issuance and contents

The Secretary of Defense shall issue regulations to carry out this chapter. Such regulations shall—

(1) prescribe the educational goals and objectives of the defense dependents' education system,

(2) establish standards for the development of curricula for the system and for the selection of instructional materials,

(3) prescribe professional standards for professional personnel employed in the system,

(4) provide for arrangements between the Director and commanders of military installations for necessary logistic support for schools of the system located on military installations,

(5) provide for a recertification program for professional personnel employed in the system, and

(6) provide for such other matters as may be necessary to ensure the efficient organization and operation of the defense dependents' education system.

(Pub. L. 95–561, title XIV, §1413, Nov. 1, 1978, 92 Stat. 2372; Pub. L. 106–65, div. A, title III, §354(6), Oct. 5, 1999, 113 Stat. 574.)

AMENDMENTS

1999—Subsec. (d). Pub. L. 106–65 substituted "The Secretary" for "Not later than 180 days after July 1, 1979, the Secretary" in introductory provisions.

§932. Definitions

For purposes of this chapter:

(1) The term "dependent" means a minor individual—

(A) who has not completed secondary schooling, and

(B) who is the child, stepchild, adopted child, ward, or spouse of a sponsor, or who is a resident in the household of a sponsor who stands in loco parentis to such individual and who receives one-half or more of his support from such sponsor.

(2) The term "sponsor" means a person—

(A) who is—

(i) a member of the Armed Forces serving on active duty, or

(ii) a full-time civilian officer or employee of the Department of Defense and a citizen or national of the United States; and

(B) who is authorized to transport dependents to or from an overseas area at Government expense and is provided an allowance for living quarters in that area.

(3) The term "overseas area" means any area situated outside the United States.

(4) The term "United States", when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States

(excluding the Trust Territory of the Pacific Islands and Midway Island).

(5) The term "involuntarily separated" has the meaning given that term in section 1141 of title 10.

(6) The term "Director" means the Director of the Department of Defense Education Activity.

(Pub. L. 95–561, title XIV, §1414, Nov. 1, 1978, 92 Stat. 2372; Pub. L. 101–189, div. A, title III, §325(a), Nov. 29, 1989, 103 Stat. 1415; Pub. L. 101–510, div. A, title V, §504(b), Nov. 5, 1990, 104 Stat. 1559; Pub. L. 106–65, div. A, title III, §354(7), Oct. 5, 1999, 113 Stat. 574.)

AMENDMENTS

1999—Par. (6). Pub. L. 106–65 added par. (6).

1990—Par. (5). Pub. L. 101–510 added par. (5).

1989—Par. (2). Pub. L. 101–189 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The term 'sponsor' means—

"(A) a member of the Armed Forces serving on active duty, or

"(B) a civilian officer or employee of the Department of Defense paid from appropriated funds."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–189 applicable with respect to periods of enrollment in schools of the defense dependents' education system beginning after Sept. 30, 1989, see section 325(c) of Pub. L. 101–189, set out as a note under section 923 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 26—SUPPORT AND SCHOLARSHIP IN HUMANITIES AND ARTS; MUSEUM SERVICES

SUBCHAPTER I—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Sec.

951. Declaration of findings and purposes.
952. Definitions.
953. National Foundation on the Arts and the Humanities.
954. National Endowment for the Arts.
954a. Access to the arts through support of education.
955. National Council on the Arts.
955a. Omitted.
955b. National Medal of Arts.
956. National Endowment for the Humanities.
956a. National Capital arts and cultural affairs; grant programs.
957. National Council on the Humanities.
957a. Omitted.
958. Federal Council on the Arts and the Humanities.
959. Administrative provisions.
959a. Gifts, bequests, and devises.
960. Authorization of appropriations.

SUBCHAPTER II—MUSEUM SERVICES

961 to 969. Omitted.

SUBCHAPTER I—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

§951. Declaration of findings and purposes

The Congress finds and declares the following:

(1) The arts and the humanities belong to all the people of the United States.

(2) The encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, are also appropriate matters of concern to the Federal Government.

(3) An advanced civilization must not limit its efforts to science and technology alone, but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.

(4) Democracy demands wisdom and vision in its citizens. It must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servants.

(5) It is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, State, regional, and private agencies and their organizations. In doing so, the Government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such funding should contribute to public support and confidence in the use of taxpayer funds. Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines.

(6) The arts and the humanities reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups.

(7) The practice of art and the study of the humanities require constant dedication and devotion. While no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent.

(8) The world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit.

(9) Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives, the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression.

(10) It is vital to a democracy to honor and preserve its multicultural artistic heritage as well as support new ideas, and therefore it is essential to provide financial assistance to its artists and the organizations that support their work.

(11) To fulfill its educational mission, achieve an orderly continuation of free society, and provide models of excellence to the American people, the Federal Government must transmit the achievement and values of civilization from the past via the present to the future, and make widely available the greatest achievements of art.

(12) In order to implement these findings and purposes, it is desirable to establish a National Foundation on the Arts and the Humanities.

(Pub. L. 89–209, §2, Sept. 29, 1965, 79 Stat. 845; Pub. L. 91–346, §2, July 20, 1970, 84 Stat. 443; Pub. L. 93–133, §2(a)(1), Oct. 19, 1973, 87 Stat. 462; renumbered title I, §2, and amended Pub. L. 98–306, §§2, 3, May 31, 1984, 98 Stat. 223; renumbered §2 and amended Pub. L. 99–194, title I, §§101(1), 102, Dec. 20, 1985, 99 Stat. 1332; Pub. L. 101–512, title III, §318 [title I, §101], Nov. 5, 1990, 104 Stat. 1960, 1961.)

AMENDMENTS

1990—Pub. L. 101–512 amended section generally, substituting provisions relating to declaration of

findings and purposes consisting of pars. (1) to (12) for provisions relating to declaration of purpose consisting of cls. (1) to (9).

1985—Cl. (2). Pub. L. 99–194, §102(1), struck out "man's" before "scholarly and cultural activity".

Cl. (3). Pub. L. 99–194, §102(2), inserted ", and access to the arts and the humanities," after "form of education" and substituted "people of all backgrounds and wherever located" for "men".

Cls. (8), (9). Pub. L. 99–194, §102(3)–(5), added cl. (8) and redesignated former cl. (8) as (9).

1984—Cls. (6) to (8). Pub. L. 98–306, §3, added cl. (6) and redesignated former cls. (6) and (7) as (7) and (8), respectively.

1973—Cl. (7). Pub. L. 93–133 struck out provisions relating to strengthening the responsibilities of the Office of Education with respect to education in the arts and the humanities.

1970—Cl. (2). Pub. L. 91–346 inserted "in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future".

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–512, title III, §318 [title IV, §403], Nov. 5, 1990, 104 Stat. 1960, 1977, provided that:

"(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act [probably means section, see Short Title of 1990 Amendment note below] and the amendments made by this Act shall take effect on October 1, 1990.

"(b) SPECIAL EFFECTIVE DATE.—The amendments made by sections 110, 204, and 301 [amending sections 960, 967, and 974 of this title] shall take effect on the date of the enactment of this Act [Nov. 5, 1990] or October 1, 1990, whichever is earlier."

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93–133, §2(b), Oct. 19, 1973, 87 Stat. 465, provided that: "The amendments made by subsection (a) [amending this section and sections 952 and 954 to 960 of this title and repealing sections 962 and 963 of this title] shall be effective on and after July 1, 1973."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–512, title III, §318, Nov. 5, 1990, 104 Stat. 1960, provided that: "This section [enacting sections 954a and 969 of this title, amending this section, sections 952, 954, 955, 956, 958, 959, 960, 963, 964, 965, 967, and 974 of this title, and section 5315 of Title 5, Government Organization and Employees, and enacting notes under this section and section 954 of this title] may be cited as the 'Arts, Humanities, and Museums Amendments of 1990'."

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–194, §1, Dec. 20, 1985, 99 Stat. 1332, provided that: "This Act [enacting section 177 of title 2, The Congress, amending this section and sections 952 to 955, 956, 957, 958 to 960, 963, 964, 967, 971, 972, and 974 of this title, enacting provisions set out as notes under sections 954 and 972 of this title, and amending provisions set out as a note under this section] may be cited as the 'Arts, Humanities, and Museums Amendments of 1985'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–306, §1, May 31, 1984, 98 Stat. 223, provided that: "This Act [enacting section 955b of this title and section 310 of Title 25, Indians, amending this section and sections 952 to 955, 956, 957, 958 to 960, 962, 963, 964, and 967 of this title, amending provisions set out as a note under this section and repealing provisions set out as notes under sections 960 and 967 of this title] may be cited as the 'National Foundation on the Arts and the Humanities Act Amendments of 1983'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–496, §1, Dec. 4, 1980, 94 Stat. 2583, provided that: "This Act [amending sections 952, 954, 955, 956, 957, 958 to 960, 962, 963, 964, 965, 967, 974, and 3473 of this title] may be cited as the 'Arts and Humanities Act of 1980'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–462, §1, Oct. 8, 1976, 90 Stat. 1971, provided: "That this Act [enacting sections 961 to 968 of this title, amending sections 954, 955, 956, 957, 958, 960, and 1867 of this title, and enacting provisions set out as notes under sections 956, 960, and 961 of this title] may be cited as the 'Arts, Humanities, and Cultural Affairs Act of 1976'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–133, §1, Oct. 19, 1973, 87 Stat. 461, provided: "That this Act [amending this section and sections 351a, 952, 954, 955, 956, 957, and 958 to 960 of this title, repealing sections 962 and 963 of this title, and enacting provisions set out as notes under this section and section 351a of this title] may be cited as the 'National Foundation on the Arts and the Humanities Amendments of 1973'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–346, §1, July 20, 1970, 84 Stat. 443, provided: "That this Act [amending this section and sections 952, 954, 955, 956, 957, and 958 to 960 of this title, repealing sections 781 to 788 and 790 of this title, and enacting provisions set out as notes under section 955 of this title and section 781 of this title] may be cited as 'The National Foundation on the Arts and the Humanities Amendments of 1970'."

SHORT TITLE

Pub. L. 89–209, §1, Sept. 29, 1965, 79 Stat. 845, as renumbered title I, §1, and amended by Pub. L. 98–306, §2, May 31, 1984, 98 Stat. 223; renumbered §1 and amended by Pub. L. 99–194, title I, §101, Dec. 20, 1985, 99 Stat. 1332, provided that: "This Act [enacting this subchapter, amending sections 784 to 786 of this title, repealing section 789 of this title, and enacting provisions formerly set out as a note under section 785 of this title] may be cited as the 'National Foundation on the Arts and the Humanities Act of 1965'."

SENSE OF CONGRESS REGARDING PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

Pub. L. 101–512, title III, §318 [title IV, §§401, 402], Nov. 5, 1990, 104 Stat. 1960, 1977, provided that:

"SEC. 401. SENSE OF CONGRESS.

"It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of subsidy, aid, or other Federal assistance under the Acts amended by this Act [probably means this section, see Short Title of 1990 Amendment note above] should, in expending that assistance, purchase American-made equipment and products.

"SEC. 402. NOTICE.

"Any entity that provides a form of subsidy, aid, or other Federal assistance under the Acts amended by this Act shall provide to each recipient of such form of subsidy, aid, or other Federal assistance a notice describing the sense of the Congress stated under section 401."

1979 WHITE HOUSE CONFERENCE ON THE ARTS

Pub. L. 95–272, title I, §§101–109, May 3, 1978, 92 Stat. 222–224, called for a White House Conference on the Arts to be held no later than Dec. 31, 1979, to help develop a climate in which the arts can flourish and to formulate recommendations relating to the appropriate growth of the arts in all parts of the Nation, established a National Conference Planning Council on the Arts to provide guidance and planning for the Conference, directed the Council to submit a report of the Conference to the President and to the Congress no later than 180 days following the date on which the Conference was called, and provided the Council cease to exist 180 days, unless extended by the President, but in no event to exceed one year, after submission of the report.

1979 WHITE HOUSE CONFERENCE ON THE HUMANITIES

Pub. L. 95–272, title II, §§201–209, May 3, 1978, 92 Stat. 224–226, called for a White House Conference on the Humanities to be held no later than Dec. 31, 1979, to help develop a climate in which the humanities can flourish and to formulate recommendations relating to the appropriate growth of the humanities in all parts of the Nation, established a National Planning Council on the Humanities to provide guidance and planning for the Conference, directed the Council to submit a report of the Conference to the President and to the Congress no later than 180 days following the date on which the Conference was called, and provided the Council cease to exist 180 days, unless extended by the President, but in no event to exceed one year, after submission of the report.

EXECUTIVE ORDER NO. 12275

Ex. Ord. No. 12275, Jan. 16, 1981, 46 F.R. 5857, which established the Design Liaison Council and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §10, Aug. 17, 1982, 47 F.R. 36099, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§952. Definitions

As used in this subchapter—

(a) The term "humanities" includes, but is not limited to, the study and interpretation of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, and theory of the arts; those aspects of the social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to reflecting our diverse heritage, traditions, and history and to the relevance of the humanities to the current conditions of national life.

(b) The term "the arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, film, video, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, all those traditional arts practiced by the diverse peoples of this country.[1] and the study and application of the arts to the human environment.

(c) The term "production" means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, television, radio, film, video, and tape and sound recordings, and any other activities involving the execution or rendition of the arts and meeting such standards as may be approved by the National Endowment for the Arts established by section 954 of this title.

(d) The term "project" means programs organized to carry out the purposes of this subchapter, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance the widest public knowledge and understanding of the arts, and includes, where appropriate, rental or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes—

(1) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $250,000, or (B) two-thirds of the members of the National Council on the Arts or the National Council on the Humanities, as the case may be (who are present and voting) approve of the grant or contract involving an expenditure for such purpose; and

(2) for purposes of sections 954(p), 956(c)(10), and 956(h) of this title only, the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic or humanistic purpose, and (B) two-thirds of the members of the National Council on the Arts and the National Council on the Humanities, as the case may be, (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.

(e) The term "group" includes any State or other public agency, and any nonprofit society, institution, organization, association, museum, or establishment in the United States, whether or not incorporated.

(f) The term "workshop" means an activity the primary purpose of which is to encourage the artistic development or enjoyment of amateur, student, or other nonprofessional participants, or to promote scholarship and teaching among the participants.

(g) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(h) The term "local arts agency" means a community organization, or an agency of local government, that primarily provides financial support, services, or other programs for a variety of artists and arts organizations, for the benefit of the community as a whole.

(i) The term "developing arts organization" means a local arts organization of high artistic promise which—

(1) serves as an important source of local arts programming in a community; and

(2) has the potential to develop artistically and institutionally to broaden public access to the arts in rural and innercity areas and other areas that are underserved artistically.

(j) The term "determined to be obscene" means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

(k) The term "final judgment" means a judgment that is either—

(1) not reviewed by any other court that has authority to review such judgment; or

(2) is not reviewable by any other court.

(l) The term "obscene" means with respect to a project, production, workshop, or program that—

(1) the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;

(2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way; and

(3) such project, production, workshop, or program, when taken as a whole, lacks serious literary, artistic, political, or scientific value.

(Pub. L. 89–209, §3, Sept. 29, 1965, 79 Stat. 845; Pub. L. 90–348, §§1, 7, June 18, 1968, 82 Stat. 184, 187; Pub. L. 91–346, §3, July 20, 1970, 84 Stat. 443; Pub. L. 93–133, §2(a)(2), Oct. 19, 1973, 87 Stat. 462; Pub. L. 96–496, title I, §101, Dec. 4, 1980, 94 Stat. 2583; renumbered title I, §3, Pub. L. 98–306, §2, May 31, 1984, 98 Stat. 223; renumbered §3 and amended Pub. L. 99–194, title I, §§101(1), 103, Dec. 20, 1985, 99 Stat. 1332; Pub. L. 101–512, title III, §318 [title I, §102], Nov. 5, 1990, 104 Stat. 1960, 1962.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–512, §318 [title I, §102(a)(1), (b)(1)], inserted "all those traditional arts practiced by the diverse peoples of this country." after "forms," and "film, video," after "radio,".

Subsec. (c). Pub. L. 101–512, §318 [title I, §102(b)(2)], inserted "film, video," after "radio,".

Subsec. (d). Pub. L. 101–512, §318 [title I, §102(b)(3)(A)], inserted "the widest" after "enhance".

Subsec. (d)(2). Pub. L. 101–512, §318 [title I, §102(b)(3)(B)], which directed the substitution of "sections 954(p), 956(c)(10)," for "sections 954(1)", was executed by making the substitution for "sections 954(l)" to reflect the probable intent of Congress.

Subsecs. (h), (i). Pub. L. 101–512, §318 [title I, §102(a)(2)], added subsecs. (h) and (i).

Subsecs. (j) to (l). Pub. L. 101–512, §318 [title I, §102(c)], added subsecs. (j) to (l).

1985—Subsec. (a). Pub. L. 99–194, §103(1), substituted "study and interpretation of the following" for "study of the following" and inserted "to reflecting our diverse heritage, traditions, and history and" after "particular attention".

Subsec. (d)(2). Pub. L. 99–194, §103(2), inserted "for purposes of sections 954(l) and 956(h) of this title only," before "the construction of facilities if", "or humanistic" after "artistic", and "and the National Council on the Humanities, as the case may be," after "the National Council on the Arts".

1980—Subsec. (a). Pub. L. 96–496, §101(a), substituted "and theory of the arts" for "theory, and practice of the arts".

Subsec. (d)(1)(B). Pub. L. 96–496, §101(b), inserted "or the National Council on the Humanities, as the case may be".

Subsec. (g). Pub. L. 96–496, §101(c), inserted "the Northern Mariana Islands".

1973—Subsec. (d). Pub. L. 93–133 substituted "or purchase of facilities" for ", purchase, renovation, or construction of facilities" and added pars. (1) and (2).

1970—Subsec. (a). Pub. L. 91–346 extended term "humanities" to include the study of comparative religion and ethics, and emphasized that particular attention be paid to relevance of humanities to current conditions of national life when engaging in study and application of humanities to human environment.

1968—Subsec. (a). Pub. L. 90–348, §7, extended term "humanities" to include the study and application of enumerated fields to human environment.

Subsec. (b). Pub. L. 90–348, §7, extended term "arts" to include study and application of enumerated art forms to human environment.

Subsec. (f). Pub. L. 90–348, §1, substituted "activity" for "production" in definition of "workshop" and extended enumerated purposes to include promotion of scholarship and teaching among participants.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

[1] *So in original. The period probably should be a comma.*

§953. National Foundation on the Arts and the Humanities

(a) Establishment; composition

There is established a National Foundation on the Arts and the Humanities (hereinafter referred to as the "Foundation"), which shall be composed of a National Endowment for the Arts, a National Endowment for the Humanities, a Federal Council on the Arts and the Humanities, and an Institute of Museum and Library Services.

(b) Purpose

The purpose of the Foundation shall be to develop and promote a broadly conceived national policy of support for the humanities and the arts in the United States, and for institutions which preserve the cultural heritage of the United States pursuant to this subchapter.

(c) Prohibition against Federal supervision over policy determination, personnel, or curriculum, or administration or operation of any school or other non-Federal body

In the administration of this subchapter no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.

(Pub. L. 89–209, §4, Sept. 29, 1965, 79 Stat. 846; renumbered title I, §4, and amended Pub. L. 98–306, §§2, 4, May 31, 1984, 98 Stat. 223; renumbered §4 and amended Pub. L. 99–194, title I, §§101(1), 104, Dec. 20, 1985, 99 Stat. 1332, 1333; Pub. L. 111–340, title II, §208(1), Dec. 22, 2010, 124 Stat. 3602.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–340 substituted "Institute of Museum and Library Services" for "Institute of Museum Services".

1985—Subsec. (a). Pub. L. 99–194, §104, struck out a second comma after "a National Endowment for the Humanities" and "(hereinafter established)" after "Institute of Museum Services".

1984—Subsec. (a). Pub. L. 98–306, §4(a), substituted ", a Federal Council" for "and a Federal Council" and inserted ", and an Institute of Museum Services".

Subsec. (b). Pub. L. 98–306, §4(b), inserted ", and for institutions which preserve the cultural heritage of the United States".

§954. National Endowment for the Arts

(a) Establishment

There is established within the Foundation a National Endowment for the Arts.

(b) Chairperson of the Endowment; term of office; vacancies

(1) The Endowment shall be headed by a chairperson, to be known as the Chairperson of the National Endowment for the Arts, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years and the Chairperson shall be eligible for reappointment. The provisions of this subsection shall apply to any person appointed to fill a vacancy in the office of Chairperson. Upon expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) Program of contracts, grants-in-aid, or loans to groups and individuals for projects and productions; traditionally underrepresented recipients of financial assistance

The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support—

(1) projects and productions which have substantial national or international artistic and cultural significance, giving emphasis to American creativity and cultural diversity and to the maintenance and encouragement of professional excellence;

(2) projects and productions, meeting professional standards or standards of authenticity or tradition, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

(3) projects and productions that will encourage and assist artists and enable them to achieve wider distribution of their works, to work in residence at an educational or cultural institution, or to achieve standards of professional excellence;

(4) projects and productions which have substantial artistic and cultural significance and that reach, or reflect the culture of, a minority, inner city, rural, or tribal community;

(5) projects and productions that will encourage public knowledge, education, understanding, and appreciation of the arts;

(6) workshops that will encourage and develop the appreciation and enjoyment of the arts by our citizens;

(7) programs for the arts at the local level;

(8) projects that enhance managerial and organizational skills and capabilities;

(9) projects, productions, and workshops of the kinds described in paragraphs (1) through (8) through film, radio, video, and similar media, for the purpose of broadening public access to the arts; and

(10) other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection.

In the case of publications under paragraph (10) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. Any loans made by the Chairperson under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented.

(d) Application for payment; regulations and procedures

No payment shall be made under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations issued and procedures established by the Chairperson. In establishing such regulations and procedures, the Chairperson shall ensure that—

(1) artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public; and

(2) applications are consistent with the purposes of this section. Such regulations and

procedures shall clearly indicate that obscenity is without artistic merit, is not protected speech, and shall not be funded. Projects, productions, workshops, and programs that are determined to be obscene are prohibited from receiving financial assistance under this subchapter from the National Endowment for the Arts.

The disapproval or approval of an application by the Chairperson shall not be construed to mean, and shall not be considered as evidence that, the project, production, workshop, or program for which the applicant requested financial assistance is or is not obscene.

(e) Limitation on amount of grant to group; grants and contracts of the National Endowment for the Arts

The total amount of any grant to any group pursuant to subsection (c) of this section shall not exceed 50 per centum of the total cost of such project or production, except that not more than 20 per centum of the funds allotted by the National Endowment for the Arts for the purposes of subsection (c) of this section for any fiscal year may be available for grants and contracts in that fiscal year without regard to such limitation.

(f) Eligibility for financial assistance

Any group shall be eligible for financial assistance pursuant to this section only if (1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (2) donations to such group are allowable as a charitable contribution under the standards of subsection (c) of section 170 of title 26.

(g) Grants to States for projects and productions; applications; terms and conditions of State plans; minimum allotments; excess appropriations; cost limitations; grants to regional groups; non-Federal funding; definitions

(1) The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in subsection (c) of this section, and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.

(2) In order to receive assistance under this subsection in any fiscal year, a State shall submit an application for such grants at such time as shall be specified by the Chairperson and accompany such application with a plan which the Chairperson finds—

(A) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the "State agency") as the sole agency for the administration of the State plan;

(B) provides that funds paid to the State under this subsection will be expended solely on projects and productions approved by the State agency which carry out one or more of the objectives of subsection (c) of this section;

(C) provides that the State agency will make such reports, in such form and containing such information, as the Chairperson may from time to time require, including a description of the progress made toward achieving the goals of the State plan;

(D) provides—

(i) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow all groups of artists, interested organizations, and the public to present views and make recommendations regarding the State plan; and

(ii) a summary of such recommendations and the State agency's response to such recommendations; and

(E) contains—

(i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

(ii) for the most recent preceding year for which information is available, a description of the

extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and

(iii) a description of projects and productions receiving financial assistance under this subsection that exist or are being developed to secure wider participation of artists, artists' organizations, and arts organizations identified under clause (i) of this subparagraph or that address the availability of the arts to all people or communities identified under clause (ii) of this subparagraph.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(3) Of the sums available to carry out this subsection for any fiscal year, each State which has a plan approved by the Chairperson shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available only to the Chairperson for making grants under this subsection to States and regional groups, and

(B) the amount of such excess, if any, which remains after reserving in full for the Chairperson the amount required under clause (A) shall be allotted among the States which have plans approved by the Chairperson in equal amounts

but in no event shall any State be allotted less than $200,000.

(4)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairperson in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (3) for any fiscal year which exceeds $125,000 shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of such cost of projects and productions if such projects and productions would otherwise be unavailable to the residents of that State: *Provided*, That the total amount of any such allotment for any fiscal year which is exempted from such 50 per centum limitation shall not exceed 20 per centum of the total of such allotment for such fiscal year. Whenever a State agency requests that the Chairperson exercise such discretion, the Chairperson shall—

(i) give consideration to the various circumstances the State is encountering at the time of such request; and

(ii) ensure that such discretion is not exercised with respect to such State in perpetuity.

(B) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to 60 days prior to the end of the fiscal year for which such sums are appropriated shall be available for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds. The non-Federal funds required by subparagraph (A) to pay 50 percent of the cost of a program or production shall be provided from funds directly controlled and appropriated by the State involved and directly managed by the State agency of such State.

(D) For the purpose of paragraph (3) and paragraph (4) of this section the term "regional group" means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (3)(B), the term "State" includes, in addition to the several States of the Union, only those special jurisdictions specified in section 952(g) of this title which have a population of 200,000 or more, according to the latest decennial census.

(5) All amounts allotted or made available under paragraph (3) for a fiscal year which are not granted to a State during such year shall be available at the end of such year to the National Endowment for the Arts for the purpose of carrying out subsection (c) of this section.

(h) Suspension of grants for defaults, noncompliance with provisions and plans, and diversion of funds; repayment of funds

Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that—

(1) a group is not complying substantially with the provisions of this section;

(2) a State agency is not complying substantially with the terms and conditions of its State plan approved under this section; or

(3) any funds granted to a group or State agency under this section have been diverted from the purposes for which they were allotted or paid,

the Chairperson shall immediately notify the Secretary of the Treasury and the group or State agency with respect to which such finding was made that no further grants will be made under this section to such group or agency until there is no longer any default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until such group or agency repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(i) Application for financial assistance; requirements

It shall be a condition of the receipt of financial assistance provided under this section by the Chairperson or the State agency that the applicant for such assistance include in its application—

(1) a detailed description of the proposed project, production, workshop, or program for which the applicant requests such assistance;

(2) a timetable for the completion of such proposed project, production, workshop, or program;

(3) an assurance that the applicant will submit—

(A) interim reports describing the applicant's—

(i) progress in carrying out such project, production, workshop, or program; and

(ii) compliance with this subchapter and the conditions of receipt of such assistance;

(B) if such proposed project, production, workshop, or program will be carried out during a period exceeding 1 year, an annual report describing the applicant's—

(i) progress in carrying out such project, production, workshop, or program; and

(ii) compliance with this subchapter and the conditions of receipt of such assistance; and

(C) not later than 90 days after—

(i) the end of the period for which the applicant receives such assistance; or

(ii) the completion of such project, production, workshop, or program;

whichever occurs earlier, a final report to the Chairperson or the State agency (as the case may be) describing the applicant's compliance with this subchapter and the conditions of receipt of such assistance; and

(4) an assurance that the project, production, workshop, or program for which assistance is requested will meet the standards of artistic excellence and artistic merit required by this subchapter.

(j) Regulations for distribution of financial assistance in installments; implementation

The Chairperson shall issue regulations to provide for the distribution of financial assistance to recipients in installments except in those cases where the Chairperson determines that installments are not practicable. In implementing any such installments, the Chairperson shall ensure that—

(1) not more than two-thirds of such assistance may be provided at the time such application is approved; and

(2) the remainder of such assistance may not be provided until the Chairperson finds that the recipient of such assistance is complying substantially with this section and with the conditions under which such assistance is provided to such recipient.

(k) Reviews to ensure compliance with regulations

The Inspector General of the Endowment shall conduct appropriate reviews to ensure that recipients of financial assistance under this section comply with the regulations under this subchapter that apply with respect to such assistance, including regulations relating to accounting and financial matters.

(l) Use of financial assistance for obscene project, production, etc.; repayment of assistance; exceptions

(1) If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a project, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment; no subsequent financial assistance be provided under this section to such recipient.

(2) Financial assistance repaid under this section to the Endowment shall be deposited in the Treasury of the United States and credited as miscellaneous receipts.

(3)(A) This subsection shall not apply with respect to financial assistance provided before the effective date of this subsection.

(B) This subsection shall not apply with respect to a project, production, workshop, or program after the expiration of the 7-year period beginning on the latest date on which financial assistance is provided under this section for such project, production, workshop, or program.

(m) Labor standards of professional performers and personnel; healthy and safe working conditions

It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel (other than laborers and mechanics with respect to whom labor standards are prescribed in subsection (n) of this section) employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as the Secretary of Labor may deem necessary or appropriate to carry out the provisions of this subsection.

(n) Labor standards of laborers and mechanics

It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 3145 of title 40.

(o) Correlation and development of endowment programs with other Federal and non-Federal programs; expenditure of appropriations

The Chairperson shall correlate the programs of the National Endowment for the Arts insofar as practicable, with existing Federal programs and with those undertaken by other public agencies or

private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this subchapter which can be made by other Federal agencies under existing programs. The Chairperson may enter into interagency agreements to promote or assist with the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) of this section for the costs of such activities.

(p) Program of contracts or grants-in-aid to public agencies and private nonprofit organizations; limitation on payments; authority of Chairperson

(1) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations, on a national, State, or local level, for the purpose of strengthening quality by—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) providing additional support for cooperative efforts undertaken by State arts agencies with local arts groups and local arts agencies to promote effective arts activity at the State and local level, including—

(i) support of professional artists in community based residencies;

(ii) support of rural arts development;

(iii) support of and models for regional, statewide, or local organizations to provide technical assistance to cultural organizations and institutions;

(iv) support of and models for visual and performing arts touring; and

(v) support of and models for professional staffing of arts organizations and for stabilizing and broadening the financial base for arts organizations;

(E) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

(F) fostering greater citizen involvement in planning the cultural development of a community; and

(G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation.

(2)(A) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized in accordance with this subsection, to establish and carry out a program of contracts with, or grants to, States for the purposes of—

(i) raising the artistic capabilities of developing arts organizations by providing for—

(I) artistic and programmatic development to enhance artistic capabilities, including staff development; and

(II) technical assistance to improve managerial and organizational skills, financial systems management, and long-range fiscal planning; and

(ii) stimulating artistic activity and awareness and broadening public access to the arts in rural and innercity areas and other areas that are underserved artistically.

(B) For purposes of providing financial assistance under this paragraph, the Chairperson shall give priority to the activities described in subparagraph (A)(i).

(C) The Chairperson may not provide financial assistance under this paragraph to a particular applicant in more than 3 fiscal years for the purpose specified in subparagraph (A)(i).

(3) The total amount of any payment made under this subsection for a program or project may not

exceed 50 per centum of the cost of such program or project.

(4) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Arts shall have the same authority as is established in subsection (c) of this section and section 959 of this title.

(q) National information and data collection system on the arts, artists and art groups, and audiences; development and implementation plan; state of the arts reports

The Chairperson of the National Endowment for the Arts shall, in ongoing consultation with State and local agencies, relevant organizations, and relevant Federal agencies, continue to develop and implement a practical system of national information and data collection and public dissemination on the arts, artists and arts groups, and their audiences. Such system shall include artistic and financial trends in the various artistic fields, trends in audience participation, and trends in arts education on national, regional, and State levels. Such system shall also include information regarding the availability of the arts to various audience segments, including rural communities. Such system shall be used, along with a summary of the data submitted with State plans under subsection (g) of this section, to prepare a periodic report on the state of the arts in the Nation. The state of the arts report shall include a description of the availability of the Endowment's programs to emerging, rural, and culturally diverse artists, arts organizations, and communities and of the participation by such artists, organizations, and communities in such programs. The state of the arts report shall be submitted to the President and the Congress, and provided to the States, not later than October 1, 1992, and quadrennially thereafter.

(Pub. L. 89–209, §5, Sept. 29, 1965, 79 Stat. 846; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–348, §§2, 3, June 18, 1968, 82 Stat. 185; Pub. L. 91–346, §§4, 5(a)(1), (2), 6, 7, July 20, 1970, 84 Stat. 443, 445; Pub. L. 93–133, §2(a)(3), (4), Oct. 19, 1973, 87 Stat. 462; Pub. L. 94–462, title I, §§101, 102, title III, §301(a), title IV, §401(a), Oct. 8, 1976, 90 Stat. 1971, 1978, 1980; Pub. L. 96–496, title I, §§102, 109(a), (b), Dec. 4, 1980, 94 Stat. 2583, 2591; renumbered title I, §5, Pub. L. 98–306, §2, May 31, 1984, 98 Stat. 223; renumbered §5 and amended Pub. L. 99–194, title I, §§101(1), 105, Dec. 20, 1985, 99 Stat. 1332, 1333; Pub. L. 101–512, title III, §318 [title I, §§103(a)–(i)(1), 104], Nov. 5, 1990, 104 Stat. 1960, 1963–1966; Pub. L. 113–76, div. G, title IV, §416, Jan. 17, 2014, 128 Stat. 341.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (l)(3)(A), is October 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as an Effective Date of 1990 Amendment note under section 951 of this title.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (n), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (n), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2014—Subsec. (g)(4)(A). Pub. L. 113–76, §416(1), inserted at end "Whenever a State agency requests that the Chairperson exercise such discretion, the Chairperson shall—

"(i) give consideration to the various circumstances the State is encountering at the time of such request; and

"(ii) ensure that such discretion is not exercised with respect to such State in perpetuity."

Subsec. (g)(4)(C). Pub. L. 113–76, §416(2), inserted at end "The non-Federal funds required by subparagraph (A) to pay 50 percent of the cost of a program or production shall be provided from funds directly controlled and appropriated by the State involved and directly managed by the State agency of such State."

1990—Subsec. (c). Pub. L. 101–512, §318 [title I, §103(a)(7)], substituted "paragraph (10)" for "clause (8)" in concluding provisions.

Subsec. (c)(1). Pub. L. 101–512, §318 [title I, §103(a)(1)], amended par. (1) generally. Prior to amendment, par. (1) read as follows: "projects and productions which have substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence;".

Subsec. (c)(2). Pub. L. 101–512, §318 [title I, §103(a)(2)], inserted "or tradition" after "authenticity".

Subsec. (c)(5). Pub. L. 101–512, §318 [title I, §103(a)(3)], inserted "education," after "knowledge,".

Subsec. (c)(8) to (10). Pub. L. 101–512, §318 [title I, §103(a)(4)–(6)], added pars. (8) and (9) and redesignated former par. (8) as (10).

Subsec. (d). Pub. L. 101–512, §318 [title I, §103(b)], amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "No payment may be made to any group under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations and procedures established by the Chairperson."

Subsec. (f). Pub. L. 101–512, §318 [title I, §103(c)], substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Subsec. (g)(2)(E)(i), (ii). Pub. L. 101–512, §318 [title I, §103(d)], added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

"(i) a description of the level of participation during the previous 2 years by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

"(ii) a description of the extent to which projects and productions receiving financial assistance under this subsection are available to all people and communities in the State; and".

Subsecs. (i) to (k). Pub. L. 101–512, §318 [title I, §103(g)(2)], added subsecs. (i) to (k), and redesignated former subsecs. (i) to (k) as (l) to (n), respectively.

Subsec. (l). Pub. L. 101–512, §318 [title I, §103(h)(2)], added subsec. (l). Former subsec. (l), redesignated (m).

Pub. L. 101–512, §318 [title I, §103(g)(1)], redesignated subsec. (i) as (l). Former subsec. (l) redesignated (o).

Subsec. (m). Pub. L. 101–512, §318 [title I, §103(i)(1)], substituted "subsection (n)" for "subsection (j)".

Pub. L. 101–512, §318 [title I, §103(h)(1)], redesignated subsec. (l) as (m). Former subsec. (m) redesignated (n).

Pub. L. 101–512, §318 [title I, §103(g)(1)], redesignated subsec. (j) as (m). Former subsec. (m) redesignated (p).

Subsecs. (n), (o). Pub. L. 101–512, §318 [title I, §103(h)(1)], redesignated subsecs. (m) and (n) as (n) and (o), respectively. Former subsecs. (n) and (o) redesignated (o) and (p), respectively.

Pub. L. 101–512, §318 [title I, §103(g)(1)], redesignated subsecs. (k) and (l) as (n) and (o), respectively.

Subsec. (p). Pub. L. 101–512, §318 [title I, §103(h)(1)], redesignated subsec. (o) as (p). Former subsec. (p) redesignated (q).

Pub. L. 101–512, §318 [title I, §103(g)(1)], redesignated subsec. (m) as (p).

Subsec. (p)(1)(G). Pub. L. 101–512, §318 [title I, §103(e)], added subpar. (G).

Subsec. (p)(2) to (4). Pub. L. 101–512, §318 [title I, §104], added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and in par. (4), substituted "subsection (c)" for "section 5(c)", which for purposes of codification was translated as "subsection (c) of this section" thus requiring no change in text.

Subsec. (q). Pub. L. 101–512, §318 [title I, §103(h)(1)], redesignated subsec. (p) as (q).

Pub. L. 101–512, §318 [title I, §103(f)], inserted "ongoing" after "shall, in", substituted "continue to develop and implement" for "develop", inserted "and public dissemination" after "collection", struck out "Not later than one year after December 20, 1985, the Chairperson shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the development and implementation of such system, including a recommendation regarding the need for any additional funds to be appropriated to develop and implement such system." after "including rural communities.", and substituted "1992, and quadrennially" for "1988, and biennially".

1985—Subsec. (b)(1). Pub. L. 99–194, §105(1), (6), substituted "chairperson" for "chairman" and "Chairperson" for "Chairman".

Subsec. (b)(2). Pub. L. 99–194, §105(6), (7), substituted "Chairperson" for "Chairman" wherever appearing and "the Chairperson's" for "his" in two places.

Subsec. (c). Pub. L. 99–194, §105(2)(C), (D), (6), substituted "Chairperson" for "Chairman" in provisions preceding par. (1), and in provisions following cl. (8) substituted "Chairperson" for "Chairman" wherever appearing and "clause (8)" for "clause (5)", and inserted "In selecting individuals and groups of exceptional

talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented".

Subsec. (c)(4) to (8). Pub. L. 99–194, §105(2)(A), (B), added cls. (4) and (5) and redesignated former cls. (4) to (6) as (6) to (8), respectively.

Subsec. (d). Pub. L. 99–194, §105(6), substituted "Chairperson" for "Chairman".

Subsec. (g). Pub. L. 99–194, §105(3), (6), substituted "Chairperson" for "Chairman" wherever appearing, and in par. (2) struck out "and" at end of cl. (B), substituted ", including a description of the progress made toward achieving the goals of the State plan;" for the period at end of cl. (C), and added cls. (D) and (E).

Subsec. (h). Pub. L. 99–194, §105(6), substituted "Chairperson" for "Chairman" wherever appearing.

Subsec. (i). Pub. L. 99–194, §105(4), substituted "Secretary of Labor may deem" for "he may deem" in last sentence.

Subsec. (k). Pub. L. 99–194, §105(6), substituted "Chairperson" for "Chairman" wherever appearing.

Subsec. (l)(1). Pub. L. 99–194, §105(6), substituted "Chairperson" for "Chairman" in provisions preceding subpar. (A).

Subsec. (l)(1)(D). Pub. L. 99–194, §105(5), inserted "and local arts agencies" after "local arts groups", designated existing provisions as cl. (i), and added cls. (ii) to (v).

Subsec. (l)(3). Pub. L. 99–194, §105(6), substituted "Chairperson" for "Chairman".

Subsec. (m). Pub. L. 99–194, §105(8), added subsec. (m).

1980—Subsec. (c). Pub. L. 96–496, §§102(a), 109(a), inserted "or loans" in provisions preceding cl. (1) and "and cultural diversity" in cl. (1), redesignated cl. (5) as (6), added cl. (5), substituted "Committee on Labor and Human Resources" for "Committee on Labor and Public Welfare" in provisions following cl. (6), and provided that any loans made by the Chairman under subsec. (c) were to be made in accordance with terms and conditions approved by the Secretary of the Treasury.

Subsec. (g)(2)(A). Pub. L. 96–496, §102(b)(1), struck out provision that the Recreation Board, or any successor designated for purposes of this subchapter by the Commissioner of the District of Columbia, was to be considered the "State agency" within the District of Columbia.

Subsec. (g)(4)(A). Pub. L. 96–496, §109(b), substituted "such projects" for "such project".

Subsec. (g)(4)(E). Pub. L. 96–496, §102(b)(2), added subpar. (E).

Subsec. (k). Pub. L. 96–496, §102(c), authorized the Chairman to enter into interagency agreements to promote or assist the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and to use funds authorized to be appropriated for the purposes of subsec. (c) of this section for the costs of such activities.

Subsec. (l). Pub. L. 96–496, §102(d), inserted ", on a national, State, or local level," and "strengthening quality by" in provisions of par. (1) preceding subpar. (A), redesignated subpars. (D) and (E) as (E) and (F), respectively, and added subpar. (D).

Subsec. (m). Pub. L. 96–496, §102(e), struck out subsec. (m) which related to grants or contracts to State arts agencies for photography and film projects.

1976—Subsec. (c). Pub. L. 94–462, §101, struck out in provisions preceding par. (1) "in the United States" after "provide or support".

Subsec. (g)(4)(A). Pub. L. 94–462, §102, inserted provision that amount of each allotment to a State for any fiscal year shall be available to each State which has a plan approved by the Chairman to pay not more than 50 percent of total cost of any project or production described in subsec. (g)(1).

Subsec. (l). Pub. L. 94–462, §301(a), added subsec. (l).

Subsec. (m). Pub. L. 94–462, §401(a), added subsec. (m).

1973—Subsec. (c). Pub. L. 93–133, §3, in opening paragraph, struck out reference to Federal Council on the Arts and Humanities, in cl. (1), substituted "projects and productions" for "production", in cl. (2), substituted "projects and productions" and "for geographic or economic reasons" for "production" and "in many areas of the country" respectively, in cl. (3), substituted "projects and productions" for "projects", in cl. (5), substituted ", planning, and publications relating to the purposes of this subsection" for "and planning in the arts", and added paragraph following cl. (5).

Subsec. (g)(1). Pub. L. 93–133, §2(a)(4)(A), struck out reference to Federal Council on the Arts and Humanities.

Subsec. (g)(2). Pub. L. 93–133, §2(a)(4)(B), (C), in provisions preceding cl. (A), substituted "assistance under this subsection" and "at such time as shall be specified by the Chairman" for "such assistance" and "prior to the first day of such fiscal year" respectively, and in cl. (B), struck out exception that in the first fiscal year in which the state was allotted funds after Sept. 29, 1965, the plan may provide that amount not exceeding $25,000 will be expended to conduct a study to plan the development and the establishment of a State agency.

Subsec. (g)(3). Pub. L. 93–133, §2(a)(4)(D), added par. (3) and struck out former par. (3) which read as follows: "From the sums appropriated to carry out the purposes of this subsection for any fiscal year, not less than $65,000 shall be allotted to each State. That part of such sums as may remain after such allotment shall be allotted among the States in equal amounts, except that for the purposes of this sentence the term 'State' shall not include Guam and American Samoa. If the sums appropriated for any fiscal year to carry out the purposes of this subsection are insufficient to satisfy allotments under the first sentence of this paragraph, such sums shall be allotted among the States in equal amounts."

Subsec. (g)(4). Pub. L. 93–133, §2(a)(4)(D), added par. (4) and struck out former par. (4) which read as follows: "The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1), and to pay up to 100 per centum of the cost of conducting a study and establishing a State agency under paragraph (2)(B) of this subsection."

Subsec. (g)(5). Pub. L. 93–133, §2(a)(4)(E), substituted "All amounts allotted or made available" for "All amounts allotted".

1970—Subsec. (b). Pub. L. 91–346, §5(a)(1), designated existing provisions as cl. (1), and, in cl. (1) as so designated, provided for appointment of the Chairman of the National Endowment for the Arts by the President with the advice and consent of the Senate, and added cl. (2).

Subsec. (c)(3). Pub. L. 91–346, §4, expanded grants-in-aid program to enable talented groups or individuals to achieve wider distribution of their works and to work in residence at an educational or cultural institution.

Subsecs. (d) to (l). Pub. L. 91–346, §5(a)(2), struck out subsec. (d) which provided for the individual appointed as Chairman of the National Council on the Arts to also serve as the Chairman of the National Endowment for the Arts, and redesignated subsecs. (e) to (l), and all references thereto, as subsecs. (d) to (k), respectively.

Subsec. (g)(2)(A). Pub. L. 91–346, §6, permitted the Commissioner of the District of Columbia to designate a successor to the Recreation Board for the purpose of this chapter.

Subsec. (g)(3). Pub. L. 91–346, §7, provided minimum of $65,000 allotment to each State from sums appropriated for this subsec., authorized remaining funds to be equally allotted among the States, excluded Guam and American Samoa from term "State", and provided for equal allotments to States if the sums appropriated are insufficient to satisfy the minimum allotment.

1968—Subsec. (c). Pub. L. 90–348, §2(a), authorized contracts with groups, or in appropriate cases, individuals engaged in the arts, for the purpose of enabling them to provide or support programs and productions in the arts.

Subsec. (f). Pub. L. 90–348, §2(a), provided that contracts as well as grants made by the National Endowment for the Arts be subject to the amount limitation, and eliminated the provision requiring that groups seeking funds from the National Endowment for the Arts submit evidence to the Endowment that it had attempted unsuccessfully to secure an amount of funds equal to the grant applied for by such group, together with a statement of the proportion which any funds it had secured represent the funds applied for by such group.

Subsec. (h)(3). Pub. L. 90–348, §3, substituted "Funds appropriated to carry out the purpose of this subsection" for "The funds appropriated pursuant to section 960(c) of this title".

Subsec. (h)(5). Pub. L. 90–348, §3, struck out provision that amounts available to the National Endowment for the Arts at the end of the fiscal year shall be limited to the excess of the value of gifts, bequests, and devises received by the Endowment over the amounts appropriated to the Endowment, the appropriated amounts to be equal to the amounts received by the Endowment in the form of donations, bequests, and devises, but not to exceed $2,250,000.

Subsecs. (j), (k). Pub. L. 90–348, §2(b), inserted "of exceptional talent" after "the group or individual".

1967—Subsec. (d). Pub. L. 90–83 struck out provisions setting the compensation for the Chairman of the National Council on the Arts and the National Endowment for the Arts.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

APPLICABILITY OF 1985 AMENDMENT

Pub. L. 99–194, title I, §112, Dec. 20, 1985, 99 Stat. 1344, provided that: "The amendments made by sections 105(3) and 107(3) [amending this section and section 956 of this title] shall not apply with respect to plans submitted for financial assistance to be provided with funds appropriated for fiscal year 1986."

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 5(a)(1), (2) of Pub. L. 91–346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91–346, set out as a note under section 955 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (q) of this section relating to quadrennially submitting the state of the arts report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 183 of House Document No. 103–7.

GAO STUDY REGARDING FEDERAL, STATE, AND LOCAL FUNDING OF THE ARTS

Pub. L. 101–512, title III, §318 [title I, §111], Nov. 5, 1990, 104 Stat. 1960, 1974, provided that:

"(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

"(1) to evaluate the roles and responsibilities of the National Endowment for the Arts, the States (including State agencies), and local arts agencies, in providing financial assistance under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954),

"(2) the relative effectiveness of the Endowment, the States (including State agencies), and local arts agencies in maximizing the amount of financial assistance they make available under such section, and

"(3) the existing capacity of the States to receive increased allocations under section 5 of such Act and the ability of the States to manage such increased allocations effectively.

"(b) REPORT REQUIRED.—Not later than October 1, 1992, the Comptroller General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report summarizing the results of the study conducted under subsection (a)."

TEMPORARY INDEPENDENT COMMISSION TO REVIEW GRANT MAKING PROCEDURES AND CONSIDER STANDARDS FOR PUBLICLY FUNDED ART

Pub. L. 101–121, title III, §304(a)–(c), Oct. 23, 1989, 103 Stat. 741, 742, prohibited use of funds for National Endowment for the Arts or National Endowment for the Humanities to promote, disseminate, or produce materials which in judgment of National Endowment for the Arts or National Endowment for the Humanities may be considered obscene; stated the sense of Congress concerning present procedures employed for awarding National Endowment for the Arts grants; and established Independent Commission, to expire Sept. 30, 1990, for purpose of reviewing National Endowment for the Arts grant making procedures, and considering whether standard for publicly funded art should be different than standard for privately funded art.

§954a. Access to the arts through support of education

(a) Purposes

The purposes of this section are—

(1) to increase accessibility to the arts through providing education to all Americans, including diverse cultures, urban and rural populations by encouraging and developing quality education in the arts at all levels, in conjunction with programs of nonformal education for all age groups, with formal systems of elementary, secondary, and postsecondary education;

(2) to develop and stimulate research to teach quality education in the arts; and

(3) to encourage and facilitate the work of artists, arts institutions, and Federal, State, regional, and local agencies in the area of education in the arts.

(b) Program of contracts or grants

The Chairperson of the National Endowment for the Arts,[1] is authorized to establish and carry out a program of contracts with, or grants to, any State or other public agency, individual, artist, any nonprofit society, performing and nonperforming arts and educational institution or organization, association, or museum in the United States, in order to foster and encourage exceptional talent, public knowledge, understanding, and appreciation of the arts, and to support the education, training, and development of this Nation's artists, through such activities as projects that will—

(1) promote and improve the availability of arts instruction for American youth and life-long learning in the arts;

(2) enhance the quality of arts instruction in programs of teacher education;

(3) develop arts faculty resources and talents;

(4) support and encourage the development of improved curriculum materials in the arts;

(5) improve evaluation and assessment of education in the arts programs and instruction;

(6) foster cooperative programs with the Department of Education and encourage partnerships between arts and education agencies at State and local levels, arts organizations, business colleges and universities;

(7) support apprenticeships, internships, and other career oriented work-study experiences for artists and arts teachers, and encourage residencies of artists at all educational levels;

(8) support the use of technology and improved facilities and resources in education in the arts programs at all levels; and

(9) foster the development of demonstration projects, demonstration productions, demonstration workshops, and demonstration programs in arts education and collect, and make available to the public, information on their implementation and effectiveness.

(c) Advisory council on arts education

In order to provide advice and counsel concerning arts education, the Chairperson shall appoint an advisory council on arts education.

(Pub. L. 89–209, §5A, as added Pub. L. 101–512, title III, §318 [title I, §105], Nov. 5, 1990, 104 Stat. 1960, 1967.)

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as an Effective Date of 1990 Amendment note under section 951 of this title.

[1] *So in original. The comma probably should not appear.*

§955. National Council on the Arts

(a) Inclusion within the National Endowment for the Arts

There shall be, within the National Endowment for the Arts, a National Council on the Arts (hereinafter in this section referred to as the "Council").

(b) Appointment and composition of Council

(1) The Council shall be composed of members as follows:

(A) The Chairperson of the National Endowment for the Arts, who shall be the chairperson of the Council.

(B) Members of Congress appointed for a 2-year term beginning on January 1 of each odd-numbered year as follows:

(i) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives.

(ii) One Member of the House of Representatives appointed by the Minority Leader of the House of Representatives.

(iii) Two Senator [1] appointed by the Majority Leader of the Senate.
(iv) One Senator appointed by the Minority Leader of the Senate.

Members of the Council appointed under this subparagraph shall serve ex officio and shall be nonvoting members of the Council.

(C) 18 members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

(i) from among private citizens of the United States who—

(I) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in the arts; and

(II) have established records of distinguished service, or achieved eminence, in the arts;

(ii) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

(iii) so as collectively to provide an appropriate distribution of membership among major art fields and interested citizens groups.

In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts and shall make such appointments so as to represent equitably all geographical areas in the United States.

(2) TRANSITION TO THE NEW COUNCIL COMPOSITION.—

(A) Notwithstanding subsection (b)(1)(B) of this section, members first appointed pursuant to such subsection shall be appointed not later than December 31, 1997. Notwithstanding such subsection, such members shall be appointed to serve until December 31, 1998.

(B) Members of the Council serving on the effective date of this subsection may continue to serve on the Council until their current terms expire and new members shall not be appointed under subsection (b)(1)(C) of this section until the number of Presidentially appointed members is less than 14.

(c) Terms of office; vacancies

Each member appointed under subsection (b)(1)(C) of this section shall hold office for a term of six years, and the terms of office shall be staggered. The terms of office of all Council members appointed under subsection (b)(1)(C) of this section shall expire on the third day of September in the year of expiration. No member appointed under subsection (b)(1)(C) of this section shall be eligible for reappointment during the two-year period following the expiration of such member's term. Any member appointed under subsection (b)(1)(C) of this section appointed [2] to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed. Notwithstanding any other provision of this subsection, a member appointed under subsection (b)(1)(C) of this section shall serve after the expiration of such member's term until such member's successor takes office.

(d) Meetings of Council; quorum; written records

(1) The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Ten members of the Council shall constitute a quorum. All policy meetings of the Council shall be open to the public.

(2) The Council shall—

(A) create written records summarizing—

(i) all meetings and discussions of the Council; and

(ii) the recommendations made by the Council to the Chairperson; and

(B) make such records available to the public in a manner that protects the privacy of individual applicants, panel members, and Council members.

(e) Compensation of members

Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the

per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5) for persons in the Government service employed intermittently.

(f) Advisory functions; policies, programs, and procedures; recommendations; authority of Chairperson; action by Chairperson pursuant to delegation of authority

The Council shall advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, duties, or responsibilities under this subchapter, and review applications for financial assistance under this subchapter and make recommendations to the Chairperson with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant. The Council shall make recommendations to the Chairperson concerning—

(1) whether to approve particular applications for financial assistance under subsections (c) and (p) of section 954 of this title that are determined by panels under section 959(c) of this title to have artistic excellence and artistic merit; and

(2) the amount of financial assistance the Chairperson should provide with respect to each such application the Council recommends for approval.

The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application. The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation. In the case of an application involving $30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of an expressed and direct delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council, and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (A) of paragraph (1) of section 960(a) of this title.

(Pub. L. 89–209, §6, Sept. 29, 1965, 79 Stat. 849; Pub. L. 90–348, §4, June 18, 1968, 82 Stat. 185; Pub. L. 91–346, §5(b), July 20, 1970, 84 Stat. 444; Pub. L. 93–133, §2(a)(5), Oct. 19, 1973, 87 Stat. 463; Pub. L. 94–462, title I, §103(a), Oct. 8, 1976, 90 Stat. 1971; Pub. L. 96–496, title I, §103, Dec. 4, 1980, 94 Stat. 2584; renumbered title I, §6, and amended Pub. L. 98–306, §§2, 5(a), May 31, 1984, 98 Stat. 223, 224; renumbered §6 and amended Pub. L. 99–194, title I, §§101(1), 106, Dec. 20, 1985, 99 Stat. 1332, 1335; Pub. L. 101–512, title III, §318 [title I, §106], Nov. 5, 1990, 104 Stat. 1960, 1968; Pub. L. 105–83, title III, §346(e), (f), Nov. 14, 1997, 111 Stat. 1605, 1606; Pub. L. 105–119, title VI, §624, Nov. 26, 1997, 111 Stat. 2522; Pub. L. 105–277, div. A, §101(e) [title III, §330], Oct. 21, 1998, 112 Stat. 2681–231, 2681–293; Pub. L. 111–88, div. A, title IV, §417, Oct. 30, 2009, 123 Stat. 2959.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (b)(2)(B), probably means Nov. 14, 1997, the date of enactment of Pub. L. 105–83 which amended subsec. (b) of this section generally.

AMENDMENTS

2009—Subsec. (b)(1)(C). Pub. L. 111–88, §417(1), substituted "18" for "14" in introductory provisions.
Subsec. (d)(1). Pub. L. 111–88, §417(2), substituted "Ten" for "Eight" in second sentence.

1998—Subsec. (b)(1)(B)(iii). Pub. L. 105–277 substituted "Two" for "One".

1997—Subsec. (b). Pub. L. 105–83, §346(e), inserted heading and amended text of subsec. (b) generally. Prior to amendment, text read as follows: "The Council shall be composed of the Chairperson of the National Endowment for the Arts, who shall be Chairperson of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

"(1) from among private citizens of the United States who (A) are widely recognized for their broad

knowledge of, or expertise in, or for their profound interest in, the arts and (B) have established records of distinguished service, or achieved eminence, in the arts;

"(2) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

"(3) so as collectively to provide an appropriate distribution of membership among the major art fields. The President is requested, in the making of such appointments, to give consideration to such recommendations as may, from time to time, be submitted to the President by leading national organizations in these fields. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts. Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States."

Subsec. (c). Pub. L. 105–83, §346(f), inserted "appointed under subsection (b)(1)(C) of this section" after "member" wherever appearing and after "all Council members" in second sentence.

Subsec. (d)(1). Pub. L. 105–119, which directed the substitution of "eight" for "fourteen", was executed by substituting "Eight" for "Fourteen" to reflect the probable intent of Congress.

1990—Subsec. (b). Pub. L. 101–512, §318 [title I, §106(a)], inserted at end "Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States."

Subsec. (d). Pub. L. 101–512, §318 [title I, §106(b)], designated existing text as par. (1), inserted at end "All policy meetings of the Council shall be open to the public.", and added par. (2).

Subsec. (f). Pub. L. 101–512, §318 [title I, §106(c)], struck out "(1)" and "(2)" before "advise the Chairperson" and "review applications for", respectively, struck out "thereon" before "to the Chairperson", inserted before period at end of first sentence "with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant", struck out ", unless the Council fails to make a recommendation thereon within a reasonable time" after "on such application", substituted "an expressed and direct delegation" for "a delegation" and ", and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that" for "; *Provided*, That", inserted "The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation.", and inserted "The Council shall make recommendations to the Chairperson concerning—" and added pars. (1) and (2) immediately thereafter.

1985—Subsec. (b). Pub. L. 99–194, §106(1), substituted "Chairperson" for "Chairman" in two places in provisions preceding par. (1), in par. (1) designated existing provisions following "who" as cl. (A) and added cl. (B), and in provisions following par. (3) substituted "the President" for "him" and inserted "In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts."

Subsec. (c). Pub. L. 99–194, §106(2), substituted "such member's" for "his" wherever appearing.

Subsecs. (d), (e). Pub. L. 99–194, §106(3), (4), substituted "Chairperson" for "Chairman".

Subsec. (f). Pub. L. 99–194, §106(5), substituted "Chairperson" for "Chairman" wherever appearing, "the Chairperson's" for "his", "until the Chairperson has received" for "until he has received", and "$30,000" for "$17,500".

1984—Subsec. (c). Pub. L. 98–306, §5(a), inserted "Notwithstanding any other provision of this subsection, a member shall serve after the expiration of his term until his successor takes office."

1980—Subsec. (c). Pub. L. 96–496 provided that the terms of office of all Council members were to expire on the third day of September in the year of expiration.

1976—Subsec. (b). Pub. L. 94–462 inserted ", by and with the advice and consent of the Senate," after "by the President".

1973—Subsec. (f). Pub. L. 93–133 substituted "$17,500" for "$10,000" and inserted proviso that the terms of delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year.

1970—Pub. L. 91–346 generally incorporated into this section the substantive provisions of the National Arts and Cultural Development Act of 1964 except for the independent study authority of the National Council on the Arts under the 1964 Act, provided for the appointment and composition of the Council, prescribed the terms of office for members of the Council, provided that the Council meet at the call of the Chairman at least twice a year, established 14 as the number of members constituting a quorum, set forth provisions governing compensation of persons employed for the Government service on an intermittent basis, and set forth functions and duties of the council essentially similar to the function and duties of the Council as set out in this section prior to this amendment.

1968—Subsec. (b). Pub. L. 90–348 inserted provision which authorized the Chairman, in the case of any

application involving $10,000 or less, to approve or disapprove the application if such action is pursuant to the terms of a delegation of authority from the Endowment Council and such action is reviewed by the Endowment Council.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91–346, §5(d)(3)(A), July 20, 1970, 84 Stat. 445, provided that: "The amendments made by subsections (a) and (b) [amending this section and sections 954, 959, and 960 of this title] shall be effective after June 30, 1970."

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

CONTINUATION OF COUNCIL AS ESTABLISHED UNDER THE NATIONAL ARTS AND CULTURAL DEVELOPMENT ACT OF 1964

Pub. L. 91–346, §5(d)(1), July 20, 1970, 84 Stat. 445, provided that: "The National Council on the Arts established under section 6 of the National Foundation on the Arts and the Humanities Act of 1965 [this section], as amended by subsection (b), shall, for any purpose determined to be necessary by the Chairman of the National Endowment for the Arts, be deemed to be a continuation of the National Council on the Arts established under the National Arts and Cultural Development Act of 1964, Public Law 88–579 [former section 781 et seq. of this title], without interruption."

APPOINTEES TO COUNCIL UNDER NATIONAL ARTS AND CULTURAL DEVELOPMENT ACT OF 1964 DEEMED APPOINTED UNDER 1965 ACT

Pub. L. 91–346, §5(d)(2), July 20, 1970, 84 Stat. 445, provided that: "Members appointed to the National Council on the Arts pursuant to section 5 of the National Arts and Cultural Development Act of 1964 [section 784 of this title] shall be deemed to have been appointed as members of the National Council on the Arts established under section 6 of the National Foundation on the Arts and the Humanities Act of 1965 [this section], with such terms of office as may be remaining under the prior appointment on the effective date of the amendments made by subsection (b) [July 1, 1970]."

[1] So in original. Probably should be "Senators".

[2] So in original.

§955a. Omitted

CODIFICATION

Section, Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 949, which provided that persons serving on National Council on the Arts continue until their successors are qualified for office, was omitted as superseded. See section 955(c) of this title as amended by Pub. L. 98–306. Similar provisions were contained in Pub. L. 97–394, title II, Dec. 30, 1982, 96 Stat. 1994.

§955b. National Medal of Arts

(a) Establishment

There is hereby established a National Medal of Arts, which shall be a medal of such design as is deemed appropriate by the President, on the basis of recommendations submitted by the National Council on the Arts, and which shall be awarded as provided in subsection (b) of this section.

(b) Award of Medal; conditions; recipients; presentation ceremonies

(1) The President shall from time to time award the National Medal of Arts, on the basis of recommendations from the National Council on the Arts, to individuals or groups who in the President's judgment are deserving of special recognition by reason of their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States.

(2) Not more than twelve of such medals may be awarded in any calendar year.

(3) An individual may be awarded the National Medal of Arts only if at the time such award is made such individual—

(A) is a citizen or other national of the United States; or

(B) is an alien lawfully admitted to the United States for permanent residence who (i) has filed an application or petition for naturalization in the manner prescribed by section 1445 of title 8 and (ii) is not permanently ineligible to become a citizen of the United States.

(4) A group may be awarded the National Medal of Arts only if such group is organized or incorporated in the United States.

(5) The presentation of the National Medal of Arts shall be made by the President with such ceremonies as the President may deem proper, including attendance by appropriate Members of Congress.

(c) Availability of funds

Funds made available to the National Endowment for the Arts shall be used to carry out this section.

(Pub. L. 98–306, §13, May 31, 1984, 98 Stat. 225.)

CODIFICATION

Section was enacted as part of the National Foundation on the Arts and the Humanities Act Amendments of 1983, and not as part of the National Foundation on the Arts and the Humanities Act of 1965 which comprises this subchapter.

§956. National Endowment for the Humanities

(a) Establishment

There is established within the Foundation the National Endowment for the Humanities.

(b) Chairperson of the Endowment; appointment, term, reappointment; vacancy; expiration of term

(1) The Endowment shall be headed by a chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years, and the Chairperson shall be eligible for reappointment. The provisions of this paragraph shall apply to any person appointed to fill a vacancy in the office of the Chairperson. Upon expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) Functions of the Endowment; publications; traditionally underrepresented recipients of financial assistance

The Chairperson, with the advice of the National Council on the Humanities (hereinafter established), is authorized to enter into arrangements, including contracts, grants, loans, and other forms of assistance, to—

(1) develop and encourage the pursuit of a national policy for the promotion of progress and

scholarship in the humanities;

(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements with individuals or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;

(3) initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships awarded to individuals under this authority may be for the purpose of study or research at appropriate nonprofit institutions selected by the recipient of such aid, for stated periods of time);

(4) initiate and support programs and research which have substantial scholarly and cultural significance and that reach, or reflect the diversity and richness of our American cultural heritage, including the culture of, a minority, inner city, rural, or tribal community;

(5) foster international programs and exchanges;

(6) foster the interchange of information in the humanities;

(7) foster, with groups, education in, and public understanding and appreciation of the humanities;

(8) support the publication of scholarly works in the humanities;

(9) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be unavailable due to geographic or economic reasons; and

(10) foster programs and projects that provide access to, and preserve materials important to research, education, and public understanding of, the humanities.

In the case of publications under clause (8) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to scholars, and educational and cultural institutions, that have traditionally been underrepresented.

(d) Coordination and development of Endowment programs with other Federal and non-Federal programs

The Chairperson shall coordinate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this subchapter which can be made by other Federal agencies under existing programs.

(e) Limitation on amount of grant for workshop activities for which an admission or other charge is made to the general public

The total amount of any grant under subsection (c)(3) of this section to any group engaging in workshop activities for which an admission or other charge is made to the general public shall not exceed 30 per centum of the total cost of such activities.

(f) Grants-in-aid programs; designation of State administrative agency; matching funds; applications and plans; allotments; cost limitations; grants to regional groups; non-Federal funding; definitions; suspension of grants; single entity limitation

(1) The Chairperson, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date the State agency is established as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairperson finds—

(i) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the "State agency") as the sole agency for the administration of the State plan;

(ii) provides that the chief executive officer of the State will appoint new members to the State humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive officer has appointed all of the members of such council;

(iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;

(iv) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out the objectives of subsection (c) of this section and which are designed to bring the humanities to the public;

(v) provides assurances that State funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph;

(vi) provides that the State agency will make such reports, in such form and containing such information, as the Chairperson may require, including a description of the progress made toward achieving the goals of the State plan;

(vii) provides—

(I) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the State plan; and

(II) a summary of such recommendations and of the response of the State agency to such recommendations; and

(viii) contains—

(I) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(II) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

(III) a description of programs receiving financial assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under subclause (I) of this clause or that address the availability of the humanities to all people or communities identified under subclause (II) of this clause.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(B) In any State in which the chief executive officer of the State fails to submit an application under subparagraph (A), the grant recipient in such State shall—

(i) establish a procedure which assures that six members of the governing body of such grant

recipient shall be appointed by an appropriate officer or agency of such State, except that in no event may the number of such members exceed 25 per centum of the total membership of such governing body; and

(ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.

(3) Whenever a State selects to receive Federal financial assistance under this subsection for any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such assistance at such time as shall be specified by the Chairperson. Each such application shall be accompanied by a plan which the Chairperson finds—

(A) provides assurances that the grant recipient will comply with the requirements of paragraph (2)(B);

(B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c) of this section;

(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;

(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient;

(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

(G) establishes procedures to assure public access to information relating to such activities;

(H) provides that such grant recipient will make reports to the Chairperson, in such form, at such times, and containing such information, as the Chairperson may require, including a description of the progress made toward achieving the goals of the plan;

(I) provides—

(i) assurances that the grant recipient has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the plan; and

(ii) a summary of such recommendations and of the response of the grant recipient to such recommendations; and

(J) contains—

(i) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(ii) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

(iii) a description of programs receiving financial assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under clause (i) of this subparagraph or that address the availability of the humanities to all people or communities identified under clause (ii) of this subparagraph.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(4) Of the sums available to carry out this subsection for any fiscal year, each State and each grant recipient which has a plan approved by the Chairperson shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such

sums shall be allotted among such States and grant recipients in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) 34 per centum of the amount of such excess for such fiscal year shall be available to the Chairperson for making grants under this subsection to States and regional groups and entities applying for such grants;

(B) 44 per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairperson; and

(C) 22 per centum of the amount of such excess for such fiscal year shall be allotted among the States and grant recipients which have plans approved by the Chairperson in amounts which bear the same ratio to such excess as the population of the State for which the plan is approved (or, in the case of a grant recipient other than a State, the population of the State in which such grant recipient is located) bears to the population of all the States.

(5)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairperson in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (4) for any fiscal year—

(i) which exceeds $125,000, but

(ii) which does not exceed 20 per centum of such allotment,

shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

(B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the State agency or grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairperson for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purposes of this paragraph, the term "regional group" means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (4)(B), the term "State" and the term "grant recipient" include, in addition to the several States of the Union, only those special jurisdictions specified in section 952(g) of this title which have a population of 200,000 or more, according to the latest decennial census.

(6) All amounts allotted or made available under paragraph (4) for a fiscal year which are not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c) of this section.

(7) Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that—

(A) a group or grant recipient is not complying substantially with the provisions of this subsection;

(B) a State agency or grant recipient is not complying substantially with terms and conditions of its State plan or grant recipient application approved under this subsection; or

(C) any funds granted to any group or State agency or grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid,

the Chairperson shall immediately notify the Secretary of the Treasury and the group, State agency, or grant recipient with respect to which such finding was made that no further grants will be made under this subsection to such group, State agency, or grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such group, State agency, or grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(8) Except as provided in the third sentence of paragraph (4), and paragraphs (5) and (6), the Chairperson may not make grants under this subsection to more than one entity in any State.

(g) Payment of performers and supporting personnel; standards, regulations, and procedures

It shall be a condition of the receipt of any grant under this section that the group, individual, or State agency or entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall prescribe standards, regulations, and procedures necessary to carry out this subsection.

(h) Program of contracts or grants-in-aid to public agencies and private nonprofit organizations; limitation on payments

(1) The Chairperson of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

(E) fostering greater citizen involvement in planning the cultural development of a community; and

(F) for bicentennial programs, assessing where our society and Government stand in relation to the founding principles of the Republic, primarily focused on projects which will bring together the public and private citizen sectors in an effort to find new processes for solving problems facing our Nation in its third century.

(2)(A) Except as provided in subparagraph (B) of this paragraph, the total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(B) The Chairperson, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagraph (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such clause, could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section 960(a)(3) of this title, unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated in any fiscal year and available to the National Endowment for the Humanities for the purpose of this subsection.

(3) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Humanities shall have the same authority as is established in subsection (c) of this section and section 959 of this title.

(i) Interagency agreements

The Chairperson may enter into interagency agreements to promote or assist with the humanities-related activities of other Federal agencies, on either a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) of this section for the costs of such activities.

(j) Payment of wages at prevailing rates; authority of Secretary of Labor

It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State, State agency, or entity receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 3145 of title 40.

(k) National information and data collection system on humanities, scholars, educational and cultural groups, and audiences; development and implementation plan; state of the humanities reports

The Chairperson of the National Endowment for the Humanities shall, in ongoing consultation with State and local agencies, other relevant organizations, and relevant Federal agencies, continue to develop and implement a practical system of national information and data collection and public dissemination on the humanities, scholars, educational and cultural groups, and their audiences. Such system shall include cultural and financial trends in the various humanities fields, trends in audience participation, and trends in humanities education on national, regional, and State levels. Such system shall be used, along with a summary of the data submitted with plans under subsection (f) of this section, to prepare a report on the state of the humanities in the Nation. The state of the humanities report shall include a description of the availability of the Endowment's programs to emerging and culturally diverse scholars, cultural and educational organizations, and communities and of the participation of such scholars, organizations, and communities in such programs. The state of the humanities report shall be submitted to the President and the Congress, and provided the States, not later than October 1, 1992, and quadrennially thereafter.

(l) Eligibility of group for financial assistance

Any group shall be eligible for financial assistance under this section only if—

(1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals; and

(2) donations to such group are allowable as a charitable contribution under the standards of section 170(c) of title 26.

(m) Annual awards

The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

(1) The Jefferson Lecture in the Humanities Award to one individual for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

(2) The Charles Frankel Prize to honor individuals who have made outstanding contributions to the public understanding of the humanities. Not more than 5 individuals may receive such prize each year. Each prize shall not exceed $5,000.

(Pub. L. 89–209, §7, Sept. 29, 1965, 79 Stat. 850; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 91–346, §8, July 20, 1970, 84 Stat. 445; Pub. L. 93–133, §§2(a)(6), 3, Oct. 19, 1973, 87 Stat. 464, 465; Pub. L. 94–462, title I, §§104(a), 105, title III, §301(b), Oct. 8, 1976, 90 Stat. 1971, 1974, 1979; Pub. L. 96–496, title I, §§104, 109(c), Dec. 4, 1980, 94 Stat. 2584, 2591; renumbered title I, §7, Pub. L. 98–306, §2, May 31, 1984, 98 Stat. 223; renumbered §7 and amended Pub. L. 99–194, title I, §§101(1), 107, Dec. 20, 1985, 99 Stat. 1332, 1335; Pub. L. 101–512, title III, §318 [title I, §107], Nov. 5, 1990, 104 Stat. 1960, 1969.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (j), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (j), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–512, §318 [title I, §107(a)], substituted "the" for "a" after "Foundation".

Subsec. (c). Pub. L. 101–512, §318 [title I, §107(b)(1)], inserted "enter into arrangements, including contracts, grants, loans, and other forms of assistance, to" after "is authorized to".

Subsec. (c)(2). Pub. L. 101–512, §318 [title I, §107(b)(2)], struck out "(including contracts, grants, loans, and other forms of assistance)" after "arrangements".

Subsec. (c)(3). Pub. L. 101–512, §318 [title I, §107(b)(3)], substituted "initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships" for "award fellowships and grants to institutions or individuals for training and workshops in the humanities. Fellowships", and inserted closing parenthesis after "periods of time".

Subsec. (c)(7). Pub. L. 101–512, §318 [title I, §107(b)(4)], struck out "through grants or other arrangements" after "foster,".

Subsec. (c)(10). Pub. L. 101–512, §318 [title I, §107(b)(5)–(7)], added par. (10).

Subsec. (d). Pub. L. 101–512, §318 [title I, §107(c)], substituted "coordinate" for "correlate".

Subsec. (f)(2)(A). Pub. L. 101–512, §318 [title I, §107(d)(1)], substituted "the date the State agency is established" for "December 20, 1985,".

Subsec. (f)(2)(A)(viii)(I). Pub. L. 101–512, §318 [title I, §107(d)(2)(A)], substituted "most recent preceding year for which information is available" for "previous two years".

Subsec. (f)(2)(A)(viii)(II). Pub. L. 101–512, §318 [title I, §107(d)(2)(B)], inserted "for the most recent preceding year for which information is available,".

Subsec. (f)(3)(J)(i). Pub. L. 101–512, §318 [title I, §107(d)(3)(A)], substituted "most recent preceding year for which information is available" for "previous two years".

Subsec. (f)(3)(J)(ii). Pub. L. 101–512, §318 [title I, §107(d)(3)(B)], inserted "for the most recent preceding year for which information is available,".

Subsec. (g). Pub. L. 101–512, §318 [title I, §107(e)], struck out "not later than 180 days after December 20, 1985" before period at end.

Subsec. (h)(2)(B). Pub. L. 101–512, §318 [title I, §107(f)], substituted "Endowment for" for "Endowment on".

Subsec. (k). Pub. L. 101–512, §318 [title I, §107(g)], inserted "ongoing" after "shall, in", substituted "continue to develop and implement" for "develop", inserted "and public dissemination" after "collection", struck out "Not later than one year after December 20, 1985, the Chairperson shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the development and implementation of such system, including a recommendation regarding the need for any additional funds to be appropriated to develop and implement such system." after "and State levels.", and substituted "1992, and quadrennially" for "1988, and biennially".

Subsecs. (l), (m). Pub. L. 101–512, §318 [title I, §107(h)], added subsecs. (l) and (m) and struck out former subsec. (l) which related to reports and plans required by regulation or directives and the transmittal of such reports and plans to the Equal Employment Opportunity Commission.

1985—Subsec. (b). Pub. L. 99–194, §107(1), (5), substituted "chairperson" for "chairman" in par. (1), and in par. (2), substituted "Chairperson" for "Chairman" and "the Chairperson's" for "his" wherever appearing.

Subsec. (c). Pub. L. 99–194, §107(2), (5), substituted "Chairperson" for "Chairman" wherever appearing, substituted "workshops" for "workships" in cl. (3), added cls. (4) and (5) and redesignated existing cls. (4) to (7) as (6) to (9), respectively, substituted "clause (8)" for "clause (6)" in second sentence, and inserted at end "In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to scholars, and educational and cultural institutions, that have traditionally been underrepresented."

Subsec. (d). Pub. L. 99–194, §107(5), substituted "Chairperson" for "Chairman".

Subsec. (f). Pub. L. 99–194, §107(3), (5), substituted "Chairperson" for "Chairman" wherever appearing; in

par. (2)(A) substituted "December 20, 1985" for "December 4, 1980", inserted "officer" after "chief executive" wherever appearing in cl. (ii), struck out "and" at end of cl. (v), substituted ", including a description of the progress made toward achieving the goals of the State plan;" for the period at end of cl. (vi), and added cls. (vii) and (viii) and sentence providing that no application may be approved unless the accompanying plan satisfies the requirements specified in this subsection; in par. (2)(B)(i) substituted "six" and "25" for "four" and "20", respectively; and in par. (3) struck out "and" at end of cl. (G), substituted ", including a description of the progress made toward achieving the goals of the plan;" for the period at end of cl. (H), and added cls. (I) and (J) and sentence providing that no application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

Subsec. (g). Pub. L. 99–194, §107(4), substituted "The Secretary of Labor shall prescribe standards, regulations, and procedures necessary to carry out this subsection not later than 180 days after December 20, 1985" for "The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection".

Subsecs. (h)(1), (2)(B), (3), (i). Pub. L. 99–194, §107(5), substituted "Chairperson" for "Chairman" wherever appearing.

Subsecs. (j) to (l). Pub. L. 99–194, §107(6), added subsecs. (j) to (l).

1980—Subsec. (c). Pub. L. 96–496, §109(c), substituted "Committee on Labor and Human Resources" for "Committee on Labor and Public Welfare" in last sentence.

Subsec. (f)(2). Pub. L. 96–496, §104(a)(1), substituted provisions relating to the designation of State humanities councils as State administrative agencies, requiring matching State funding and submission by States wishing to designate administrative State agencies of grant applications and accompanying administrative plans, and prescribing a grant recipient application procedure for provisions requiring entities desiring to receive financial assistance under this subsection to submit grant applications and accompanying administrative plans.

Subsec. (f)(3). Pub. L. 96–496, §104(a)(2), substituted provisions requiring entities desiring to receive financial assistance under this subsection to submit grant applications and accompanying administrative plans for provisions relating to the appointment of grant recipient members.

Subsec. (f)(4). Pub. L. 96–496, §104(a)(3), in provisions preceding subpar. (A), substituted "each State and each grant recipient" for "each grant recipient" and "such States and grant recipients" for "such grant recipients", in subpar. (A), substituted "34 per centum of the amount of such excess for such" for "the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any" and inserted "States and regional groups and", in subpar. (B), substituted "44 per centum of the amount of such excess for such fiscal year" for "the amount of such excess, if any, which remains after reserving in full for the Chairman the amount required under subparagraph (A)" and "States and grant recipients" for "grant recipients" and struck out "but in no event shall any grant recipient be allotted less than $200,000" after "Chairman" and added subpar. (C).

Subsec. (f)(5)(A). Pub. L. 96–496, §104(a)(4)(A), substituted "The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any" for "Whenever the provisions of paragraph (3)(B) of this subsection apply in any State, that part of any".

Subsec. (f)(5)(B). Pub. L. 96–496, §104(a)(4)(B), inserted "State agency or".

Subsec. (f)(5)(E). Pub. L. 96–496, §104(a)(4)(C), added subpar. (E).

Subsec. (f)(7). Pub. L. 96–496, §104(a)(5), inserted "group or" in subpar. (A), inserted "State agency or" and substituted "State plan or grant recipient application" for "plan" in subpar. (B), inserted "group or State agency or" in subpar. (C), and inserted "group, State agency, or" in three places in provisions following subpar. (C).

Subsec. (f)(8). Pub. L. 96–496, §104(a)(6), substituted "the third sentence of paragraph (4), and paragraphs (5) and (6)" for "paragraphs (4), (5), and (6)".

Subsec. (g). Pub. L. 96–496, §104(b), substituted "State agency or" for "State".

Subsec. (i). Pub. L. 96–496, §104(c), added subsec. (i).

1976—Subsecs. (f), (g). Pub. L. 94–462, §§104(a), 105, added subsecs. (f) and (g).

Subsec. (h). Pub. L. 94–462, §301(b), added subsec. (h).

1973—Subsec. (c). Pub. L. 93–133, §2(a)(6), in provisions preceding cl. (1) struck out reference to the Federal Council on the Arts and the Humanities, in cl. (2) inserted proviso that loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury, in cl. (6) struck out reference to section 111 of title 44, and added cl. (7) and provisions following cl. (7).

Subsec. (d). Pub. L. 93–133, §3, required the Chairman to correlate the programs of the National

Endowment for the Humanities with designated State humanities agencies.

1970—Subsec. (b)(2). Pub. L. 91–346, §8(a), provided that upon expiration of his term of office the Chairman shall serve until his successor shall have been appointed and shall have qualified.

Subsec. (c)(2). Pub. L. 91–346, §8(b), announced intention of the Endowment for the Humanities to strengthen teaching potential as well as research potential and authorized the Endowment to make contracts as well as grants etc., in its efforts to accomplish its goals.

Subsec. (c)(5). Pub. L. 91–346, §8(c), announced intention to foster education in as well as public understanding and appreciation of the humanities.

1967—Subsec. (b)(1). Pub. L. 90–83 struck out provision setting the compensation of the Chairman at the level prescribed by law for the Director of the National Science Foundation.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

APPLICABILITY OF 1985 AMENDMENT

Amendment by section 107(3) of Pub. L. 99–194 not applicable with respect to plans submitted for financial assistance to be provided with funds appropriated for fiscal year 1986, see section 112 of Pub. L. 99–194, set out as a note under section 954 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–462, title I, §104(b), Oct. 8, 1976, 90 Stat. 1974, provided that: "The amendment made by subsection (a) [amending this section] shall be effective with respect to fiscal year 1977 and succeeding fiscal years."

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by section 2(a)(6) of Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (k) of this section relating to quadrennially submitting the state of the humanities report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 183 of House Document No. 103–7.

§956a. National Capital arts and cultural affairs; grant programs

There is hereby authorized a program to support artistic and cultural programs in the Nation's Capital to be established under the direction of the Commission of Fine Arts. Not to exceed $10,000,000 annually is authorized to provide grants for general operating support to eligible organizations located in the District of Columbia whose primary purpose is performing, exhibiting and/or presenting arts.

Eligibility for grants shall be limited to not-for-profit, non-academic institutions of demonstrated national repute and is further limited to organizations having annual income, exclusive of Federal funds, in excess of $1,000,000 for each of the three years prior to receipt of a grant. Each eligible organization must have its principal place of business in the District of Columbia and in a facility or facilities located in the District of Columbia.

The Chairman of the Commission of Fine Arts shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities determine the eligibility of applicant organizations.

Of the funds provided for grants, 70 per centum shall be equally distributed among all qualifying organizations and 30 per centum shall be distributed based on the size of an organization's total annual income, exclusive of Federal funds, compared to the combined total of the annual income, exclusive of Federal funds, of all eligible institutions. No organization shall receive a grant in excess of $650,000 in a single year.

An application process shall be established no later than March 1, 1986, and initial grants shall be awarded no later than June 1, 1986.

(Pub. L. 99–190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1261; Pub. L. 99–500, §101(h) [title II, §201], Oct. 18, 1986, 100 Stat. 1783–242, 1783–281, and Pub. L. 99–591, §101(h) [title II, §201], Oct. 30, 1986, 100 Stat. 3341–242, 3341–281; Pub. L. 100–202, §101(g) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–250; Pub. L. 101–121, title II, Oct. 23, 1989, 103 Stat. 739; Pub. L. 106–219, §2, June 20, 2000, 114 Stat. 346; Pub. L. 108–81, title V, §502(b), Sept. 25, 2003, 117 Stat. 1003; Pub. L. 111–88, div. A, title IV, §418, Oct. 30, 2009, 123 Stat. 2960; Pub. L. 112–74, div. E, title III, Dec. 23, 2011, 125 Stat. 1035.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Section was not enacted as part of the National Foundation on the Arts and the Humanities Act of 1965 which comprises this subchapter.

AMENDMENTS

2011—Pub. L. 112–74 substituted "Each eligible organization must have its principal place of business in the District of Columbia and in a facility or facilities located in the District of Columbia." for "The following organizations are deemed eligible to receive grants under this section: Folger Theater, Corcoran Gallery of Art, Phillips Gallery, Arena Stage, the National Building Museum, the National Children's Museum, the National Symphony Orchestra, the National Opera, and Ford's Theater." in second par. and struck out "in addition to those herein named" at end of third par.

2009—Pub. L. 111–88 substituted "$10,000,000" for "$7,500,000" in first par. and "$650,000" for "$500,000" in fourth par.

2003—Pub. L. 108–81 substituted "National Children's Museum" for "National Capital Children's Museum" in second par.

2000—Pub. L. 106–219 substituted "National Opera" for "Washington Opera Society" in second par.

1989—Pub. L. 101–121 substituted "$7,500,000" for "$5,000,000" in first par.

1987—Pub. L. 100–202 substituted "direction of the Commission of Fine Arts" for "direction of the National Endowment for the Humanities" in first par. and amended third par. generally. Prior to amendment, third par. read as follows: "The Chairman of the National Endowment for the Humanities shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the Commission on Fine Arts determine the eligibility of applicant organizations in addition to those herein named."

1986—Pub. L. 99–500 and Pub. L. 99–591 substituted "whose primary purpose is" for "which are engaged primarily in" in first par. and "annual income, exclusive of Federal Funds," for "an annual operating budget", "operating budget", and "operating budgets" in third and fourth pars.

REDESIGNATION OF CAPITAL CHILDREN'S MUSEUM AS NATIONAL CHILDREN'S MUSEUM

Pub. L. 108–81, title V, §502, Sept. 25, 2003, 117 Stat. 1003, provided that:

"(a) DESIGNATION.—The Capital Children's Museum located at 800 Third Street, NE, Washington, D.C. (or any successor location), organized under the laws of the District of Columbia, is designated as the 'National Children's Museum'.

"(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Capital Children's Museum referred to in subsection (a) shall be deemed to be a reference to the 'National Children's Museum'."

REDESIGNATION OF WASHINGTON OPERA AS NATIONAL OPERA

Pub. L. 106–219, June 20, 2000, 114 Stat. 346, provided that:

"SECTION 1. DESIGNATION.

"The Washington Opera, organized under the laws of the District of Columbia, is designated as the 'National Opera'.

"SEC. 2. REFERENCES.

"Any reference in a law, map, regulation, document, paper or other record of the United States to the Washington Opera referred to in section 1 shall be deemed to be a reference to the 'National Opera'."

§957. National Council on the Humanities

(a) Establishment

There is established in the National Endowment for the Humanities a National Council on the Humanities.

(b) Composition; basis for selection of members; representation of interests; recommendations of national organizations

The Council shall be composed of the Chairperson of the National Endowment for the Humanities, who shall be the Chairperson of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, from private life. Such members shall be individuals who (1) are selected from among private citizens of the United States who are recognized for their broad knowledge of, expertise in, or commitment to the humanities, and (2) have established records of distinguished service and scholarship or creativity and in a manner which will provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States. The President is requested in the making of such appointments to give consideration to such recommendations as may from time to time be submitted to him by leading national organizations concerned with the humanities. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the humanities.

(c) Term of office; vacancies; reappointment

Each member shall hold office for a term of six years, except that (1) the members first taking office shall serve, as designated by the President, nine for terms of two years, nine for terms of four years, and eight for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed. No member shall be eligible for reappointment during the two-year period following the expiration of such member's term. Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of such member's term until such member's successor takes office.

(d) Meetings; quorum

The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Fourteen members of the Council shall constitute a quorum.

(e) Compensation and travel expenses

Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5) for persons in the Government service employed intermittently.

(f) Advisory functions: policies, programs, and procedures; review of applications for financial support; recommendations prerequisite to action of Chairperson; unilateral action by Chairperson pursuant to delegation of authority

The Council shall (1) advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairperson. The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a

reasonable time. In the case of any application involving $30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council: *Provided*, That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (B) of paragraph (1) of section 960(a) of this title.

(Pub. L. 89–209, §8, Sept. 29, 1965, 79 Stat. 851; Pub. L. 90–348, §4, June 18, 1968, 82 Stat. 186; Pub. L. 91–346, §5(c), July 20, 1970, 84 Stat. 444; Pub. L. 93–133, §2(a)(7), Oct. 19, 1973, 87 Stat. 464; Pub. L. 94–462, title I, §103(b), Oct. 8, 1976, 90 Stat. 1971; Pub. L. 96–496, title I, §105, Dec. 4, 1980, 94 Stat. 2587; renumbered title I, §8, and amended Pub. L. 98–306, §§2, 5(b), May 31, 1984, 98 Stat. 223, 224; renumbered §8 and amended Pub. L. 99–194, title I, §§101(1), 108, Dec. 20, 1985, 99 Stat. 1332, 1338.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–194, §108(1), substituted "Chairperson" for "Chairman" in two places, substituted "individuals who (1) are selected from among private citizens of the United States who are recognized for their broad knowledge of, expertise in, or commitment to the humanities, and (2) have established records of" for "selected on the basis of", and inserted provision that in making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the humanities.

Subsec. (c). Pub. L. 99–194, §108(2), substituted "such member's" for "his" wherever appearing.

Subsecs. (d), (e). Pub. L. 99–194, §108(3), substituted "Chairperson" for "Chairman" wherever appearing.

Subsec. (f). Pub. L. 99–194, §108(3), (4), substituted "Chairperson" for "Chairman" wherever appearing, "the Chairperson's" for "his", and "until the Chairperson has received" for "until he has received".

1984—Subsec. (c). Pub. L. 98–306, §5(b), inserted "Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of his term until his successor takes office."

1980—Subsec. (f). Pub. L. 96–496 substituted "$30,000" for "$17,500".

1976—Subsec. (b). Pub. L. 94–462 inserted ", by and with the advice and consent of the Senate," after "by the President".

1973—Subsec. (f). Pub. L. 93–133 substituted "$17,500" for "$10,000" and inserted proviso that the terms of delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceeds an amount equal to 10 per centum of the sums appropriated for that fiscal year.

1970—Subsec. (e). Pub. L. 91–346 set forth provisions governing compensation of persons employed for the Government service on an intermittent basis.

1968—Subsec. (f). Pub. L. 90–348 inserted provisions which authorized the Chairman, in the case of any application involving $10,000 or less, to approve or disapprove the application if such action is pursuant to the terms of a delegation of authority from the Endowment Council and such action is reviewed by the Endowment Council.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§957a. Omitted

CODIFICATION

Section, Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 949, which directed that persons serving on National Council on the Humanities continue until their successors are qualified for office, was omitted as superseded. See section 957(c) of this title, as amended by Pub. L. 98–306. Similar provisions were contained in Pub. L.

97–394, title II, Dec. 30, 1982, 96 Stat. 1994.

§958. Federal Council on the Arts and the Humanities

(a) Establishment

There is established within the Foundation a Federal Council on the Arts and the Humanities.

(b) Composition; presiding officer; changes in membership to meet changes in programs or executive branch organization

The Council shall be composed of the Chairperson of the National Endowment for the Arts, the Chairperson of the National Endowment for the Humanities, the Director of the Institute of Museum and Library Services, the Secretary of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, the Assistant Secretary for Aging, a member designated by the Secretary of State, and a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the presiding officer of the Council from among the members. The President is authorized to change the membership of the Council from time to time as the President deems necessary to meet changes in Federal programs or executive branch organization.

(c) Functions

The Council shall—

(1) advise and consult with the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities on major problems arising in carrying out the purposes of the Foundation;

(2) advise and consult with the National Museum Services Board and with the Director of the Institute of Museum and Library Services on major problems arising in carrying out the purposes of such Institute;

(3) coordinate, by advice and consultation, so far as is practicable, the policies and operations of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum and Library Services, including joint support of activities, as appropriate;

(4) promote coordination between the programs and activities of the Foundation and related programs and activities of other Federal agencies;

(5) plan and coordinate appropriate participation (including productions and projects) in major and historic national events;

(6) undertake studies and make reports which address the state of the arts and humanities, particularly with respect to their economic needs and problems; and

(7) encourage an ongoing dialogue in support of the arts and the humanities among Federal agencies.

(Pub. L. 89–209, §9, Sept. 29, 1965, 79 Stat. 851; Pub. L. 91–346, §9, July 20, 1970, 84 Stat. 446; Pub. L. 93–133, §2(a)(8), Oct. 19, 1973, 87 Stat. 464; Pub. L. 94–462, title II, §208, Oct. 8, 1976, 90 Stat. 1977; Pub. L. 96–496, title I, §§106, 109(d), Dec. 4, 1980, 94 Stat. 2587, 2591; renumbered title I, §9, and amended Pub. L. 98–306, §§2, 6, May 31, 1984, 98 Stat. 223, 224; renumbered §9 and amended Pub. L. 99–194, title I, §§101(1), 109, Dec. 20, 1985, 99 Stat. 1332, 1339; Pub. L. 101–512, title III, §318 [title I, §108], Nov. 5, 1990, 104 Stat. 1960, 1970; Pub. L. 103–171, §3(b)(2), Dec. 2, 1993, 107 Stat. 1991; Pub. L. 111–340, title II, §208(2), Dec. 22, 2010, 124 Stat. 3603.)

AMENDMENTS

2010—Subsecs. (b), (c)(2), (3). Pub. L. 111–340 substituted "Institute of Museum and Library Services" for "Institute of Museum Services".

1993—Subsec. (b). Pub. L. 103–171 substituted "Assistant Secretary for Aging" for "Commissioner on Aging".

1990—Subsec. (c)(7). Pub. L. 101–512, §318 [title I, §108(a)], added par. (7).

Subsec. (d). Pub. L. 101–512, §318 [title I, §108(b)], struck out subsec. (d) which related to studies on Federal support to museums and the impact of Institute of Museum Services and of conservation and preservation practices.

1985—Subsec. (b). Pub. L. 99–194, §109(1), substituted "Chairperson" for "Chairman" in two places in first sentence, "presiding officer" for "Chairman" in second sentence, and "the President" for "he" in last sentence.

Subsec. (c)(1). Pub. L. 99–194, §109(2), substituted "Chairperson" for "Chairman" wherever appearing.

Subsec. (d). Pub. L. 99–194, §109(3), added subsec. (d). Former subsec. (d), relating to a study and report to the President and the Congress on artistic employment opportunities, was struck out.

Subsec. (e). Pub. L. 99–194, §109(3), struck out subsec. (e) which provided for a study and report to the President and the Congress on arts and artifacts indemnification.

1984—Subsec. (b). Pub. L. 98–306, §6(a), inserted "the Director of the Institute of Museum Services,".

Subsec. (c)(4). Pub. L. 98–306, §6(b), struck out "and the Institute of Museum Services" after "Foundation".

1980—Subsec. (b). Pub. L. 96–496, §§106(a), 109(d), inserted "the Commissioner on Aging," and substituted "Secretary of Education" for "United States Commissioner of Education".

Subsec. (c)(6). Pub. L. 96–496, §106(b), added par. (6).

Subsecs. (d), (e). Pub. L. 96–496, §106(c), added subsecs. (d) and (e).

1976—Subsec. (c)(2), (3). Pub. L. 94–462, §208(1), (2), added par. (2), redesignated former par. (2) as (3), and as so redesignated inserted "and the Institute of Museum Services," after "Humanities,". Former par. (3) redesignated (4).

Subsec. (c)(4), (5). Pub. L. 94–462, §208(1), (3), redesignated former par. (3) as (4), inserted "and the Institute of Museum Services" after "Foundation", and redesignated former par. (4) as (5).

1973—Subsec. (b). Pub. L. 93–133 included the Commissioner, Public Buildings Service, General Service Administration, a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House, as members of the Federal Council on the Arts and Humanities.

1970—Subsec. (b). Pub. L. 91–346 included the Archivist of the United States as a member of the Federal Council on the Arts and Humanities.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out a a note under section 951 of this title.

§959. Administrative provisions

(a) General authority of Chairpersons

In addition to any authorities vested in them by other provisions of this subchapter, the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) to prescribe such regulations as the Chairperson deems necessary governing the manner in which the Chairperson's functions shall be carried out;

(2) in the discretion of the Chairperson of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairperson use other funds of that Endowment for the purposes of the gift, except that a Chairperson may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council

recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of $15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 954(c) and 956(c) of this title;

(3) to appoint employees, subject to the civil service laws, as necessary to carry out the Chairperson's functions, define their duties, and supervise and direct their activities;

(4) to utilize experts and consultants, including panels of experts, who may be employed as authorized by section 3109 of title 5;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5 for persons in the Government service employed without compensation;

(6) to make advance, progress, and other payments without regard to section 3324 of title 31;

(7) to rent office space in the District of Columbia; and

(8) to make other necessary expenditures.

(b) Rules for distribution of donations, bequests, and devises; gifts with or without conditions; transfers for tax purposes

(1) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation without designation of the Endowment for the benefit of which such property is intended, and without condition or restriction other than that it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to each Endowment and each Chairperson of an Endowment shall have authority to receive such property.

(2) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairperson of an Endowment shall have authority to receive such property.

(3) For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised.

(4) For the purposes of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairperson of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.

(c) Advisory panels; membership; procedures

The Chairperson of the National Endowment for the Arts shall utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts in all cases except cases in which the Chairperson exercises authority delegated under section 955(f) of this title. When reviewing applications, such panels shall recommend applications for projects, productions, and workshops solely on the basis of artistic excellence and artistic merit. The Chairperson shall issue regulations and establish procedures—

(1) to ensure that all panels are composed, to the extent practicable, of individuals reflecting a wide geographic, ethnic, and minority representation as well as individuals reflecting diverse artistic and cultural points of view;

(2) to ensure that all panels include representation of lay individuals who are knowledgeable about the arts but who are not engaged in the arts as a profession and are not members of either artists' organizations or arts organizations;

(3) to ensure that, when feasible, the procedures used by panels to carry out their responsibilities

are standardized;

(4) to require panels—

(A) to create written records summarizing—

(i) all meetings and discussions of such panel; and

(ii) the recommendations made by such panel to the Council; and

(B) to make such records available to the public in a manner that protects the privacy of individual applicants and panel members;

(5) to require, when necessary and feasible, the use of site visitations to view the work of the applicant and deliver a written report on the work being reviewed, in order to assist panelists in making their recommendations; and

(6) to require that the membership of each panel change substantially from year to year and to provide that each individual is ineligible to serve on a panel for more than 3 consecutive years.

In making appointments to panels, the Chairperson shall ensure that an individual who has a pending application for financial assistance under this subchapter, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.

(d) Endowment activities reports

The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairperson deems appropriate.

(e) Council activities reports

The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.

(f) Post-award evaluation of assisted projects, productions, and programs; reports; extension of time for compliance; failure to satisfy purposes of assistance

(1) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall conduct a post-award evaluation of projects, productions, and programs for which financial assistance is provided by their respective Endowments under sections 954(c) and 956(c) of this title. Such evaluation may include an audit to determine the accuracy of the reports required to be submitted by recipients under clauses (i) and (ii) of paragraph (2)(A). As a condition of receiving such financial assistance, a recipient shall comply with the requirements specified in paragraph (2) that are applicable to the project, production, or program for which such financial assistance is received.

(2)(A) The recipient of financial assistance provided by either of the Endowments shall submit to the Chairperson of the Endowment involved—

(i) a financial report containing such information as the Chairperson deems necessary to ensure that such financial assistance is expended in accordance with the terms and conditions under which it is provided;

(ii) a report describing the project, production, or program carried out with such financial assistance; and

(iii) if practicable, as determined by the Chairperson, a copy of such project, production, or program.

(B) Such recipient shall comply with the requirements of this paragraph not later than 90 days after the end of the period for which such financial assistance is provided. The Chairperson may extend the 90-day period only if the recipient shows good cause why such an extension should be granted.

(3) If such recipient substantially fails to satisfy the purposes for which such financial assistance is provided and the criteria specified in subsection (c)(3)(A) [1] of this section, as determined by the Chairperson of the Endowment that provided such financial assistance, then such Chairperson may—

(A) for purposes of determining whether to provide any subsequent financial assistance, take into consideration the results of the post-award evaluation conducted under this subsection;

(B) prohibit the recipient of such financial assistance to use the name of, or in any way associate such project, production, or program with the Endowment that provided such financial assistance; and

(C) if such project, production, or program is published, require that the publication contain the following statement: "The opinions, findings, conclusions, and recommendations expressed herein do not reflect the views of the National Endowment for the Arts or the National Endowment for the Humanities."

(Pub. L. 89–209, §10, Sept. 29, 1965, 79 Stat. 852; Pub. L. 90–348, §5, June 18, 1968, 82 Stat. 186; Pub. L. 91–346, §§5(a)(3), 10, 11, July 20, 1970, 84 Stat. 443, 446; Pub. L. 93–133, §2(a)(9), (10), Oct. 19, 1973, 87 Stat. 465; Pub. L. 96–496, title I, §107, Dec. 4, 1980, 94 Stat. 2588; renumbered title I, §10, Pub. L. 98–306, §2, May 31, 1984, 98 Stat. 223; renumbered §10 and amended Pub. L. 99–194, title I, §§101(1), 110, Dec. 20, 1985, 99 Stat. 1332, 1339; Pub. L. 101–512, title III, §318 [title I, §109], Nov. 5, 1990, 104 Stat. 1960, 1970.)

CODIFICATION

In subsec. (a)(5), reference to "section 5703 of title 5" substituted for "law (5 U.S.C. 73b–2)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–512, §318 [title I, §109(5)(A)], redesignated concluding provisions of subsec. (a) as subsec. (b).

Subsec. (a)(4). Pub. L. 101–512, §318 [title I, §109(1)(A)], struck out "from time to time, as appropriate," after "to utilize".

Subsec. (a)(6). Pub. L. 101–512, §318 [title I, §109(1)(B)], substituted "section 3324 of title 31" for "the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529)".

Subsec. (b). Pub. L. 101–512, §318 [title I, §109(9)], which directed amendment of this section by striking the sixth sentence and all that follows through "pending." was executed by striking all that follows through "pending." the second place it appeared to reflect the probable intent of Congress. The provisions struck out read as follows: "In selecting panels of experts under clause (4) to review and make recommendations with respect to the approval of applications for financial assistance under this subchapter, each Chairperson shall appoint individuals who have exhibited expertise and leadership in the field under review, who broadly represent diverse characteristics in terms of aesthetic or humanistic perspective, and geographical factors, and who broadly represent cultural diversity. Each Chairperson shall assure that the membership of panels changes substantially from year to year, and that no more than 20 per centum of the annual appointments shall be for service beyond the limit of three consecutive years on a subpanel. In making appointments, each Chairperson shall give due regard to the need for experienced as well as new members on each panel. Panels of experts appointed to review or make recommendations with respect to the approval of applications or projects for funding by the National Endowment for the Arts shall, when reviewing such applications and projects, recommend for funding only applications and projects that in the context in which they are presented, in the experts' view, foster excellence, are reflective of exceptional talent, and have significant literary, scholarly, cultural, or artistic merit. Whenever there is pending an application submitted by an individual for financial assistance under section 954(c) of this title, such individual may not serve as a member of any subpanel (or panel where a subpanel does not exist) before which such application is pending. The prohibition described in the previous sentence shall commence on the date the application is submitted and continue for so long as the application is pending."

Pub. L. 101–512, §318 [title I, §109(8)], which directed amendment of the fifth sentence of this section by making the substitution for "For the purpose", was executed by substituting "(4) For the purposes" for "For the purposes" to reflect the probable intent of Congress.

Pub. L. 101–512, §318 [title I, §109(4)–(7)], redesignated concluding provisions of subsec. (a) as subsec. (b), inserted pars. (1), (2), and (3) designations, and struck out "(A)" before "without designation" and "(B)" before "without condition". Former subsec. (b) redesignated (d).

Subsecs. (c) to (e). Pub. L. 101–512, §318 [title I, §109(3), (4), (9)], added subsec. (c), redesignated former subsecs. (b) and (c) as (d) and (e), respectively, and struck out former subsec. (e) which related to studies and reports on the state and quality of arts and humanities education in public elementary and secondary schools. Former subsec. (d) redesignated (f).

Subsec. (f). Pub. L. 101–512, §318 [title I, §109(2)–(4)], redesignated subsec. (d) as (f) and, in par. (3), substituted "subsection (c)(3)(A) of this section" for "the last sentence of subsection (a) of this section", and struck out former subsec. (f) which related to report to Congress on selection of experts for appointment to panels, and procedures for recommendations on financial assistance applications.

1985—Subsec. (a). Pub. L. 99–194, §110(1), substituted "Chairperson" for "Chairman" in two places in provisions preceding cl. (1); in cl. (1) substituted "the chairperson" and "the chairperson's" for "he" and "his", respectively; in cl. (2) substituted "Chairperson" for "Chairman" wherever appearing; in cl. (3) substituted "the Chairperson's" for "his"; in cl. (4) substituted "section 3109 of title 5" for "section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a)" and struck out proviso that any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding was to have broad geographic and culturally diverse representation; and in provisions following par. (8) substituted "Chairperson" for "Chairman" wherever appearing and inserted provisions relating to the selection of a panel of experts to review financial assistance applications and the considerations to be made in the review of such applications.

Subsec. (b). Pub. L. 99–194, §110(2), substituted "Chairperson" for "Chairman" wherever appearing.

Subsecs. (d) to (f). Pub. L. 99–194, §110(3), added subsecs. (d) to (f). Former subsec. (d), relating to studies and reports to the President and the Congress on endowment uses of donations, bequests, and devises, was struck out.

1980—Subsec. (a)(4). Pub. L. 96–496, §107(a), inserted "and culturally diverse".

Subsecs. (b), (c). Pub. L. 96–496, §107(b), (c), substituted "April" for "January".

Subsec. (d). Pub. L. 96–496, §107(d), added subsec. (d).

1973—Subsec. (a)(2). Pub. L. 93–133, §2(a)(9), added exception that a Chairman may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of $15,000 or less without Council recommendation when the Council fails to recommend within a reasonable period of time.

Subsec. (a)(4). Pub. L. 93–133, §2(a)(10), inserted proviso that any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding shall have broad geographic representation.

1970—Subsec. (a)(2). Pub. L. 91–346, §5(a)(3), struck out reference to the functions transferred by section 955(a) of this title.

Subsec. (a)(3) to (5). Pub. L. 91–346, §11(1)–(3), inserted "to" at beginning of cls. (3) to (5).

Subsec. (a)(6) to (8). Pub. L. 91–346, §§10, 11(4), (5), redesignated cls. (6) and (7), and all references thereto, as cls. (7) and (8), added new cl. (6), and inserted "to" at beginning of cls. (7) and (8).

1968—Subsec. (a). Pub. L. 90–348 combined provisions of cls. (2) and (3) into cl. (2), and, in cl. (2) as thus combined, extended the area for the exercise of discretion of the Chairman of an Endowment, after receiving the recommendation of the National Council of that Endowment, in the disposition of gifts to include both gifts made with condition and gifts made without condition, redesignated cls. (4) to (8) as (3) to (7), and in provisions following cl. (7), struck out references to cls. (2) and (3) wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 5(a)(3) of Pub. L. 91–346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91–346, set out as a note under section 955 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which certain reporting requirements under subsec. (d) of this section are listed in item 7 on page 183), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, §1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.

DELEGATION OF CERTAIN REPORTING AUTHORITY

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 74937, provided:

Memorandum for the Chairperson of the National Endowment for the Arts

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President in the National Foundation on the Arts and Humanities Act of 1965, as amended (20 U.S.C. 959(d)) to provide the specified report relating to the National Endowment for the Arts to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 74939, provided:

Memorandum for the Chairperson of the National Endowment for the Humanities

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President in the National Foundation on the Arts and Humanities Act of 1965, as amended (20 U.S.C. 959(d)) to provide the specified report relating to the National Endowment for the Humanities to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

[1] So in original. Subsec. (c)(3) of this section does not contain a subpar. (A).

§959a. Gifts, bequests, and devises

The National Endowment for the Arts and the National Endowment for the Humanities are on and after August 2, 2005, authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

(Pub. L. 109–54, title IV, §410, Aug. 2, 2005, 119 Stat. 551.)

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the National Foundation on the Arts and the Humanities Act of 1965 which comprises this subchapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108–447, div. E, title III, §310, Dec. 8, 2004, 118 Stat. 3094.

Pub. L. 108–108, title III, §310, Nov. 10, 2003, 117 Stat. 1303.

Pub. L. 108–7, div. F, title III, §310, Feb. 20, 2003, 117 Stat. 271.

Pub. L. 107–63, title III, §315, Nov. 5, 2001, 115 Stat. 467.

Pub. L. 106–291, title III, §318, Oct. 11, 2000, 114 Stat. 989.

Pub. L. 106–113, div. B, §1000(a)(3) [title III, §319], Nov. 29, 1999, 113 Stat. 1535, 1501A–193.

Pub. L. 105–277, div. A, §101(e) [title III, §320], Oct. 21, 1998, 112 Stat. 2681–231, 2681–289.
Pub. L. 105–83, title III, §330, Nov. 14, 1997, 111 Stat. 1600.

§960. Authorization of appropriations

(a) Contracts, grants-in-aid, and loans to groups, individuals, public agencies, and private nonprofit organizations; availability of appropriations; guidelines

(1)(A)(i) For the purpose of carrying out section 954(c) of this title, there are authorized to be appropriated to the National Endowment for the Arts $125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(ii) For fiscal years—

(I) 1991 and 1992 not less than 25 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 27.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out section 954(g) of this title.

(iii) For fiscal years—

(I) 1991 and 1992 not less than 5 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 7.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out programs under section 954(p)(2) of this title (relating to programs to expand public access to the arts in rural and innercity areas). Not less than 50 percent of the funds required by this clause to be used for carrying out such programs shall be used for carrying out such programs in rural areas.

(B) For the purpose of carrying out section 956(c) of this title, there are authorized to be appropriated to the National Endowment for the Humanities $119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 956(f) of this title.

(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (10) of section 954(c) of this title;

except that the amounts so appropriated to the National Endowment for the Arts shall not exceed $13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees and subgrantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees and subgrantees, for use in carrying out activities under paragraph (1) through paragraph (10) of section 956(c) of this title;

except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(3)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 954(p)(1) of this title pursuant to the authority of section 959(a)(2) of this title; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 954(p)(1) of this title;

except that the amounts so appropriated to such Endowment shall not exceed $15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 956(h)(1) of this title pursuant to the authority of section 959(a)(2) of this title; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 956(h)(1) of this title;

except that the amounts so appropriated to such Endowment shall not exceed $15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(C) Sums appropriated pursuant to subparagraph (A) and subparagraph (B) for any fiscal year shall remain available for obligation and expenditure until expended.

(4) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, as the case may be, shall issue guidelines to implement the provisions of paragraph (2) and paragraph (3). Such guidelines shall be consistent with the requirements of section 954(e), section 954(l)(2),[1] section 956(f), and section 956(h)(2) of this title, as the case may be, regarding total Federal support of activities, programs, projects, or productions carried out under authority of this subchapter.

(b) Availability of appropriated unexpended funds; notice of availability of funds by advance appropriation

(1) Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for obligation and expenditure until expended.

(2) In order to afford adequate notice to interested persons of available assistance under this subchapter, appropriations authorized under subsection (a) of this section are authorized to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation.

(c) Administrative appropriations

(1) There are authorized to be appropriated to the National Endowment for the Arts $21,200,000"[2] for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this subchapter, or any other program for which the Chairperson of the National Endowment for the Arts is responsible, including not to exceed $50,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for fiscal year 1995 through the use of appropriated funds or any other source of funds shall not exceed $100,000.

(2) There are authorized to be appropriated to the National Endowment for the Humanities $17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this subchapter, or any other program for which the Chairperson of

the National Endowment for the Humanities is responsible, including not to exceed $50,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for fiscal year 1995 through the use of appropriated funds or any other source of funds shall not exceed $100,000.

(d) Total amount of appropriations

(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed—

(A) $167,060,000 for fiscal year 1986,
(B) $170,206,400 for fiscal year 1987, and
(C) $177,014,656 for fiscal year 1988.

(2) The total amount of appropriations to carry out the activities for the National Endowment for the Humanities shall not exceed—

(A) $139,878,000 for fiscal year 1986,
(B) $145,057,120 for fiscal year 1987, and
(C) $150,859,405 for fiscal year 1988.

(e) Prohibition of grants to production workshops using admission proceeds for unauthorized purposes

No grant shall be made to a workshop (other than a workshop conducted by a school, college, or university) for a production for which a direct or indirect admission charge is asked if the proceeds, after deducting reasonable costs, are used for purposes other than assisting the grantee to develop high standards of artistic excellence or encourage greater appreciation of the arts and humanities by our citizens.

(f) Availability of appropriations for arts education

(1) Subject to subparagraph (2), in any fiscal year in which the aggregate amount appropriated to the National Endowment for the Arts exceeds $175,000,000, 50 percent of such excess shall be available to carry out section 954a of this title.

(2) In each fiscal year, the amount made available to carry out section 954a of this title shall not exceed $40,000,000, in the aggregate.

(3) Funds made available to carry out section 954a of this title shall remain available until expended.

(Pub. L. 89–209, §11, Sept. 29, 1965, 79 Stat. 853; Pub. L. 90–348, §6, June 18, 1968, 82 Stat. 187; Pub. L. 91–346, §§5(a)(4), 12, July 20, 1970, 84 Stat. 444, 446; Pub. L. 93–133, §2(a)(11), Oct. 19, 1973, 87 Stat. 465; Pub. L. 94–462, title I, §106(a), title III, §302, title IV, §401(b), Oct. 8, 1976, 90 Stat. 1974, 1980, 1981; Pub. L. 94–555, title II, §219(b), Oct. 19, 1976, 90 Stat. 2629; Pub. L. 96–496, title I, §108, Dec. 4, 1980, 94 Stat. 2589; renumbered title I, §11, and amended Pub. L. 98–306, §§2, 7, May 31, 1984, 98 Stat. 223, 224; renumbered §11 and amended Pub. L. 99–194, title I, §§101(1), 111, Dec. 20, 1985, 99 Stat. 1332, 1342; Pub. L. 99–362, §1, July 9, 1986, 100 Stat. 769; Pub. L. 101–512, title III, §318 [title I, §§103(i)(2), 110], Nov. 5, 1990, 104 Stat. 1960, 1966, 1972; Pub. L. 103–382, title III, §371, Oct. 20, 1994, 108 Stat. 3977.)

REFERENCES IN TEXT

Section 954(l)(2) of this title, referred to in subsec. (a)(4), was redesignated section 954(p)(3) by Pub. L. 101–512, title III, §318 [title I, §§103(g)(1), (h)(1), 104(2)], Nov. 5, 1990, 104 Stat. 1960, 1964, 1965, 1966.

PRIOR PROVISIONS

This subchapter, Pub. L. 89–209, Sept. 29, 1965, 79 Stat. 845, consisted originally of additional sections 12, 13, and 14, which were classified to sections 961, 962, and 963 of this title prior to repeal. For further details, see Prior Provisions notes set out under sections 961 to 963 of this title.

AMENDMENTS

1994—Subsec. (c)(1), (2). Pub. L. 103–382 substituted "fiscal year 1995" for "any fiscal year" and "shall not exceed $100,000" for "shall not exceed $50,000".

1990—Subsec. (a)(1)(A). Pub. L. 101–512, §318 [title I, §110(a)], designated existing provisions as cl. (i), substituted "$125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993" for "$121,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990", struck out at end "Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 954(g) of this title.", and added cls. (ii) and (iii).

Subsec. (a)(1)(B). Pub. L. 101–512, §318 [title I, §110(b)], substituted "$119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993" for "$95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990;".

Subsec. (a)(1)(C). Pub. L. 101–512, §318 [title I, §110(c)], struck out subpar. (C) which related to appropriations for the National Endowment for the Arts for the fiscal year ending September 30, 1977.

Subsec. (a)(2)(A). Pub. L. 101–512, §318 [title I, §110(d)(1)], substituted "1993" for "1990" in introductory provisions and "paragraph (10)" for "paragraph (8)" in cl. (ii), and in closing provisions substituted "$13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993" for "$8,820,000 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990".

Subsec. (a)(2)(B). Pub. L. 101–512, §318 [title I, §110(d)(2)], substituted "1993" for "1990" in introductory provisions and "paragraph (10)" for "paragraph (9)" in cl. (ii), and in closing provisions substituted "$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993" for "$10,780,000 for fiscal year 1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990".

Subsec. (a)(3)(A). Pub. L. 101–512, §318 [title I, §110(d)(3)], in introductory provisions, substituted "1993" for "1990" and in closing provisions, substituted "$15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993" for "$20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990".

Subsec. (a)(3)(A)(i), (ii). Pub. L. 101–512, §318 [title I, §103(i)(2)(A)(i)], substituted "954(p)(1)" for "954(l)(1)".

Subsec. (a)(3)(B). Pub. L. 101–512, §318 [title I, §110(d)(4)], in introductory provisions, substituted "1993" for "1990" and in closing provisions, substituted "$15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993" for "$19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990".

Subsec. (a)(3)(C). Pub. L. 101–512, §318 [title I, §110(e)], redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: "If either Chairperson determines at the end of the ninth month of any fiscal year that funds which would otherwise be available under this paragraph to an Endowment cannot be used, the Chairperson shall transfer such funds to the other Endowment for the purposes described in section 954(p)(1) or section 956(h)(1) of this title, as may be necessary."

Pub. L. 101–512, §318 [title I, §103(i)(2)(A)(ii)], substituted "954(p)(1)" for "954(l)(1)".

Subsec. (a)(3)(D). Pub. L. 101–512, §318 [title I, §110(e)(2)], redesignated subpar. (D) as (C).

Subsec. (a)(4). Pub. L. 101–512, §318 [title I, §103(i)(2)(B)], which directed the substitution of "954(p)(1)" for "954(l)(1)", could not be executed because "954(l)(1)" does not appear in text.

Subsec. (c)(1). Pub. L. 101–512, §110(f)[(1)], substituted "$21,200,000" for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993" for "$15,982,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990" and "$50,000" for "$35,000" wherever appearing.

Subsec. (c)(2). Pub. L. 101–512, §110(f)(2), substituted "$17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993" for "$14,291,000 for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990" and "$50,000" for "$35,000" wherever appearing.

Subsec. (f). Pub. L. 101–512, §110(g), added subsec. (f).

1986—Subsec. (a)(2)(A)(ii). Pub. L. 99–362, §1(1), substituted "paragraph (8)" for "paragraph (5)".

Subsec. (a)(2)(B)(ii). Pub. L. 99–362, §1(2), substituted "paragraph (9)" for "paragraph (7)".

1985—Subsec. (a)(1)(A). Pub. L. 99–194, §111(a)(1), substituted "$121,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal year 1988, and such sums as may be necessary for

each of the fiscal years 1989 and 1990" for "$115,500,000 for fiscal year 1981, $127,000,000 for fiscal year 1982, $140,000,000 for fiscal year 1983, $128,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985".

Subsec. (a)(1)(B). Pub. L. 99–194, §111(a)(2), substituted "$95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990;" for "$114,500,000 for fiscal year 1981, $126,000,000 for fiscal year 1982, $138,500,000 for fiscal year 1983, $127,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985".

Subsec. (a)(2)(A). Pub. L. 99–194, §111(b)(1)(A), substituted "October 1, 1990" for "October 1, 1985" and "$8,820,000 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990" for "$18,500,000 for fiscal year 1981, $18,500,000 for fiscal year 1982, $18,500,000 for fiscal year 1983, $10,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985".

Subsec. (a)(2)(B). Pub. L. 99–194, §111(b)(1)(B), substituted "October 1, 1990" for "October 1, 1985" in provisions preceding cl. (i), substituted "grantees and subgrantees" for "grantees" in two places in cl. (ii), and in provisions following cl. (ii) substituted "$10,780,000 for fiscal year 1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990" for "$12,500,000 for fiscal year 1981, $14,000,000 for fiscal year 1982, $15,000,000 for fiscal year 1983, $11,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985".

Subsec. (a)(3)(A). Pub. L. 99–194, §111(b)(2)(A), substituted "October 1, 1990" for "October 1, 1985" and "$20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990" for "$27,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $32,500,000 for fiscal year 1983, $28,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985".

Subsec. (a)(3)(B). Pub. L. 99–194, §111(b)(2)(B), substituted "October 1, 1990" for "October 1, 1985" and "$19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990" for "$30,000,000 for fiscal year 1981, $33,000,000 for fiscal year 1982, $36,000,000 for fiscal year 1983, $20,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985".

Subsec. (a)(3)(C). Pub. L. 99–194, §111(b)(2)(C), substituted "either Chairperson" for "either Chairman" and "the Chairperson" for "he".

Subsec. (a)(4). Pub. L. 99–194, §111(b)(3), substituted "Chairperson" for "Chairman" wherever appearing.

Subsec. (c)(1). Pub. L. 99–194, §111(c)(1), (3), substituted "$15,982,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990" for "$14,000,000 for fiscal year 1981, $15,000,000 for fiscal year 1982, $16,000,000 for fiscal year 1983, $17,000,000 for fiscal year 1984, and $18,000,000 for fiscal year 1985" and "Chairperson" for "Chairman".

Subsec. (c)(2). Pub. L. 99–194, §111(c)(2), (3), substituted "$14,291,000 for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990" for "$13,000,000 for fiscal year 1981, $14,500,000 for fiscal year 1982, $15,500,000 for fiscal year 1983, $16,500,000 for fiscal year 1984, and $17,500,000 for fiscal year 1985" and "Chairperson" for "Chairman".

Subsecs. (d), (e). Pub. L. 99–194, §111(d), added subsec. (d), redesignated former subsec. (d) as (e), and struck out "under this subchapter" after "No grant shall be made".

1984—Subsec. (a)(1)(A). Pub. L. 98–306, §7(a)(1)(A), substituted "$128,500,000 for fiscal year 1984, and such sums as may be necessary" for "$154,000,000 for fiscal year 1984, and $170,000,000".

Subsec. (a)(1)(B). Pub. L. 98–306, §7(a)(1)(B), substituted "$127,000,000 for fiscal year 1984, and such sums as may be necessary" for "$152,000,000 for fiscal year 1984, and $167,500,000".

Subsec. (a)(2)(A). Pub. L. 98–306, §7(a)(2)(A), substituted "$10,000,000 for fiscal year 1984, and such sums as may be necessary" for "$20,000,000 for fiscal year 1984, and $22,500,000".

Subsec. (a)(2)(B). Pub. L. 98–306, §7(a)(2)(B), substituted "$11,500,000 for fiscal year 1984, and such sums as may be necessary" for "$16,500,000 for fiscal year 1984, and $18,500,000".

Subsec. (a)(3)(A). Pub. L. 98–306, §7(a)(3)(A), substituted "$28,000,000 for fiscal year 1984, and such sums as may be necessary" for "$36,000,000 for fiscal year 1984, and $40,000,000".

Subsec. (a)(3)(B). Pub. L. 98–306, §7(a)(3)(B), substituted "$20,000,000 for fiscal year 1984, and such sums as may be necessary" for "$40,000,000 for fiscal year 1984, and $44,000,000".

Subsec. (d). Pub. L. 98–306, §7(b), inserted "under this subchapter".

1980—Subsec. (a)(1)(A). Pub. L. 96–496, §108(a), substituted "to the National Endowment for the Arts

$115,500,000 for fiscal year 1981, $127,000,000 for fiscal year 1982, $140,000,000 for fiscal year 1983, $154,000,000 for fiscal year 1984, and $170,000,000 for fiscal year 1985" for "$93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980".

Subsec. (a)(1)(B). Pub. L. 96–496, §108(b), substituted "$114,500,000 for fiscal year 1981, $126,000,000 for fiscal year 1982, $138,500,000 for fiscal year 1983, $152,000,000 for fiscal year 1984, and $167,500,000 for fiscal year 1985" for "$93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980".

Subsec. (a)(2). Pub. L. 96–496, §108(c), substituted provisions authorizing appropriations for each fiscal year ending before Oct. 1, 1985, for the National Endowments for the Arts and for the Humanities for provisions authorizing appropriations for such endowments for each fiscal year ending prior to Oct. 1, 1980.

Subsec. (a)(3)(A). Pub. L. 96–496, §108(d), substituted provisions authorizing appropriations for each fiscal year ending before Oct. 1, 1985, for the National Endowment for the Arts for provisions authorizing appropriations for such endowment for fiscal years ending before Oct. 1, 1980.

Subsec. (a)(3)(B). Pub. L. 96–496, §108(e), substituted provisions authorizing appropriations for each fiscal year ending before Oct. 1, 1985, for the National Endowment for the Humanities for provisions authorizing appropriations for such endowment for fiscal years ending before Oct. 1, 1980.

Subsec. (a)(4). Pub. L. 96–496, §108(f), substituted provisions authorizing the Chairmen of the National Endowments for the Arts and for the Humanities to issue guidelines for the implementation of the provisions of pars. (2) and (3) of this subsection for provisions authorizing and allocating appropriations for the National Endowment for the Arts for the purpose of carrying out subsec. (m) of section 954 of this title.

Subsec. (c). Pub. L. 96–496, §108(g), substituted provisions authorizing specific appropriations for administrative expenses of the National Endowments for the Arts and for the Humanities for fiscal years 1981 to 1985 for provisions authorizing appropriations for administrative expenses of such endowments of such sums as were necessary.

1976—Subsec. (a)(1)(A). Pub. L. 94–462, §106(a)(1)(A), substituted provisions authorizing appropriations of $93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as are necessary for fiscal years 1979 and 1980 to carry out section 954(c) of this title and such sums so appropriated for any fiscal year, not less than 20 per centum to carry out section 954(g) of this title for provisions authorizing appropriations of $54,000,000, $90,000,000, and $113,500,000 for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, respectively, to the National Endowment for the Arts to carry out section 954(c) of this title and to carry out section 954(g) of this title $11,000,000 for the fiscal year ending June 30, 1974 and requiring that not less than 20 per centum of funds appropriated for section 954(c) of this title may be used only for purpose of section 954(g) of this title for fiscal years ending June 30, 1975 and June 30, 1976.

Subsec. (a)(1)(B). Pub. L. 94–462, §106(a)(1)(B), substituted provisions authorizing appropriations of $93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980, not less than 20 per centum of such appropriated funds shall be to carry out section 956(f) of this title for provisions authorizing appropriations of $65,000,000 for the fiscal year ending June 30, 1974, $90,000,000 for the fiscal year ending June 30, 1975, and $113,500,000 for the fiscal year ending June 30, 1976.

Subsec. (a)(1)(C). Pub. L. 94–555 added subpar. (C).

Subsec. (a)(2). Pub. L. 94–462, §106(a)(2), substituted "October 1, 1980" for "July 1, 1976" and provisions authorizing appropriations not to exceed $20,000,000 for fiscal year 1977, $25,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980 for provisions authorizing appropriations not to exceed $15,000,000 for fiscal year ending June 30, 1974, $20,000,000 for fiscal year ending June 30, 1975, and $25,000,000 for fiscal year ending June 30, 1976.

Subsec. (a)(3), (4). Pub. L. 94–462, §§302, 401(b), added pars. (3) and (4).

Subsec. (c). Pub. L. 94–462, §106(a)(3), inserted reference to any program for which the Chairman of the National Endowment for the Arts or the Chairman of the National Endowment for the Humanities is responsible.

1973—Subsec. (a)(1). Pub. L. 93–133 incorporated into subpar. (A) provisions relating to the authorization of appropriation for carrying out section 954(c) of this title, substituted authorization of appropriation for fiscal years ending June 30, 1974, 1975, 1976 for such authorization for fiscal years 1969 through 1973, and inserted provisions for authorization of appropriation for carrying out section 954(g) of this title, and, in subpar. (B), incorporated provisions of former subsec. (a) relating to authorization of appropriation for carrying out section 956(c) of this title, and substituted authorization of appropriation for fiscal years ending June 30, 1974, 1975, and 1976, for such authorization for 1969 through 1973.

Subsec. (a)(2). Pub. L. 93–133 incorporated provisions of former subsec. (b) relating to matching grants and substituted new limitations for fiscal years ending June 30, 1974, 1975, and 1976 for such limitations for 1969

through 1973.

Subsec. (b)(1). Pub. L. 93–133 incorporated provisions formerly contained in subsecs. (a) and (b) relating to the availability of unexpended appropriated funds.

Subsec. (b)(2). Pub. L. 93–133 added par. (2).

1970—Subsec. (a). Pub. L. 91–346, §§5(a)(4), 12(a), struck out reference to the functions transferred by section 955(a) of this title, added appropriations to the National Endowment for the Arts of $12,875,000, $21,000,000, and $28,625,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, for the purpose of carrying out section 954(c) of this title, and $4,125,000, $5,500,000, and $6,875,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, for the purposes of section 954(h) of this title, and further appropriated to the National Endowment for the Humanities $17,000,000, $26,500,000, $35,500,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, for the purpose of carrying out section 956(c) of this title.

Subsec. (b). Pub. L. 91–346, §12(b), placed limitation on appropriation to each Endowment based on an amount equal to the total of amounts received by each Endowment under section 959(a)(2) of this title by placing ceilings of $6,000,000, $7,000,000, and $9,000,000 on the amounts appropriated for the fiscal years ending June 30, 1971, 1972, and 1973, respectively.

1968—Subsec. (a). Pub. L. 90–348, §6(a), substituted provisions which authorized for the enumerated purposes appropriations totaling $8,000,000 for the fiscal year ending June 30, 1969, and $9,000,000 for the fiscal year ending June 30, 1970 to both the National Endowment for the Arts and the National Endowment for the Humanities, and which authorized the Congress to appropriate funds for subsequent fiscal years for provisions which authorized for grants to groups and individuals for projects and productions, for grants for activities authorized by the Chairman of the National Endowment for the Humanities, and for the functions of the National Council on the Arts in the National Endowment for the Arts appropriations of $10,000,000 for the fiscal year ending June 30, 1966, and each of the two succeeding fiscal years, and that the funds appropriated be equally divided between the Endowments of the Foundation.

Subsec. (b). Pub. L. 90–348, §6(b), substituted provisions authorizing appropriations not to exceed $13,500,000 for the fiscal years ending June 30, 1969, and June 30, 1970, and authorizing the Congress to appropriate funds for subsequent fiscal years for provisions authorizing appropriations for the National Endowment for the Arts not to exceed $2,250,000 for any fiscal year, and authorizing appropriations for the National Endowment for the Humanities not to exceed $5,000,000 for any fiscal year.

Subsecs. (c) to (e). Pub. L. 90–348, §6(c), (d), struck out subsec. (c) which authorized appropriations for the National Endowment for the Arts for each fiscal year, beginning with the fiscal year beginning on July 1, 1966, of $2,750,000, and redesignated subsecs. (d) and (e) as (c) and (d), respectively.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94–555 effective Oct. 1, 1976, see section 303 of Pub. L. 94–555, set out as a note under section 702 of Title 45, Railroads.

Pub. L. 94–462, title I, §106(b), Oct. 8, 1976, 90 Stat. 1975, provided that: "The amendments made by subsection (a) [amending this section] shall be effective with respect to fiscal year 1977 and succeeding fiscal years."

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 5(a)(4) of Pub. L. 91–346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91–346, set out as a note under section 955 of this title.

[1] See References in Text note below.

[2] So in original. The closing quotation marks probably should not appear.

SUBCHAPTER II—MUSEUM SERVICES

§§961 to 969. Omitted

CODIFICATION

The Museum Services Act (Pub. L. 94–462, title II, Oct. 8, 1976, 90 Stat. 1975, as amended), which was classified to this subchapter (§§961 to 963 and 964 to 969), was amended generally by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, and transferred to chapter 72 (§9101 et seq.) of this title.

Section 961, Pub. L. 94–462, title II, §202, Oct. 8, 1976, 90 Stat. 1975, related to declaration of purpose of this subchapter.

A prior section 961, Pub. L. 89–209, §12, Sept. 29, 1965, 79 Stat. 854; Pub. L. 90–575, title V, §501, Oct. 16, 1968, 82 Stat. 1061, related to State educational agencies' acquisition of equipment, remodeling of laboratories, and making loans to strengthen instruction in the humanities and the arts, providing in: subsec. (a) appropriations authorization; subsec. (b) reservation, allotment and reallotment of funds as provided in section 442(a) and (c) of this title; subsec. (c) State plan, submission, requirements, terms and conditions; subsec. (d) approval of State plan by Commissioner, application of section 584(b) and (c) of this title; subsec. (e) payments to States as provided in section 444 of this title; and subsec. (f) administration of loans to schools as provided in section 445 of this title, prior to repeal by Pub. L. 91–230, title VIII, §807(b), Apr. 13, 1970, 84 Stat. 192.

Section 962, Pub. L. 94–462, title II, §203, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96–496, title II, §201(a), Dec. 4, 1980, 94 Stat. 2591; Pub. L. 98–306, §8, May 31, 1984, 98 Stat. 225, related to establishment of Institute of Museum Services, within National Foundation on Arts and Humanities, consisting of National Museum Services Board and Director of Institute. See sections 9102 and 9103 of this title.

A prior section 962, Pub. L. 89–209, §13, Sept. 29, 1965, 79 Stat. 855, provided for appropriation to Commissioner of Education of funds for grants and contracts for operation of institutes to strengthen teaching of humanities and the arts, prior to repeal by Pub. L. 93–133, §2(a)(12), Oct. 19, 1973, 87 Stat. 465.

Section 963, Pub. L. 94–462, title II, §204, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96–496, title II, §201(b), Dec. 4, 1980, 94 Stat. 2592; Pub. L. 98–306, §9, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, §201, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, §318 [title II, §201], Nov. 5, 1990, 104 Stat. 1960, 1974, related to membership, meetings, and functions of National Museum Service Board, and appointment and compensation of Board members.

A prior section 963, Pub. L. 89–209, §14, Sept. 29, 1965, 79 Stat. 855, requested President to make appointments within ninety days after Sept. 29, 1965, prior to repeal by Pub. L. 93–133, §2(a)(12), Oct. 19, 1973, 87 Stat. 465.

Section 963a, Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 949, which directed that persons serving on Museum Services Board continue until their successors are qualified for office, was omitted as superseded by former section 963(b) of this title as amended by Pub. L. 98–306. Similar provisions were contained in Pub. L. 97–394, title II, Dec. 30, 1982, 96 Stat. 1994.

Section 964, Pub. L. 94–462, title II, §205, Oct. 8, 1976, 90 Stat. 1976; Pub. L. 96–496, title II, §201(c), Dec. 4, 1980, 94 Stat. 2592; Pub. L. 98–306, §10, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, §202, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, §318 [title II, §202(a)(1), (b)], Nov. 5, 1990, 104 Stat. 1960, 1974, 1975, related to appointment, compensation, and functions of Director of Institute. See section 9103 of this title.

Section 965, Pub. L. 94–462, title II, §206, Oct. 8, 1976, 90 Stat. 1977; Pub. L. 96–496, title II, §201(d), Dec. 4, 1980, 94 Stat. 2592; Pub. L. 101–512, title III, §318 [title II, §203], Nov. 5, 1990, 104 Stat. 1960, 1975, authorized Director, subject to policy direction of Board, to make grants to museums to increase and improve services through specified activities. See section 9173 of this title.

Section 966, Pub. L. 94–462, title II, §207, Oct. 8, 1976, 90 Stat. 1977, related to authority of Institute to accept contributions. See section 9106 of this title.

Section 967, Pub. L. 94–462, title II, §209, Oct. 8, 1976, 90 Stat. 1978; Pub. L. 96–496, title I, §201(e), Dec. 4, 1980, 94 Stat. 2593; Pub. L. 98–306, §11, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, §203, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, §318 [title II, §§204, 205(b)], Nov. 5, 1990, 104 Stat. 1960, 1975, 1976, authorized appropriations for purpose of making grants under section 965(a) of this title and for administering provisions of this subchapter. See section 9176 of this title.

Section 968, Pub. L. 94–462, title II, §210, Oct. 8, 1976, 90 Stat. 1978, defined "Board", "Director",

"Institute", and "museum" for purposes of this subchapter. See sections 9101 and 9172 of this title.

Section 969, Pub. L. 94–462, title II, §211, as added Pub. L. 101–512, title III, §318 [title II, §205 [(a)]], Nov. 5, 1990, 104 Stat. 1960, 1975, related to assessment of needs of small, emerging, minority, and rural museums.

SHORT TITLE

Pub. L. 94–462, title II, §201, Oct. 8, 1976, 90 Stat. 1975, which provided that title II of Pub. L. 94–462, which enacted this subchapter and amended section 958 of this title, could be cited as the "Museum Services Act", was omitted in the general amendment of title II by Pub. L. 104–208. See chapter 72 (§9101 et seq.) of this title.

CHAPTER 26A—INDEMNITY FOR EXHIBITIONS OF ARTS AND ARTIFACTS

Sec.
971. Agreements to indemnify against loss or damage.
972. Items eligible for indemnity agreements.
973. Application for indemnity agreements.
974. Indemnity limits.
975. Claims for losses.
976. Authorization of appropriations.
977. Omitted.

§971. Agreements to indemnify against loss or damage

(a) Authorization of Federal Council on the Arts and Humanities

The Federal Council on the Arts and Humanities (hereinafter in this chapter referred to as the "Council"), established under section 958 of this title, is authorized to make agreements to indemnify against loss or damage such items as may be eligible for such indemnity agreements under section 972 of this title—

(1) in accordance with the provisions of this chapter; and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purposes of this chapter and, consistent with such purposes, to protect the financial interest of the United States.

(b) Council as "agency"

(1) For purposes of this chapter, the Council shall be an "agency" within the meaning of the appropriate definitions of such term in title 5.

(2) For purposes of this chapter, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.

(Pub. L. 94–158, §2, Dec. 20, 1975, 89 Stat. 844; Pub. L. 99–194, title III, §301, Dec. 20, 1985, 99 Stat. 1345.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–194 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE

Pub. L. 94–158, §9, Dec. 20, 1975, 89 Stat. 846, provided that: "This Act [see Short Title note below] shall become effective 30 days after the date of the enactment of this Act [Dec. 20, 1975]."

SHORT TITLE

Pub. L. 94–158, §1, Dec. 20, 1975, 89 Stat. 844, provided that: "This Act [enacting this chapter and

provisions set out as a note under this section] may be cited as the 'Arts and Artifacts Indemnity Act'."

§972. Items eligible for indemnity agreements

(a) Works of art; printed or published materials; other artifacts or objects; photographs, motion pictures, or tapes

The Council may make an indemnity agreement under this chapter with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) in the case of international exhibitions, certified by the Secretary of State or his designee as being in the national interest.

(b) Extension of coverage; "on exhibition" defined

(1) An indemnity agreement made under this chapter shall cover eligible items while on exhibition in the United States or elsewhere preferably when part of an exchange of exhibitions.

(2) For purposes of this subsection, the term "on exhibition" includes that period of time beginning on the date the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender.

(Pub. L. 94–158, §3, Dec. 20, 1975, 89 Stat. 844; Pub. L. 99–194, title III, §302(a), Dec. 20, 1985, 99 Stat. 1345; Pub. L. 110–161, div. F, title IV, §426(1), Dec. 26, 2007, 121 Stat. 2151.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–161 substituted "(B) in the case of international exhibitions," for "(B) the exhibition of which is" in concluding provisions.

1985—Subsec. (b)(1). Pub. L. 99–194, which directed the substitution of "or elsewhere preferably when part of an exchange of exhibitions" for ", or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exhibition be so covered" was executed by making the substitution for ", or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exchange be so covered", to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–194, title III, §302(b), Dec. 20, 1985, 99 Stat. 1345, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to any exhibition which is certified under section 3(a) of the Arts and Artifacts Indemnity Act [subsec. (a) of this section] after the date of enactment of this Act [Dec. 20, 1985]."

§973. Application for indemnity agreements

(a) Parties

Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this chapter shall make application therefor in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) Contents

An application under subsection (a) of this section shall—

(1) describe each item to be covered by the agreement (including an estimated value of such item);

(2) show evidence that the items are eligible under section 972(a) of this title; and

(3) set forth policies, procedures, techniques, and methods with respect to preparation for, and

conduct of, exhibition of the items, and any transportation related to such items.

(c) Approval

Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this chapter, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States.

(Pub. L. 94–158, §4, Dec. 20, 1975, 89 Stat. 845.)

§974. Indemnity limits

(a) Approval of estimated values

Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 973 of this title, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this chapter, the Council shall, after approval of the application as provided in subsection (c) of section 973 of this title, make an indemnity agreement.

(b) Maximum limits of coverage

The aggregate of loss or damage covered by indemnity agreements made under this chapter shall not exceed $15,000,000,000 at any one time for international exhibitions, and $7,500,000,000 at any one time for domestic exhibitions.

(c) Limit for single exhibition

No indemnity agreement for a single exhibition shall cover loss or damage in excess of $1,800,000,000 for international exhibitions, or $1,000,000,000 for domestic exhibitions.

(d) Deductible limit

If the estimated value of the items covered by an indemnity agreement for a single exhibition is—

(1) $2,000,000 or less, then coverage under this chapter shall extend only to loss or damage in excess of the first $15,000 of loss or damage to items covered;

(2) more than $2,000,000 but less than $10,000,000 then coverage under this chapter shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered;

(3) not less than $10,000,000 but less than $125,000,000, then coverage under this chapter shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;

(4) not less than $125,000,000 but less than $200,000,[1] then coverage under this chapter shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered;

(5) not less than $200,000,000 but less than $300,000,000, then coverage under the [2] chapter shall extend only to loss or damage in excess of the first $200,000, of loss or damage to items covered;

(6) not less than $300,000,000 but less than $400,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first $300,000 of loss or damage to items covered;

(7) not less than $400,000,000 but less than $500,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first $400,000 of loss or damage to items covered; or

(8) $500,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $500,000 of loss or damage to items covered.

(Pub. L. 94–158, §5, Dec. 20, 1975, 89 Stat. 845; Pub. L. 96–496, title III, §§301, 302, Dec. 4, 1980, 94 Stat. 2593; Pub. L. 99–194, title III, §303, Dec. 20, 1985, 99 Stat. 1345; Pub. L. 100–202, §101(g) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–249; Pub. L. 101–512, title III, §318 [title

III, §301], Nov. 5, 1990, 104 Stat. 1960, 1976; Pub. L. 105–277, div. A, §101(e) [title III, §333], Oct. 21, 1998, 112 Stat. 2681–231, 2681–294; Pub. L. 108–81, title V, §501, Sept. 25, 2003, 117 Stat. 1003; Pub. L. 109–54, title IV, §427, Aug. 2, 2005, 119 Stat. 555; Pub. L. 110–161, div. F, title IV, §426(2), (3), Dec. 26, 2007, 121 Stat. 2151; Pub. L. 113–235, div. F, title IV, §416, Dec. 16, 2014, 128 Stat. 2448.)

AMENDMENTS

2014—Subsec. (b). Pub. L. 113–235, §416(1), substituted "$15,000,000,000" for "$10,000,000,000" and "$7,500,000,000" for "$5,000,000,000".

Subsec. (c). Pub. L. 113–235, §416(2), substituted "$1,800,000,000" for "$1,200,000,000" and "$1,000,000,000" for "$750,000,000".

2007—Subsec. (b). Pub. L. 110–161, §426(2), inserted "for international exhibitions, and $5,000,000,000 at any one time for domestic exhibitions" before period at end.

Subsec. (c). Pub. L. 110–161, §426(3), inserted "for international exhibitions, or $750,000,000 for domestic exhibitions" before period at end.

2005—Subsec. (b). Pub. L. 109–54, §427(1), substituted "$10,000,000,000" for "8,000,000,000".

Subsec. (c). Pub. L. 109–54, §427(2), substituted "$1,200,000,000" for "$600,000,000".

2003—Subsec. (b). Pub. L. 108–81, §501(1), substituted "$8,000,000,000" for "$5,000,000,000".

Subsec. (c). Pub. L. 108–81, §501(2), substituted "$600,000,000" for "$500,000,000".

Subsec. (d)(7), (8). Pub. L. 108–81, §501(3), added pars. (7) and (8) and struck out former par. (7) which read as follows: "$400,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $400,000 of loss or damage to items covered."

1998—Subsec. (b). Pub. L. 105–277, §101(e) [title III, §333(1)], substituted "$5,000,000,000" for "$3,000,000,000".

Subsec. (c). Pub. L. 105–277, §101(e) [title III, §333(2)], substituted "$500,000,000" for "$300,000,000".

Subsec. (d)(4). Pub. L. 105–277, §101(e) [title III, §333(3)], struck out "or" at end.

Subsec. (d)(5). Pub. L. 105–277, §101(e) [title III, §333(4)], substituted "not less than $200,000,000 but less than $300,000,000" for "$200,000,000 or more" and substituted semicolon for period at end.

Subsec. (d)(6), (7). Pub. L. 105–277, §101(e) [title III, §333(5)], added pars. (6) and (7).

1990—Subsec. (b). Pub. L. 101–512, §318 [title III, §301(a)], substituted "$3,000,000,000" for "$1,200,000,000".

Subsec. (c). Pub. L. 101–512, §318 [title III, §301(b)(1)], substituted "$300,000,000" for "$125,000,000".

Subsec. (d)(3). Pub. L. 101–512, §318 [title III, §301(b)(2)(B)], amended par. (3) generally. Prior to amendment, par. (3) read as follows: "$10,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $50,000 of loss or damage to items covered."

Subsec. (d)(4), (5). Pub. L. 101–512, §318 [title III, §301(b)(2)(A), (C)], added pars. (4) and (5).

1987—Subsec. (b). Pub. L. 100–202 substituted "$1,200,000,000" for "$650,000,000".

Subsec. (c). Pub. L. 100–202 substituted "$125,000,000" for "$75,000,000".

1985—Subsec. (b). Pub. L. 99–194, §303(a), substituted "$650,000,000" for "$400,000,000".

Subsec. (c). Pub. L. 99–194, §303(b), substituted "$75,000,000" for "$50,000,000".

1980—Subsec. (b). Pub. L. 96–496, §301, substituted "$400,000,000" for "$250,000,000".

Subsec. (d). Pub. L. 96–496, §302, substituted provisions relating to deductible amounts under indemnity agreements for provisions limiting coverage under this chapter to loss or damage in excess of the first $15,000 resulting from a single exhibition.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(b)] of Pub. L. 101–512, set out as a note under section 951 of this title.

[1] So in original. Probably should be "$200,000,000,".

[2] So in original. Probably should be "this".

§975. Claims for losses

(a) Regulations for prompt adjustment

The Council shall prescribe regulations providing for prompt adjustment of valid claims for losses which are covered by an agreement made pursuant to section 974 of this title, including provision for arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of such covered objects.

(b) Certification

In the case of a claim of loss with respect to an item which is covered by an agreement made pursuant to section 974 of this title, the Council shall certify the validity of the claim and the amount of the loss to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(Pub. L. 94–158, §6, Dec. 20, 1975, 89 Stat. 845.)

§976. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary (1) to enable the Council to carry out its functions under this chapter, and (2) to pay claims certified pursuant to section 975(b) of this title.

(Pub. L. 94–158, §7, Dec. 20, 1975, 89 Stat. 846.)

§977. Omitted

CODIFICATION

Section, Pub. L. 94–158, §8, Dec. 20, 1975, 89 Stat. 846, which required the Federal Council on the Arts and Humanities to report annually to Congress on claims actually paid and pending claims against the Council under this chapter and the aggregate face value of contracts made by the Council which are outstanding, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 167 of House Document No. 103–7.

CHAPTER 27—NATIONAL VOCATIONAL STUDENT LOAN INSURANCE

§§981 to 996. Repealed. Pub. L. 90–575, title I, §116(c)(1), Oct. 16, 1968, 82 Stat. 1024

Section 981, Pub. L. 89–287, §2, Oct. 22, 1965, 79 Stat. 1037; Pub. L. 90–460, §2(d)(3), Aug. 3, 1968, 82 Stat. 634, set forth Congressional declaration of purpose for the chapter and authorized appropriations to carry out such purpose.

Section 981 note, Pub. L. 89–287, §1, Oct. 22, 1965, 79 Stat. 1037, provided that Pub. L. 89–287, which enacted this chapter, be cited as the National Vocational Loan Insurance Act of 1965.

Section 982, Pub. L. 89–287, §3, Oct. 22, 1965, 79 Stat. 1037, authorized Commissioner to make advances to State and nonprofit private loan insurance programs.

Section 983, Pub. L. 89–287, §4, Oct. 22, 1965, 79 Stat. 1038, prohibited Commissioner from issuing certificates of insurance to lenders in States having adequate non-Federal loan insurance programs.

Section 984, Pub. L. 89–287, §5, Oct. 22, 1965, 79 Stat. 1038; Pub. L. 90–460, §1(b)(1), Aug. 3, 1968, 82 Stat. 634, set forth scope and duration of loan insurance program of this chapter.

Section 985, Pub. L. 89–287, §6, Oct. 22, 1965, 79 Stat. 1039, limited annual and aggregate amounts available to individuals as loans and covered by insurance under this chapter.

Section 986, Pub. L. 89–287, §7, Oct. 22, 1965, 79 Stat. 1039, provided for insurance coverage for loans made by eligible lenders, regardless of source of such loaned funds.

Section 987, Pub. L. 89–287, §8, Oct. 22, 1965, 79 Stat. 1039; Pub. L. 90–460, §2(c)(1), Aug. 3, 1968, 82 Stat. 634, set forth prerequisites of student eligibility and terms and conditions of note executed by student.

Section 988, Pub. L. 89–287, §9, Oct. 22, 1965, 79 Stat. 1041; Pub. L. 90–460, §§1(b)(2), 2(c)(2), (d), Aug.

3, 1968, 82 Stat. 634, provided for reduction of student interest costs by Federal payments.

Section 989, Pub. L. 89–287, §10, Oct. 22, 1965, 79 Stat. 1043, Pub. L. 90–460, §1(b)(3), Aug. 3, 1968, 82 Stat. 634, authorized Commissioner to make direct loans to students residing in areas where loans insurable under this chapter are unavailable.

Section 990, Pub. L. 89–287, §11, Oct. 22, 1965, 79 Stat. 1043, provided for certificates of insurance to be issued to eligible lenders.

Section 991, Pub. L. 89–287, §12, Oct. 22, 1965, 79 Stat. 1045, set forth procedure for collection in case of default, death, or disability of student borrower.

Section 992, Pub. L. 89–287, §13, Oct. 22, 1965, 79 Stat. 1046, established Vocational Student Loan Insurance Fund.

Section 993, Pub. L. 89–287, §14, Oct. 22, 1965, 79 Stat. 1047, enumerated powers and duties of Commissioner with respect to carrying out purposes of this chapter.

Section 994, Pub. L. 89–287, §15, Oct. 22, 1965, 79 Stat. 1048, established Advisory Council on Insured Loans to Vocational Students in the Office of Education.

Section 995, Pub. L. 89–287, §16, Oct. 22, 1965, 79 Stat. 1048, authorized Federal credit unions to make insured loans to student members.

Section 996, Pub. L. 89–287, §17, Oct. 22, 1965, 79 Stat. 1048, defined "eligible institution", "eligible lender", "line of credit", "State", "Secretary", and "Commissioner".

EFFECTIVE DATE OF REPEAL

Repeal applicable to loans made on or after the 60th day after Oct. 16, 1968, see section 116(e) of Pub. L. 90–575.

TRANSFER OF ASSETS AND LIABILITIES OF THE VOCATIONAL STUDENT LOAN INSURANCE FUND

Pub. L. 90–575, title I, §116(c)(2), Oct. 16, 1968, 82 Stat. 1024, provided that: "All assets and liabilities of the vocational student loan insurance fund established by section 13 of the National Vocational Student Loan Insurance Act of 1965 [section 992 of this title], matured or contingent, shall be transferred to, and become assets and liabilities of, the student loan insurance fund established by section 431 of the Higher Education Act of 1965 [section 1081 of this title]. Payments in connection with defaults of loans made on or after the sixtieth day after the date of enactment of this Act [Oct. 16, 1968] and insured by the Commissioner (under the authority of subsection (e)(3) or (e)(4) of this section [set out as a note under section 1083 of this title]) under the National Vocational Student Loan Insurance Act of 1965 [sections 981 to 996 of this title] shall be paid out of the fund established by such section 431."

CHAPTER 28—HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

SUBCHAPTER I—GENERAL PROVISIONS

PART A—DEFINITIONS

Sec.

1001. General definition of institution of higher education.

1002. Definition of institution of higher education for purposes of student assistance programs.

1003. Additional definitions.

PART B—ADDITIONAL GENERAL PROVISIONS

1011. Antidiscrimination.

1011a. Protection of student speech and association rights.

1011b. Territorial waiver authority.

1011c. National Advisory Committee on Institutional Quality and Integrity.

1011d. Student representation.

1011e. Financial responsibility of foreign students.

1011f. Disclosures of foreign gifts.

1011g. Application of peer review process.
1011h. Binge drinking on college campuses.
1011i. Drug and alcohol abuse prevention.
1011j. Prior rights and obligations.
1011k. Recovery of payments.
1011l. Diploma mills.
1011m. Certification regarding the use of certain Federal funds.

PART C—COST OF HIGHER EDUCATION

1015. Improvements in market information and public accountability in higher education.
1015a. Transparency in college tuition for consumers.
1015b. Textbook information.
1015c. Database of student information prohibited.
1015d. In-State tuition rates for members of the armed forces on active duty, spouses, and dependent children.
1015e. State higher education information system pilot program.
1015f. State commitment to affordable college education.

PART D—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE

1018. Performance-Based Organization for delivery of Federal student financial assistance.
1018a. Procurement flexibility.
1018b. Administrative simplification of student aid delivery.

PART E—LENDER AND INSTITUTION REQUIREMENTS RELATING TO EDUCATION LOANS

1019. Definitions.
1019a. Responsibilities of covered institutions, institution-affiliated organizations, and lenders.
1019b. Loan information to be disclosed and model disclosure form for covered institutions, institution-affiliated organizations, and lenders participating in preferred lender arrangements.
1019c. Loan information to be disclosed and model disclosure form for institutions participating in the William D. Ford Federal Direct Loan Program.
1019d. Self-certification form for private education loans.

SUBCHAPTER II—TEACHER QUALITY ENHANCEMENT

1021. Definitions.

PART A—TEACHER QUALITY PARTNERSHIP GRANTS

1022. Purposes.
1022a. Partnership grants.
1022b. Administrative provisions.
1022c. Accountability and evaluation.
1022d. Accountability for programs that prepare teachers.
1022e. Teacher development.
1022f. State functions.
1022g. General provisions.
1022h. Authorization of appropriations.

PART B—ENHANCING TEACHER EDUCATION

1031. Authorization of appropriations.

SUBPART 1—PREPARING TEACHERS FOR DIGITAL AGE LEARNERS

1032. Program authorized.
1032a. Uses of funds.
1032b. Application requirements.
1032c. Evaluation.

SUBPART 2—HONORABLE AUGUSTUS F. HAWKINS CENTERS OF EXCELLENCE

1033. Definitions.

1033a. Augustus F. Hawkins centers of excellence.

SUBPART 3—PREPARING GENERAL EDUCATION TEACHERS TO MORE EFFECTIVELY EDUCATE STUDENTS WITH DISABILITIES

1034. Teach to reach grants.

SUBPART 4—ADJUNCT TEACHER CORPS

1035. Adjunct teacher corps.

SUBPART 5—GRADUATE FELLOWSHIPS TO PREPARE FACULTY IN HIGH-NEED AREAS AT COLLEGES OF EDUCATION

1036. Graduate fellowships to prepare faculty in high-need areas at colleges of education.

PART C—GENERAL PROVISIONS

1041. Limitations.

SUBCHAPTER III—INSTITUTIONAL AID

1051. Findings and purpose.

PART A—STRENGTHENING INSTITUTIONS

1057. Program purpose.
1058. Definitions; eligibility.
1059. Duration of grant.
1059a. Applications.
1059b. Goals for financial management and academic program.
1059c. American Indian tribally controlled colleges and universities.
1059d. Alaska Native and Native Hawaiian-serving institutions.
1059e. Predominantly Black Institutions.
1059f. Native American-serving, nontribal institutions.
1059g. Asian American and Native American Pacific Islander-serving institutions.

PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

1060. Findings and purposes.
1061. Definitions.
1062. Grants to institutions.
1063. Allotments to institutions.
1063a. Applications.
1063b. Professional or graduate institutions.
1063c. Reporting and audit requirements.

PART C—ENDOWMENT CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

1064. Repealed.
1065. Endowment challenge grants.

PART D—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

1066. Findings.
1066a. Definitions.
1066b. Federal insurance for bonds.
1066c. Limitations on Federal insurance for bonds issued by designated bonding authority.
1066d. Authority of Secretary.
1066e. Repealed.
1066f. HBCU Capital Financing Advisory Board.
1066g. Minority business enterprise utilization.

PART E—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SUBPART 1—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

1067. Findings.
1067a. Purpose; authority.

1067b. Grant recipient selection.
1067c. Use of funds.
1067d. Repealed.

SUBPART 2—PROGRAMS IN STEM FIELDS

1067e. YES partnerships grant program.
1067e–1. Promotion of entry into STEM fields.
1067e–2. Evaluation and accountability plan.

SUBPART 3—ADMINISTRATIVE AND GENERAL PROVISIONS

1067g. Eligibility for grants.
1067h. Grant application.
1067i. Cross program and cross agency cooperation.
1067j. Administrative provisions.
1067k. Definitions.
1067l. Repealed.

PART F—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS

1067q. Investment in historically Black colleges and universities and other minority-serving institutions.

PART G—GENERAL PROVISIONS

1068. Applications for assistance.
1068a. Waiver authority and reporting requirement.
1068b. Application review process.
1068c. Cooperative arrangements.
1068d. Assistance to institutions under other programs.
1068e. Limitations.
1068f. Penalties.
1068g. Continuation awards.
1068h. Authorization of appropriations.

SUBCHAPTER IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

1070. Statement of purpose; program authorization.

SUBPART 1—FEDERAL PELL GRANTS

1070a. Federal Pell Grants: amount and determinations; applications.
1070a–1. Academic competitiveness grants.
1070a–2 to 1070a–6. Repealed.

SUBPART 2—FEDERAL EARLY OUTREACH AND STUDENT SERVICES PROGRAMS

DIVISION 1—FEDERAL TRIO PROGRAMS

1070a–11. Program authority; authorization of appropriations.
1070a–12. Talent search.
1070a–13. Upward bound.
1070a–14. Student support services.
1070a–15. Postbaccalaureate achievement program authority.
1070a–16. Educational opportunity centers.
1070a–17. Staff development activities.
1070a–18. Reports, evaluations, and grants for project improvement and dissemination.

DIVISION 2—GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS

1070a–21. Early intervention and college awareness program authorized.
1070a–22. Requirements.
1070a–23. Applications.

1070a–24. Activities.
1070a–25. Scholarship component.
1070a–26. 21st Century Scholar Certificates.
1070a–27. Evaluation and report.
1070a–28. Authorization of appropriations.

DIVISION 3—ACADEMIC ACHIEVEMENT INCENTIVE SCHOLARSHIPS

1070a–31 to 1070a–35. Repealed.

DIVISION 4—MODEL PROGRAM COMMUNITY PARTNERSHIP AND COUNSELING GRANTS

1070a–41 to 1070a–43. Repealed.

DIVISION 5—PUBLIC INFORMATION

1070a–51 to 1070a–53. Repealed.

DIVISION 6—NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM

1070a–61. Repealed.

DIVISION 7—PREELIGIBILITY FORM

1070a–71. Repealed.

DIVISION 8—TECHNICAL ASSISTANCE FOR TEACHERS AND COUNSELORS

1070a–81. Repealed.

SUBPART 3—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

1070b. Purpose; appropriations authorized.
1070b–1. Amount and duration of grants.
1070b–2. Agreements with institutions; selection of recipients.
1070b–3. Allocation of funds.
1070b–4. Carryover and carryback authority.

SUBPART 4—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

1070c. Purpose; appropriations authorized.
1070c–1. Allotment among States.
1070c–2. Applications for leveraging educational assistance partnership programs.
1070c–3. Administration of State programs; judicial review.
1070c–3a. Grants for access and persistence.
1070c–4. "Community service" defined.
1070d to 1070d–1d. Repealed.

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

1070d–2. Maintenance and expansion of existing programs.

SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

1070d–31. Statement of purpose.
1070d–32. Repealed.
1070d–33. Scholarships authorized.
1070d–34. Allocation among States.
1070d–35. Agreements.
1070d–36. Eligibility of scholars.
1070d–37. Selection of scholars.
1070d–38. Stipends and scholarship conditions.
1070d–39. Repealed.
1070d–40. Construction of needs provisions.
1070d–41. Authorization of appropriations.

SUBPART 7—CHILD CARE ACCESS MEANS PARENTS IN SCHOOL

1070e. Child care access means parents in school.

SUBPART 8—LEARNING ANYTIME ANYWHERE PARTNERSHIPS

1070f to 1070f–6. Repealed.

SUBPART 9—TEACH GRANTS

1070g. Definitions.
1070g–1. Program established.
1070g–2. Applications; eligibility.
1070g–3. Program period and funding.
1070g–4. Program report.

SUBPART 10—SCHOLARSHIPS FOR VETERAN'S DEPENDENTS

1070h. Scholarships for veteran's dependents.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

1071. Statement of purpose; nondiscrimination; and appropriations authorized.
1072. Advances for reserve funds of State and nonprofit private loan insurance programs.
1072a. Federal Student Loan Reserve Fund.
1072b. Agency Operating Fund.
1073. Effects of adequate non-Federal programs.
1074. Scope and duration of Federal loan insurance program.
1075. Limitations on individual federally insured loans and on Federal loan insurance.
1076. Sources of funds.
1077. Eligibility of student borrowers and terms of federally insured student loans.
1077a. Applicable interest rates.
1078. Federal payments to reduce student interest costs.
1078–1. Voluntary flexible agreements with guaranty agencies.
1078–2. Federal PLUS loans.
1078–3. Federal consolidation loans.
1078–4. Commingling of funds.
1078–5. Repealed.
1078–6. Default reduction program.
1078–7. Requirements for disbursement of student loans.
1078–8. Unsubsidized Stafford loans for middle-income borrowers.
1078–9. Repealed.
1078–10. Loan forgiveness for teachers.
1078–11. Loan forgiveness for service in areas of national need.
1078–12. Loan repayment for civil legal assistance attorneys.
1079. Certificate of Federal loan insurance—effective date of insurance.
1080. Default of student under Federal loan insurance program.
1080a. Reports to consumer reporting agencies and institutions of higher education.
1081. Insurance fund.
1082. Legal powers and responsibilities.
1083. Student loan information by eligible lenders.
1083a. Consumer education information.
1084. Participation by Federal credit unions in Federal, State, and private student loan insurance programs.
1085. Definitions for student loan insurance program.
1086. Delegation of functions.
1087. Repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending schools that fail to provide a refund, attending closed schools, or falsely certified as eligible to borrow.
1087–0. Repealed.

1087–1. Special allowances.
1087–2. Student Loan Marketing Association.
1087–3. Reorganization of Student Loan Marketing Association through formation of Holding Company.
1087–4. Discrimination in secondary markets prohibited.

PART C—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1087a. Program authority.
1087b. Funds for origination of direct student loans.
1087c. Selection of institutions for participation and origination.
1087d. Agreements with institutions.
1087e. Terms and conditions of loans.
1087f. Contracts.
1087g. Repealed.
1087h. Funds for administrative expenses.
1087i. Authority to sell loans.
1087i–1. Temporary authority to purchase student loans.
1087i–2. Temporary loan consolidation authority.
1087j. Loan cancellation for teachers.

PART D—FEDERAL PERKINS LOANS

1087aa. Appropriations authorized.
1087bb. Allocation of funds.
1087cc. Agreements with institutions of higher education.
1087cc–1. Student loan information by eligible institutions.
1087dd. Terms of loans.
1087ee. Cancellation of loans for certain public service.
1087ff. Distribution of assets from student loan funds.
1087gg. Collection of defaulted loans: Perkins Loan Revolving Fund.
1087hh. General authority of Secretary.
1087ii. Definitions.

PART E—NEED ANALYSIS

1087kk. Amount of need.
1087*ll*. Cost of attendance.
1087mm. Family contribution.
1087nn. Determination of expected family contribution; data elements.
1087*oo*. Family contribution for dependent students.
1087pp. Family contribution for independent students without dependents other than a spouse.
1087qq. Family contribution for independent students with dependents other than a spouse.
1087rr. Regulations; updated tables.
1087ss. Simplified needs test.
1087tt. Discretion of student financial aid administrators.
1087uu. Disregard of student aid in other Federal programs.
1087uu–1. Native American students.
1087vv. Definitions.

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

1088. Definitions.
1088a. Clock and credit hour treatment of diploma nursing schools.
1089. Master calendar.
1090. Forms and regulations.
1091. Student eligibility.
1091a. Statute of limitations, and State court judgments.
1091b. Institutional refunds.
1091c. Readmission requirements for servicemembers.
1092. Institutional and financial assistance information for students.

1092a. Combined payment plan.
1092b. National Student Loan Data System.
1092c. Simplification of lending process for borrowers.
1092d. Scholarship fraud assessment and awareness activities.
1092e. College access initiative.
1092f. Early awareness of financial aid eligibility.
1093. Distance education demonstration programs.
1093a. Articulation agreements.
1094. Program participation agreements.
1094a. Regulatory relief and improvement.
1094b. Assignment of identification numbers.
1095. Transfer of allotments.
1095a. Wage garnishment requirement.
1096. Administrative expenses.
1096a. Repealed.
1097. Criminal penalties.
1097a. Administrative subpoenas.
1098. Advisory Committee on Student Financial Assistance.
1098a. Regional meetings and negotiated rulemaking.
1098b. Authorization of appropriations for administrative expenses.
1098c. Repealed.
1098d. Procedures for cancellations and deferments for eligible disabled veterans.
1098e. Income-based repayment.
1098f. Deferral of loan repayment following active duty.
1098g. Exemption from State disclosure requirements.

PART F–1—HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS

1098aa. Short title; findings; reference.
1098bb. Waiver authority for response to military contingencies and national emergencies.
1098cc. Tuition refunds or credits for members of armed forces.
1098dd. Use of professional judgment.
1098ee. Definitions.
1099. Transferred.

PART G—PROGRAM INTEGRITY

SUBPART 1—STATE ROLE

1099a. State responsibilities.

SUBPART 2—ACCREDITING AGENCY RECOGNITION

1099b. Recognition of accrediting agency or association.

SUBPART 3—ELIGIBILITY AND CERTIFICATION PROCEDURES

1099c. Eligibility and certification procedures.
1099c–1. Program review and data.
1099c–2. Review of regulations.

PART H—COMPETITIVE LOAN AUCTION PILOT PROGRAM

1099d. Competitive loan auction pilot program.

PART I—TRANSFERRED

1099e. Transferred.

SUBCHAPTER V—DEVELOPING INSTITUTIONS

PART A—HISPANIC-SERVING INSTITUTIONS

1101. Findings; purpose; and program authority.
1101a. Definitions; eligibility.

1101b. Authorized activities.
1101c. Duration of grant.
1101d. Special rule.

PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS

1102. Purposes.
1102a. Program authority and eligibility.
1102b. Authorized activities.
1102c. Application and duration.

PART C—GENERAL PROVISIONS

1103. Eligibility; applications.
1103a. Waiver authority and reporting requirement.
1103b. Application review process.
1103c. Cooperative arrangements.
1103d. Assistance to institutions under other programs.
1103e. Limitations.
1103f. Penalties.
1103g. Authorizations of appropriations.

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAMS

PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

1121. Findings; purposes; consultation; survey.
1122. Graduate and undergraduate language and area centers and programs.
1123. Language resource centers.
1124. Undergraduate international studies and foreign language programs.
1125. Research; studies; annual report.
1126. Technological innovation and cooperation for foreign information access.
1127. Selection of certain grant recipients.
1128. Equitable distribution of certain funds.
1128a. American overseas research centers.
1128b. Authorization of appropriations.

PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

1130. Findings and purposes.
1130–1. Centers for international business education.
1130a. Education and training programs.
1130b. Authorization of appropriations.

PART C—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

1131. Minority foreign service professional development program.
1131–1. Institutional development.
1131a. Study abroad program.
1131b. Advanced degree in international relations.
1131c. Internships.
1131c–1. Financial assistance.
1131d. Report.
1131e. Gifts and donations.
1131f. Authorization of appropriations.

PART D—GENERAL PROVISIONS

1132. Definitions.
1132–1. Special rule.
1132–2. Rule of construction.
1132–3. Assessment.
1132–4. Evaluation, outreach, and information.
1132–5. Report.

1132–6. Science and technology advanced foreign language education grant program.
1132–7. Reporting by institutions.
SUBCHAPTER VII—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS
1133. Purpose.
PART A—GRADUATE EDUCATION PROGRAMS
SUBPART 1—JACOB K. JAVITS FELLOWSHIP PROGRAM
1134. Award of Jacob K. Javits fellowships.
1134a. Allocation of fellowships.
1134b. Stipends.
1134c. Fellowship conditions.
1134d. Authorization of appropriations.
SUBPART 2—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED
1135. Grants to academic departments and programs of institutions.
1135a. Institutional eligibility.
1135b. Criteria for applications.
1135c. Awards to graduate students.
1135d. Additional assistance for cost of education.
1135e. Authorization of appropriations.
SUBPART 3—THURGOOD MARSHALL LEGAL EDUCATIONAL OPPORTUNITY PROGRAM
1136. Legal educational opportunity program.
SUBPART 4—MASTERS DEGREE PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND PREDOMINANTLY BLACK INSTITUTIONS
1136a. Masters degree programs at historically Black colleges and universities.
1136b. Masters degree programs at predominantly Black institutions.
1136c. Authorization of appropriations.
SUBPART 5—GENERAL PROVISIONS
1137. Administrative provisions for subparts 1 through 4.
PART B—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION
1138. Fund for the Improvement of Postsecondary Education.
1138a. National Board of the Fund for the Improvement of Postsecondary Education.
1138b. Administrative provisions.
1138c. Special projects.
1138d. Authorization of appropriations.
PART C—URBAN COMMUNITY SERVICE
1139 to 1139h. Repealed.
PART D—PROGRAMS TO PROVIDE STUDENTS WITH DISABILITIES WITH A QUALITY HIGHER EDUCATION
1140. Definitions.
SUBPART 1—DEMONSTRATION PROJECTS TO SUPPORT POSTSECONDARY FACULTY, STAFF, AND ADMINISTRATORS IN EDUCATING STUDENTS WITH DISABILITIES
1140a. Purpose.
1140b. Grants, contracts, and cooperative agreements authorized.
1140c. Applications.
1140d. Rule of construction.
1140e. Authorization of appropriations.
SUBPART 2—TRANSITION PROGRAMS FOR STUDENTS WITH INTELLECTUAL DISABILITIES INTO HIGHER EDUCATION
1140f. Purpose.
1140g. Model comprehensive transition and postsecondary programs for students with

intellectual disabilities.
1140h. Rule of construction.
1140i. Authorization of appropriations and reservation.
SUBPART 3—COMMISSION ON ACCESSIBLE MATERIALS; PROGRAMS TO SUPPORT IMPROVED ACCESS TO MATERIALS
1140k. Definition of student with a print disability.
1140*l*. Establishment of Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities.
1140m. Model demonstration programs to support improved access to postsecondary instructional materials for students with print disabilities.
1140n. Rule of construction.
1140*o*. Authorization of appropriations.
SUBPART 4—NATIONAL TECHNICAL ASSISTANCE CENTER; COORDINATING CENTER
1140p. Purpose.
1140q. National technical assistance center; coordinating center.
1140r. Authorization of appropriations.
PART E—COLLEGE ACCESS CHALLENGE GRANT PROGRAM
1141. College access challenge grant program.

SUBCHAPTER VIII—MISCELLANEOUS

1151, 1152. Repealed.
1153. Underground Railroad educational and cultural program.
1154. Contract authority.
1155. Connie Lee privatization.

SUBCHAPTER IX—ADDITIONAL PROGRAMS

PART A—PROJECT GRAD
1161a. Project GRAD.
PART B—MATHEMATICS AND SCIENCE SCHOLARS PROGRAM
1161b. Mathematics and science scholars program.
PART C—BUSINESS WORKFORCE PARTNERSHIPS FOR JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES
1161c. Business workforce partnerships for job skill training in high-growth occupations or industries.
PART D—CAPACITY FOR NURSING STUDENTS AND FACULTY
1161d. Capacity for nursing students and faculty.
PART E—AMERICAN HISTORY FOR FREEDOM
1161e. American history for freedom.
PART F—TEACH FOR AMERICA
1161f. Teach For America.
PART G—PATSY T. MINK FELLOWSHIP PROGRAM
1161g. Patsy T. Mink fellowship program.
PART H—IMPROVING COLLEGE ENROLLMENT BY SECONDARY SCHOOLS
1161h. Improving college enrollment by secondary schools.
PART I—EARLY CHILDHOOD EDUCATION PROFESSIONAL DEVELOPMENT AND CAREER TASK FORCE
1161i. Purpose.
1161i–1. Definition of early childhood education program.
1161i–2. Grants authorized.

1161i–3. State Task Force establishment.
1161i–4. State Task Force activities.
1161i–5. State application and report.
1161i–6. Evaluations.
1161i–7. Authorization of appropriations.

PART J—IMPROVING SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION WITH A FOCUS ON ALASKA NATIVE AND NATIVE HAWAIIAN STUDENTS

1161j. Improving science, technology, engineering, and mathematics education with a focus on Alaska Native and Native Hawaiian students.

PART K—PILOT PROGRAMS TO INCREASE COLLEGE PERSISTENCE AND SUCCESS

1161k. Pilot programs to increase college persistence and success.

PART L—STUDENT SAFETY AND CAMPUS EMERGENCY MANAGEMENT

1161*l*. Student safety and campus emergency management.
1161l–1. Model emergency response policies, procedures, and practices.
1161l–2. Preparation for future disasters plan by the Secretary.
1161l–3. Education Disaster and Emergency Relief Loan Program.
1161l–4. Guidance on mental health disclosures for student safety.
1161l–5. Rule of construction.

PART M—LOW TUITION

1161m. Incentives and rewards for low tuition.

PART N—COOPERATIVE EDUCATION

1161n. Statement of purpose; definition.
1161n–1. Reservations.
1161n–2. Grants for cooperative education.
1161n–3. Demonstration and innovation projects; training and resource centers; and research.
1161n–4. Authorization of appropriations.

PART O—COLLEGE PARTNERSHIP GRANTS

1161*o*. College partnership grants authorized.

PART P—JOBS TO CAREERS

1161p. Grants to create bridges from jobs to careers.

PART Q—RURAL DEVELOPMENT GRANTS FOR RURAL-SERVING COLLEGES AND UNIVERSITIES

1161q. Grants to rural-serving institutions of higher education.

PART R—CAMPUS-BASED DIGITAL THEFT PREVENTION

1161r. Campus-based digital theft prevention.

PART S—TRAINING FOR REALTIME WRITERS

1161s. Program to promote training and job placement of realtime writers.

PART T—CENTERS OF EXCELLENCE FOR VETERAN STUDENT SUCCESS

1161t. Model programs for Centers of Excellence for Veteran Student Success.

PART U—UNIVERSITY SUSTAINABILITY PROGRAMS

1161u. Sustainability planning grants authorized.

PART V—MODELING AND SIMULATION PROGRAMS

1161v. Modeling and simulation.

PART W—PATH TO SUCCESS

1161w. Path to success.

PART X—SCHOOL OF VETERINARY MEDICINE COMPETITIVE GRANT PROGRAM

1161x. School of veterinary medicine competitive grant program.

PART Y—EARLY FEDERAL PELL GRANT COMMITMENT DEMONSTRATION PROGRAM

1161y. Early Federal Pell Grant Commitment Demonstration Program.

PART Z—HENRY KUUALOHA GIUGNI KUPUNA MEMORIAL ARCHIVES

1161z. Henry Kuualoha Giugni Kupuna Memorial Archives.

PART AA—MASTERS AND POSTBACCALAUREATE PROGRAM

1161aa. Masters degree programs.

1161aa–1. Postbaccalaureate programs.

SUBCHAPTER I—GENERAL PROVISIONS

CODIFICATION

Title I of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title I, Nov. 8, 1965, 79 Stat. 1219, and amended by Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–29, May 3, 1973, 87 Stat. 30; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2291; Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 713; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–96, Oct. 31, 1979, 93 Stat. 729; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1107; Pub. L. 101–305, May 30, 1990, 104 Stat. 253; Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127; Pub. L. 102–54, June 13, 1991, 105 Stat. 267; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457. Such title is shown herein, however, as having been added by Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1585, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 105–244.

PART A—DEFINITIONS

§1001. General definition of institution of higher education

(a) Institution of higher education

For purposes of this chapter, other than subchapter IV, the term "institution of higher education" means an educational institution in any State that—

(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of section 1091(d) of this title;

(2) is legally authorized within such State to provide a program of education beyond secondary education;

(3) provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included

For purposes of this chapter, other than subchapter IV, the term "institution of higher education" also includes—

(1) any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1), admits as regular students individuals—

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) who will be dually or concurrently enrolled in the institution and a secondary school.

(c) List of accrediting agencies

For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

(Pub. L. 89–329, title I, §101, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1585; amended Pub. L. 110–315, title I, §101(a), Aug. 14, 2008, 122 Stat. 3083; Pub. L. 112–74, div. F, title III, §309(c)(3), Dec. 23, 2011, 125 Stat. 1101.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1141(a) of this title prior to repeal by Pub. L. 105–244.

A prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459, related to purposes of school, college, and university partnership grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1278, related to Congressional findings, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1373, stated Congressional findings with respect to continuing postsecondary education program and planning, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1001, Pub. L. 89–329, title I, §101, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 90–575, title II, §201, Oct. 16, 1968, 82 Stat. 1035; Pub. L. 92–318, title I, §101(a), June 23, 1972, 86 Stat. 236; Pub. L. 94–482, title I, §101(a), Oct. 12, 1976, 90 Stat. 2083; Pub. L. 96–49, §2, Aug. 13, 1979, 93 Stat. 351, authorized appropriations for the community service, continuing education, and lifelong learning program grant programs through fiscal year 1980, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 112–74 substituted "section 1091(d)" for "section 1091(d)(3)".

2008—Subsec. (a)(1). Pub. L. 110–315, §101(a)(1)(A), inserted ", or persons who meet the requirements of section 1091(d)(3) of this title" before semicolon at end.

Subsec. (a)(3). Pub. L. 110–315, §101(a)(1)(B), inserted ", or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary" before semicolon at end.

Subsec. (b)(2). Pub. L. 110–315, §101(a)(2), added par. (2) and struck out former par. (2) which read as follows: "a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located."

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–74, div. F, title III, §309(g), Dec. 23, 2011, 125 Stat. 1103, provided that: "The amendments made by subsections (a), (b), and (c) [amending this section and sections 1070a, 1087ss, and 1091 of this title, and enacting provisions set out as a note under section 1091 of this title] shall take effect on July 1, 2012."

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–39, §3, July 1, 2009, 123 Stat. 1935, provided that: "Except as otherwise provided in this Act [see Tables for classification], the amendments made by this Act shall take effect as if enacted on the date of enactment of the Higher Education Opportunity Act (Public Law 110–315) [Aug. 14, 2008]."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, §3, Aug. 14, 2008, 122 Stat. 3083, provided that: "Except as otherwise provided in this Act [see Tables for classification] or the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act [Aug. 14, 2008]."

Pub. L. 110–315, title I, §101(b), Aug. 14, 2008, 122 Stat. 3083, as amended by Pub. L. 111–39, title I, §101(a)(1), July 1, 2009, 123 Stat. 1935, provided that: "The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Aug. 14, 2008]."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, §3, Oct. 7, 1998, 112 Stat. 1585, provided that: "Except as otherwise provided in this Act [see Tables for classification] or the amendments made by this Act, the amendments made by this Act shall take effect on October 1, 1998."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–325, §2, July 23, 1992, 106 Stat. 458, provided that: "Except as otherwise provided in this Act (20 U.S.C. 1001 et seq.) [see Tables for classification], the amendments made by this Act shall take effect on October 1, 1992."

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–50, §27, June 3, 1987, 101 Stat. 363, provided that: "The amendments made by this Act [see Short Title of 1987 Amendment note below] shall take effect as if enacted as part of the Higher Education Amendments of 1986 [Pub. L. 99–498, see Short Title of 1986 Amendments note below]."

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–498, §2, Oct. 17, 1986, 100 Stat. 1277, provided that: "Except as otherwise provided in this Act, the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Oct. 17, 1986]."

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–374, title XIII, §1393, Oct. 3, 1980, 94 Stat. 1504, provided that:

"(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on October 1, 1980.

"(b)(1) The amendment made by section 301 of this Act to title III of the Act [enacting subchapter III of this chapter] shall take effect October 1, 1981.

"(2) The amendment made by section 404(c)(4) of this Act to section 415C(b)(4) of the Act [amending section 1070c–2 of this title] shall be effective October 1, 1979.

"(3) The amendment made by section 405 to subpart 4 of part A of title IV of the Act [amending subpart 4 of part A of subchapter IV of this chapter generally] shall take effect October 1, 1981.

"(4) The amendments made by part B of title IV of this Act [enacting sections 1077a, 1078–2, 1083a, and 1087–1a of this title and amending sections 1074, 1075, 1077, 1078, 1078–1, 1080, 1082, 1085, 1087–1, and 1087–2 of this title] shall take effect, except as otherwise provided therein, on January 1, 1981, and to the extent such amendments make changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendments take effect, except that the amendments made by section 415(b) [amending sections 1077(a)(2)(B) and 1078(b)(1)(E) of this title] shall apply with respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, to any student borrower who has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 [part B of subchapter IV of this chapter] on the date on which the borrower enters into the note or other written evidence of the loan.

"(5) The amendments made by part D of title IV of this Act [enacting sections 1087cc–1, 1087hh, and 1087ii of this title and amending sections 1087aa to 1087gg of this title] shall apply to loans made under part E of the Act [part D of subchapter IV of this chapter] on or after October 1, 1980.

"(6) The amendment made by section 701 of this Act adding section 731 of the Act [former section 1132d of this title] shall apply to loans made under section 731 on or after October 1, 1980."

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–482, title V, §532, Oct. 12, 1976, 90 Stat. 2241, provided that: "The provisions of this Act [see Tables for classification] and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act [Oct. 12, 1976] except—

"(1) as specifically otherwise provided; and

"(2) that each amendment made by this Act (not subject to clause (1) of this section) providing for authorization of appropriations shall take effect July 1, 1976."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–105, §1, Dec. 18, 2015, 129 Stat. 2219, provided that: "This Act [amending sections 1087aa, 1087cc–1, and 1087ff of this title and enacting provisions set out as notes under sections 1087aa and 1226a of this title] may be cited as the 'Federal Perkins Loan Program Extension Act of 2015'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 113–28, §1, Aug. 9, 2013, 127 Stat. 506, provided that: "This Act [amending section 1087e of this title and enacting provisions set out as a note under section 1087e of this title] may be cited as the 'Bipartisan Student Loan Certainty Act of 2013'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–152, title II, §2001(a), Mar. 30, 2010, 124 Stat. 1071, provided that: "This subtitle [subtitle A (§§2001–2213) of title II of Pub. L. 111–152, enacting section 1087i–2 of this title, amending sections 1002, 1067q, 1070a, 1070a–14, 1071, 1074, 1077a, 1078, 1078–2, 1078–3, 1078–8, 1085, 1087–1, 1087b, 1087d, 1087e, 1087f, 1087h, 1090, 1092f, 1098e, 1141, and 1161y of this title, enacting provisions set out as notes under sections 1002, 1070a, 1087d, and 1087e of this title, and repealing provisions set out as a note under section 1078 of this title] may be cited as the 'SAFRA Act'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–315, §1(a), Aug. 14, 2008, 122 Stat. 3078, provided that: "This Act [see Tables for classification] may be cited as the 'Higher Education Opportunity Act'."

Pub. L. 110–227, §1, May 7, 2008, 122 Stat. 740, provided that: "This title [probably means this "Act", enacting section 1087i–1 of this title, amending sections 1070a–1, 1071, 1078, 1078–2, 1078–8, 1087a, and 1087f of this title, and enacting provisions set out as notes under sections 1070a–1, 1071, 1078, 1078–8, and 1089 of this title] may be cited as the 'Ensuring Continued Access to Student Loans Act of 2008'."

Pub. L. 110–198, §1, Mar. 24, 2008, 122 Stat. 656, provided that: "This Act [enacting and amending provisions set out as notes under this section] may be cited as the 'Higher Education Extension Act of 2008'."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–109, §1, Oct. 31, 2007, 121 Stat. 1028, provided that: "This Act [amending section 1085 of this title and enacting and amending provisions set out as notes under this section] may be cited as the 'Third Higher Education Extension Act of 2007'."

Pub. L. 110–84, §1(a), Sept. 27, 2007, 121 Stat. 784, provided that: "This Act [enacting sections 1070g to 1070g–3, 1098e, 1098f, 1099d, 1099e, and 1141 of this title, amending sections 1070a, 1070a–13, 1077a, 1078, 1078–3, 1085, 1087–1, 1087e, 1087h, 1087dd, 1087ff, 1087oo to 1087tt, and 1087vv of this title, repealing section 1078–9 of this title, enacting provisions set out as notes under sections 1070a, 1078, 1078–3, 1087oo, 1087ss, 1087tt, and 1087vv of this title, and amending provisions set out as a note under section 1078 of this title] may be cited as the 'College Cost Reduction and Access Act'."

Pub. L. 110–51, §1, July 31, 2007, 121 Stat. 263, provided that: "This Act [enacting and amending provisions set out as notes under this section] may be cited as the 'Second Higher Education Extension Act of 2007'."

Pub. L. 110–44, §1, July 3, 2007, 121 Stat. 238, provided that: "This Act [enacting and amending provisions set out as notes under this section] may be cited as the 'First Higher Education Extension Act of 2007'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–292, §1, Sept. 30, 2006, 120 Stat. 1340, provided that: "This Act [amending sections 1085, 1087h, 1101a, and 1101c of this title, enacting provisions set out as notes under this section and section 1085 of this title, and amending provisions set out as a note under this section] may be cited as the 'Third Higher Education Extension Act of 2006'."

Pub. L. 109–238, §1, June 30, 2006, 120 Stat. 507, provided that: "This Act [enacting and amending

provisions set out as notes under this section] may be cited as the 'Second Higher Education Extension Act of 2006'."

Pub. L. 109–212, §1, Apr. 1, 2006, 120 Stat. 321, provided that: "This Act [enacting and amending provisions set out as notes under this section] may be cited as the 'Higher Education Extension Act of 2006'."

Pub. L. 109–171, title VIII, §8001(a), Feb. 8, 2006, 120 Stat. 155, provided that: "This subtitle [subtitle A (§§8001–8024) of title VIII of Pub. L. 109–171, enacting sections 1070a–1 and 1092e of this title, amending sections 1002, 1071, 1074, 1075, 1077a, 1078 to 1078–3, 1078–6 to 1078–10, 1082, 1085, 1087, 1087–1, 1087e, 1087h, 1087j, 1087dd, 1087ll, 1087oo to 1087ss, 1087vv, 1088, 1091, 1091b, and 1095a of this title, enacting provisions set out as notes under sections 1002, 1075, 1078, 1087–1, 1087oo to 1087qq, and 1087ss of this title, and amending provisions set out as a note under section 1078–10 of this title] may be cited as the 'Higher Education Reconciliation Act of 2005'."

SHORT TITLE OF 2005 AMENDMENTS

Pub. L. 109–150, §1, Dec. 30, 2005, 119 Stat. 2884, provided that: "This Act [amending section 1087–1 of this title, enacting provisions set out as a note under section 1087–1 of this title, and amending provisions set out as notes under this section and section 1078–10 of this title] may be cited as the 'Second Higher Education Extension Act of 2005'."

Pub. L. 109–67, §1, Sept. 21, 2005, 119 Stat. 2001, provided that: "This Act [amending section 1091b of this title] may be cited as the 'Student Grant Hurricane and Disaster Relief Act'."

Pub. L. 109–66, §1, Sept. 21, 2005, 119 Stat. 1999, provided that: "This Act [amending section 1091b of this title] may be cited as the 'Pell Grant Hurricane and Disaster Relief Act'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–409, §1, Oct. 30, 2004, 118 Stat. 2299, provided that: "This Act [amending sections 1078–10, 1087–1, and 1087j of this title and enacting provisions set out as notes under section 1078–10 of this title] may be cited as the 'Taxpayer-Teacher Protection Act of 2004'."

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–420, §1, Nov. 1, 2000, 114 Stat. 1867, provided that: "This Act [enacting section 1092d of this title, amending section 522 of Title 11, Bankruptcy, and enacting provisions set out as notes under section 1092d of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'College Scholarship Fraud Prevention Act of 2000'."

Pub. L. 106–386, div. B, title VI, §1601(a), Oct. 28, 2000, 114 Stat. 1537, provided that: "This section [amending sections 1092 and 1232g of this title and section 14071 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under section 1092 of this title and section 14071 of Title 42] may be cited as the 'Campus Sex Crimes Prevention Act'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–244, §1(a), Oct. 7, 1998, 112 Stat. 1581, provided that: "This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1998'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–78, title VI, §609(a), Nov. 13, 1997, 111 Stat. 1522, provided in part that: "This section [amending sections 1078–3, 1087h, 1087oo to 1087qq, and 1087vv of this title and enacting provisions set out as notes under sections 1078–3 and 1087h of this title] may be cited as the 'Emergency Student Loan Consolidation Act of 1997'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, §101(e) [title VI, §601], Sept. 30, 1996, 110 Stat. 3009–233, 3009–275, provided that: "This title [enacting sections 1087–3, 1087–4, and 1132f–10 of this title, amending sections 1078–3, 1085, and 1087–2 of this title, repealing sections 1087–2, 1087–3, and 1132f to 1132f–9 of this title, and enacting provisions set out as notes under sections 1078–3 and 1087–2 of this title] may be cited as the 'Student Loan Marketing Association Reorganization Act of 1996'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–382, title III, §360B(a), Oct. 20, 1994, 108 Stat. 3969, provided that: "This section [amending section 1092 of this title and enacting provisions set out as a note under section 1092 of this title] may be cited as the 'Equity in Athletics Disclosure Act'."

SHORT TITLE OF 1993 AMENDMENTS

Pub. L. 103–208, §1(a), Dec. 20, 1993, 107 Stat. 2457, provided that: "This Act [see Tables for classification] may be cited as the 'Higher Education Technical Amendments of 1993'."

Pub. L. 103–66, title IV, §4011(a), Aug. 10, 1993, 107 Stat. 341, provided that: "This subtitle [subtitle A (§§4011–4047) of title IV of Pub. L. 103–66, amending sections 1072, 1078, 1078–3, 1078–8, 1085, 1087–2, and 1087a to 1087h of this title, repealing section 1078–1 of this title, omitting sections 1087i and 1087j of this title, and enacting provisions set out as notes under sections 1078, 1078–3, and 1078–8 of this title] may be cited as the 'Student Loan Reform Act of 1993'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–325, §1(a), July 23, 1992, 106 Stat. 448, provided that: "This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1992'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–26, §1(a), Apr. 9, 1991, 105 Stat. 123, provided that: "This Act [enacting section 1211b of this title, amending sections 1078, 1078–1, 1085, 1087ss, 1088, 1091, 1091a, 1092, 1094, and 1141 of this title, enacting provisions set out as notes under sections 1070, 1078–1, 1088, and 1091a of this title, amending provisions set out as a note under section 1092 of this title, and repealing provisions set out as a note under section 1088 of this title] may be cited as the 'Higher Education Technical Amendments of 1991'."

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–542, §1, Nov. 8, 1990, 104 Stat. 2381, provided that: "This Act [amending sections 1085, 1092, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1092 of this title] may be cited as the 'Student Right-To-Know and Campus Security Act'."

Pub. L. 101–542, title I, §101, Nov. 8, 1990, 104 Stat. 2381, provided that: "This title [amending section 1092 of this title and enacting provisions set out as notes under section 1092 of this title] may be cited as the 'Student Right-To-Know Act'."

Pub. L. 101–542, title II, §201, Nov. 8, 1990, 104 Stat. 2384, provided that: "This title [amending sections 1092, 1094, and 1232g of this title and enacting provisions set out as notes under section 1092 of this title] may be cited as the 'Crime Awareness and Campus Security Act of 1990'."

Pub. L. 101–508, title III, §3001, Nov. 5, 1990, 104 Stat. 1388–25, provided that: "This subtitle [subtitle A (§§3001–3008) of title III of Pub. L. 101–508, amending sections 1078, 1078–1, 1078–7, 1085, 1088, and 1091 of this title and sections 362, 541, and 1328 of Title 11, Bankruptcy, enacting provisions set out as notes under sections 1078–7, 1085, and 1088 of this title and sections 362 and 1328 of Title 11, and amending provisions set out as a note under section 1078–1 of this title] may be cited as the 'Student Loan Default Prevention Initiative Act of 1990'."

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–239, title II, §2001, Dec. 19, 1989, 103 Stat. 2111, provided that: "This subtitle [subtitle A (§§2001–2009) of title II of Pub. L. 101–239, enacting section 1078–7 of this title, amending sections 1077, 1078, 1078–1, 1078–6, 1082, 1085, 1087dd, 1087tt, 1088, 1092b, and 1094 of this title, and enacting provisions set out as notes under sections 1077, 1078, 1078–1, and 1078–6 of this title] may be cited as the 'Student Loan Reconciliation Amendments of 1989'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–50, §1(a), June 3, 1987, 101 Stat. 335, provided that: "This Act [enacting sections 1059a, 1087tt, 1087uu, 1087uu–1, and 1145d–1 of this title, amending sections 1057, 1058, 1062, 1063a to 1063c, 1065, 1066, 1067, 1069a, 1070a to 1070a–4, 1070a–6, 1070b–3, 1070c–4, 1070d–1b, 1070d–2, 1070e–1, 1070f, 1075, 1077, 1077a, 1078 to 1078–3, 1078–5, 1078–6, 1080a, 1081 to 1083, 1085, 1087–1, 1087–2, 1087d, 1087bb, 1087cc, 1087cc–1, 1087dd, 1087ee, 1087oo to 1087ss, 1087vv, 1088, 1089 to 1091, 1092 to 1092b, 1095, 1096, 1098, 1109 to 1109d, 1111, 1111b, 1111f, 1111g, 1122, 1132a, 1132a–1, 1132d, 1132d–2, 1132g–3, 1132i–1, 1134h to 1134j, 1141, 1145e, 1221e, and 1221e–1 of this title, section 4604 of Title 22, Foreign Relations and Intercourse, and sections 2752, 2753, and 2756 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under section 2752 of Title 42, and amending provisions set out as notes under sections 1011, 1071, 1087dd, 1087kk, 1091, 1121, 1145d, 1221–1, and 1221e–1 of this title and section 2753 of Title 42] may be cited as the 'Higher Education Technical Amendments Act of 1987'."

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–498, §1, Oct. 17, 1986, 100 Stat. 1268, provided that: "This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1986'."

Pub. L. 99–320, §1, May 23, 1986, 100 Stat. 491, provided: "That this Act [amending sections 1078 and 1080a of this title and a provision set out as a note under section 1072 of this title] may be cited as the 'Student Financial Assistance Technical Corrections Act of 1986'."

Pub. L. 99–272, title XVI, §16001(a), Apr. 7, 1986, 100 Stat. 339, provided that: "This title [enacting sections 1078–3, 1080a, and 1091a of this title, amending sections 1072, 1074, 1075, 1077, 1078, 1080, 1082, 1083a, 1085, 1087–1, 1087–2, 1087cc, 1087cc–1, 1087dd, 1087gg, 1089, 1091, and 1094 of this title, enacting provisions set out as notes under sections 1072, 1078, and 1078–3 of this title, and amending provisions set out as a note under section 1078 of this title] may be cited as the 'Student Financial Assistance Amendments of 1985'."

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98–95, §1, Sept. 26, 1983, 97 Stat. 708, provided: "That this Act [enacting section 1065a of this title, amending section 1069c of this title, enacting provisions set out as a note under section 1132a–1 of this title, and amending provisions set out as notes under sections 123 and 1069c of this title] may be cited as the 'Challenge Grant Amendments of 1983'."

Pub. L. 98–79, §1, Aug. 15, 1983, 97 Stat. 476, provided: "That this Act [amending sections 1071, 1077, 1077a, 1078, 1078–2, 1083a, 1087–1, 1087–2, 1087cc–1, and 1098 of this title, repealing section 1087–1a of this title, enacting provisions set out as notes under sections 1077, 1077a, 1078, and 1087–1 of this title, and amending provisions set out as notes under sections 1070a, 1078, and 1089 of this title] may be cited as the 'Student Loan Consolidation and Technical Amendments Act of 1983'."

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–301, §1, Oct. 13, 1982, 96 Stat. 1400, which provided: "That this Act [amending sections 1070a, 1083a, 1087–2, and 1087cc–1 of this title and enacting provisions set out as notes under sections 1070a, 1070b–3, 1078, 1087bb, 1089, and 1221e–1 of this title and section 2752 of Title 42, The Public Health and Welfare] may be cited as the 'Student Financial Assistance Technical Amendments Act of 1982'.", was repealed by Pub. L. 99–498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–35, title V, subtitle B, §531, Aug. 13, 1981, 95 Stat. 450, provided that: "This subtitle [amending sections 1075, 1077, 1077a, 1078, 1078–1, 1078–2, 1087–1, 1087–2, 1087dd, 1089, 1096, and 1232 of this title, repealing section 1087–3a of this title, and enacting provisions set out as notes under section 1078 of this title] may be cited as the 'Postsecondary Student Assistance Amendments of 1981'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–374, §1, Oct. 3, 1980, 94 Stat. 1367, provided: "That this Act [enacting sections 239a, 1001 to 1005, 1011 to 1015, 1016 to 1019, 1021, 1022, 1029, 1031 to 1034, 1041, 1042, 1047 to 1047j, 1051, 1057 to 1069c, 1070d–1a to 1070d–2, 1077a, 1078–2, 1083a, 1087–1a, 1087cc–1, 1087hh, 1087ii, 1088 to 1098, 1119b to 1119b–5, 1119c to 1119c–2, 1121 to 1127, 1130 to 1132, 1132a to 1132a–1, 1132b to 1132c, 1132d to 1132d–4, 1132e, 1132e–1, 1134d to 1134p, 1135 to 1135a–3, 1136 to 1136d, 1143, 1144a, 1145, 1146, 1221e–1b, 1221e–4, and 3063 to 3065 of this title, section 640c–2 of Title 25, Indians, and sections 2753 and 2756b of Title 42, The Public Health and Welfare, amending sections 1070 to 1070c–3, 1070d, 1070d–1, 1070e to 1077, 1078, 1078–1, 1079, 1080 to 1083, 1085 to 1087–1, 1087–2, 1087aa to 1087cc, 1087dd to 1087gg, 1101 to 1104, 1119 to 1119a–1, 1133 to 1134c, 1135c–1, 1141, 1142, 1221e, 1226a, 1226c, and 1232 of this title, section 326a of Title 7, Agriculture, section 640c–1 of Title 25, sections 714 and 792 of Title 29, Labor, and sections 2751, 2752, and 2756 of Title 42, repealing sections 511 to 513, 1070c–4, 1070d–3, 1087–4, 1134q to 1134s, 1142a, 1142b, 1145, 1145a, 1145c, 1172 to 1174, 1176, 1177, and 1221d of this title and section 2754 of Title 42, enacting provisions set out as notes under sections 236, 1001, 1119b, and 1221–1 of this title and section 301 of Title 7, and amending provisions set out as notes under section 236 of this title and section 301 of Title 7] may be cited as the 'Education Amendments of 1980'."

SHORT TITLE OF 1979 AMENDMENT

Pub. L. 96–49, §1, Aug. 13, 1979, 93 Stat. 351, provided: "That this Act [enacting section 1087gg of this title, amending this section and sections 513, 1021, 1042, 1051, 1070a, 1070b, 1070c, 1070d, 1070d–2, 1070e–1, 1078, 1087–1, 1087aa, 1088, 1101, 1119, 1121, 1132a, 1132b, 1132c, 1132c–4, 1134, 1134e, 1134i, 1134n, 1134r–1, 1135, 1135a, 1136b, 1142b, 1221d, and 1221e of this title, enacting provisions set out as notes under sections 1070a, 1087–1, 1087gg, and 1088 of this title, and amending provisions set out as a note under section 1070a of this title] may be cited as the 'Higher Education Technical Amendments of 1979'."

SHORT TITLE OF 1978 AMENDMENTS

Pub. L. 95–566, §1, Nov. 1, 1978, 92 Stat. 2402, provided: "That this Act [enacting section 1087–3a of this title, amending sections 1070a, 1070c–2, 1070d–1, 1075, 1077, 1078, 1088 and 1088f of this title, and enacting provisions set out as a note under this section] may be cited as the 'Middle Income Student Assistance Act'."

Pub. L. 95–336, §1, Aug. 4, 1978, 92 Stat. 451, provided: "That this Act [amending section 1070e–1 of this title, sections 1001, 1002, and 1007 of Title 21, Food and Drugs, and former section 246 of Title 38, Veterans' Benefits, and enacting provisions set out as a note under section 1070e–1 of this title] may be cited as the 'Alcohol and Drug Abuse Education Amendments of 1978'."

SHORT TITLE OF 1976 AMENDMENTS

Pub. L. 94–482, §1, Oct. 12, 1976, 90 Stat. 2081, provided: "That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1976'."

Pub. L. 94–328, §1, June 30, 1976, 90 Stat. 727, provided: "That this joint resolution [amending sections 1070a, 1074, 1078 and 1078a of this title and enacting provisions set out as notes under section 1226a of this title and section 2756 of Title 42, The Public Health and Welfare] may be cited as the 'Emergency Technical Provisions Act of 1976'."

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92–318, §1, June 23, 1972, 86 Stat. 235, provided: "That this Act [enacting chapter 36 (§1601 et seq.), chapter 37 (§1651 et seq.), chapter 38 (§1681 et seq.), and sections 241aa to 241ff, 887c, 887d, 900 to 900a–5, 1005a, 1021, 1031, 1042, 1070 to 1070e, 1070e–1, 1087–1, 1087–2, 1087aa to 1087ff, 1088d to 1088g, 1119a, 1132a to 1132e–1, 1134 to 1134s, 1135, 1135a, 1135b to 1135c, 1135c–1, 1142a, 1142b, 1144a, 1145a, 1211a, 1221a to 1221h, 1227 of this title, and section 326a of Title 7, Agriculture, and 2756a of Title 42, The Public Health and Welfare, amending this section and sections 240, 241c, 241e, 331a, 332, 421, 441, 511, 513, 822, 823, 842, 843, 863, 880b–3a, 1003, 1011, 1021, 1022 to 1024, 1027, 1031, 1033, 1041, 1051 to 1056, 1061, 1068, 1070, 1074, 1075, 1077, 1078, 1078a, 1080, 1083, 1084, 1087, 1087a, 1087c, 1088, 1088c, 1091, 1091a to 1091c, 1101, 1102, 1108 to 1111, 1115, 1116, 1118, 1119, 1119a, 1119b–2, 1121, 1129, 1133, 1133a, 1134j, 1136, 1136a, 1136b, 1141, 1176, 1231, 1231a, 1232a, 1232c, 1242, 1244, 1248, 1302, 1321 to 1323, 1341, 1352, 1371, 1391, and 1412 of this title, and sections 329, 331, 343, 349, 361, and 1626 of Title 7, sections 24, 84, 1464, and 1757 of Title 12, Banks and Banking, sections 203 and 213 of Title 29, Labor, and sections 2751, 2752, and 2754 of Title 42, repealing sections 1, 2, 426, 711 to 721, 731, 732, 746, 1021, 1031, 1032, 1060, 1118, 1119a, 1119b–2, and 1119c–4 of this title, and enacting provisions set out as notes under this section and sections 241a, 241e, 241aa, 331a, 425, 821, 887d, 1005a, 1009, 1070, 1070e, 1074, 1075, 1087–2, 1087aa, 1091a, 1132a, 1132c–3, 1135c, 1231, and 1232 of this title, sections 301 and 326a of Title 7, and section 3501 of Title 42] may be cited as the 'Education Amendments of 1972'."

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–575, §1, Oct. 16, 1968, 82 Stat. 1014, provided: "That this Act [enacting sections 451 to 455, 746, 1056, 1060, 1087, 1087a to 1087c, 1088 to 1088c, 1089, 1119a–1, 1129a, 1133 to 1133b, 1134 to 1134l, 1135, 1135a, 1135b, 1135c, 1136 to 1136b, 1145, 1146 to 1150 of this title, amending this section and sections 403, 421 to 425, 425 note, 426, 441 to 445, 462 to 464, 481 to 484, 511, 513, 562, 581, 584, 588, 591, 711, 713 to 718, 731, 732, 743, 751, 758, 961, 1005, 1006, 1021 to 1024, 1031, 1033, 1041, 1051, 1061, 1062, 1065 to 1068, 1071 to 1075, 1077, 1078, 1080, 1083 to 1086, 1091c, 1101, 1104, 1108 to 1111, 1113, 1114, 1115, 1118, 1119a, 1119b–2, 1121, 1124, 1125, 1141, 1142, 1143, 1144 and 1176 of this title, section 1464 of Title 12, Banks and Banking, and sections 2741, 2751 to 2756, and 2809 of Title 42, The Public Health and Welfare, repealing sections 733, 981 to 996 of this title, and section 2757 of Title 42, and enacting provisions set out as notes under this section and sections 423 to 425, 445, 462 to 464, 588, 713, 716 to 718, 743, 751, 981, 1006, 1022, 1024, 1051, 1056, 1060, 1067, 1071, 1077, 1078, 1083, 1088b, and 1109 of this title, and sections 2751, 2753, 2754, and 2809 of Title 42] may be cited as the 'Higher Education Amendments of 1968'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–752, §1, Nov. 3, 1966, 80 Stat. 1240, provided: "That this Act [enacting section 1086 of this title, amending sections 403, 421, 425, 441, 443, 711–715, 731, 743, 744, 751, 1022, 1051, 1072, 1121, and 1124 of this title, and enacting provisions set out as notes under sections 403, 443, 1022, 1071, and 1124 of this title] may be cited as the 'Higher Education Amendments of 1966'."

SHORT TITLE

Pub. L. 89–329, §1, Nov. 8, 1965, 79 Stat. 1219, provided: "That this Act [enacting this chapter and section 2757 of Title 42, The Public Health and Welfare, and amending sections 403, 424, 425, 441, 443, 591, 711, 713 to 717, 731, and 751 of this title, and sections 2751 to 2756, and 2761 of Title 42] may be cited as the 'Higher Education Act of 1965'."

Pub. L. 89–329, title V, §509, as added by Pub. L. 90–35, §8, provided that title V of Pub. L. 89–329 could be cited as the "Education Professions Development Act", prior to the general amendment of title V of Pub. L. 89–329 by Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1495.

For short title of section 1092(f) of this title as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, see section 1092(f)(18) of this title.

HIGHER EDUCATION EXTENSION

Pub. L. 109–81, Sept. 30, 2005, 119 Stat. 2048, as amended by Pub. L. 109–150, §2(a), Dec. 30, 2005, 119 Stat. 2884; Pub. L. 109–212, §2, Apr. 1, 2006, 120 Stat. 321; Pub. L. 109–238, §2, June 30, 2006, 120 Stat. 507; Pub. L. 109–292, §2, Sept. 30, 2006, 120 Stat. 1340; Pub. L. 110–44, §2, July 3, 2007, 121 Stat. 238; Pub. L. 110–51, §2, July 31, 2007, 121 Stat. 263; Pub. L. 110–109, §2, Oct. 31, 2007, 121 Stat. 1028; Pub. L. 110–198, §2, Mar. 24, 2008, 122 Stat. 656; Pub. L. 110–230, §1(a), May 13, 2008, 122 Stat. 877; Pub. L. 110–238, §1(a), May 30, 2008, 122 Stat. 1558; Pub. L. 110–256, §1(a), June 30, 2008, 122 Stat. 2425; Pub. L. 110–300, §1(a), July 31, 2008, 122 Stat. 2998, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Higher Education Extension Act of 2005'.

"SEC. 2. EXTENSION OF PROGRAMS.

"(a) EXTENSION OF DURATION.—The authorization of appropriations for, and the duration of, each program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) [and 42 U.S.C. 2751 et seq.] shall be extended through August 15, 2008.

"(b) PERFORMANCE OF REQUIRED AND AUTHORIZED FUNCTIONS.—If the Secretary of Education, a State, an institution of higher education, a guaranty agency, a lender, or another person or entity—

"(1) is required, in or for fiscal year 2004, to carry out certain acts or make certain determinations or payments under a program under the Higher Education Act of 1965, such acts, determinations, or payments shall be required to be carried out, made, or continued during the period of the extension under this section; or

"(2) is permitted or authorized, in or for fiscal year 2004, to carry out certain acts or make certain determinations or payments under a program under the Higher Education Act of 1965, such acts, determinations, or payments are permitted or authorized to be carried out, made, or continued during the period of the extension under this section.

"(c) EXTENSION AT CURRENT LEVELS.—The amount authorized to be appropriated for a program described in subsection (a) during the period of extension under this section shall be the amount authorized to be appropriated for such program for fiscal year 2004, or the amount appropriated for such program for such fiscal year, whichever is greater. Except as provided in any amendment to the Higher Education Act of 1965 enacted during fiscal year 2005 or 2006, the amount of any payment required or authorized under subsection (b) in or for the period of the extension under this section shall be determined in the same manner as the amount of the corresponding payment required or authorized in or for fiscal year 2004.

"(d) ADVISORY COMMITTEES AND OTHER ENTITIES CONTINUED.—Any advisory committee, interagency organization, or other entity that was, during fiscal year 2004, authorized or required to perform any function under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) [and 42 U.S.C. 2751 et seq.], or in relation to programs under that Act, shall continue to exist and is authorized or required, respectively, to perform such function for the period of the extension under this section.

"(e) ADDITIONAL EXTENSION NOT PERMITTED.—Section 422 of the General Education Provisions Act (20 U.S.C. 1226a) shall not apply to further extend the authorization of appropriations for any program described in subsection (a) on the basis of the extension of such program under this section.

"(f) EXCEPTION.—The programs described in subsection (a) for which the authorization of appropriations, or the duration of which, is extended by this section include provisions applicable to institutions in, and students in or from, the Freely Associated States, except that those provisions shall be applicable with respect to institutions in, and students in or from, the Federated States of Micronesia and the Republic of the Marshall Islands only to the extent specified in Public Law 108–188 [48 U.S.C. 1921 et seq.]."

[Pub. L. 110–300, §1(c), July 31, 2008, 122 Stat. 2998, provided that: "The amendment made by subsection

(a) [amending Pub. L. 109–81, set out above] shall take effect as if enacted on July 31, 2008."]

[Pub. L. 110–230, §1(c), May 13, 2008, 122 Stat. 877, provided that: "The amendment made by subsection (a) [amending Pub. L. 109–81, set out above] shall take effect as if enacted on April 30, 2008."]

[Pub. L. 110–300, §1(b), July 31, 2008, 122 Stat. 2998, provided that: "Nothing in this section [enacting provisions set out above and amending Pub. L. 109–81, set out above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above], by the College Cost Reduction and Access Act (Public Law 110–84) [see Short Title of 2007 Amendment note above], or by the Ensuring Continued Access to Student Loans Act of 2008 (Public Law 110–227) [see Short Title of 2008 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 110–256, §1(b), June 30, 2008, 122 Stat. 2425, provided that: "Nothing in this section [amending Pub. L. 109–81, set out above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above], by the College Cost Reduction and Access Act (Public Law 110–84) [see Short Title of 2007 Amendment note above], or by the Ensuring Continued Access to Student Loans Act of 2008 (Public Law 110–227) [see Short Title of 2008 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 110–238, §1(b), May 30, 2008, 122 Stat. 1558, provided that: "Nothing in this section [amending Pub. L. 109–81, set out above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above], by the College Cost Reduction and Access Act (Public Law 110–84) [see Short Title of 2007 Amendment note above], or by the Ensuring Continued Access to Student Loans Act of 2008 (Public Law 110–227) [see Short Title of 2008 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 110–230, §1(b), May 13, 2008, 122 Stat. 877, provided that: "Nothing in this section [enacting provisions set out above and amending Pub. L. 109–81, set out above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above] or by the College Cost Reduction and Access Act (Public Law 110–84) [see Short Title of 2007 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 110–198, §3, Mar. 24, 2008, 122 Stat. 656, provided that: "Nothing in this Act [see Short Title of 2008 Amendment note above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above] or by the College Cost Reduction and Access Act (Public Law 110–84) [see Short Title of 2007 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 110–109, §3, Oct. 31, 2007, 121 Stat. 1028, provided that: "Nothing in this Act [see Short Title of 2007 Amendment note above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above] or by the College Cost Reduction and Access Act (Public Law 110–84) [see Short Title of 2007 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 110–51, §3, July 31, 2007, 121 Stat. 263, provided that: "Nothing in this Act [see Short Title of 2007 Amendment note above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 110–44, §3, July 3, 2007, 121 Stat. 238, provided that: "Nothing in this Act [see Short Title of 2007 Amendment note above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 109–292, §7, Sept. 30, 2006, 120 Stat. 1343, provided that: "Nothing in this Act [see Short Title of 2006 Amendment note above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (P.L. 109–171) [see Short Title of 2006 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 109–238, §3, June 30, 2006, 120 Stat. 507, provided that: "Nothing in this Act [see Short Title of 2006 Amendment note above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

[Pub. L. 109–212, §3, Apr. 1, 2006, 120 Stat. 321, provided that: "Nothing in this Act [see Short Title of 2006 Amendment note above], or in the Higher Education Extension Act of 2005 [Pub. L. 109–81, set out above] as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) [see Short Title of 2006 Amendment note above] to the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and the Taxpayer-Teacher Protection Act of 2004 [see Short Title of 2004 Amendment note above]."]

Similar provisions were contained in Pub. L. 108–366, Oct. 25, 2004, 118 Stat. 1741.

STUDY OF OPPORTUNITIES FOR PARTICIPATION IN ATHLETICS PROGRAMS

Pub. L. 105–244, title VIII, §805, Oct. 7, 1998, 112 Stat. 1807, which required the Comptroller General to conduct a study of the opportunities for participation in intercollegiate athletics and to submit a report on the study to committees of Congress, was repealed by Pub. L. 110–315, title IX, §931(1), Aug. 14, 2008, 122 Stat. 3456.

STYLISTIC CONSISTENCY

Pub. L. 103–208, §2(m), Dec. 20, 1993, 107 Stat. 2486, provided that: "The Act [Pub. L. 89–329, see Short Title note above] is amended so that the section designation and section heading of each section of the Act shall be in the form and typeface of the section designation and heading of this section [107 Stat. 2457]."

TERMS DEFINED FOR PURPOSES OF TITLES XIII, XIV, AND XV OF PUB. L. 102–325

Pub. L. 102–325, §1(c), July 23, 1992, 106 Stat. 448, as amended by Pub. L. 105–244, title I, §102(a)(6)(A), Oct. 7, 1998, 112 Stat. 1618, provided that: "Unless otherwise provided therein, terms used in titles XIII, XIV, and XV [enacting sections 1145h and 4426 of this title, sections 3301 to 3371 of Title 25, Indians, and sections 2401 to 2405 of Title 29, Labor, amending sections 1221e–1, 1232g, 3412, 4412, 4414, 4416, 4417, 4418, 4421, 4422, 4423, 4424, 4425, 5381, and 5411 of this title, section 5315 of Title 5, Government Organization and Employees, sections 4604 and 4609 of Title 22, Foreign Relations and Intercourse, sections 640c–1, 1810, 1836, and 1852 of Title 25, and sections 295g–8 and 12576 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 1070, 1070a–11, 1070a–21, 1071, 1080, 1088, 1101, 1132a, 1134, 1221–1, 1221e, 1232g, 1452, and 9003 of this title, amending provisions set out as a note under section 1091a of this title, and repealing provisions set out as a

note under section 362 of Title 11, Bankruptcy] shall have the same meaning given to such terms in section 101 of the Higher Education Act of 1965 [this section]."

GENERAL PROVISIONS OF 1972 AMENDMENT

Pub. L. 92–318, §2, June 23, 1972, 86 Stat. 236, provided that:

"(a) As used in this Act [See Short Title of 1972 Amendment note above]—

"(1) the term 'Secretary' means the Secretary of Health, Education, and Welfare [now Secretary of Education]; and

"(2) the term 'Commissioner' means the Commissioner of Education [now Secretary of Education]; unless the context requires another meaning.

"(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

"(c)(1) Unless otherwise specified, each provision of this Act and each amendment made by this Act shall be effective after June 30, 1972, and with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years.

"(2) Unless otherwise specified, in any case where an amendment made by this Act is to become effective after a date set herein, it shall be effective with the beginning of the day which immediately follows the date after which such amendment is effective.

"(3) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1971, such amendment shall be deemed to have been enacted on July 1, 1971."

RULEMAKING REQUIREMENTS; PUBLICATION IN FEDERAL REGISTER

Pub. L. 90–575, title V, §505, Oct. 16, 1968, 82 Stat. 1063, provided for publication of rules and regulations in Federal Register, prior to repeal by Pub. L. 91–230, title IV, §401(e)(2), Apr. 13, 1970, 84 Stat. 173.

PRESIDENTIAL RECOMMENDATIONS BY DECEMBER 31, 1969, WITH RESPECT TO POST-SECONDARY EDUCATION FOR ALL

Pub. L. 90–575, title V, §508, Oct. 16, 1968, 82 Stat. 1063, authorized the President, on or before Dec. 31, 1969, to submit to the Congress proposals relative to the feasibility of making available a post-secondary education to all young Americans who qualify and seek it.

§1002. Definition of institution of higher education for purposes of student assistance programs

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions

Subject to paragraphs (2) through (4) of this subsection, the term "institution of higher education" for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) a proprietary institution of higher education (as defined in subsection (b) of this section);

(B) a postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) only for the purposes of part C of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part C of subchapter IV of this chapter, consistent with the requirements of section 1087b(d) of this title.

(2) Institutions outside the United States

(A) In general

For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, nursing school, or a veterinary school, located outside the United States shall not be required to meet the

requirements of section 1001(a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made under part C of subchapter IV of this chapter unless—

(i) except as provided in subparagraph (B)(iii)(IV), in the case of a graduate medical school located outside the United States—

(I)(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part C of subchapter IV of this chapter; and

(bb) at least 75 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part C of subchapter IV of this chapter; or

(II) the institution—

(aa) has or had a clinical training program that was approved by a State as of January 1, 1992; and

(bb) continues to operate a clinical training program in at least one State that is approved by that State;

(ii) in the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States; or

(iii) in the case of a nursing school located outside of the United States—

(I) the nursing school has an agreement with a hospital, or accredited school of nursing (as such terms are defined in section 296 of title 42), located in the United States that requires the students of the nursing school to complete the students' clinical training at such hospital or accredited school of nursing;

(II) the nursing school has an agreement with an accredited school of nursing located in the United States providing that the students graduating from the nursing school located outside of the United States also receive a degree from the accredited school of nursing located in the United States;

(III) the nursing school certifies only Federal Direct Stafford Loans under section 1087e(a)(2)(A) of this title, Federal Direct Unsubsidized Stafford Loans under section 1087e(a)(2)(D) of this title, or Federal Direct PLUS Loans under section 1087e(a)(2)(B) of this title for students attending the institution;

(IV) the nursing school reimburses the Secretary for the cost of any loan defaults for current and former students included in the calculation of the institution's cohort default rate during the previous fiscal year; and

(V) not less than 75 percent of the individuals who were students or graduates of the nursing school, and who took the National Council Licensure Examination for Registered Nurses in the year preceding the year for which the institution is certifying a Federal Direct Stafford Loan under section 1087e(a)(2)(A) of this title, a Federal Direct Unsubsidized Stafford Loan under section 1087e(a)(2)(D) of this title, or a Federal Direct PLUS Loan under section 1087e(a)(2)(B) of this title, received a passing score on such examination.

(B) Advisory panel

(i) In general

For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) determine the comparability of those standards to standards for accreditation applied

to United States medical schools.

(ii) Special rule

If the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(iii) Report

(I) In general

Not later than 1 year after August 14, 2008, the advisory panel described in clause (i) shall submit a report to the Secretary and to the authorizing committees recommending eligibility criteria for participation in the loan programs under part C of subchapter IV of this chapter for graduate medical schools that—

(aa) are located outside of the United States;

(bb) do not meet the requirements of subparagraph (A)(i); and

(cc) have a clinical training program approved by a State prior to January 1, 2008.

(II) Recommendations

In the report described in subclause (I), the advisory panel's eligibility criteria shall include recommendations regarding the appropriate levels of performance for graduate medical schools described in such subclause in the following areas:

(aa) Entrance requirements.

(bb) Retention and graduation rates.

(cc) Successful placement of students in United States medical residency programs.

(dd) Passage rate of students on the United States Medical Licensing Examination.

(ee) The extent to which State medical boards have assessed the quality of such school's program of instruction, including through on-site reviews.

(ff) The extent to which graduates of such schools would be unable to practice medicine in 1 or more States, based on the judgment of a State medical board.

(gg) Any areas recommended by the Comptroller General of the United States under section 1101 of the Higher Education Opportunity Act.

(hh) Any additional areas the Secretary may require.

(III) Minimum eligibility requirement

In the recommendations described in subclause (II), the criteria described in subparagraph (A)(i)(I)(bb) shall be a minimum eligibility requirement for a graduate medical school described in subclause (I) to participate in the loan programs under part C of subchapter IV of this chapter.

(IV) Authority

The Secretary may—

(aa) not earlier than 180 days after the submission of the report described in subclause (I), issue proposed regulations establishing criteria for the eligibility of graduate medical schools described in such subclause to participate in the loan programs under part C of subchapter IV of this chapter based on the recommendations of such report; and

(bb) not earlier than one year after the issuance of proposed regulations under item (aa), issue final regulations establishing such criteria for eligibility.

(C) Failure to release information

The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part C of subchapter IV of this chapter.

(D) Special rule

If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a

student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part C of subchapter IV while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) offers more than 50 percent of such institution's courses by correspondence (excluding courses offered by telecommunications as defined in section 1091(l)(4) [1] of this title), unless the institution is an institution that meets the definition in section 2302(3)(C) of this title;

(B) enrolls 50 percent or more of the institution's students in correspondence courses (excluding courses offered by telecommunications as defined in section 1091(l)(4) [1] of this title), unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) the institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification

The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility

An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an

action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria

For the purpose of this section, the term "proprietary institution of higher education" means a school that—

(A)(i) provides an eligible program of training to prepare students for gainful employment in a recognized occupation; or

(ii)(I) provides a program leading to a baccalaureate degree in liberal arts, and has provided such a program since January 1, 2009; and

(II) is accredited by a recognized regional accrediting agency or association, and has continuously held such accreditation since October 1, 2007, or earlier;

(B) meets the requirements of paragraphs (1) and (2) of section 1001(a) of this title;

(C) does not meet the requirement of paragraph (4) of section 1001(a) of this title;

(D) is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter; and

(E) has been in existence for at least 2 years.

(2) Additional institutions

The term "proprietary institution of higher education" also includes a proprietary educational institution in any State that, in lieu of the requirement in section 1001(a)(1) of this title, admits as regular students individuals—

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) who will be dually or concurrently enrolled in the institution and a secondary school.

(c) Postsecondary vocational institution

(1) Principal criteria

For the purpose of this section, the term "postsecondary vocational institution" means a school that—

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001(a) of this title; and

(C) has been in existence for at least 2 years.

(2) Additional institutions

The term "postsecondary vocational institution" also includes an educational institution in any State that, in lieu of the requirement in section 1001(a)(1) of this title, admits as regular students individuals—

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) who will be dually or concurrently enrolled in the institution and a secondary school.

(Pub. L. 89–329, title I, §102, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1586; amended Pub. L. 108–98, §1(a), Oct. 10, 2003, 117 Stat. 1174; Pub. L. 109–171, title VIII, §8002, Feb. 8, 2006, 120 Stat. 155; Pub. L. 109–270, §2(c)(1), Aug. 12, 2006, 120 Stat. 746; Pub. L. 110–315, title I, §102(a)–(d)(1), Aug. 14, 2008, 122 Stat. 3083–3085; Pub. L. 111–39, title I, §101(b)(1), July 1, 2009, 123 Stat. 1935; Pub. L. 111–152, title II, §2209(b)(1), Mar. 30, 2010, 124 Stat. 1077.)

REFERENCES IN TEXT

Section 1101 of the Higher Education Opportunity Act, referred to in subsec. (a)(2)(B)(iii)(II)(gg), is section 1101 of title XI of 110–315, Aug. 14, 2008, 122 Stat. 3490, which is not classified to the Code.

Section 1091(l) of this title, referred to in subsec. (a)(3)(A), (B), was struck out and a new section 1091(l)

was added by Pub. L. 110–315, title IV, §485(a)(5), Aug. 14, 2008, 122 Stat. 3288. As so amended, section 1091(l) no longer contains a par. (4) or a definition of "telecommunications".

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1088(a) to (c) of this title prior to repeal by Pub. L. 105–244.

A prior section 1002, Pub. L. 89–329, title I, §102, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459, related to partnership agreements required for grant eligibility, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1002, Pub. L. 89–329, title I, §102, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1278, defined terms "continuing education", "adult learner", "eligible institution", and "qualified entity", prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1002, Pub. L. 89–329, title I, §102, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1374, provided for establishment of Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1002, Pub. L. 89–329, title I, §102, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 94–482, title I, §101(b)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2083, 2086, defined the terms "community service program", "continuing education program", and "resource materials sharing programs", prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2010—Pub. L. 111–152, §2209(b)(1)(A), substituted "part C" for "part B" wherever appearing before "subchapter IV".

Subsec. (a)(1)(C). Pub. L. 111–152, §2209(b)(1)(B), inserted ", consistent with the requirements of section 1087b(d) of this title" before period at end.

Subsec. (a)(2)(A). Pub. L. 111–152, §2209(b)(1)(C)(i), substituted "made" for "made, insured, or guaranteed" in introductory provisions.

Subsec. (a)(2)(A)(iii)(III). Pub. L. 111–152, §2209(b)(1)(C)(ii)(I), substituted "only Federal Direct Stafford Loans under section 1087e(a)(2)(A) of this title, Federal Direct Unsubsidized Stafford Loans under section 1087e(a)(2)(D) of this title, or Federal Direct PLUS Loans under section 1087e(a)(2)(B) of this title" for "only Federal Stafford Loans under section 1078 of this title, unsubsidized Federal Stafford Loans under section 1078–8 of this title, or Federal PLUS loans under section 1078–2 of this title".

Subsec. (a)(2)(A)(iii)(V). Pub. L. 111–152, §2209(b)(1)(C)(ii)(II), substituted "a Federal Direct Stafford Loan under section 1087e(a)(2)(A) of this title, a Federal Direct Unsubsidized Stafford Loan under section 1087e(a)(2)(D) of this title, or a Federal Direct PLUS Loan under section 1087e(a)(2)(B) of this title" for "a Federal Stafford Loan under section 1078 of this title, an unsubsidized Federal Stafford Loan under section 1078–8 of this title, or a Federal PLUS loan under section 1078–2 of this title".

2009—Subsec. (a)(2)(D). Pub. L. 111–39 substituted "under part B of subchapter IV" for "under part B".

2008—Subsec. (a)(2)(A). Pub. L. 110–315, §102(a)(1)(A), inserted "nursing school," after "graduate medical school," in introductory provisions.

Subsec. (a)(2)(A)(i). Pub. L. 110–315, §102(a)(1)(B)(i), inserted "except as provided in subparagraph (B)(iii)(IV)," before "in the case" in introductory provisions.

Subsec. (a)(2)(A)(i)(I)(bb). Pub. L. 110–315, §102(b), substituted "75" for "60".

Subsec. (a)(2)(A)(i)(II). Pub. L. 110–315, §102(a)(1)(B)(ii), added subcl. (II) and struck out former subcl. (II) which read as follows: "the institution has a clinical training program that was approved by a State as of January 1, 1992; or".

Subsec. (a)(2)(A)(iii). Pub. L. 110–315, §102(a)(1)(C), (D), added cl. (iii).

Subsec. (a)(2)(B)(iii). Pub. L. 110–315, §102(a)(2), added cl. (iii).

Subsec. (b)(1)(A). Pub. L. 110–315, §102(d)(1)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: "provides an eligible program of training to prepare students for gainful employment in a recognized occupation;".

Subsec. (b)(1)(D) to (F). Pub. L. 110–315, §102(c), struck out "and" after semicolon in subpar. (D), substituted "; and" for period in subpar. (E), and struck out subpar. (F) which read as follows: "has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary."

Subsec. (b)(2). Pub. L. 110–315, §102(d)(1)(A)(ii), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The term 'proprietary institution of higher education' also includes a

proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located."

Subsec. (c)(2). Pub. L. 110–315, §102(d)(1)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The term 'postsecondary vocational institution' also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located."

2006—Subsec. (a)(3)(A). Pub. L. 109–270 substituted "2302(3)(C) of this title" for "2471(4)(C) of this title".

Pub. L. 109–171, §8002(1), inserted "(excluding courses offered by telecommunications as defined in section 1091(l)(4) of this title)" after "courses by correspondence".

Subsec. (a)(3)(B). Pub. L. 109–171, §8002(2), inserted "(excluding courses offered by telecommunications as defined in section 1091(l)(4) of this title)" after "correspondence courses".

2003—Subsec. (a)(2)(A). Pub. L. 108–98 amended subpar. (A) generally. Prior to amendment, subpar. (A) required the Secretary to establish criteria for approval of institutions outside the United States for purposes of par. (1)(C), including certain requirements for graduate medical or veterinary schools.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–152, title II, §2209(b)(2), Mar. 30, 2010, 124 Stat. 1078, provided that: "The amendments made by subparagraph (C) of paragraph (1) [amending this section] shall be effective on July 1, 2010, as if enacted as part of section 102(a)(1) of the Higher Education Opportunity Act (Public Law 110–315) and subject to section 102(e) of such Act as amended by section 101(a)(2) of Public Law 111–39 (20 U.S.C. 1002 note)."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title I, §102(e), Aug. 14, 2008, 122 Stat. 3086, as amended by Pub. L. 111–39, title I, §101(a)(2), July 1, 2009, 123 Stat. 1935, provided that: "The amendments made by subsections (a)(1), (b), and (d) [amending this section] shall take effect on July 1, 2010, except that, with respect to foreign nursing schools that were eligible to participate in part B of title IV [20 U.S.C. 1071 et seq.] as of the day before the date of enactment of this Act [Aug. 14, 2008], the amendments made by subsection (a)(1)(D) [amending this section] shall take effect on July 1, 2012."

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–171, title VIII, §8001(c), Feb. 8, 2006, 120 Stat. 155, provided that: "Except as otherwise provided in this subtitle [subtitle A (§§8001–8024) of title VIII of Pub. L. 109–171, see Short Title of 2006 Amendment note set out under section 1001 of this title] or the amendments made by this subtitle, the amendments made by this subtitle shall be effective July 1, 2006."

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–98, §1(b), Oct. 10, 2003, 117 Stat. 1175, provided that: "This Act [amending this section] and the amendments made by this Act shall be effective as if enacted on October 1, 1998."

CONSTRUCTION

Pub. L. 110–315, title I, §102(d)(2), Aug. 14, 2008, 122 Stat. 3086, provided that: "Nothing in the amendment made by paragraph (1)(A)(i) to section 102(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1)(A)) shall be construed to negate or supercede any State laws governing proprietary institutions of higher education."

[1] *See References in Text note below.*

§1003. Additional definitions

In this chapter and part C of subchapter I of chapter 34 of title 42:

(1) Authorizing committees

The term "authorizing committees" means the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives.

(2) Combination of institutions of higher education

The term "combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on the group's behalf.

(3) Critical foreign language

Except as otherwise provided, the term "critical foreign language" means each of the languages contained in the list of critical languages designated by the Secretary in the Federal Register on August 2, 1985 (50 Fed. Reg. 31412; promulgated under the authority of section 212(d) of the Education for Economic Security Act (repealed by section 2303 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988)), as updated by the Secretary from time to time and published in the Federal Register, except that in the implementation of this definition with respect to a specific title, the Secretary may set priorities according to the purposes of such title and the national security, economic competitiveness, and educational needs of the United States.

(4) Department

The term "Department" means the Department of Education.

(5) Diploma mill

The term "diploma mill" means an entity that—

(A)(i) offers, for a fee, degrees, diplomas, or certificates, that may be used to represent to the general public that the individual possessing such a degree, diploma, or certificate has completed a program of postsecondary education or training; and

(ii) requires such individual to complete little or no education or coursework to obtain such degree, diploma, or certificate; and

(B) lacks accreditation by an accrediting agency or association that is recognized as an accrediting agency or association of institutions of higher education (as such term is defined in section 1002 of this title) by—

(i) the Secretary pursuant to subpart 2 of part G of subchapter IV of this chapter; or

(ii) a Federal agency, State government, or other organization or association that recognizes accrediting agencies or associations.

(6) Disability

The term "disability" has the same meaning given that term under section 12102(2) of title 42.

(7) Distance education

(A) In general

Except as otherwise provided, the term "distance education" means education that uses one or more of the technologies described in subparagraph (B)—

(i) to deliver instruction to students who are separated from the instructor; and

(ii) to support regular and substantive interaction between the students and the instructor, synchronously or asynchronously.

(B) Inclusions

For the purposes of subparagraph (A), the technologies used may include—

(i) the Internet;

(ii) one-way and two-way transmissions through open broadcast, closed circuit, cable,

microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

(iii) audio conferencing; or

(iv) video cassettes, DVDs, and CD–ROMs, if the cassettes, DVDs, or CD–ROMs are used in a course in conjunction with any of the technologies listed in clauses (i) through (iii).

(8) Early childhood education program

The term "early childhood education program" means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives State funding;

(B) a State licensed or regulated child care program; or

(C) a program that—

(i) serves children from birth through age six that addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and

(ii) is—

(I) a State prekindergarten program;

(II) a program authorized under section 619 [20 U.S.C. 1419] or part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.]; or

(III) a program operated by a local educational agency.

(9) Elementary school

The term "elementary school" has the same meaning given that term under section 7801 of this title.

(10) Gifted and talented

The term "gifted and talented" has the same meaning given that term under section 7801 of this title.

(11) Local educational agency

The term "local educational agency" has the same meaning given that term under section 7801 of this title.

(12) New borrower

The term "new borrower" when used with respect to any date means an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(13) Nonprofit

The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(14) Poverty line

The term "poverty line" means the poverty line (as defined in section 9902(2) of title 42) applicable to a family of the size involved.

(15) School or department of divinity

The term "school or department of divinity" means an institution, or a department or a branch of an institution, the program of instruction of which is designed for the education of students—

(A) to prepare the students to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation); or

(B) to prepare the students to teach theological subjects.

(16) Secondary school

The term "secondary school" has the same meaning given that term under section 7801 of this title.

(17) Secretary

The term "Secretary" means the Secretary of Education.

(18) Service-learning

The term "service-learning" has the same meaning given that term under section 12511(23) [1] of title 42.

(19) Special education teacher

The term "special education teacher" means teachers who teach children with disabilities as defined in section 602 of the Individuals with Disabilities Education Act.

(20) State educational agency

The term "State educational agency" has the same meaning given that term under section 7801 of this title.

(21) State; Freely Associated States

(A) State

The term "State" includes, in addition to the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

(B) Freely Associated States

The term "Freely Associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(22) State higher education agency

The term "State higher education agency" means the officer or agency primarily responsible for the State supervision of higher education.

(23) Universal design

The term "universal design" has the meaning given the term in section 3002 of title 29.

(24) Universal design for learning

The term "universal design for learning" means a scientifically valid framework for guiding educational practice that—

(A) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and

(B) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.

(Pub. L. 89–329, title I, §103, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1589; amended Pub. L. 107–110, title X, §1076(g), Jan. 8, 2002, 115 Stat. 2091; Pub. L. 110–315, title I, §103(a), Aug. 14, 2008, 122 Stat. 3086; Pub. L. 114–95, title IX, §9215(oo)(1), Dec. 10, 2015, 129 Stat. 2177.)

REFERENCES IN TEXT

Section 212(d) of the Education for Economic Security Act, referred to in par. (3), is section 212(d) of title II of Pub. L. 98–377, Aug. 11, 1984, 98 Stat. 1282, which was classified to section 3972(d) of this title, prior to repeal by Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324.

The Head Start Act, referred to in par. (8)(A), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in par. (8)(C)(ii)(II), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Section 12511(23) of title 42, referred to in par. (18), was redesignated section 12511(40) by Pub. L. 111–13, title I, §1102(b)(1), Apr. 21, 2009, 123 Stat. 1467.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1141(b) of this title prior to repeal by Pub. L. 105–244.

A prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459; amended Pub. L. 103–208, §2(a)(1), Dec. 20, 1993, 107 Stat. 2457, related to authority to make grants under the school, college, and university partnership grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1279, related to limitation on contract authority, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1375, related to duties of the Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1003, Pub. L. 89–329, title I, §103, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 92–318, title I, §102(a)(2), June 23, 1972, 86 Stat. 237; Pub. L. 94–482, title I, §101(b)(2), (g)(2), Oct. 12, 1976, 90 Stat. 2084, 2086; Pub. L. 95–43, §1(a)(1), June 15, 1977, 91 Stat. 213; Pub. L. 96–96, §1, Oct. 31, 1979, 93 Stat. 729, provided for the allotment of funds to States, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1004, Pub. L. 89–329, title I, §104, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 460; amended Pub. L. 103–208, §2(a)(2), Dec. 20, 1993, 107 Stat. 2457, related to grant applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1004, Pub. L. 89–329, title I, §104, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1376, related to administrative provisions and powers of Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1004, Pub. L. 89–329, title I, §104, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 94–482, title I, §101(b)(3), Oct. 12, 1976, 90 Stat. 2084; Pub. L. 95–43, §1(a)(2), June 15, 1977, 91 Stat. 213, described the allowable uses of States' allotments of funds, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1005, Pub. L. 89–329, title I, §105, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461, related to peer review of applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1005, Pub. L. 89–329, title I, §105, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1005, Pub. L. 89–329, title I, §105, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 90–575, title II, §202, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 94–482, title I, §101(b)(4)–(10), (g)(2), Oct. 12, 1976, 90 Stat. 2084–2086; Pub. L. 95–43, §1(a)(3), (b)(1), (2), June 15, 1977, 91 Stat. 213, 218, set out the requisite features of State plans, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1005a, Pub. L. 89–329, title I, §106, as added Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 237; amended Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for special programs and projects relating to national and regional problems, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1006, Pub. L. 89–329, title I, §106, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1006, Pub. L. 89–329, title I, §107, formerly §106, Nov. 8, 1965, 79 Stat. 1221; Pub. L. 90–575, title II, §203(a), Oct. 16, 1968, 82 Stat. 1036, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(c), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, related to payment and method of payment of funds, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1007 to 1010 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1007, Pub. L. 89–329, title I, §108, formerly §107, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, related to disapproval of State plans, notice and hearing, findings of Commissioner of Education, and notification to State of noneligibility.

Section 1008, Pub. L. 89–329, title I, §109, formerly §108, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(d), Oct. 12, 1976, 90 Stat. 2085, provided for judicial review of actions of Commissioner of Education and scope of that review.

Section 1008a, Pub. L. 89–329, title I, §110, as added Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, and amended Pub. L. 94–135, title II, §201, Nov. 28, 1975, 89 Stat. 726; Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for programs and projects relating to problems of the elderly.

Section 1008b, Pub. L. 89–329, title I, §111, as added Pub. L. 94–482, title I, §101(e), Oct. 12, 1976, 90 Stat. 2085, related to technical assistance and administration.

Section 1009, Pub. L. 89–329, title I, §112, formerly §109, Nov. 8, 1965, 79 Stat. 1223; Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174, renumbered §110, Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §111, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VIII, §831, Aug. 21, 1974, 88 Stat. 603; Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310, renumbered §112 and amended Pub. L. 94–482, title I, §101(e), (f)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086; 1977 Reorg. Plan No. 2, §7(a)(13), 42 F.R. 62461, 91 Stat. 1637, provided for creation of a National Advisory Council on Extension and Continuing Education.

Section 1010, Pub. L. 89–329, title I, §113, formerly §110, Nov. 8, 1965, 79 Stat. 1224, renumbered §111, Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §112, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, renumbered §113 and amended Pub. L. 94–482, title I, §101(e), (f)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, directed that nothing in the section be held to modify any authority under the Smith-Lever Act, section 341 et seq. of Title 7, Agriculture.

AMENDMENTS

2015—Pars. (9) to (11), (16). Pub. L. 114–95, §9215(oo)(1)(A)–(D), made technical amendments to references in original act which appear in text as references to section 7801 of this title.

Par. (20). Pub. L. 114–95, §9215(oo)(1)(E), which directed technical amendment in par. (21) to reference in original act which appears in text as reference to section 7801 of this title, was executed by making the amendment in par. (20), to reflect the probable intent of Congress. The reference did not appear in par. (21).

2008—Pub. L. 110–315, §103(a)(2), reordered pars. in alphabetical order based on headings of pars. and renumbered pars. as so reordered, resulting in pars. (1) to (22) being redesignated as (2), (4), (6), (9) to (13), (15) to (20), (22), (21), (1), (3), (7), (5), (8), and (14), respectively.

Pars. (17) to (24). Pub. L. 110–315, §103(a)(1), added pars. (17) to (24).

2002—Pars. (4) to (6), (10), (14). Pub. L. 107–110 substituted "7801" for "8801".

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

[1] *See References in Text note below.*

PART B—ADDITIONAL GENERAL PROVISIONS

§1011. Antidiscrimination

(a) In general

Institutions of higher education receiving Federal financial assistance may not use such financial assistance, directly or indirectly, to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except that nothing in this subsection shall be construed to prohibit an institution from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or to have the institution's curriculum restricted on the subject of discrimination.

(b) Limitations on statutory construction

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall be construed to limit the rights or responsibilities of any individual under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], or any other law.

(Pub. L. 89–329, title I, §111, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1590; amended Pub. L. 111–39, title I, §101(b)(2), July 1, 2009, 123 Stat. 1935.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1142 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011, Pub. L. 89–329, title I, §121, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461, stated congressional findings and purposes of articulation agreements grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1011, Pub. L. 89–329, title I, §111, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1279, related to institutional development, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1011, Pub. L. 89–329, title I, §111, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, stated Congressional findings with respect to education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1011, Pub. L. 89–329, title I, §114, formerly §111, Nov. 8, 1965, 79 Stat. 1224, renumbered §112 and amended Pub. L. 92–318, title I, §§102(a)(1), 131(d)(2)(A), June 23, 1972, 86 Stat. 236, 260, renumbered §113, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, renumbered §114, Pub. L. 94–482, title I, §101(e), Oct. 12, 1976, 90 Stat. 2085, prohibited the giving of grants for programs relating to sectarian instruction or worship, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–39 substituted "with" for "With".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1011a. Protection of student speech and association rights

(a) Protection of rights

(1) It is the sense of Congress that no student attending an institution of higher education on a full- or part-time basis should, on the basis of participation in protected speech or protected association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division of the institution directly or indirectly receiving financial assistance under this chapter and part C of subchapter I of chapter 34 of title 42, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(2) It is the sense of Congress that—

(A) the diversity of institutions and educational missions is one of the key strengths of American higher education;

(B) individual institutions of higher education have different missions and each institution should design its academic program in accordance with its educational goals;

(C) an institution of higher education should facilitate the free and open exchange of ideas;

(D) students should not be intimidated, harassed, discouraged from speaking out, or discriminated against;

(E) students should be treated equally and fairly; and

(F) nothing in this paragraph shall be construed to modify, change, or infringe upon any constitutionally protected religious liberty, freedom, expression, or association.

(b) Construction

Nothing in this section shall be construed—

(1) to discourage the imposition of an official sanction on a student that has willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education, provided that the imposition of such sanction is done objectively and fairly; or

(2) to prevent an institution of higher education from taking appropriate and effective action to prevent violations of State liquor laws, to discourage binge drinking and other alcohol abuse, to protect students from sexual harassment including assault and date rape, to prevent hazing, or to regulate unsanitary or unsafe conditions in any student residence.

(c) Definitions

For the purposes of this section:

(1) Official sanction

The term "official sanction"—

(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

(2) Protected association

The term "protected association" means the joining, assembling, and residing with others that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(3) Protected speech

The term "protected speech" means speech that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(Pub. L. 89–329, title I, §112, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1591; amended Pub. L. 110–315, title I, §104, Aug. 14, 2008, 122 Stat. 3090.)

PRIOR PROVISIONS

A prior section 1011a, Pub. L. 89–329, title I, §122, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 462, authorized grants to States, prior to the general amendment of this subchapter by Pub. L. 105–244.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §104(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 110–315, §104(2), inserted ", provided that the imposition of such sanction is done objectively and fairly" after "higher education".

§1011b. Territorial waiver authority

The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

(Pub. L. 89–329, title I, §113, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1591; amended Pub. L. 110–315, title I, §105, Aug. 14, 2008, 122 Stat. 3090.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1144a of this title prior to repeal by Pub. L. 105–244.

A prior section 1011b, Pub. L. 89–329, title I, §123, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 462, related to State applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

AMENDMENTS

2008—Pub. L. 110–315 substituted "Territorial waiver authority" for "Treatment of territories and territorial student assistance" in section catchline and struck out subsec. (a) designation and heading and subsec. (b). Text of former subsec. (b) read as follows: "Notwithstanding any other provision of law, an institution of higher education that is located in any of the Freely Associated States, rather than in another State, shall be eligible, if otherwise qualified, for assistance under division 1 of subpart 2 of part A of subchapter IV of this chapter. This subsection shall cease to be effective on September 30, 2004."

§1011c. National Advisory Committee on Institutional Quality and Integrity

(a) Establishment

There is established in the Department a National Advisory Committee on Institutional Quality and Integrity (in this section referred to as the "Committee") to assess the process of accreditation and the institutional eligibility and certification of institutions of higher education (as defined in section 1002 of this title) under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Membership

(1) In general

The Committee shall have 18 members, of which—

(A) six members shall be appointed by the Secretary;

(B) six members shall be appointed by the Speaker of the House of Representatives, three of whom shall be appointed on the recommendation of the majority leader of the House of Representatives, and three of whom shall be appointed on the recommendation of the minority leader of the House of Representatives; and

(C) six members shall be appointed by the President pro tempore of the Senate, three of whom shall be appointed on the recommendation of the majority leader of the Senate, and three of whom shall be appointed on the recommendation of the minority leader of the Senate.

(2) Qualifications

Individuals shall be appointed as members of the Committee—

(A) on the basis of the individuals' experience, integrity, impartiality, and good judgment;

(B) from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, representing all sectors and types of institutions of higher education (as defined in section 1002 of this title); and

(C) on the basis of the individuals' technical qualifications, professional standing, and demonstrated knowledge in the fields of accreditation and administration in higher education.

(3) Terms of members

Except as provided in paragraph (5), the term of office of each member of the Committee shall be for six years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(4) Vacancy

A vacancy on the Committee shall be filled in the same manner as the original appointment was made not later than 90 days after the vacancy occurs. If a vacancy occurs in a position to be filled by the Secretary, the Secretary shall publish a Federal Register notice soliciting nominations for the position not later than 30 days after being notified of the vacancy.

(5) Initial terms

The terms of office for the initial members of the Committee shall be—

(A) three years for members appointed under paragraph (1)(A);

(B) four years for members appointed under paragraph (1)(B); and

(C) six years for members appointed under paragraph (1)(C).

(6) Chairperson

The members of the Committee shall select a chairperson from among the members.

(c) Functions

The Committee shall—

(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part G of subchapter IV of this chapter;

(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

(4) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, together with recommendations for improvements in such process;

(5) advise the Secretary with respect to the relationship between—

(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

(B) State licensing responsibilities with respect to such institutions; and

(6) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe by regulation.

(d) Meeting procedures

(1) Schedule

(A) Biannual meetings

The Committee shall meet not less often than twice each year, at the call of the Chairperson.

(B) Publication of date

The Committee shall submit the date and location of each meeting in advance to the Secretary, and the Secretary shall publish such information in the Federal Register not later than 30 days before the meeting.

(2) Agenda

(A) Establishment

The agenda for a meeting of the Committee shall be established by the Chairperson and shall be submitted to the members of the Committee upon notification of the meeting.

(B) Opportunity for public comment

The agenda shall include, at a minimum, opportunity for public comment during the Committee's deliberations.

(3) Secretary's designee

The Secretary shall designate an employee of the Department to serve as the Secretary's designee to the Committee, and the Chairperson shall invite the Secretary's designee to attend all meetings of the Committee.

(4) Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee, except that section 14 of such Act shall not apply.

(e) Report and notice

(1) Notice

The Secretary shall annually publish in the Federal Register—

(A) a list containing, for each member of the Committee—

(i) the member's name;

(ii) the date of the expiration of the member's term of office; and

(iii) the name of the individual described in subsection (b)(1) who appointed the member; and

(B) a solicitation of nominations for each expiring term of office on the Committee of a member appointed by the Secretary.

(2) Report

Not later than the last day of each fiscal year, the Committee shall make available an annual report to the Secretary, the authorizing committees, and the public. The annual report shall contain—

(A) a detailed summary of the agenda and activities of, and the findings and recommendations made by, the Committee during the fiscal year preceding the fiscal year in which the report is made;

(B) a list of the date and location of each meeting during the fiscal year preceding the fiscal year in which the report is made;

(C) a list of the members of the Committee; and

(D) a list of the functions of the Committee, including any additional functions established by the Secretary through regulation.

(f) Termination

The Committee shall terminate on September 30, 2016.

(Pub. L. 89–329, title I, §114, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1592; amended Pub. L. 110–315, title I, §106(a), Aug. 14, 2008, 122 Stat. 3090; Pub. L. 113–174, §1, Sept. 26, 2014, 128 Stat. 1900; Pub. L. 114–113, div. H, title III, §309, Dec. 18, 2015, 129 Stat. 2638.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011c, Pub. L. 89–329, title I, §124, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 463, related to local applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

AMENDMENTS

2015—Subsec. (f). Pub. L. 114–113 substituted "2016" for "2015".

2014—Subsec. (f). Pub. L. 113–174 substituted "2015" for "2014".

2008—Pub. L. 110–315 amended section generally, revising provisions relating to the National Advisory Committee on Institutional Quality and Integrity and extending its termination date from Sept. 30, 2004, to September 30, 2014.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title I, §106(c), Aug. 14, 2008, 122 Stat. 3093, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2009."

TRANSITION

Pub. L. 110–315, title I, §106(b), Aug. 14, 2008, 122 Stat. 3093, provided that: "Notwithstanding section 114 of the Higher Education Act of 1965 (20 U.S.C. 1011c) (as in effect before, during, and after the date of enactment of this Act [Aug. 14, 2008])—

"(1) the term of each member appointed to the National Advisory Committee on Institutional Quality and Integrity before the date of enactment of this Act shall expire on the date of enactment of this Act;

"(2) no new members shall be appointed to the National Advisory Committee on Institutional Quality and Integrity during the period beginning on the date of enactment of this Act and ending on January 31, 2009; and

"(3) no meeting of the National Advisory Committee on Institutional Quality and Integrity shall be convened during such period."

§1011d. Student representation

The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this chapter and part C of subchapter I of chapter 34 of title 42, include individuals who are, at the time of appointment, attending an institution of higher education.

(Pub. L. 89–329, title I, §115, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1593.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145b of this title prior to repeal by Pub. L. 105–244.

A prior section 1011d, Pub. L. 89–329, title I, §125, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 463, related to articulation agreements, prior to the general amendment of this subchapter by Pub. L. 105–244.

§1011e. Financial responsibility of foreign students

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by—

(1) making advance payment of such tuition and fees;

(2) making deposits in an escrow account administered by such institution for such payments; or

(3) obtaining a bond or other insurance that such payments will be made.

(Pub. L. 89–329, title I, §116, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1593.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145c of this title prior to repeal by Pub. L. 105–244.

A prior section 1011e, Pub. L. 89–329, title I, §126, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 464, related to State administrative costs, prior to the general amendment of this subchapter by Pub. L. 105–244.

§1011f. Disclosures of foreign gifts

(a) Disclosure report

Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

(b) Contents of report

Each report to the Secretary required by this section shall contain the following:

(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

(c) Additional disclosures for restricted and conditional gifts

Notwithstanding the provisions of subsection (b) of this section, whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose the following:

(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

(d) Relation to other reporting requirements

(1) State requirements

If an institution described under subsection (a) of this section is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a) of this section. The State in which the institution is located shall provide to the Secretary such assurances

as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

(2) Use of other Federal reports

If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this section, a copy of the report may be filed with the Secretary in lieu of a report required under subsection (a) of this section.

(e) Public inspection

All disclosure reports required by this section shall be public records open to inspection and copying during business hours.

(f) Enforcement

(1) Court orders

Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated under this section, a civil action may be brought by the Attorney General, at the request of the Secretary, in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of this section.

(2) Costs

For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

(g) Regulations

The Secretary may promulgate regulations to carry out this section.

(h) Definitions

For the purpose of this section—

(1) the term "contract" means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

(2) the term "foreign source" means—

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

(3) the term "gift" means any gift of money or property;

(4) the term "institution" means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State, that—

(A) is legally authorized within such State to provide a program of education beyond secondary school;

(B) provides a program for which the institution awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial

assistance to any of the institution's subunits; and

(5) the term "restricted or conditional gift or contract" means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding—

(A) the employment, assignment, or termination of faculty;

(B) the establishment of departments, centers, research or lecture programs, or new faculty positions;

(C) the selection or admission of students; or

(D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

(Pub. L. 89–329, title I, §117, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1593.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145d of this title prior to repeal by Pub. L. 105–244.

A prior section 1011f, Pub. L. 89–329, title I, §127, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 464, related to priority grant applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

§1011g. Application of peer review process

All applications submitted under the provisions of this chapter and part C of subchapter I of chapter 34 of title 42 which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary, which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(Pub. L. 89–329, title I, §118, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1595.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145d–1 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011g, Pub. L. 89–329, title I, §128, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 464, related to reports and evaluation of programs, prior to the general amendment of this subchapter by Pub. L. 105–244.

§1011h. Binge drinking on college campuses

(a) Short title

This section may be cited as the "Collegiate Initiative To Reduce Binge Drinking and Illegal Alcohol Consumption".

(b) Sense of Congress

It is the sense of Congress that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education should carry out the following:

(1) The president of the institution should appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force should make recommendations for a broad range of policy and program changes that would serve to reduce

alcohol and other drug-related problems. The institution should provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution should provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

(3) The institution should enforce a "zero tolerance" policy on the illegal consumption of alcohol by students at the institution.

(4) The institution should vigorously enforce the institution's code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems should be referred for assistance, including on-campus counseling programs if appropriate.

(5) The institution should adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It should adopt policies limiting the advertisement and promotion of alcoholic beverages on campus.

(6) The institution should work with the local community, including local businesses, in a "Town/Gown" alliance to encourage responsible policies toward alcohol consumption and to address illegal alcohol use by students.

(Pub. L. 89–329, title I, §119, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1596.)

PRIOR PROVISIONS

A prior section 1011h, Pub. L. 89–329, title I, §129, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465, authorized appropriations to carry out the articulation agreements grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

§1011i. Drug and alcohol abuse prevention

(a) Restriction on eligibility

Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless the institution certifies to the Secretary that the institution has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

(1) the annual distribution to each student and employee of—

(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on the institution's property or as part of any of the institution's activities;

(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(C) a description of the health-risks associated with the use of illicit drugs and the abuse of alcohol;

(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by subparagraph (A); and

(2) a biennial review by the institution of the institution's program to—

(A) determine the program's effectiveness and implement changes to the program if the changes are needed;

(B) determine the number of drug and alcohol-related violations and fatalities that—

(i) occur on the institution's campus (as defined in section 1092(f)(6) of this title), or as

part of any of the institution's activities; and
(ii) are reported to campus officials;

(C) determine the number and type of sanctions described in paragraph (1)(E) that are imposed by the institution as a result of drug and alcohol-related violations and fatalities on the institution's campus or as part of any of the institution's activities; and
(D) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

(b) Information availability

Each institution of higher education that provides the certification required by subsection (a) of this section shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) of this section as well as the results of the biennial review required by subsection (a)(2) of this section.

(c) Regulations

(1) In general

The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—
(A) the periodic review of a representative sample of programs required by subsection (a) of this section; and
(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) Rehabilitation program

The sanctions required by subsection (a)(1)(E) of this section may include the completion of an appropriate rehabilitation program.

(d) Appeals

Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

(e) Alcohol and drug abuse prevention grants

(1) Program authority

The Secretary may make grants to institutions of higher education or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use. Such grants or contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

(2) Awards

Grants and contracts shall be awarded under paragraph (1) on a competitive basis.

(3) Applications

An institution of higher education, a consortium of such institutions, or another organization

that desires to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

(4) Additional requirements

(A) Participation

In awarding grants and contracts under this subsection the Secretary shall make every effort to ensure—

(i) the equitable participation of private and public institutions of higher education (including community and junior colleges); and

(ii) the equitable geographic participation of such institutions.

(B) Consideration

In awarding grants and contracts under this subsection the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

(5) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title I, §120, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1596; amended Pub. L. 110–315, title I, §107, Aug. 14, 2008, 122 Stat. 3093.)

PRIOR PROVISIONS

Provisions similar to subsecs. (a) to (d) of this section were contained in section 1145g of this title prior to repeal by Pub. L. 105–244.

AMENDMENTS

2008—Subsec. (a)(2)(B) to (D). Pub. L. 110–315, §107(1), added subpars. (B) and (C) and redesignated former subpar. (B) as (D).

Subsec. (e)(5). Pub. L. 110–315, §107(2), substituted "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years" for "$5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years".

Subsec. (f). Pub. L. 110–315, §107(3), struck out subsec. (f) which related to National Recognition Awards for outstanding alcohol and drug abuse prevention programs.

§1011j. Prior rights and obligations

(a) Authorization of appropriations

(1) Pre-1987 parts C and D of subchapter VII

There are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and for each succeeding fiscal year to pay obligations incurred prior to 1987 under parts C and D of subchapter VII of this chapter, as such parts were in effect before the effective date of the Higher Education Amendments of 1992.

(2) Post-1992 and pre-1998 part C of subchapter VII

There are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and for each succeeding fiscal year to pay obligations incurred prior to October 7, 1998, under part C of subchapter VII of this chapter, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to October 7, 1998.

(b) Legal responsibilities

(1) Pre-1987 subchapter VII

All entities with continuing obligations incurred under parts A, B, C, and D of subchapter VII of

this chapter, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Amendments of 1992.

(2) Post-1992 and pre-1998 part C of subchapter VII

All entities with continuing obligations incurred under part C of subchapter VII of this chapter, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to October 7, 1998,

shall be subject to the requirements of such part as such part was in effect during such period.

(Pub. L. 89–329, title I, §121, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1601; amended Pub. L. 110–315, title I, §108, Aug. 14, 2008, 122 Stat. 3094.)

REFERENCES IN TEXT

Parts A, B, C, and D of subchapter VII of this chapter, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, referred to in subsecs. (a)(1) and (b)(1), means parts A (§1132b et seq.), B (§1132c et seq.), C (§1132d et seq.), and D (§1132e et seq.) of subchapter VII of this chapter, as in effect before the effective date of Pub. L. 102–325. For effective date of Pub. L. 102–325, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title. Pub. L. 102–325, title VII, §§703–707(a), July 23, 1992, 106 Stat. 738–753, amended subchapter VII of this chapter effective Oct. 1, 1992, by amending parts A to C generally, repealing part D, and redesignating former part E as D.

Part C of subchapter VII of this chapter, as such part was in effect during the period after the effective date of the Higher Education Amendments of 1992 and prior to October 7, 1998, referred to in subsecs. (a)(2) and (b)(2), probably means part C (§1132d et seq.) of subchapter VII of this chapter, as in effect during the period after the effective date of Pub. L. 102–325 and before it was amended by Pub. L. 105–244. For effective date of Pub. L. 102–325, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title. Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, amended subchapter VII of this chapter generally, effective Oct. 1, 1998, omitting part C which related to loans for construction, reconstruction, and renovation of academic housing, and other educational facilities and adding a new part C (§1139 et seq.) relating to urban community service.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1132a–1 of this title prior to the general amendment of subchapter VII of this chapter by Pub. L. 105–244.

A prior section 121 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to adult learning research and was classified to section 1016 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315 substituted "2009 and for each succeeding fiscal year" for "1999 and for each of the 4 succeeding fiscal years" in pars. (1) and (2).

§1011k. Recovery of payments

(a) Public benefit

Congress declares that, if a facility constructed with the aid of a grant under part A of subchapter VII of this chapter as such part A was in effect prior to October 7, 1998, or part B of such subchapter as part B was in effect prior to July 23, 1992, is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of such subchapter as so in effect.

(b) Recovery upon cessation of public benefit

If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of subchapter VII of this chapter as such part A was in effect prior to October 7, 1998, or part B of subchapter VII of this chapter as such part B was in effect prior to July 23, 1992—

(1) the applicant under such parts as so in effect (or the applicant's successor in title or possession) ceases or fails to be a public or nonprofit institution; or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility" (as such term was defined under subchapter VII of this chapter, as so in effect), unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Prohibition on use for religion

Notwithstanding the provisions of subsections (a) and (b) of this section, no project assisted with funds under subchapter VII of this chapter (as in effect prior to October 7, 1998) shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(Pub. L. 89–329, title I, §122, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1601.)

REFERENCES IN TEXT

Subchapter VII of this chapter, referred to in text, was amended, effective Oct. 1, 1992, by Pub. L. 102–325, title VII, §§703–707(a), July 23, 1992, 106 Stat. 738–753, by amending parts A to C generally, repealing part D, and redesignating former part E as D, and was further amended generally, effective Oct. 1, 1998, by Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, by substituting provisions relating to graduate and post-secondary improvement programs for former provisions relating to construction, reconstruction, and renovation of academic facilities.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1132i of this title prior to the general amendment of subchapter VII of this chapter by Pub. L. 105–244.

A prior section 122 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, limited funds authorized to be appropriated and was classified to section 1016a of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

§1011*l*. Diploma mills

(a) Information to the public

The Secretary shall maintain information and resources on the Department's website to assist students, families, and employers in understanding what a diploma mill is and how to identify and avoid diploma mills.

(b) Collaboration

The Secretary shall continue to collaborate with the United States Postal Service, the Federal Trade Commission, the Department of Justice (including the Federal Bureau of Investigation), the Internal Revenue Service, and the Office of Personnel Management to maximize Federal efforts to—

(1) prevent, identify, and prosecute diploma mills; and

(2) broadly disseminate to the public information about diploma mills, and resources to identify diploma mills.

(Pub. L. 89–329, title I, §123, as added Pub. L. 110–315, title I, §109, Aug. 14, 2008, 122 Stat.

3094.)

§1011m. Certification regarding the use of certain Federal funds

(a) Prohibition

No Federal funds received under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) [and 42 U.S.C. 2751 et seq.] by an institution of higher education or other postsecondary educational institution may be used to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in subsection (b).

(b) Applicability

The prohibition in subsection (a) applies with respect to the following Federal actions:

(1) The awarding of any Federal contract.

(2) The making of any Federal grant.

(3) The making of any Federal loan.

(4) The entering into of any Federal cooperative agreement.

(5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(c) Lobbying and earmarks

No Federal student aid funding under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) [and 42 U.S.C. 2751 et seq.] may be used to hire a registered lobbyist or pay any person or entity for securing an earmark.

(d) Certification

Each institution of higher education or other postsecondary educational institution receiving Federal funding under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) [and 42 U.S.C. 2751 et seq.], as a condition for receiving such funding, shall annually certify to the Secretary of Education that the requirements of subsections (a) through (c) have been met.

(e) Actions to implement and enforce

The Secretary of Education shall take such actions as are necessary to ensure that the provisions of this section are implemented and enforced.

(Pub. L. 110–315, title I, §119, Aug. 14, 2008, 122 Stat. 3117.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (a), (c), and (d), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to this chapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Higher Education Opportunity Act, and not as part of the Higher Education Act of 1965 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1012, Pub. L. 89–329, title I, §112, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1282, related to establishment of off-campus program grants, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1012, Pub. L. 89–329, title I, §112, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, provided for State allotments including percentage breakdown and cases of States not conducting comprehensive statewide planning, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1013, Pub. L. 89–329, title I, §113, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986,

100 Stat. 1284, related to adult and continuing education staff development, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1013, Pub. L. 89–329, title I, §113, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1378; amended Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–524, §4(c)(1), Oct. 19, 1984, 98 Stat. 2488, related to comprehensive statewide planning with respect to education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1014, Pub. L. 89–329, title I, §114, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to administration of programs by Secretary, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1014, Pub. L. 89–329, title I, §114, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1379; amended Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–524, §4(c)(2), Oct. 19, 1984, 98 Stat. 2488, related to information services, prior to the general amendment of this subchapter by Pub. L. 99–498.

PART C—COST OF HIGHER EDUCATION

§1015. Improvements in market information and public accountability in higher education

(a) Improved data collection

(1) Development of uniform methodology

The Secretary shall direct the Commissioner of Education Statistics to convene a series of forums to develop nationally consistent methodologies for reporting costs incurred by postsecondary institutions in providing postsecondary education.

(2) Redesign of data systems

On the basis of the methodologies developed pursuant to paragraph (1), the Secretary shall redesign relevant parts of the postsecondary education data systems to improve the usefulness and timeliness of the data collected by such systems.

(3) Information to institutions

The Commissioner of Education Statistics shall—

(A) develop a standard definition for the following data elements:

(i) tuition and fees for a full-time undergraduate student;

(ii) cost of attendance for a full-time undergraduate student, consistent with the provisions of section 1087ll of this title;

(iii) average amount of financial assistance received by an undergraduate student who attends an institution of higher education, including—

(I) each type of assistance or benefit described in section 1078(a)(2)(C)(ii) of this title;

(II) fellowships; and

(III) institutional and other assistance; and

(iv) number of students receiving financial assistance described in each of subclauses (I), (II), and (III) of clause (iii);

(B) not later than 90 days after October 7, 1998, report the definitions to each institution of higher education and within a reasonable period of time thereafter inform the authorizing committees of those definitions; and

(C) collect information regarding the data elements described in subparagraph (A) with respect to at least all institutions of higher education participating in programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, beginning with the information from academic year 2000–2001 and annually thereafter.

(b) Data dissemination

The Secretary shall make available the data collected pursuant to subsection (a) of this section. Such data shall be available in a form that permits the review and comparison of the data submissions of individual institutions of higher education. Such data shall be presented in a form that is easily understandable and allows parents and students to make informed decisions based on the costs for typical full-time undergraduate students.

(c) Study

(1) In general

The Commissioner of Education Statistics shall conduct a national study of expenditures at institutions of higher education. Such study shall include information with respect to—

(A) the change in tuition and fees compared with the consumer price index and other appropriate measures of inflation;

(B) faculty salaries and benefits;

(C) administrative salaries, benefits and expenses;

(D) academic support services;

(E) research;

(F) operations and maintenance; and

(G) institutional expenditures for construction and technology and the potential cost of replacing instructional buildings and equipment.

(2) Evaluation

The study shall include an evaluation of—

(A) changes over time in the expenditures identified in paragraph (1);

(B) the relationship of the expenditures identified in paragraph (1) to college costs; and

(C) the extent to which increases in institutional financial aid and tuition discounting practices affect tuition increases, including the demographics of students receiving such discounts, the extent to which financial aid is provided to students with limited need in order to attract a student to a particular institution, and the extent to which Federal financial aid, including loan aid, has been used to offset the costs of such practices.

(3) Final report

The Commissioner of Education Statistics shall submit a report regarding the findings of the study required by paragraph (1) to the appropriate committees of Congress not later than September 30, 2002.

(4) Higher education market basket

The Bureau of Labor Statistics, in consultation with the Commissioner of Education Statistics, shall develop a higher education market basket that identifies the items that comprise the costs of higher education. The Bureau of Labor Statistics shall provide a report on the market basket to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2002.

(5) Fines

In addition to actions authorized in section 1094(c) of this title, the Secretary may impose a fine in an amount not to exceed $25,000 on an institution of higher education for failing to provide the information described in paragraph (1) in a timely and accurate manner, or for failing to otherwise cooperate with the National Center for Education Statistics regarding efforts to obtain data on the cost of higher education under this section and pursuant to the program participation agreement entered into under section 1094 of this title.

(d) Promotion of the Department of Education Federal student financial aid website

The Secretary shall display a link to the Federal student financial aid website of the Department in a prominent place on the homepage of the Department's website.

(e) Enhanced student financial aid information

(1) Implementation

The Secretary shall continue to improve the usefulness and accessibility of the information provided by the Department on college planning and student financial aid.

(2) Dissemination

The Secretary shall continue to make the availability of the information on the Federal student financial aid website of the Department widely known, through a major media campaign and other forms of communication.

(3) Coordination

As a part of the efforts required under this subsection, the Secretary shall create one website accessible from the Department's website that fulfills the requirements under subsections (b), (f), and (g).

(f) Improved availability and coordination of information concerning student financial aid programs for military members and veterans

(1) Coordination

The Secretary, in coordination with the Secretary of Defense and the Secretary of Veterans Affairs, shall create a searchable website that—

(A) contains information, in simple and understandable terms, about all Federal and State student financial assistance, readmission requirements under section 1091c of this title, and other student services, for which members of the Armed Forces (including members of the National Guard and Reserves), veterans, and the dependents of such members or veterans may be eligible; and

(B) is easily accessible through the website described in subsection (e)(3).

(2) Implementation

Not later than one year after August 14, 2008, the Secretary shall make publicly available the Armed Forces information website described in paragraph (1).

(3) Dissemination

The Secretary, in coordination with the Secretary of Defense and the Secretary of Veterans Affairs, shall make the availability of the Armed Forces information website described in paragraph (1) widely known to members of the Armed Forces (including members of the National Guard and Reserves), veterans, the dependents of such members or veterans, States, institutions of higher education, and the general public.

(4) Definition

In this subsection, the term "Federal and State student financial assistance" means any grant, loan, work assistance, tuition assistance, scholarship, fellowship, or other form of financial aid for pursuing a postsecondary education that is—

(A) administered, sponsored, or supported by the Department of Education, the Department of Defense, the Department of Veterans Affairs, or a State; and

(B) available to members of the Armed Forces (including members of the National Guard and Reserves), veterans, or the dependents of such members or veterans.

(g) Promotion of availability of information concerning other student financial aid programs

(1) Definition

For purposes of this subsection, the term "nondepartmental student financial assistance program" means any grant, loan, scholarship, fellowship, or other form of financial aid for students pursuing a postsecondary education that is—

(A) distributed directly to the student or to the student's account at an institution of higher education; and

(B) operated, sponsored, or supported by a Federal department or agency other than the

Department of Education.

(2) Availability of other student financial aid information

The Secretary shall ensure that—

(A) not later than 90 days after the Secretary receives the information required under paragraph (3), the eligibility requirements, application procedures, financial terms and conditions, and other relevant information for each nondepartmental student financial assistance program are searchable and accessible through the Federal student financial aid website in a manner that is simple and understandable for students and the students' families; and

(B) the website displaying the information described in subparagraph (A) includes a link to the National Database on Financial Assistance for the Study of Science, Technology, Engineering, and Mathematics pursuant to paragraph (4), and the information on military benefits under subsection (f), once such Database and information are available.

(3) Nondepartmental student financial assistance programs

The Secretary shall request all Federal departments and agencies to provide the information described in paragraph (2)(A), and each Federal department or agency shall—

(A) promptly respond to surveys or other requests from the Secretary for the information described in such paragraph; and

(B) identify for the Secretary any nondepartmental student financial assistance program operated, sponsored, or supported by such Federal department or agency.

(4) National STEM Database

(A) In general

The Secretary shall establish and maintain, on the website described in subsection (e)(3), a National Database on Financial Assistance for the Study of Science, Technology, Engineering, and Mathematics (in this paragraph referred to as the "STEM Database"). The STEM Database shall consist of information on scholarships, fellowships, and other programs of Federal, State, local, and, to the maximum extent practicable, private financial assistance available for the study of science, technology, engineering, or mathematics at the postsecondary and postbaccalaureate levels.

(B) Database contents

The information maintained on the STEM Database shall be displayed on the website in the following manner:

(i) Separate information

The STEM Database shall provide separate information for each of the fields of science, technology, engineering, and mathematics, and for postsecondary and postbaccalaureate programs of financial assistance.

(ii) Information on targeted assistance

The STEM Database shall provide specific information on any program of financial assistance that is targeted to individuals based on financial need, merit, or student characteristics.

(iii) Contact and website information

The STEM Database shall provide—

(I) standard contact information that an interested person may use to contact a sponsor of any program of financial assistance included in the STEM Database; and

(II) if such sponsor maintains a public website, a link to the website.

(iv) Search and match capabilities

The STEM Database shall—

(I) have a search capability that permits an individual to search for information on the basis of each category of the information provided through the STEM Database and on the

basis of combinations of categories of the information provided, including—

(aa) whether the financial assistance is need- or merit-based; and

(bb) by relevant academic majors; and

(II) have a match capability that—

(aa) searches the STEM Database for all financial assistance opportunities for which an individual may be qualified to apply, based on the student characteristics provided by such individual; and

(bb) provides information to an individual for only those opportunities for which such individual is qualified, based on the student characteristics provided by such individual.

(v) Recommendation and disclaimer

The STEM Database shall provide, to the users of the STEM Database—

(I) a recommendation that students and families should carefully review all of the application requirements prior to applying for any aid or program of student financial assistance; and

(II) a disclaimer that the non-Federal programs of student financial assistance presented in the STEM Database are not provided or endorsed by the Department or the Federal Government.

(C) Compilation of financial assistance information

In carrying out this paragraph, the Secretary shall—

(i) consult with public and private sources of scholarships, fellowships, and other programs of student financial assistance; and

(ii) make easily available a process for such entities to provide regular and updated information about the scholarships, fellowships, or other programs of student financial assistance.

(D) Contract authorized

In carrying out the requirements of this paragraph, the Secretary is authorized to enter into a contract with a private entity with demonstrated expertise in creating and maintaining databases such as the one required under this paragraph, under which contract the entity shall furnish, and regularly update, all of the information required to be maintained on the STEM Database.

(5) Dissemination of information

The Secretary shall take such actions, on an ongoing basis, as may be necessary to disseminate information under this subsection and to encourage the use of the information by interested parties, including sending notices to secondary schools and institutions of higher education.

(h) No user fees for Department financial aid websites

No fee shall be charged to any individual to access—

(1) a database or website of the Department that provides information about higher education programs or student financial assistance, including the College Navigator website (or successor website) and the websites and databases described in this section and section 1015a of this title; or

(2) information about higher education programs or student financial assistance available through a database or website of the Department.

(Pub. L. 89–329, title I, §131, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1602; amended Pub. L. 110–315, title I, §§103(b)(1), 110, Aug. 14, 2008, 122 Stat. 3088, 3094; Pub. L. 111–39, title I, §101(b)(3), July 1, 2009, 123 Stat. 1935.)

PRIOR PROVISIONS

A prior section 1015, Pub. L. 89–329, title I, §131, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465, authorized grants to eligible partnerships for education telecommunications activities, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015, Pub. L. 89–329, title I, §115, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, authorized appropriations for former part A of this subchapter, prior to the general

amendment of this subchapter by Pub. L. 102–325.

Another prior section 1015, Pub. L. 89–329, title I, §115, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1380, related to continuing education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1015, Pub. L. 89–329, title I, §131, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2086, set out the Congressional findings with regard to the lifelong learning program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 131 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, related to National Advisory Council on Continuing Education and was classified to section 1017 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

AMENDMENTS

2009—Subsec. (a)(3)(A)(iii)(I). Pub. L. 111–39 substituted "section 1078(a)(2)(C)(ii)" for "section 1078(a)(2)(C)(i)".

2008—Subsec. (a)(3)(B). Pub. L. 110–315, §103(b)(1), substituted "authorizing committees" for "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives".

Subsecs. (d), (e). Pub. L. 110–315, §110(a), added subsecs. (d) and (e) and struck out former subsec. (d), which required the Secretary to survey student aid recipients on a regular cycle, but not less than once every 3 years.

Subsecs. (f), (g). Pub. L. 110–315, §110(b), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 110–315, §110(c), added subsec. (h).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

STUDENT-RELATED DEBT STUDY REQUIRED

Pub. L. 105–244, title VIII, §803, Oct. 7, 1998, 112 Stat. 1805, which required the Secretary of Education to conduct a study to analyze the distribution and increase in student-related debt, submit a report to congressional committees, and include certain information as part of the comparative information provided to families about the costs of higher education, was repealed by Pub. L. 110–315, title IX, §931(1), Aug. 14, 2008, 122 Stat. 3456.

§1015a. Transparency in college tuition for consumers

(a) Definitions

In this section:

(1) College Navigator website

The term "College Navigator website" means the College Navigator website operated by the Department and includes any successor website.

(2) Cost of attendance

The term "cost of attendance" means the average annual cost of tuition and fees, room and board, books, supplies, and transportation for an institution of higher education for a first-time, full-time undergraduate student enrolled in the institution.

(3) Net price

The term "net price" means the average yearly price actually charged to first-time, full-time undergraduate students receiving student aid at an institution of higher education after deducting such aid, which shall be determined by calculating the difference between—

(A) the institution's cost of attendance for the year for which the determination is made; and

(B) the quotient of—

(i) the total amount of need-based grant aid and merit-based grant aid, from Federal, State, and institutional sources, provided to such students enrolled in the institution for such year; and

(ii) the total number of such students receiving such need-based grant aid or merit-based grant aid for such year.

(4) Tuition and fees

The term "tuition and fees" means the average annual cost of tuition and fees for an institution of higher education for first-time, full-time undergraduate students enrolled in the institution.

(b) Calculations for public institutions

In making the calculations regarding cost of attendance, net price, and tuition and fees under this section with respect to a public institution of higher education, the Secretary shall calculate the cost of attendance, net price, and tuition and fees at such institution in the manner described in subsection (a), except that—

(1) the cost of attendance, net price, and tuition and fees shall be calculated for first-time, full-time undergraduate students enrolled in the institution who are residents of the State in which such institution is located; and

(2) in determining the net price, the average need-based grant aid and merit-based grant aid described in subsection (a)(3)(B) shall be calculated based on the average total amount of such aid received by first-time, full-time undergraduate students who are residents of the State in which such institution is located, divided by the total number of such resident students receiving such need-based grant aid or merit-based grant aid at such institution.

(c) College affordability and transparency lists

(1) Availability of lists

Beginning July 1, 2011, the Secretary shall make publicly available on the College Navigator website, in a manner that is sortable and searchable by State, the following:

(A) A list of the five percent of institutions in each category described in subsection (d) that have the highest tuition and fees for the most recent academic year for which data are available.

(B) A list of the five percent of institutions in each such category that have the highest net price for the most recent academic year for which data are available.

(C) A list of the five percent of institutions in each such category that have the largest increase, expressed as a percentage change, in tuition and fees over the most recent three academic years for which data are available, using the first academic year of the three-year period as the base year to compute such percentage change.

(D) A list of the five percent of institutions in each such category that have the largest increase, expressed as a percentage change, in net price over the most recent three academic years for which data are available, using the first academic year of the three-year period as the base year to compute such percentage change.

(E) A list of the ten percent of institutions in each such category that have the lowest tuition and fees for the most recent academic year for which data are available.

(F) A list of the ten percent of institutions in each such category that have the lowest net price for the most recent academic year for which data are available.

(2) Annual updates

The Secretary shall annually update the lists described in paragraph (1) on the College Navigator website.

(d) Categories of institutions

The lists described in subsection (c)(1) shall be compiled according to the following categories of institutions that participate in programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42:

(1) Four-year public institutions of higher education.

(2) Four-year private, nonprofit institutions of higher education.
(3) Four-year private, for-profit institutions of higher education.
(4) Two-year public institutions of higher education.
(5) Two-year private, nonprofit institutions of higher education.
(6) Two-year private, for-profit institutions of higher education.
(7) Less than two-year public institutions of higher education.
(8) Less than two-year private, nonprofit institutions of higher education.
(9) Less than two-year private, for-profit institutions of higher education.

(e) Reports by institutions

(1) Report to Secretary

If an institution of higher education is included on a list described in subparagraph (C) or (D) of subsection (c)(1), the institution shall submit to the Secretary a report containing the following information:

(A) A description of the major areas in the institution's budget with the greatest cost increases.

(B) An explanation of the cost increases described in subparagraph (A).

(C) A description of the steps the institution will take toward the goal of reducing costs in the areas described in subparagraph (A).

(D) In the case of an institution that is included on the same list under subparagraph (C) or (D) of subsection (c)(1) for two or more consecutive years, a description of the progress made on the steps described in subparagraph (C) of this paragraph that were included in the institution's report for the previous year.

(E) If the determination of any cost increase described in subparagraph (A) is not within the exclusive control of the institution—

(i) an explanation of the extent to which the institution participates in determining such cost increase;

(ii) the identification of the agency or instrumentality of State government responsible for determining such cost increase; and

(iii) any other information the institution considers relevant to the report.

(2) Information to the public

The Secretary shall—

(A) issue an annual report that summarizes all of the reports by institutions required under paragraph (1) to the authorizing committees; and

(B) publish such report on the College Navigator website.

(f) Exemptions

(1) In general

An institution shall not be placed on a list described in subparagraph (C) or (D) of subsection (c)(1), and shall not be subject to the reporting required under subsection (e), if the dollar amount of the institution's increase in tuition and fees, or net price, as applicable, is less than $600 for the three-year period described in such subparagraph.

(2) Update

Beginning in 2014, and every three years thereafter, the Secretary shall update the dollar amount described in paragraph (1) based on annual increases in inflation, using the Consumer Price Index for each of the three most recent preceding years.

(g) State higher education spending chart

The Secretary shall annually report on the College Navigator website, in charts for each State, comparisons of—

(1) the percentage change in spending by such State per full-time equivalent student at all public institutions of higher education in such State, for each of the five most recent preceding academic

years;

(2) the percentage change in tuition and fees for such students for all public institutions of higher education in such State for each of the five most recent preceding academic years; and

(3) the percentage change in the total amount of need-based aid and merit-based aid provided by such State to full-time students enrolled in the public institutions of higher education in the State for each of the five most recent preceding academic years.

(h) Net price calculator

(1) Development of net price calculator

Not later than one year after August 14, 2008, the Secretary shall, in consultation with institutions of higher education and other appropriate experts, develop a net price calculator to help current and prospective students, families, and other consumers estimate the individual net price of an institution of higher education for a student. The calculator shall be developed in a manner that enables current and prospective students, families, and consumers to determine an estimate of a current or prospective student's individual net price at a particular institution.

(2) Calculation of individual net price

For purposes of this subsection, an individual net price of an institution of higher education shall be calculated in the same manner as the net price of such institution is calculated under subsection (a)(3), except that the cost of attendance and the amount of need-based and merit-based aid available shall be calculated for the individual student as much as practicable.

(3) Use of net price calculator by institutions

Not later than two years after the date on which the Secretary makes the calculator developed under paragraph (1) available to institutions of higher education, each institution of higher education that receives Federal funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 shall make publicly available on the institution's website a net price calculator to help current and prospective students, families, and other consumers estimate a student's individual net price at such institution of higher education. Such calculator may be a net price calculator developed—

(A) by the Department pursuant to paragraph (1); or

(B) by the institution of higher education, if the institution's calculator includes, at a minimum, the same data elements included in the calculator developed under paragraph (1).

(4) Disclaimer

Estimates of an individual net price determined using a net price calculator required under paragraph (3) shall be accompanied by a clear and conspicuous notice—

(A) stating that the estimate—

(i) does not represent a final determination, or actual award, of financial assistance;

(ii) shall not be binding on the Secretary, the institution of higher education, or the State; and

(iii) may change;

(B) stating that the student must complete the Free Application for Federal Student Aid described in section 1090 of this title in order to be eligible for, and receive, an actual financial aid award that includes Federal grant, loan, or work-study assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42; and

(C) including a link to the website of the Department that allows students to access the Free Application for Federal Student Aid described in section 1090 of this title.

(i) Consumer information

(1) Availability of title IV institution information

Not later than one year after August 14, 2008, the Secretary shall make publicly available on the College Navigator website, in simple and understandable terms, the following information about

each institution of higher education that participates in programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, for the most recent academic year for which satisfactory data are available:

(A) A statement of the institution's mission.

(B) The total number of undergraduate students who applied to, were admitted by, and enrolled in the institution.

(C) For institutions that require SAT or ACT scores to be submitted, the reading, writing, mathematics, and combined scores on the SAT or ACT, as applicable, for the middle 50 percent range of the institution's freshman class.

(D) The number of first-time, full-time, and part-time students enrolled at the institution, at the undergraduate and (if applicable) graduate levels.

(E) The number of degree- or certificate-seeking undergraduate students enrolled at the institution who have transferred from another institution.

(F) The percentages of male and female undergraduate students enrolled at the institution.

(G) Of the first-time, full-time, degree- or certificate-seeking undergraduate students enrolled at the institution—

(i) the percentage of such students who are from the State in which the institution is located;

(ii) the percentage of such students who are from other States; and

(iii) the percentage of such students who are international students.

(H) The percentages of first-time, full-time, degree- or certificate-seeking students enrolled at the institution, disaggregated by race and ethnic background.

(I) The percentage of undergraduate students enrolled at the institution who are formally registered with the office of disability services of the institution (or the equivalent office) as students with disabilities, except that if such percentage is three percent or less, the institution shall report "three percent or less".

(J) The percentages of first-time, full-time, degree- or certificate-seeking undergraduate students enrolled at the institution who obtain a degree or certificate within—

(i) the normal time for completion of, or graduation from, the student's program;

(ii) 150 percent of the normal time for completion of, or graduation from, the student's program; and

(iii) 200 percent of the normal time for completion of, or graduation from, the student's program;

(K) The number of certificates, associate degrees, baccalaureate degrees, master's degrees, professional degrees, and doctoral degrees awarded by the institution.

(L) The undergraduate major areas of study at the institution with the highest number of degrees awarded.

(M) The student-faculty ratio, the number of full-time and part-time faculty, and the number of graduate assistants with primarily instructional responsibilities, at the institution.

(N)(i) The cost of attendance for first-time, full-time undergraduate students enrolled in the institution who live on campus;

(ii) the cost of attendance for first-time, full-time undergraduate students enrolled in the institution who live off campus; and

(iii) in the case of a public institution of higher education and notwithstanding subsection (b)(1), the costs described in clauses (i) and (ii), for—

(I) first-time, full-time students enrolled in the institution who are residents of the State in which the institution is located; and

(II) first-time, full-time students enrolled in the institution who are not residents of such State.

(O) The average annual grant amount (including Federal, State, and institutional aid) awarded

to a first-time, full-time undergraduate student enrolled at the institution who receives financial aid.

(P) The average annual amount of Federal student loans provided through the institution to undergraduate students enrolled at the institution.

(Q) The total annual grant aid awarded to undergraduate students enrolled at the institution, from the Federal Government, a State, the institution, and other sources known by the institution.

(R) The percentage of first-time, full-time undergraduate students enrolled at the institution receiving Federal, State, and institutional grants, student loans, and any other type of student financial assistance known by the institution, provided publicly or through the institution, such as Federal work-study funds.

(S) The number of students enrolled at the institution receiving Federal Pell Grants.

(T) The institution's cohort default rate, as defined under section 1085(m) of this title.

(U) The information on campus safety required to be collected under section 1092(i) of this title.

(V) A link to the institution's website that provides, in an easily accessible manner, the following information:

(i) Student activities offered by the institution.

(ii) Services offered by the institution for individuals with disabilities.

(iii) Career and placement services offered by the institution to students during and after enrollment.

(iv) Policies of the institution related to transfer of credit from other institutions.

(W) A link to the appropriate section of the Bureau of Labor Statistics website that provides information on regional data on starting salaries in all major occupations.

(X) Information required to be submitted under paragraph (4) and a link to the institution pricing summary page described in paragraph (5).

(Y) In the case of an institution that was required to submit a report under subsection (e)(1), a link to such report.

(Z) The availability of alternative tuition plans, which may include guaranteed tuition plans.

(2) Annual updates

The Secretary shall annually update the information described in paragraph (1) on the College Navigator website.

(3) Consultation

The Secretary shall regularly consult with current and prospective college students, family members of such students, institutions of higher education, and other experts to improve the usefulness and relevance of the College Navigator website, with respect to the presentation of the consumer information collected in paragraph (1).

(4) Data collection

The Commissioner for Education Statistics shall continue to update and improve the Integrated Postsecondary Education Data System (referred to in this section as "IPEDS"), including the reporting of information by institutions and the timeliness of the data collected.

(5) Institution pricing summary page

(A) Availability of list of participating institutions

The Secretary shall make publicly available on the College Navigator website in a sortable and searchable format a list of all institutions of higher education that participate in programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, which list shall, for each institution, include the following:

(i) The tuition and fees for each of the three most recent academic years for which data are available.

(ii) The net price for each of the three most recent available academic years for which data are available.

(iii)(I) During the period beginning July 1, 2010, and ending June 30, 2013, the net price for students receiving Federal student financial aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, disaggregated by the income categories described in paragraph (6), for the most recent academic year for which data are available.

(II) Beginning July 1, 2013, the net price for students receiving Federal student financial aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, disaggregated by the income categories described in paragraph (6), for each of the three most recent academic years for which data are available.

(iv) The average annual percentage change and average annual dollar change in such institution's tuition and fees for each of the three most recent academic years for which data are available.

(v) The average annual percentage change and average annual dollar change in such institution's net price for each of the three most recent preceding academic years for which data are available.

(vi) A link to the webpage on the College Navigator website that provides the information described in paragraph (1) for the institution.

(B) Annual updates

The Secretary shall annually update the lists described in subparagraph (A) on the College Navigator website.

(6) Income categories

(A) In general

For purposes of reporting the information required under this subsection, the following income categories shall apply for students who receive Federal student financial aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42:

(i) $0–30,000.

(ii) $30,001–48,000.

(iii) $48,001–75,000.

(iv) $75,001–110,000.

(v) $110,001 and more.

(B) Adjustment

The Secretary may adjust the income categories listed in subparagraph (A) using the Consumer Price Index if the Secretary determines such adjustment is necessary.

(j) Multi-year tuition calculator

(1) Development of multi-year tuition calculator

Not later than one year after August 14, 2008, the Secretary shall, in consultation with institutions of higher education, financial planners, and other appropriate experts, develop a multi-year tuition calculator to help current and prospective students, families of such students, and other consumers estimate the amount of tuition an individual may pay to attend an institution of higher education in future years.

(2) Calculation of multi-year tuition

The multi-year tuition calculator described in paragraph (1) shall—

(A) allow an individual to select an institution of higher education for which the calculation shall be made;

(B) calculate an estimate of tuition and fees for each year of the normal duration of the program of study at such institution by—

(i) using the tuition and fees for such institution, as reported under subsection (i)(5)(A)(i), for the most recent academic year for which such data are reported; and

(ii) determining an estimated annual percentage change for each year for which the calculation is made, based on the annual percentage change in such institution's tuition and fees, as reported under subsection (i)(5)(A)(iv), for the most recent three-year period for which such data are reported;

(C) calculate an estimate of the total amount of tuition and fees to complete a program of study at such institution, based on the normal duration of such program, using the estimate calculated under subparagraph (B) for each year of the program of study;

(D) provide the individual with the option to replace the estimated annual percentage change described in subparagraph (B)(ii) with an alternative annual percentage change specified by the individual, and calculate an estimate of tuition and fees for each year and an estimate of the total amount of tuition and fees using the alternative percentage change;

(E) in the case of an institution that offers a multi-year tuition guarantee program, allow the individual to have the estimates of tuition and fees described in subparagraphs (B) and (C) calculated based on the provisions of such guarantee program for the tuition and fees charged to a student, or cohort of students, enrolled for the duration of the program of study; and

(F) include any other features or information determined to be appropriate by the Secretary.

(3) Availability and comparison

The multi-year tuition calculator described in paragraph (1) shall be available on the College Navigator website and shall allow current and prospective students, families of such students, and consumers to compare information and estimates under this subsection for multiple institutions of higher education.

(4) Disclaimer

Each calculation of estimated tuition and fees made using the multi-year tuition calculator described in paragraph (1) shall be accompanied by a clear and conspicuous notice—

(A) stating that the calculation—

(i) is only an estimate and not a guarantee of the actual amount the student may be charged;

(ii) is not binding on the Secretary, the institution of higher education, or the State; and

(iii) may change, subject to the availability of financial assistance, State appropriations, and other factors;

(B) stating that the student must complete the Free Application for Federal Student Aid described in section 1090 of this title in order to be eligible for, and receive, an actual financial aid award that includes Federal grant, loan, or work-study assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42; and

(C) including a link to the website of the Department that allows students to access the Free Application for Federal Student Aid described in section 1090 of this title.

(k) Student aid recipient survey

(1) Survey required

The Secretary, acting through the Commissioner for Education Statistics, shall conduct, on a State-by-State basis, a survey of recipients of Federal student financial aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42—

(A) to identify the population of students receiving such Federal student financial aid;

(B) to describe the income distribution and other socioeconomic characteristics of recipients of such Federal student financial aid;

(C) to describe the combinations of aid from Federal, State, and private sources received by such recipients from all income categories;

(D) to describe the—

(i) debt burden of such loan recipients, and their capacity to repay their education debts; and

(ii) the impact of such debt burden on the recipients' course of study and post-graduation plans;

(E) to describe the impact of the cost of attendance of postsecondary education in the determination by students of what institution of higher education to attend; and

(F) to describe how the costs of textbooks and other instructional materials affect the costs of postsecondary education for students.

(2) Frequency

The survey shall be conducted on a regular cycle and not less often than once every four years.

(3) Survey design

The survey shall be representative of students from all types of institutions, including full-time and part-time students, undergraduate, graduate, and professional students, and current and former students.

(4) Dissemination

The Commissioner for Education Statistics shall disseminate to the public, in printed and electronic form, the information resulting from the survey.

(l) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out this section.

(Pub. L. 89–329, title I, §132, as added Pub. L. 110–315, title I, §111, Aug. 14, 2008, 122 Stat. 3098.)

REFERENCES IN TEXT

Title IV, referred to in the heading of subsec. (i)(1), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to subchapter IV of this chapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1015a, Pub. L. 89–329, title I, §132, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465, related to grant applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015a, Pub. L. 89–329, title I, §132, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2087, set out scope of lifelong learning program, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1015b. Textbook information

(a) Purpose and intent

The purpose of this section is to ensure that students have access to affordable course materials by decreasing costs to students and enhancing transparency and disclosure with respect to the selection, purchase, sale, and use of course materials. It is the intent of this section to encourage all of the involved parties, including faculty, students, administrators, institutions of higher education, bookstores, distributors, and publishers, to work together to identify ways to decrease the cost of college textbooks and supplemental materials for students while supporting the academic freedom of faculty members to select high quality course materials for students.

(b) Definitions

In this section:

(1) Bundle

The term "bundle" means one or more college textbooks or other supplemental materials that may be packaged together to be sold as course materials for one price.

(2) College textbook

The term "college textbook" means a textbook or a set of textbooks, used for, or in conjunction with, a course in postsecondary education at an institution of higher education.

(3) Course schedule

The term "course schedule" means a listing of the courses or classes offered by an institution of higher education for an academic period, as defined by the institution.

(4) Custom textbook

The term "custom textbook"—

(A) means a college textbook that is compiled by a publisher at the direction of a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education; and

(B) may include, alone or in combination, items such as selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, and elements unique to a specific institution, such as commemorative editions.

(5) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1002 of this title.

(6) Integrated textbook

The term "integrated textbook" means a college textbook that is—

(A) combined with materials developed by a third party and that, by third-party contractual agreement, may not be offered by publishers separately from the college textbook with which the materials are combined; or

(B) combined with other materials that are so interrelated with the content of the college textbook that the separation of the college textbook from the other materials would render the college textbook unusable for its intended purpose.

(7) Publisher

The term "publisher" means a publisher of college textbooks or supplemental materials involved in or affecting interstate commerce.

(8) Substantial content

The term "substantial content" means parts of a college textbook such as new chapters, new material covering additional eras of time, new themes, or new subject matter.

(9) Supplemental material

The term "supplemental material" means educational material developed to accompany a college textbook that—

(A) may include printed materials, computer disks, website access, and electronically distributed materials; and

(B) is not being used as a component of an integrated textbook.

(c) Publisher requirements

(1) College textbook pricing information

When a publisher provides a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education receiving Federal financial assistance with information regarding a college textbook or supplemental material, the publisher shall include, with any such information and in writing (which may include electronic communications), the following:

(A) The price at which the publisher would make the college textbook or supplemental material available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes the college textbook or supplemental material available to the public.

(B) The copyright dates of the three previous editions of such college textbook, if any.

(C) A description of the substantial content revisions made between the current edition of the college textbook or supplemental material and the previous edition, if any.

(D)(i) Whether the college textbook or supplemental material is available in any other format, including paperback and unbound; and

(ii) for each other format of the college textbook or supplemental material, the price at which the publisher would make the college textbook or supplemental material in the other format available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes such other format of the college textbook or supplemental material available to the public.

(2) Unbundling of college textbooks from supplemental materials

A publisher that sells a college textbook and any supplemental material accompanying such college textbook as a single bundle shall also make available the college textbook and each supplemental material as separate and unbundled items, each separately priced.

(3) Custom textbooks

To the maximum extent practicable, a publisher shall provide the information required under this subsection with respect to the development and provision of custom textbooks.

(d) Provision of ISBN college textbook information in course schedules

To the maximum extent practicable, each institution of higher education receiving Federal financial assistance shall—

(1) disclose, on the institution's Internet course schedule and in a manner of the institution's choosing, the International Standard Book Number and retail price information of required and recommended college textbooks and supplemental materials for each course listed in the institution's course schedule used for preregistration and registration purposes, except that—

(A) if the International Standard Book Number is not available for such college textbook or supplemental material, then the institution shall include in the Internet course schedule the author, title, publisher, and copyright date for such college textbook or supplemental material; and

(B) if the institution determines that the disclosure of the information described in this subsection is not practicable for a college textbook or supplemental material, then the institution shall so indicate by placing the designation "To Be Determined" in lieu of the information required under this subsection; and

(2) if applicable, include on the institution's written course schedule a notice that textbook information is available on the institution's Internet course schedule, and the Internet address for such schedule.

(e) Availability of information for college bookstores

An institution of higher education receiving Federal financial assistance shall make available to a college bookstore that is operated by, or in a contractual relationship or otherwise affiliated with, the institution, as soon as is practicable upon the request of such college bookstore, the most accurate information available regarding—

(1) the institution's course schedule for the subsequent academic period; and

(2) for each course or class offered by the institution for the subsequent academic period—

(A) the information required by subsection (d)(1) for each college textbook or supplemental material required or recommended for such course or class;

(B) the number of students enrolled in such course or class; and

(C) the maximum student enrollment for such course or class.

(f) Additional information

An institution disclosing the information required by subsection (d)(1) is encouraged to disseminate to students information regarding—

(1) available institutional programs for renting textbooks or for purchasing used textbooks;
(2) available institutional guaranteed textbook buy-back programs;
(3) available institutional alternative content delivery programs; or
(4) other available institutional cost-saving strategies.

(g) GAO report

Not later than July 1, 2013, the Comptroller General of the United States shall report to the authorizing committees on the implementation of this section by institutions of higher education, college bookstores, and publishers. The report shall particularly examine—

(1) the availability of college textbook information on course schedules;
(2) the provision of pricing information to faculty of institutions of higher education by publishers;
(3) the use of bundled and unbundled material in the college textbook marketplace, including the adoption of unbundled materials by faculty and the use of integrated textbooks by publishers; and
(4) the implementation of this section by institutions of higher education, including the costs and benefits to such institutions and to students.

(h) Rule of construction

Nothing in this section shall be construed to supercede the institutional autonomy or academic freedom of instructors involved in the selection of college textbooks, supplemental materials, and other classroom materials.

(i) No regulatory authority

The Secretary shall not promulgate regulations with respect to this section.

(Pub. L. 89–329, title I, §133, as added Pub. L. 110–315, title I, §112(a), Aug. 14, 2008, 122 Stat. 3107.)

PRIOR PROVISIONS

A prior section 1015b, Pub. L. 89–329, title I, §133, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466, related to activities for which grants could be used, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015b, Pub. L. 89–329, title I, §133, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2087; amended Pub. L. 95–43, §1(a)(4), June 15, 1977, 91 Stat. 213, related to implementation of lifelong learning program by Assistant Secretary, prior to the general amendment of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE

Pub. L. 110–315, title I, §112(b), Aug. 14, 2008, 122 Stat. 3110, provided that: "The amendment made by subsection (a) [enacting this section] shall take effect on July 1, 2010."

ESTABLISHMENT OF PILOT PROGRAM FOR COURSE MATERIAL RENTAL

Pub. L. 110–315, title VIII, §803, Aug. 14, 2008, 122 Stat. 3449, provided that:

"(a) PILOT GRANT PROGRAM.—From the amounts appropriated pursuant to subsection (e), the Secretary of Education (referred to in this section as the 'Secretary') shall make grants on a competitive basis to not more than ten institutions of higher education to support pilot programs that expand the services of bookstores to provide the option for students to rent course materials in order to achieve savings for students.

"(b) APPLICATION.—An institution of higher education that desires to obtain a grant under this section shall submit an application to the Secretary at such time, in such form, and containing or accompanied by such information, agreements, and assurances as the Secretary may reasonably require.

"(c) USE OF FUNDS.—The funds made available by a grant under this section may be used for—

"(1) purchase of course materials that the entity will make available by rent to students;
"(2) any equipment or software necessary for the conduct of a rental program;
"(3) hiring staff needed for the conduct of a rental program, with priority given to hiring enrolled undergraduate students; and
"(4) building or acquiring extra storage space dedicated to course materials for rent.

"(d) EVALUATION AND REPORT.—

"(1) EVALUATIONS BY RECIPIENTS.—After a period of time to be determined by the Secretary, each institution of higher education that receives a grant under this section shall submit a report to the Secretary on the effectiveness of their rental programs in reducing textbook costs for students.

"(2) REPORT TO CONGRESS.—Not later than September 30, 2010, the Secretary shall submit a report to Congress on the effectiveness of the textbook rental pilot programs under this section, and identify the best practices developed in such pilot programs. Such report shall contain an estimate by the Secretary of the savings achieved by students who participate in such pilot programs.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 2009 and 2010."

§1015c. Database of student information prohibited

(a) Prohibition

Except as described in subsection (b), nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall be construed to authorize the development, implementation, or maintenance of a Federal database of personally identifiable information on individuals receiving assistance under this chapter and part C of subchapter I of chapter 34 of title 42, attending institutions receiving assistance under this chapter and part C of subchapter I of chapter 34 of title 42, or otherwise involved in any studies or other collections of data under this chapter and part C of subchapter I of chapter 34 of title 42, including a student unit record system, an education bar code system, or any other system that tracks individual students over time.

(b) Exception

The provisions of subsection (a) shall not apply to a system (or a successor system) that—

(1) is necessary for the operation of programs authorized by subchapter II, IV, or VII or part C of subchapter I of chapter 34 of title 42; and

(2) was in use by the Secretary, directly or through a contractor, as of the day before August 14, 2008.

(c) State databases

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall prohibit a State or a consortium of States from developing, implementing, or maintaining State-developed databases that track individuals over time, including student unit record systems that contain information related to enrollment, attendance, graduation and retention rates, student financial assistance, and graduate employment outcomes.

(Pub. L. 89–329, title I, §134, as added Pub. L. 110–315, title I, §113, Aug. 14, 2008, 122 Stat. 3110.)

PRIOR PROVISIONS

A prior section 1015c, Pub. L. 89–329, title I, §134, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466, defined "public broadcasting entity" for purposes of former part C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015c, Pub. L. 89–329, title I, §134, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2089, related to annual reports by Assistant Secretary and content of these reports, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1015d. In-State tuition rates for members of the armed forces on active duty, spouses, and dependent children

(a) Requirement

In the case of a member of the armed forces who is on active duty for a period of more than 30 days and whose domicile or permanent duty station is in a State that receives assistance under this chapter and part C of subchapter I of chapter 34 of title 42, such State shall not charge such member

(or the spouse or dependent child of such member) tuition for attendance at a public institution of higher education in the State at a rate that is greater than the rate charged for residents of the State.

(b) Continuation

If a member of the armed forces (or the spouse or dependent child of a member) pays tuition at a public institution of higher education in a State at a rate determined by subsection (a), the provisions of subsection (a) shall continue to apply to such member, spouse, or dependent while continuously enrolled at that institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside the State.

(c) Effective date

This section shall take effect at each public institution of higher education in a State that receives assistance under this chapter and part C of subchapter I of chapter 34 of title 42 for the first period of enrollment at such institution that begins after July 1, 2009.

(d) Definitions

In this section, the terms "armed forces" and "active duty for a period of more than 30 days" have the meanings given those terms in section 101 of title 10.

(Pub. L. 89–329, title I, §135, as added Pub. L. 110–315, title I, §114, Aug. 14, 2008, 122 Stat. 3111.)

PRIOR PROVISIONS

A prior section 1015d, Pub. L. 89–329, title I, §135, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466, required grant recipients to submit reports, prior to the general amendment of this subchapter by Pub. L. 105–244.

§1015e. State higher education information system pilot program

(a) Purpose

It is the purpose of this section to carry out a pilot program to assist not more than five States to develop State-level postsecondary student data systems to—

(1) improve the capacity of States and institutions of higher education to generate more comprehensive and comparable data, in order to develop better-informed educational policy at the State level and to evaluate the effectiveness of institutional performance while protecting the confidentiality of students' personally identifiable information; and

(2) identify how to best minimize the data-reporting burden placed on institutions of higher education, particularly smaller institutions, and to maximize and improve the information institutions receive from the data systems, in order to assist institutions in improving educational practice and postsecondary outcomes.

(b) Definition of eligible entity

In this section, the term "eligible entity" means—

(1) a State higher education system; or

(2) a consortium of State higher education systems, or a consortium of individual institutions of higher education, that is broadly representative of institutions in different sectors and geographic locations.

(c) Competitive grants

(1) Grants authorized

The Secretary shall award grants, on a competitive basis, to not more than five eligible entities to enable the eligible entities to—

(A) design, test, and implement systems of postsecondary student data that provide the maximum benefits to States, institutions of higher education, and State policymakers; and

(B) examine the costs and burdens involved in implementing a State-level postsecondary

student data system.

(2) Duration

A grant awarded under this section shall be for a period of not more than three years.

(d) Application requirements

An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, including a description of—

(1) how the eligible entity will ensure that student privacy is protected and that individually identifiable information about students, the students' achievements, and the students' families remains confidential in accordance with section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974"); and

(2) how the activities funded by the grant will be supported after the three-year grant period.

(e) Use of funds

A grant awarded under this section shall be used to—

(1) design, develop, and implement the components of a comprehensive postsecondary student data system with the capacity to transmit student information within a State;

(2) improve the capacity of institutions of higher education to analyze and use student data;

(3) select and define common data elements, data quality, and other elements that will enable the data system to—

(A) serve the needs of institutions of higher education for institutional research and improvement;

(B) provide students and the students' families with useful information for decision-making about postsecondary education; and

(C) provide State policymakers with improved information to monitor and guide efforts to improve student outcomes and success in higher education;

(4) estimate costs and burdens at the institutional level for the reporting system for different types of institutions; and

(5) test the feasibility of protocols and standards for maintaining data privacy and data access.

(f) Evaluation; reports

Not later than six months after the end of the projects funded by grants awarded under this section, the Secretary shall—

(1) conduct a comprehensive evaluation of the pilot program authorized by this section; and

(2) report the Secretary's findings, as well as recommendations regarding the implementation of State-level postsecondary student data systems, to the authorizing committees.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title I, §136, as added Pub. L. 110–315, title I, §115, Aug. 14, 2008, 122 Stat. 3111; amended Pub. L. 111–39, title I, §101(b)(4), July 1, 2009, 123 Stat. 1935.)

AMENDMENTS

2009—Subsec. (d)(1). Pub. L. 111–39 substituted "(commonly known as the 'Family Educational Rights and Privacy Act of 1974')" for "(Family Educational Rights and Privacy Act of 1974)".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1015f. State commitment to affordable college education

(a) Maintenance of effort required

A State shall provide—

(1) for public institutions of higher education in such State for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount provided for non-capital and non-direct research and development expenses or costs by such State to such institutions of higher education during the five most recent preceding academic years for which satisfactory data are available; and

(2) for private institutions of higher education in such State for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount provided for student financial aid for paying costs associated with postsecondary education by such State to such institutions during the five most recent preceding academic years for which satisfactory data are available.

(b) Adjustments for biennial appropriations

The Secretary shall take into consideration any adjustments to the calculations under subsection (a) that may be required to accurately reflect funding levels for postsecondary education in States with biennial appropriation cycles.

(c) Waiver

The Secretary shall waive the requirements of subsection (a), if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforseen [1] decline in the financial resources of a State or State educational agency, as appropriate.

(d) Violation of maintenance of effort

Notwithstanding any other provision of law, the Secretary shall withhold from any State that violates subsection (a) and does not receive a waiver pursuant to subsection (c) any amount that would otherwise be available to the State under section 1141 of this title until such State has made significant efforts to correct such violation.

(Pub. L. 89–329, title I, §137, as added Pub. L. 110–315, title I, §116, Aug. 14, 2008, 122 Stat. 3113.)

PRIOR PROVISIONS

A prior section 1016, Pub. L. 89–329, title I, §121, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to adult learning research, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1016, Pub. L. 89–329, title I, §116, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1381, provided for Federal discretionary grants, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1016a, Pub. L. 89–329, title I, §122, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, limited funds authorized to be appropriated, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 1017, Pub. L. 89–329, title I, §131, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286; Pub. L. 102–54, §13(g)(1)(A), June 13, 1991, 105 Stat. 275, related to National Advisory Council on Continuing Education, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1017, Pub. L. 89–329, title I, §117, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1382; amended Pub. L. 99–386, title I, §103(a), Aug. 22, 1986, 100 Stat. 821, related to establishment and administration of the National Advisory Council on Continuing Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

[1] *So in original. Probably should be "unforeseen".*

PART D—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT

§1018. Performance-Based Organization for delivery of Federal student financial assistance

(a) Establishment and purpose

(1) Establishment

There is established in the Department a Performance-Based Organization (hereafter referred to as the "PBO") which shall be a discrete management unit responsible for managing the administrative and oversight functions supporting the programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as specified in subsection (b) of this section.

(2) Purposes

The purposes of the PBO are—

(A) to improve service to students and other participants in the student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, including making those programs more understandable to students and their parents;

(B) to reduce the costs of administering those programs;

(C) to increase the accountability of the officials responsible for administering the operational aspects of these programs;

(D) to provide greater flexibility in the management and administration of the Federal student financial assistance programs;

(E) to integrate the information systems supporting the Federal student financial assistance programs;

(F) to implement an open, common, integrated system for the delivery of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42; and

(G) to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.

(b) General authority

(1) Authority of Secretary

Notwithstanding any other provision of this part, the Secretary shall maintain responsibility for the development and promulgation of policy and regulations relating to the programs of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42. In the exercise of its functions, the PBO shall be subject to the direction of the Secretary. The Secretary shall—

(A) request the advice of, and work in cooperation with, the Chief Operating Officer in developing regulations, policies, administrative guidance, or procedures affecting the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(B) request cost estimates from the Chief Operating Officer for system changes required by specific policies proposed by the Secretary; and

(C) assist the Chief Operating Officer in identifying goals for—

(i) the administration of the systems used to administer the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42; and

(ii) the updating of such systems to current technology.

(2) PBO functions

Subject to paragraph (1), the PBO shall be responsible for the administration of Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, excluding the development of policy relating to such programs but including the following:

(A) The administrative, accounting, and financial management functions for the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, including—

(i) the collection, processing, and transmission of data to students, institutions, lenders, State agencies, and other authorized parties;

(ii) the design and technical specifications for software development and procurement for systems supporting the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(iii) all software and hardware acquisitions and all information technology contracts related to the administration and management of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(iv) all aspects of contracting for the information and financial systems supporting the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(v) providing all customer service, training, and user support related to the administration of the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42; and

(vi) ensuring the integrity of the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(B) Annual development of a budget for the activities and functions of the PBO, in consultation with the Secretary, and for consideration and inclusion in the Department's annual budget submission.

(3) Additional functions

The Secretary may allocate to the PBO such additional functions as the Secretary and the Chief Operating Officer determine are necessary or appropriate to achieve the purposes of the PBO.

(4) Independence

Subject to paragraph (1), in carrying out its functions, the PBO shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions.

(5) Audits and review

The PBO shall be subject to the usual and customary Federal audit procedures and to review by the Inspector General of the Department.

(6) Changes

(A) In general

The Secretary and the Chief Operating Officer shall consult concerning the effects of policy, market, or other changes on the ability of the PBO to achieve the goals and objectives established in the performance plan described in subsection (c) of this section.

(B) Revisions to agreement

The Secretary and the Chief Operating Officer may revise the annual performance agreement described in subsection (d)(4) of this section in light of policy, market, or other changes that occur after the Secretary and the Chief Operating Officer enter into the agreement.

(c) Performance plan, report, and briefing

(1) Performance plan

(A) In general

Each year, the Secretary and Chief Operating Officer shall agree on, and make available to the public, a performance plan for the PBO for the succeeding 5 years that establishes measurable goals and objectives for the organization.

(B) Consultation

In developing the 5-year performance plan and any revision to the plan, the Secretary and the Chief Operating Officer shall consult with students, institutions of higher education, Congress, lenders, the Advisory Committee on Student Financial Assistance, and other interested parties not less than 30 days prior to the implementation of the performance plan or revision.

(C) Areas

The plan shall include a concise statement of the goals for a modernized system for the delivery of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 and identify action steps necessary to achieve such goals. The plan shall address the PBO's responsibilities in the following areas:

(i) Improving service

Improving service to students and other participants in student financial aid programs authorized under under [1] subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, including making those programs more understandable to students and their parents.

(ii) Reducing costs

Reducing the costs of administering those programs.

(iii) Improvement and integration of support systems

Improving and integrating the systems that support those programs.

(iv) Delivery and information system

Developing open, common, and integrated systems for programs authorized under under [1] subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(v) Other areas

Any other areas identified by the Secretary.

(2) Annual report

Each year, the Chief Operating Officer shall prepare and submit to Congress, through the Secretary, an annual report on the performance of the PBO, including an evaluation of the extent to which the PBO met the goals and objectives contained in the 5-year performance plan described in paragraph (1) for the preceding year. The annual report shall include the following:

(A) An independent financial audit of the expenditures of both the PBO and the programs administered by the PBO.

(B) Financial and performance requirements applicable to the PBO under the Chief Financial Officers Act of 1990 and the Government Performance and Results Act of 1993.

(C) The results achieved by the PBO during the year relative to the goals established in the organization's performance plan.

(D) The evaluation rating of the performance of the Chief Operating Officer and senior managers under subsections (d)(4) and (e)(2) of this section, including the amounts of bonus compensation awarded to these individuals.

(E) Recommendations for legislative and regulatory changes to improve service to students and their families, and to improve program efficiency and integrity.

(F) Other such information as the Director of the Office of Management and Budget shall prescribe for performance based organizations.

(3) Consultation with stakeholders

The Chief Operating Officer, in preparing the report described in paragraph (2), shall establish

appropriate means to consult with students, borrowers, institutions, lenders, guaranty agencies, secondary markets, and others involved in the delivery system of student aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42—

(A) regarding the degree of satisfaction with the delivery system; and

(B) to seek suggestions on means to improve the delivery system.

(4) Briefing on enforcement of student loan provisions

The Secretary shall, upon request, provide a briefing to the members of the authorizing committees on the steps the Department has taken to ensure—

(A) the integrity of the student loan programs; and

(B) that lenders and guaranty agencies are adhering to the requirements of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(d) Chief Operating Officer

(1) Appointment

The management of the PBO shall be vested in a Chief Operating Officer who shall be appointed by the Secretary to a term of not less than 3 and not more than 5 years, and compensated without regard to chapters 33, 51, and 53 of title 5. The appointment shall be made on the basis of demonstrated management ability and expertise in information technology, including experience with financial systems, and without regard to political affiliation or activity.

(2) Reappointment

The Secretary may reappoint the Chief Operating Officer to subsequent terms of not less than 3 and not more than 5 years, so long as the performance of the Chief Operating Officer, as set forth in the performance agreement described in paragraph (4), is satisfactory.

(3) Removal

The Chief Operating Officer may be removed by—

(A) the President; or

(B) the Secretary, for misconduct or failure to meet performance goals set forth in the performance agreement in paragraph (4).

The President or Secretary shall communicate the reasons for any such removal to the authorizing committees.

(4) Performance agreement

(A) In general

Each year, the Secretary and the Chief Operating Officer shall enter into an annual performance agreement, that shall set forth measurable organization and individual goals for the Chief Operating Officer.

(B) Transmittal

The final agreement, and any revision to the final agreement, shall be transmitted to the authorizing committees, and made publicly available.

(5) Compensation

(A) In general

The Chief Operating Officer is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(B) of such title. The compensation of the Chief Operating Officer shall be considered for purposes of section 207(c)(2)(A) of title 18 to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

(B) Bonus

In addition, the Chief Operating Officer may receive a bonus in an amount that does not exceed 50 percent of such annual rate of basic pay, based upon the Secretary's evaluation of the Chief Operating Officer's performance in relation to the goals set forth in the performance agreement described in paragraph (4).

(C) Payment

Payment of a bonus under subparagraph (B) may be made to the Chief Operating Officer only to the extent that such payment does not cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3.

(e) Senior management

(1) Appointment

(A) In general

The Chief Operating Officer may appoint such senior managers as that officer determines necessary without regard to the provisions of title 5 governing appointments in the competitive service.

(B) Compensation

The senior managers described in subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Performance agreement

Each year, the Chief Operating Officer and each senior manager appointed under this subsection shall enter into an annual performance agreement that sets forth measurable organization and individual goals. The agreement shall be subject to review and renegotiation at the end of each term.

(3) Compensation

(A) In general

A senior manager appointed under this subsection may be paid at an annual rate of basic pay of not more than the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title. The compensation of a senior manager shall be considered for purposes of section 207(c)(2)(A) of title 18 to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

(B) Bonus

In addition, a senior manager may receive a bonus in an amount such that the manager's total annual compensation does not exceed 125 percent of the maximum rate of basic pay for the Senior Executive Service, including any applicable locality-based comparability payment, based upon the Chief Operating Officer's evaluation of the manager's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

(4) Removal

A senior manager shall be removable by the Chief Operating Officer, or by the Secretary if the position of Chief Operating Officer is vacant.

(f) Student Loan Ombudsman

(1) Appointment

The Chief Operating Officer, in consultation with the Secretary, shall appoint a Student Loan Ombudsman to provide timely assistance to borrowers of loans made, insured, or guaranteed under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 by performing the functions described in paragraph (3).

(2) Public information

The Chief Operating Officer shall disseminate information about the availability and functions of the Ombudsman to students, borrowers, and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in those student loan programs.

(3) Functions of Ombudsman

The Ombudsman shall—

(A) in accordance with regulations of the Secretary, receive, review, and attempt to resolve informally complaints from borrowers of loans described in paragraph (1), including, as appropriate, attempts to resolve such complaints within the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in the loan programs described in paragraph (1); and

(B) compile and analyze data on borrower complaints and make appropriate recommendations.

(4) Report

Each year, the Ombudsman shall submit a report to the Chief Operating Officer, for inclusion in the annual report under subsection (c)(2) of this section, that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

(g) Personnel flexibility

(1) Personnel ceilings

The PBO shall not be subject to any ceiling relating to the number or grade of employees.

(2) Administrative flexibility

The Chief Operating Officer shall work with the Office of Personnel Management to develop and implement personnel flexibilities in staffing, classification, and pay that meet the needs of the PBO, subject to compliance with title 5.

(3) Excepted service

The Chief Operating Officer may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, technical and professional employees to administer the functions of the PBO. These employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(h) Establishment of fair and equitable system for measuring staff performance

The PBO shall establish an annual performance management system, subject to compliance with title 5, and consistent with applicable provisions of law and regulations, which strengthens the effectiveness of the PBO by providing for establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the performance plan of the PBO and its performance planning procedures, including those established under the Government Performance and Results Act of 1993, and communicating such goals or objectives to employees.

(i) Authorization of appropriations

The Secretary shall allocate from funds made available under section 1087h of this title such funds as are appropriate to the functions assumed by the PBO. In addition, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this part.

(Pub. L. 89–329, title I, §141, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1604; amended Pub. L. 110–315, title I, §§103(b)(2), 117, Aug. 14, 2008, 122 Stat. 3088, 3114; Pub. L. 111–39, title I, §101(b)(5), July 1, 2009, 123 Stat. 1935.)

REFERENCES IN TEXT

The Chief Financial Officers Act of 1990, referred to in subsec. (c)(2)(B), is Pub. L. 101–576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment

note set out under section 501 of Title 31, Money and Finance, and Tables.

The Government Performance and Results Act of 1993, referred to in subsecs. (c)(2)(B) and (h), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

PRIOR PROVISIONS

A prior section 1018, Pub. L. 89–329, title I, §141, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1514, set out purpose of former part D of this subchapter as being the development of student literacy corps programs, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1018, Pub. L. 89–329, title I, §118, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1382, defined terms used in former part D of this subchapter, prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (c)(3). Pub. L. 111–39, §101(b)(5)(A), substituted "under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42" for "under this subchapter" in introductory provisions.

Subsec. (d)(3). Pub. L. 111–39, §101(b)(5)(B), substituted "authorizing committees" for "appropriate committees of Congress" in concluding provisions.

2008—Subsec. (a)(1). Pub. L. 110–315, §117(1)(A), substituted "administrative and oversight" for "operational".

Subsec. (a)(2)(D). Pub. L. 110–315, §117(1)(B), substituted "and administration" for "of the operational functions".

Subsec. (b)(1)(A). Pub. L. 110–315, §117(2)(A)(i), substituted "the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42" for "the information systems administered by the PBO, and other functions performed by the PBO".

Subsec. (b)(1)(C). Pub. L. 110–315, §117(2)(A)(ii), added subpar. (C) and struck out former subpar. (C) which read as follows: "assist the Chief Operating Officer in identifying goals for the administration and modernization of the delivery system for student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42."

Subsec. (b)(2). Pub. L. 110–315, §117(2)(B)(i), in introductory provisions, substituted "the administration of Federal" for "administration of the information and financial systems that support" and "subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42" for "this subchapter".

Subsec. (b)(2)(A). Pub. L. 110–315, §117(2)(B)(ii)(I), substituted "for the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42" for "of the delivery system for Federal student assistance" in introductory provisions.

Subsec. (b)(2)(A)(i), (ii). Pub. L. 110–315, §117(2)(B)(ii)(II), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

"(i) the collection, processing and transmission of applicant data to students, institutions and authorized third parties, as provided for in section 1090 of this title;

"(ii) design and technical specifications for software development and systems supporting the delivery of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;".

Subsec. (b)(2)(A)(iii). Pub. L. 110–315, §117(2)(B)(ii)(III), substituted "administration" for "delivery".

Subsec. (b)(2)(A)(iv). Pub. L. 110–315, §117(2)(B)(ii)(IV), inserted "the Federal" after "supporting", substituted "authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42" for "under this subchapter", and struck out "and" after the semicolon.

Subsec. (b)(2)(A)(v). Pub. L. 110–315, §117(2)(B)(ii)(V), substituted "the administration of the Federal student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42; and" for "systems that support those programs."

Subsec. (b)(2)(A)(vi). Pub. L. 110–315, §117(2)(B)(ii)(VI), added cl. (vi).

Subsec. (b)(2)(B). Pub. L. 110–315, §117(2)(B)(iii), substituted "activities and functions" for "operations and services".

Subsec. (c). Pub. L. 110–315, §117(3)(A), substituted "Performance plan, report, and briefing" for "Performance plan and report" in heading.

Subsec. (c)(1)(C)(i). Pub. L. 110–315, §117(3)(B)(i), substituted "under subchapter IV of this chapter and

part C of subchapter I of chapter 34 of title 42" for "this subchapter".

Subsec. (c)(1)(C)(iii). Pub. L. 110–315, §117(3)(B)(ii), struck out "information and delivery" after "integrating the".

Subsec. (c)(1)(C)(iv). Pub. L. 110–315, §117(3)(B)(i), (iii), substituted "Developing" for "Developing an", "systems" for "delivery and information system", and "under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42" for "this subchapter".

Subsec. (c)(2)(A). Pub. L. 110–315, §117(3)(C)(i), inserted "the" after "PBO and".

Subsec. (c)(2)(B). Pub. L. 110–315, §117(3)(C)(ii), substituted "Officers" for "Officer".

Subsec. (c)(3). Pub. L. 110–315, §117(3)(D), inserted "students," after "consult with" in introductory provisions.

Subsec. (c)(4). Pub. L. 110–315, §117(3)(E), added par. (4).

Subsec. (d)(1). Pub. L. 110–315, §117(4)(A), struck out after first sentence "The Secretary shall appoint the Chief Operating Officer within 6 months after October 7, 1998."

Subsec. (d)(4)(B). Pub. L. 110–315, §103(b)(2), substituted "authorizing committees" for "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate".

Subsec. (d)(5)(B). Pub. L. 110–315, §117(4)(B)(i), substituted "paragraph (4)" for "paragraph (2)".

Subsec. (d)(5)(C). Pub. L. 110–315, §117(4)(B)(ii), struck out "this" before "subparagraph (B)".

Subsec. (f)(2). Pub. L. 110–315, §117(5)(A), substituted "to students, borrowers," for "to borrowers".

Subsec. (f)(3)(A). Pub. L. 110–315, §117(5)(B), substituted "paragraph (1);" for "paragraph (1)(A);".

Subsec. (g)(3). Pub. L. 110–315, §117(6), struck out "not more than 25" before "technical and professional employees".

Subsec. (h). Pub. L. 110–315, §117(7), substituted "effectiveness" for "organizational effectiveness".

Subsecs. (i), (j). Pub. L. 110–315, §117(8)–(10), redesignated subsec. (j) as (i), struck out ", including transition costs" before period at end, and struck out former subsec. (i). Text of former subsec. (i) read as follows: "The Secretary and the Chief Operating Officer, not later than 180 days after October 7, 1998, shall report to Congress on the proposed budget and sources of funding for the operation of the PBO."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

STUDY OF MARKET MECHANISMS IN FEDERAL STUDENT LOAN PROGRAMS

Pub. L. 105–244, title VIII, §801, Oct. 7, 1998, 112 Stat. 1803, which directed the Comptroller General and Secretary of Education, in consultation with a study group, to design and conduct a study to identify and evaluate means of establishing a market mechanism for the delivery of certain student loans made pursuant to title IV of the Higher Education Act (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.) and to transmit a final report to congressional committees not later than May 15, 2001, was repealed by Pub. L. 110–315, title IX, §931(1), Aug. 14, 2008, 122 Stat. 3456.

[1] *So in original.*

§1018a. Procurement flexibility

(a) Procurement authority

Subject to the authority of the Secretary, the Chief Operating Officer of a PBO may exercise the authority of the Secretary to procure property and services in the performance of functions managed by the PBO. For the purposes of this section, the term "PBO" includes the Chief Operating Officer of the PBO and any employee of the PBO exercising procurement authority under the preceding sentence.

(b) In general

Except as provided in this section, the PBO shall abide by all applicable Federal procurement laws and regulations when procuring property and services. The PBO shall—

(1) enter into contracts to carry out the functions set forth in section 1018(b)(2) of this title;

(2) obtain the services of experts and consultants without regard to section 3109 of title 5 and

set pay in accordance with such section; and

(3) through the Chief Operating Officer—

(A) to the maximum extent practicable, utilize procurement systems that streamline operations, improve internal controls, and enhance management; and

(B) assess the efficiency of such systems and assess such systems' ability to meet PBO requirements.

(c) Service contracts

(1) Performance-based servicing contracts

The Chief Operating Officer shall, to the extent practicable, maximize the use of performance-based servicing contracts, consistent with guidelines for such contracts published by the Office of Federal Procurement Policy, to achieve cost savings and improve service.

(2) Fee for service arrangements

The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the functions set forth in section 1018(b)(2) of this title from any entity that has the capability and capacity to meet the requirements set by the PBO. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides services that meet the requirements of the PBO, as determined by the Chief Operating Officer.

(d) Two-phase source-selection procedures

(1) In general

The PBO may use a two-phase process for selecting a source for a procurement of property or services.

(2) First phase

The procedures for the first phase of the process for a procurement are as follows:

(A) Publication of notice

The contracting officer for the procurement shall publish a notice of the procurement in accordance with section 1708 of title 41 and subsections (e), (f), and (g) of section 637 of title 15, except that the notice shall include only the following:

(i) A general description of the scope or purpose of the procurement that provides sufficient information on the scope or purpose for sources to make informed business decisions regarding whether to participate in the procurement.

(ii) A description of the basis on which potential sources are to be selected to submit offers in the second phase.

(iii) A description of the information that is to be required under subparagraph (B).

(iv) Any additional information that the contracting officer determines appropriate.

(B) Information submitted by offerors

Each offeror for the procurement shall submit basic information, such as information on the offeror's qualifications, the proposed conceptual approach, costs likely to be associated with the proposed conceptual approach, and past performance of the offeror, together with any additional information that is requested by the contracting officer.

(C) Selection for second phase

The contracting officer shall select the offerors that are to be eligible to participate in the second phase of the process. The contracting officer shall limit the number of the selected offerors to the number of sources that the contracting officer determines is appropriate and in the best interests of the Federal Government.

(3) Second phase

(A) In general

The contracting officer shall conduct the second phase of the source selection process in accordance with sections 3306(a) to (e) and 3308, chapter 37, and section 4702 of title 41.

(B) Eligible participants

Only the sources selected in the first phase of the process shall be eligible to participate in the second phase.

(C) Single or multiple procurements

The second phase may include a single procurement or multiple procurements within the scope, or for the purpose, described in the notice pursuant to paragraph (2)(A).

(4) Procedures considered competitive

The procedures used for selecting a source for a procurement under this subsection shall be considered competitive procedures for all purposes.

(e) Use of simplified procedures for commercial items

Whenever the PBO anticipates that commercial items will be offered for a procurement, the PBO may use (consistent with the special rules for commercial items) the special simplified procedures for the procurement without regard to—

(1) any dollar limitation otherwise applicable to the use of those procedures; and

(2) the expiration of the authority to use special simplified procedures under section 4202(e) of the Clinger-Cohen Act of 1996 (110 Stat. 654; 10 U.S.C. 2304 note).

(f) Flexible wait periods and deadlines for submission of offers of noncommercial items

(1) Authority

In carrying out a procurement, the PBO may—

(A) apply a shorter waiting period for the issuance of a solicitation after the publication of a notice under section 1708 of title 41 than is required under subsection (a)(3)(A) of such section; and

(B) notwithstanding subsection (a)(3) of such section, establish any deadline for the submission of bids or proposals that affords potential offerors a reasonable opportunity to respond to the solicitation.

(2) Inapplicability to commercial items

Paragraph (1) does not apply to a procurement of a commercial item.

(3) Consistency with applicable international agreements

If an international agreement is applicable to the procurement, any exercise of authority under paragraph (1) shall be consistent with the international agreement.

(g) Modular contracting

(1) In general

The PBO may satisfy the requirements of the PBO for a system incrementally by carrying out successive procurements of modules of the system. In doing so, the PBO may use procedures authorized under this subsection to procure any such module after the first module.

(2) Utility requirement

A module may not be procured for a system under this subsection unless the module is useful independently of the other modules or useful in combination with another module previously procured for the system.

(3) Conditions for use of authority

The PBO may use procedures authorized under paragraph (4) for the procurement of an additional module for a system if—

(A) competitive procedures were used for awarding the contract for the procurement of the first module for the system; and

(B) the solicitation for the first module included—

(i) a general description of the entire system that was sufficient to provide potential offerors with reasonable notice of the general scope of future modules;

(ii) other information sufficient for potential offerors to make informed business judgments regarding whether to submit offers for the contract for the first module; and

(iii) a statement that procedures authorized under this subsection could be used for awarding subsequent contracts for the procurement of additional modules for the system.

(4) Procedures

If the procurement of the first module for a system meets the requirements set forth in paragraph (3), the PBO may award a contract for the procurement of an additional module for the system using any of the following procedures:

(A) Single-source basis

Award of the contract on a single-source basis to a contractor who was awarded a contract for a module previously procured for the system under competitive procedures or procedures authorized under subparagraph (B).

(B) Adequate competition

Award of the contract on the basis of offers made by—

(i) a contractor who was awarded a contract for a module previously procured for the system after having been selected for award of the contract under this subparagraph or other competitive procedures; and

(ii) at least one other offeror that submitted an offer for a module previously procured for the system and is expected, on the basis of the offer for the previously procured module, to submit a competitive offer for the additional module.

(C) Other

Award of the contract under any other procedure authorized by law.

(5) Notice requirement

(A) Publication

Not less than 30 days before issuing a solicitation for offers for a contract for a module for a system under procedures authorized under subparagraph (A) or (B) of paragraph (4), the PBO shall publish in the Commerce Business Daily a notice of the intent to use such procedures to enter into the contract.

(B) Exception

Publication of a notice is not required under this paragraph with respect to a use of procedures authorized under paragraph (4) if the contractor referred to in that subparagraph (who is to be solicited to submit an offer) has previously provided a module for the system under a contract that contained cost, schedule, and performance goals and the contractor met those goals.

(C) Content of notice

A notice published under subparagraph (A) with respect to a use of procedures described in paragraph (4) shall contain the information required under section 1708(c) of title 41, other than paragraph (4) of such section, and shall invite the submission of any assertion that the use of the procedures for the procurement involved is not in the best interest of the Federal Government together with information supporting the assertion.

(6) Documentation

The basis for an award of a contract under this subsection shall be documented. However, a justification pursuant to section 3304(e) of title 41 or section 637(h) of title 15 is not required.

(7) Simplified source-selection procedures

The PBO may award a contract under any other simplified procedures prescribed by the PBO

for the selection of sources for the procurement of modules for a system, after the first module, that are not to be procured under a contract awarded on a single-source basis.

(h) Use of simplified procedures for small business set-asides for services other than commercial items

(1) Authority

The PBO may use special simplified procedures for a procurement of services that are not commercial items if—

(A) the procurement is in an amount not greater than $1,000,000;

(B) the procurement is conducted as a small business set-aside pursuant to section 644(a) of title 15; and

(C) the price charged for supplies associated with the services procured are items of supply expected to be less than 20 percent of the total contract price.

(2) Inapplicability to certain procurements

The authority set forth in paragraph (1) may not be used for—

(A) an award of a contract on a single-source basis; or

(B) a contract for construction.

(i) Guidance for use of authority

(1) Issuance by PBO

The Chief Operating Officer of the PBO, in consultation with the Administrator for Federal Procurement Policy, shall issue guidance for the use by PBO personnel of the authority provided in this section.

(2) Guidance from OFPP

As part of the consultation required under paragraph (1), the Administrator for Federal Procurement Policy shall provide the PBO with guidance that is designed to ensure, to the maximum extent practicable, that the authority under this section is exercised by the PBO in a manner that is consistent with the exercise of the authority by the heads of the other performance-based organizations.

(3) Compliance with OFPP guidance

The head of the PBO shall ensure that the procurements of the PBO under this section are carried out in a manner that is consistent with the guidance provided for the PBO under paragraph (2).

(j) Limitation on multiagency contracting

No department or agency of the Federal Government may purchase property or services under contracts entered into or administered by a PBO under this section unless the purchase is approved in advance by the senior procurement official of that department or agency who is responsible for purchasing by the department or agency.

(k) Laws not affected

Nothing in this section shall be construed to waive laws for the enforcement of civil rights or for the establishment and enforcement of labor standards that are applicable to contracts of the Federal Government.

(l) Definitions

In this section:

(1) Commercial item

The term "commercial item" has the meaning given the term in section 103 of title 41.

(2) Competitive procedures

The term "competitive procedures" has the meaning given the term in section 152 of title 41.

(3) Single-source basis

The term "single-source basis", with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only such source (although such source is not the only source in the marketplace capable of meeting the need) because such source is the most advantageous source for purposes of the award.

(4) Special rules for commercial items

The term "special rules for commercial items" means the regulations set forth in the Federal Acquisition Regulation pursuant to sections 1901 and 3305(a) of title 41.

(5) Special simplified procedures

The term "special simplified procedures" means the procedures applicable to purchases of property and services for amounts not greater than the simplified acquisition threshold that are set forth in the Federal Acquisition Regulation pursuant to sections 1901(a)(1) and 3305(a)(1) of title 41.

(Pub. L. 89–329, title I, §142, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1611; amended Pub. L. 110–315, title I, §118, Aug. 14, 2008, 122 Stat. 3116.)

REFERENCES IN TEXT

Section 4202(e) of the Clinger-Cohen Act of 1996, referred to in subsec. (e)(2), is section 4202(e) of Pub. L. 104–106, which is set out as a note under section 2304 of Title 10, Armed Forces.

CODIFICATION

In subsec. (d)(2)(A), "section 1708 of title 41" substituted for "section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (d)(3)(A), "sections 3306(a) to (e) and 3308, chapter 37, and section 4702 of title 41" substituted for "sections 303A and 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a and 253b)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (f)(1)(A), "section 1708 of title 41" substituted for "section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (g)(5)(C), "section 1708(c) of title 41" substituted for "section 18(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(b))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (g)(6), "section 3304(e) of title 41" substituted for "section 303(f) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (l)(1), "section 103 of title 41" substituted for "section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (l)(2), "section 152 of title 41" substituted for "section 309(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(b))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (l)(4), "sections 1901 and 3305(a) of title 41" substituted for "section 303(g)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)) and section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (l)(5), "sections 1901(a)(1) and 3305(a)(1) of title 41" substituted for "section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and section 31(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(1))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 1018a, Pub. L. 89–329, title I, §142, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1515, related to grants for literacy corps programs, prior to the general amendment of this subchapter by Pub. L. 102–325.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–315, §118(1)(A), struck out "for information systems supporting the programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42" after "enter into contracts" and "and" after semicolon.

Subsec. (b)(2), (3). Pub. L. 110–315, §118(1)(B), (C), substituted "; and" for period at end of par. (2) and added par. (3).

Subsec. (c)(2). Pub. L. 110–315, §118(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 delivery system from any entity that has the capability and capacity to meet the requirements for the system. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides an information system or service that meets the requirements of the PBO, as determined by the Chief Operating Officer."

Subsec. (d)(2)(B). Pub. L. 110–315, §118(3), struck out "on Federal Government contracts" after "performance of the offeror".

Subsec. (g)(4)(A). Pub. L. 110–315, §118(4)(A), substituted "Single-source basis" for "Sole source" in heading and "single-source" for "sole-source" in text.

Subsec. (g)(7). Pub. L. 110–315, §118(4)(B), substituted "single-source" for "sole-source".

Subsec. (h)(2)(A). Pub. L. 110–315, §118(5), substituted "single-source" for "sole-source".

Subsec. (l)(3). Pub. L. 110–315, §118(6), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "The term 'sole-source basis', with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only that source."

§1018b. Administrative simplification of student aid delivery

(a) In general

In order to improve the efficiency and effectiveness of the student aid delivery system, the Secretary and the Chief Operating Officer shall encourage and participate in the establishment of voluntary consensus standards and requirements for the electronic transmission of information necessary for the administration of programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Participation in standard setting organizations

(1) The Chief Operating Officer shall participate in the activities of standard setting organizations in carrying out the provisions of this section.

(2) The Chief Operating Officer shall encourage higher education groups seeking to develop common forms, standards, and procedures in support of the delivery of Federal student financial assistance to conduct these activities within a standard setting organization.

(3) The Chief Operating Officer may pay necessary dues and fees associated with participating in standard setting organizations pursuant to this subsection.

(c) Adoption of voluntary consensus standards

Except with respect to the common financial reporting form under section 1090(a) of this title, the Secretary shall consider adopting voluntary consensus standards agreed to by the organization described in subsection (b) of this section for transactions required under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, and common data elements for such transactions, to enable information to be exchanged electronically between systems administered by the Department and among participants in the Federal student aid delivery system.

(d) Use of clearinghouses

Nothing in this section shall restrict the ability of participating institutions and lenders from using a clearinghouse or servicer to comply with the standards for the exchange of information established under this section.

(e) Data security

Any entity that maintains or transmits information under a transaction covered by this section shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

(1) to ensure the integrity and confidentiality of the information; and

(2) to protect against any reasonably anticipated security threats, or unauthorized uses or disclosures of the information.

(f) Definitions

(1) Clearinghouse

The term "clearinghouse" means a public or private entity that processes or facilitates the processing of nonstandard data elements into data elements conforming to standards adopted under this section.

(2) Standard setting organization

The term "standard setting organization" means an organization that—

(A) is accredited by the American National Standards Institute;

(B) develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this section; and

(C) is open to the participation of the various entities engaged in the delivery of Federal student financial assistance.

(3) Voluntary consensus standard

The term "voluntary consensus standard" means a standard developed or used by a standard setting organization described in paragraph (2).

(Pub. L. 89–329, title I, §143, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1615.)

PRIOR PROVISIONS

Prior sections 1018b to 1018f were omitted in the general amendment of this subchapter by Pub. L. 102–325.

Section 1018b, Pub. L. 89–329, title I, §143, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1515, related to use of funds.

Section 1018c, Pub. L. 89–329, title I, §144, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1515; Pub. L. 101–610, title II, §221(a), (b), Nov. 16, 1990, 104 Stat. 3180, related to applications.

Section 1018d, Pub. L. 89–329, title I, §145, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1516, related to technical assistance and coordination contracts.

Section 1018e, Pub. L. 89–329, title I, §146, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1516; Pub. L. 101–305, §5, May 30, 1990, 104 Stat. 258; Pub. L. 101–610, title II, §221(c), Nov. 16, 1990, 104 Stat. 3180, related to authorization of appropriations.

Section 1018f, Pub. L. 89–329, title I, §147, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1516, defined "public community agency", "institution of higher education" and "Secretary".

PART E—LENDER AND INSTITUTION REQUIREMENTS RELATING TO EDUCATION LOANS

§1019. Definitions

In this part:

(1) Agent

The term "agent" means an officer or employee of a covered institution or an institution-affiliated organization.

(2) Covered institution

The term "covered institution" means any institution of higher education, as such term is defined in section 1002 of this title, that receives any Federal funding or assistance.

(3) Education loan

The term "education loan" (except when used as part of the term "private education loan") means—

(A) any loan made, insured, or guaranteed under part B of subchapter IV;

(B) any loan made under part C of subchapter IV; or

(C) a private education loan.

(4) Eligible lender

The term "eligible lender" has the meaning given such term in section 1085(d) of this title.

(5) Institution-affiliated organization

The term "institution-affiliated organization"—

(A) means any organization that—

(i) is directly or indirectly related to a covered institution; and

(ii) is engaged in the practice of recommending, promoting, or endorsing education loans for students attending such covered institution or the families of such students;

(B) may include an alumni organization, athletic organization, foundation, or social, academic, or professional organization, of a covered institution; and

(C) notwithstanding subparagraphs (A) and (B), does not include any lender with respect to any education loan secured, made, or extended by such lender.

(6) Lender

The term "lender" (except when used as part of the terms "eligible lender" and "private educational lender")—

(A) means—

(i) in the case of a loan made, insured, or guaranteed under part B of subchapter IV, an eligible lender;

(ii) in the case of any loan issued or provided to a student under part C of subchapter IV, the Secretary; and

(iii) in the case of a private education loan, a private educational lender as defined in section 1650 of title 15; and

(B) includes any other person engaged in the business of securing, making, or extending education loans on behalf of the lender.

(7) Officer

The term "officer" includes a director or trustee of a covered institution or institution-affiliated organization, if such individual is treated as an employee of such covered institution or institution-affiliated organization, respectively.

(8) Preferred lender arrangement

The term "preferred lender arrangement"—

(A) means an arrangement or agreement between a lender and a covered institution or an institution-affiliated organization of such covered institution—

(i) under which a lender provides or otherwise issues education loans to the students attending such covered institution or the families of such students; and

(ii) that relates to such covered institution or such institution-affiliated organization recommending, promoting, or endorsing the education loan products of the lender; and

(B) does not include—

(i) arrangements or agreements with respect to loans under part C of subchapter IV; or

(ii) arrangements or agreements with respect to loans that originate through the auction

pilot program under section 1099d(b) of this title.

(9) Private education loan

The term "private education loan" has the meaning given the term in section 1650 of title 15.

(Pub. L. 89–329, title I, §151, as added Pub. L. 110–315, title I, §120, Aug. 14, 2008, 122 Stat. 3117.)

PRIOR PROVISIONS

A prior section 1019, Pub. L. 89–329, title I, §119, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1383, authorized appropriations for education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

§1019a. Responsibilities of covered institutions, institution-affiliated organizations, and lenders

(a) Responsibilities of covered institutions and institution-affiliated organizations

(1) Disclosures by covered institutions and institution-affiliated organizations

(A) Preferred lender arrangement disclosures

In addition to the disclosures required by subsections (a)(27) and (h) of section 1094 of this title (if applicable), a covered institution, or an institution-affiliated organization of such covered institution, that participates in a preferred lender arrangement shall disclose—

(i) on such covered institution's or institution-affiliated organization's website and in all informational materials described in subparagraph (C) that describe or discuss education loans—

(I) the maximum amount of Federal grant and loan aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 available to students, in an easy to understand format;

(II) the information required to be disclosed pursuant to section 1019b(a)(2)(A)(i) of this title, for each type of loan described in section 1019(3)(A) of this title that is offered pursuant to a preferred lender arrangement of the institution or organization to students of the institution or the families of such students; and

(III) a statement that such institution is required to process the documents required to obtain a loan under part B of subchapter IV from any eligible lender the student selects; and

(ii) on such covered institution's or institution-affiliated organization's website and in all informational materials described in subparagraph (C) that describe or discuss private education loans—

(I) in the case of a covered institution, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(11) of title 15, for each type of private education loan offered pursuant to a preferred lender arrangement of the institution to students of the institution or the families of such students; and

(II) in the case of an institution-affiliated organization of a covered institution, the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(1) of title 15, for each type of private education loan offered pursuant to a preferred lender arrangement of the organization to students of such institution or the families of such students.

(B) Private education loan disclosures

A covered institution, or an institution-affiliated organization of such covered institution, that provides information regarding a private education loan from a lender to a prospective borrower shall—

(i) provide the prospective borrower with the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(1) of title 15 for such loan;

(ii) inform the prospective borrower that—

(I) the prospective borrower may qualify for loans or other assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42; and

(II) the terms and conditions of loans made, insured, or guaranteed under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 may be more favorable than the provisions of private education loans; and

(iii) ensure that information regarding private education loans is presented in such a manner as to be distinct from information regarding loans that are made, insured, or guaranteed under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(C) Informational materials

The informational materials described in this subparagraph are publications, mailings, or electronic messages or materials that—

(i) are distributed to prospective or current students of a covered institution and families of such students; and

(ii) describe or discuss the financial aid opportunities available to students at an institution of higher education.

(2) Use of institution name

A covered institution, or an institution-affiliated organization of such covered institution, that enters into a preferred lender arrangement with a lender regarding private education loans shall not agree to the lender's use of the name, emblem, mascot, or logo of such institution or organization, or other words, pictures, or symbols readily identified with such institution or organization, in the marketing of private education loans to students attending such institution in any way that implies that the loan is offered or made by such institution or organization instead of the lender.

(3) Use of lender name

A covered institution, or an institution-affiliated organization of such covered institution, that enters into a preferred lender arrangement with a lender regarding private education loans shall ensure that the name of the lender is displayed in all information and documentation related to such loans.

(b) Lender responsibilities

(1) Disclosures by lenders

(A) Disclosures to borrowers

(i) Federal education loans

For each education loan that is made, insured, or guaranteed under part B or C of subchapter IV (other than a loan made under section 1078–3 of this title or a Federal Direct Consolidation Loan), at or prior to the time the lender disburses such loan, the lender shall provide the prospective borrower or borrower, in writing (including through electronic means), with the disclosures described in subsections (a) and (c) of section 1083 of this title.

(ii) Private education loans

For each of a lender's private education loans, the lender shall comply with the disclosure requirements under section 1638(e) of title 15.

(B) Disclosures to the Secretary

(i) In general

Each lender of a loan made, insured, or guaranteed under part B of subchapter IV shall, on

an annual basis, report to the Secretary—

(I) any reasonable expenses paid or provided under section 1085(d)(5)(D) of this title or paragraph (3)(B) or (7) of section 1094(e) of this title to any agent of a covered institution who—

(aa) is employed in the financial aid office of a covered institution; or

(bb) otherwise has responsibilities with respect to education loans or other financial aid of the institution; and

(II) any similar expenses paid or provided to any agent of an institution-affiliated organization who is involved in the practice of recommending, promoting, or endorsing education loans.

(ii) Contents of reports

Each report described in clause (i) shall include—

(I) the amount for each specific instance in which the lender provided such expenses;

(II) the name of any agent described in clause (i) to whom the expenses were paid or provided;

(III) the dates of the activity for which the expenses were paid or provided; and

(IV) a brief description of the activity for which the expenses were paid or provided.

(iii) Report to Congress

The Secretary shall summarize the information received from the lenders under this subparagraph in a report and transmit such report annually to the authorizing committees.

(2) Certification by lenders

Not later than 18 months after August 14, 2008—

(A) in addition to any other disclosure required under Federal law, each lender of a loan made, insured, or guaranteed under part B of subchapter IV that participates in one or more preferred lender arrangements shall annually certify the lender's compliance with the requirements of this chapter and part C of subchapter I of chapter 34 of title 42; and

(B) if an audit of a lender is required pursuant to section 1078(b)(1)(U)(iii) of this title, the lender's compliance with the requirements under this section shall be reported on and attested to annually by the auditor of such lender.

(Pub. L. 89–329, title I, §152, as added Pub. L. 110–315, title I, §120, Aug. 14, 2008, 122 Stat. 3119.)

§1019b. Loan information to be disclosed and model disclosure form for covered institutions, institution-affiliated organizations, and lenders participating in preferred lender arrangements

(a) Duties of the Secretary

(1) Determination of minimum disclosures

(A) In general

Not later than 18 months after August 14, 2008, the Secretary, in coordination with the Board of Governors of the Federal Reserve System, shall determine the minimum information that lenders, covered institutions, and institution-affiliated organizations of such covered institutions participating in preferred lender arrangements shall make available regarding education loans described in section 1019(3)(A) of this title that are offered to students and the families of such students.

(B) Consultation and content of minimum disclosures

In carrying out subparagraph (A), the Secretary shall—

(i) consult with students, the families of such students, representatives of covered institutions (including financial aid administrators, admission officers, and business officers), representatives of institution-affiliated organizations, secondary school guidance counselors, lenders, loan servicers, and guaranty agencies;

(ii) include, in the minimum information under subparagraph (A) that is required to be made available, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(1) of title 15, modified as necessary to apply to such loans; and

(iii) consider the merits of requiring each covered institution, and each institution-affiliated organization of such covered institution, with a preferred lender arrangement to provide to prospective borrowers and the families of such borrowers the following information for each type of education loan offered pursuant to such preferred lender arrangement:

(I) The interest rate and terms and conditions of the loan for the next award year, including loan forgiveness and deferment.

(II) Information on any charges, such as origination and Federal default fees, that are payable on the loan, and whether those charges will be—

(aa) collected by the lender at or prior to the disbursal of the loan, including whether the charges will be deducted from the proceeds of the loan or paid separately by the borrower; or

(bb) paid in whole or in part by the lender.

(III) The annual and aggregate maximum amounts that may be borrowed.

(IV) The average amount borrowed from the lender by students who graduated from such institution in the preceding year with certificates, undergraduate degrees, graduate degrees, and professional degrees, as applicable, and who obtained loans of such type from the lender for the preceding year.

(V) The amount the borrower may pay in interest, based on a standard repayment plan and the average amount borrowed from the lender by students who graduated from such institution in the preceding year and who obtained loans of such type from the lender for the preceding year, for—

(aa) borrowers of loans made under section 1078 of this title;

(bb) borrowers of loans made under section 1078–2 or 1078–8 of this title, who pay the interest while in school; and

(cc) borrowers of loans made under section 1078–2 or 1078–8 of this title, who do not pay the interest while in school.

(VI) The consequences for the borrower of defaulting on a loan, including limitations on the discharge of an education loan in bankruptcy.

(VII) Contact information for the lender.

(VIII) Other information suggested by the persons and entities with whom the Secretary has consulted under clause (i).

(2) Required disclosures

After making the determinations under paragraph (1), the Secretary, in coordination with the Board of Governors of the Federal Reserve System and after consultation with the public, shall—

(A)(i) provide that the information determined under paragraph (1) shall be disclosed by covered institutions, and institution-affiliated organizations of such covered institutions, with preferred lender arrangements to prospective borrowers and the families of such borrowers regarding the education loans described in section 1019(3)(A) of this title that are offered pursuant to such preferred lender arrangements; and

(ii) make clear that such covered institutions and institution-affiliated organizations may provide the required information on a form designed by the institution or organization instead of the model disclosure form described in subparagraph (B);

(B) develop a model disclosure form that may be used by covered institutions,

institution-affiliated organizations, and preferred lenders that includes all of the information required under subparagraph (A)(i) in a format that—

(i) is easily usable by students, families, institutions, institution-affiliated organizations, lenders, loan servicers, and guaranty agencies; and

(ii) is similar in format to the form developed by the Board of Governors of the Federal Reserve System under paragraphs (1) and (5)(A) of section 1638(e) [1] of title 15, in order to permit students and the families of students to easily compare private education loans and education loans described in section 1019(3)(A) of this title; and

(C) update such model disclosure form periodically, as necessary.

(b) Duties of lenders

Each lender that has a preferred lender arrangement with a covered institution, or an institution-affiliated organization of such covered institution, with respect to education loans described in section 1019(3)(A) of this title shall annually, by a date determined by the Secretary, provide to such covered institution or such institution-affiliated organization, and to the Secretary, the information the Secretary requires pursuant to subsection (a)(2)(A)(i) for each type of education loan described in section 1019(3)(A) of this title that the lender plans to offer pursuant to such preferred lender arrangement to students attending such covered institution, or to the families of such students, for the next award year.

(c) Duties of covered institutions and institution-affiliated organizations

(1) Providing information to students and families

(A) In general

Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement shall provide the following information to students attending such institution, or the families of such students, as applicable:

(i) The information the Secretary requires pursuant to subsection (a)(2)(A)(i), for each type of education loan described in section 1019(3)(A) of this title offered pursuant to a preferred lender arrangement to students of such institution or the families of such students.

(ii)(I) In the case of a covered institution, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(11) of title 15 to the covered institution, for each type of private education loan offered pursuant to such preferred lender arrangement to students of such institution or the families of such students.

(II) In the case of an institution-affiliated organization, the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(1) of title 15, for each type of private education loan offered pursuant to such preferred lender arrangement to students of the institution with which such organization is affiliated or the families of such students.

(B) Timely provision of information

The information described in subparagraph (A) shall be provided in a manner that allows for the students or the families to take such information into account before selecting a lender or applying for an education loan.

(2) Annual report

Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement, shall—

(A) prepare and submit to the Secretary an annual report, by a date determined by the Secretary, that includes, for each lender that has a preferred lender arrangement with such covered institution or organization—

(i) the information described in clauses (i) and (ii) of paragraph (1)(A); and

(ii) a detailed explanation of why such covered institution or institution-affiliated organization entered into a preferred lender arrangement with the lender, including why the

terms, conditions, and provisions of each type of education loan provided pursuant to the preferred lender arrangement are beneficial for students attending such institution, or the families of such students, as applicable; and

(B) ensure that the report required under subparagraph (A) is made available to the public and provided to students attending or planning to attend such covered institution and the families of such students.

(3) Code of conduct

(A) In general

Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement, shall comply with the code of conduct requirements of subparagraphs (A) through (C) of section 1094(a)(25) of this title.

(B) Applicable code of conduct

For purposes of subparagraph (A), an institution-affiliated organization of a covered institution shall—

(i) comply with the code of conduct developed and published by such covered institution under subparagraphs (A) and (B) of section 1094(a)(25) of this title;

(ii) if such institution-affiliated organization has a website, publish such code of conduct prominently on the website; and

(iii) administer and enforce such code of conduct by, at a minimum, requiring that all of such organization's agents with responsibilities with respect to education loans be annually informed of the provisions of such code of conduct.

(Pub. L. 89–329, title I, §153, as added Pub. L. 110–315, title I, §120, Aug. 14, 2008, 122 Stat. 3122; amended Pub. L. 111–39, title I, §101(b)(6), July 1, 2009, 123 Stat. 1935.)

REFERENCES IN TEXT

Section 1638(e) of title 15, referred to in subsec. (a)(2)(B)(ii), was in the original "section 128(e)", and was translated as meaning section 128(e) of Pub. L. 90–321, which is classified to section 1638(e) of title 15, to reflect the probable intent of Congress.

AMENDMENTS

2009—Subsec. (a)(1)(B)(iii)(V). Pub. L. 111–39 substituted "borrowers of loans made under" for "borrowers who take out loans under" wherever appearing.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

[1] *See References in Text note below.*

§1019c. Loan information to be disclosed and model disclosure form for institutions participating in the William D. Ford Federal Direct Loan Program

(a) Provision of disclosures to institutions by the Secretary

Not later than 180 days after the development of the model disclosure form under section 1019b(a)(2)(B) of this title, the Secretary shall provide each institution of higher education participating in the William D. Ford Direct Loan Program under part C of subchapter IV with a completed model disclosure form including the same information for Federal Direct Stafford Loans,

Federal Direct Unsubsidized Stafford Loans, and Federal Direct PLUS loans made to, or on behalf of, students attending each such institution as is required on such form for loans described in section 1019(3)(A) of this title.

(b) Duties of institutions

(1) In general

Each institution of higher education participating in the William D. Ford Direct Loan Program under part C of subchapter IV shall—

(A) make the information the Secretary provides to the institution under subsection (a) available to students attending or planning to attend the institution, or the families of such students, as applicable; and

(B) if the institution provides information regarding a private education loan to a prospective borrower, concurrently provide such borrower with the information the Secretary provides to the institution under subsection (a).

(2) Choice of forms

In providing the information required under paragraph (1), an institution of higher education may use a comparable form designed by the institution instead of the model disclosure form developed under section 1019b(a)(2)(B) of this title.

(Pub. L. 89–329, title I, §154, as added Pub. L. 110–315, title I, §120, Aug. 14, 2008, 122 Stat. 3125.)

§1019d. Self-certification form for private education loans

(a) In general

The Secretary, in consultation with the Board of Governors of the Federal Reserve System, shall develop the self-certification form for private education loans that shall be used to satisfy the requirements of section 1638(e)(3) of title 15. Such form shall—

(1) be developed in a standardized format;

(2) be made available to the applicant by the relevant institution of higher education, in written or electronic form, upon request of the applicant;

(3) contain only disclosures that—

(A) the applicant may qualify for Federal student financial assistance through a program under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or State or institutional student financial assistance, in place of, or in addition to, a private education loan;

(B) the applicant is encouraged to discuss the availability of Federal, State, and institutional student financial assistance with financial aid officials at the applicant's institution of higher education;

(C) a private education loan may affect the applicant's eligibility for free or low-cost Federal, State or institutional student financial assistance; and

(D) the information that the applicant is required to provide on the form is available from officials at the financial aid office of the institution of higher education;

(4) include a place to provide information on—

(A) the applicant's cost of attendance at the institution of higher education, as determined by the institution under part E of subchapter IV;

(B) the applicant's estimated financial assistance, including amounts of financial assistance used to replace the expected family contribution, as determined by the institution, in accordance with subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, for students who have completed the Free Application for Federal Student Aid; and

(C) the difference between the amounts under subparagraphs (A) and (B), as applicable; and

(5) include a place for the applicant's signature, in written or electronic form.

(b) Limit on liability

Nothing in this section shall be construed to create a private right of action against an institution of higher education with respect to the form developed under subsection (a).

(Pub. L. 89–329, title I, §155, as added Pub. L. 110–315, title X, §1021(b), Aug. 14, 2008, 122 Stat. 3487; amended Pub. L. 111–39, title I, §101(b)(7), July 1, 2009, 123 Stat. 1935.)

AMENDMENTS

2009—Subsec. (a)(4). Pub. L. 111–39 added par. (4) and struck out former par. (4) which read as follows: "include a place to provide information on—

"(A) the applicant's cost of attendance at the institution of higher education, as determined by the institution under Part E of subchapter IV;

"(B) the applicant's expected family contribution, as determined under Part E of subchapter IV, as applicable, for students who have completed the free application for Federal student aid;

"(C) the applicant's estimated financial assistance, as determined by the institution, in accordance with subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as applicable;

"(D) the difference between the amounts under subparagraphs (A) and (C), as applicable; and

"(E) the sum of the amounts under subparagraphs (B) and (D), as applicable; and".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

SUBCHAPTER II—TEACHER QUALITY ENHANCEMENT

CODIFICATION

Pub. L. 107–110, title X, §1051(1), Jan. 8, 2002, 115 Stat. 2080, added heading and struck out former heading which read as follows: "TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS".

PRIOR PROVISIONS

A prior title II of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title II, Nov. 8, 1965, 79 Stat. 1224, and amended by Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49; Aug. 13, 1979, 93 Stat. 351. Title II was extensively revised by Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1383, and was set out in this subchapter as having been added by Pub. L. 96–374, and amended, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

§1021. Definitions

In this subchapter:

(1) Arts and sciences

The term "arts and sciences" means—

(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

(B) when referring to a specific academic subject area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

(2) Children from low-income families

The term "children from low-income families" means children described in section 6333(c)(1)(A) of this title.

(3) Core academic subjects

The term "core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(4) Early childhood educator

The term "early childhood educator" means an individual with primary responsibility for the education of children in an early childhood education program.

(5) Educational service agency

The term "educational service agency" has the meaning given the term in section 7801 of this title.

(6) Eligible partnership

Except as otherwise provided in section 1034 of this title, the term "eligible partnership" means an entity that—

(A) shall include—

(i) a high-need local educational agency;

(ii)(I) a high-need school or a consortium of high-need schools served by the high-need local educational agency; or

(II) as applicable, a high-need early childhood education program;

(iii) a partner institution;

(iv) a school, department, or program of education within such partner institution, which may include an existing teacher professional development program with proven outcomes within a four-year institution of higher education that provides intensive and sustained collaboration between faculty and local educational agencies consistent with the requirements of this subchapter; and

(v) a school or department of arts and sciences within such partner institution; and

(B) may include any of the following:

(i) The Governor of the State.

(ii) The State educational agency.

(iii) The State board of education.

(iv) The State agency for higher education.

(v) A business.

(vi) A public or private nonprofit educational organization.

(vii) An educational service agency.

(viii) A teacher organization.

(ix) A high-performing local educational agency, or a consortium of such local educational agencies, that can serve as a resource to the partnership.

(x) A charter school (as defined in section 7221i of this title).

(xi) A school or department within the partner institution that focuses on psychology and human development.

(xii) A school or department within the partner institution with comparable expertise in the disciplines of teaching, learning, and child and adolescent development.

(xiii) An entity operating a program that provides alternative routes to State certification of teachers.

(7) Essential components of reading instruction

The term "essential components of reading instruction" has the meaning given the term in section 6368 of this title as such section was in effect on the day before December 10, 2015.

(8) Exemplary teacher

The term "exemplary teacher" has the meaning given the term in section 7801 of this title as

such section was in effect on the day before December 10, 2015.

(9) High-need early childhood education program

The term "high-need early childhood education program" means an early childhood education program serving children from low-income families that is located within the geographic area served by a high-need local educational agency.

(10) High-need local educational agency

The term "high-need local educational agency" means a local educational agency—

(A)(i) for which not less than 20 percent of the children served by the agency are children from low-income families;

(ii) that serves not fewer than 10,000 children from low-income families;

(iii) that meets the eligibility requirements for funding under the Small, Rural School Achievement Program under section 7345(b) of this title; or

(iv) that meets the eligibility requirements for funding under the Rural and Low-Income School Program under section 7351(b) of this title; and

(B)(i) for which there is a high percentage of teachers not teaching in the academic subject areas or grade levels in which the teachers were trained to teach; or

(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

(11) High-need school

(A) In general

The term "high-need school" means a school that, based on the most recent data available, meets one or both of the following:

(i) The school is in the highest quartile of schools in a ranking of all schools served by a local educational agency, ranked in descending order by percentage of students from low-income families enrolled in such schools, as determined by the local educational agency based on one of the following measures of poverty:

(I) The percentage of students aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary.

(II) The percentage of students eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.].

(III) The percentage of students in families receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

(IV) The percentage of students eligible to receive medical assistance under the Medicaid program.

(V) A composite of two or more of the measures described in subclauses (I) through (IV).

(ii) In the case of—

(I) an elementary school, the school serves students not less than 60 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act; or

(II) any other school that is not an elementary school, the other school serves students not less than 45 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act.

(B) Special rule

(i) Designation by the Secretary

The Secretary may, upon approval of an application submitted by an eligible partnership seeking a grant under this subchapter, designate a school that does not qualify as a high-need school under subparagraph (A) as a high-need school for the purpose of this subchapter. The Secretary shall base the approval of an application for designation of a school under this

clause on a consideration of the information required under clause (ii), and may also take into account other information submitted by the eligible partnership.

(ii) Application requirements

An application for designation of a school under clause (i) shall include—

(I) the number and percentage of students attending such school who are—

(aa) aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary;

(bb) eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act;

(cc) in families receiving assistance under the State program funded under part A of title IV of the Social Security Act; or

(dd) eligible to receive medical assistance under the Medicaid program;

(II) information about the student academic achievement of students at such school; and

(III) for a secondary school, the graduation rate for such school.

(12) Highly competent

The term "highly competent", when used with respect to an early childhood educator, means an educator—

(A) with specialized education and training in development and education of young children from birth until entry into kindergarten;

(B) with—

(i) a baccalaureate degree in an academic major in the arts and sciences; or

(ii) an associate's degree in a related educational area; and

(C) who has demonstrated a high level of knowledge and use of content and pedagogy in the relevant areas associated with quality early childhood education.

(13) Repealed. Pub. L. 114–95, title IX, §9214(c)(1)(A), Dec. 10, 2015, 129 Stat. 2161

(14) Induction program

The term "induction program" means a formalized program for new teachers during not less than the teachers' first two years of teaching that is designed to provide support for, and improve the professional performance and advance the retention in the teaching field of, beginning teachers. Such program shall promote effective teaching skills and shall include the following components:

(A) High-quality teacher mentoring.

(B) Periodic, structured time for collaboration with teachers in the same department or field, including mentor teachers, as well as time for information-sharing among teachers, principals, administrators, other appropriate instructional staff, and participating faculty in the partner institution.

(C) The application of empirically-based practice and scientifically valid research on instructional practices.

(D) Opportunities for new teachers to draw directly on the expertise of teacher mentors, faculty, and researchers to support the integration of empirically-based practice and scientifically valid research with practice.

(E) The development of skills in instructional and behavioral interventions derived from empirically-based practice and, where applicable, scientifically valid research.

(F) Faculty who—

(i) model the integration of research and practice in the classroom; and

(ii) assist new teachers with the effective use and integration of technology in the classroom.

(G) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other

staff who prepare new teachers with respect to the learning process and the assessment of learning.

(H) Assistance with the understanding of data, particularly student achievement data, and the applicability of such data in classroom instruction.

(I) Regular and structured observation and evaluation of new teachers by multiple evaluators, using valid and reliable measures of teaching skills.

(15) Limited English proficient

The term "limited English proficient" has the meaning given the term "English learner" in section 7801 of this title.

(16) Parent

The term "parent" has the meaning given the term in section 7801 of this title.

(17) Partner institution

The term "partner institution" means an institution of higher education, which may include a two-year institution of higher education offering a dual program with a four-year institution of higher education, participating in an eligible partnership that has a teacher preparation program—

(A) whose graduates exhibit strong performance on State-determined qualifying assessments for new teachers through—

(i) demonstrating that 80 percent or more of the graduates of the program who intend to enter the field of teaching have passed all of the applicable State qualification assessments for new teachers, which shall include an assessment of each prospective teacher's subject matter knowledge in the content area in which the teacher intends to teach; or

(ii) being ranked among the highest-performing teacher preparation programs in the State as determined by the State—

(I) using criteria consistent with the requirements for the State report card under section 1022d(b) of this title before the first publication of such report card; and

(II) using the State report card on teacher preparation required under section 1022d(b) of this title, after the first publication of such report card and for every year thereafter; and

(B) that requires—

(i) each student in the program to meet high academic standards or demonstrate a record of success, as determined by the institution (including prior to entering and being accepted into a program), and participate in intensive clinical experience;

(ii) each student in the program preparing to become a teacher who meets the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title; and

(iii) each student in the program preparing to become an early childhood educator to meet degree requirements, as established by the State, and become highly competent.

(18) Principles of scientific research

The term "principles of scientific research" means principles of research that—

(A) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs;

(B) present findings and make claims that are appropriate to, and supported by, the methods that have been employed; and

(C) include, appropriate to the research being conducted—

(i) use of systematic, empirical methods that draw on observation or experiment;

(ii) use of data analyses that are adequate to support the general findings;

(iii) reliance on measurements or observational methods that provide reliable and generalizable findings;

(iv) strong claims of causal relationships, only with research designs that eliminate plausible competing explanations for observed results, such as, but not limited to,

random-assignment experiments;

(v) presentation of studies and methods in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(vi) acceptance by a peer-reviewed journal or critique by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

(vii) consistency of findings across multiple studies or sites to support the generality of results and conclusions.

(19) Professional development

The term "professional development" has the meaning given the term in section 7801 of this title.

(20) Scientifically valid research

The term "scientifically valid research" includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.

(21) Teacher mentoring

The term "teacher mentoring" means the mentoring of new or prospective teachers through a program that—

(A) includes clear criteria for the selection of teacher mentors who will provide role model relationships for mentees, which criteria shall be developed by the eligible partnership and based on measures of teacher effectiveness;

(B) provides high-quality training for such mentors, including instructional strategies for literacy instruction and classroom management (including approaches that improve the schoolwide climate for learning, which may include positive behavioral interventions and supports);

(C) provides regular and ongoing opportunities for mentors and mentees to observe each other's teaching methods in classroom settings during the day in a high-need school in the high-need local educational agency in the eligible partnership;

(D) provides paid release time for mentors, as applicable;

(E) provides mentoring to each mentee by a colleague who teaches in the same field, grade, or subject as the mentee;

(F) promotes empirically-based practice of, and scientifically valid research on, where applicable—

(i) teaching and learning;

(ii) assessment of student learning;

(iii) the development of teaching skills through the use of instructional and behavioral interventions; and

(iv) the improvement of the mentees' capacity to measurably advance student learning; and

(G) includes—

(i) common planning time or regularly scheduled collaboration for the mentor and mentee; and

(ii) joint professional development opportunities.

(22) Teaching residency program

The term "teaching residency program" means a school-based teacher preparation program in which a prospective teacher—

(A) for one academic year, teaches alongside a mentor teacher, who is the teacher of record;

(B) receives concurrent instruction during the year described in subparagraph (A) from the partner institution, which courses may be taught by local educational agency personnel or residency program faculty, in the teaching of the content area in which the teacher will become certified or licensed;

(C) acquires effective teaching skills; and

(D) prior to completion of the program—

(i) attains full State certification or licensure and, with respect to special education teachers, meets the qualifications described in section 1412(a)(14)(C) of this title; and

(ii) acquires a master's degree not later than 18 months after beginning the program.

(23) Teaching skills

The term "teaching skills" means skills that enable a teacher to—

(A) increase student learning, achievement, and the ability to apply knowledge;

(B) effectively convey and explain academic subject matter;

(C) effectively teach higher-order analytical, evaluation, problem-solving, and communication skills;

(D) employ strategies grounded in the disciplines of teaching and learning that—

(i) are based on empirically-based practice and scientifically valid research, where applicable, related to teaching and learning;

(ii) are specific to academic subject matter; and

(iii) focus on the identification of students' specific learning needs, particularly students with disabilities, students who are limited English proficient, students who are gifted and talented, and students with low literacy levels, and the tailoring of academic instruction to such needs;

(E) conduct an ongoing assessment of student learning, which may include the use of formative assessments, performance-based assessments, project-based assessments, or portfolio assessments, that measures higher-order thinking skills (including application, analysis, synthesis, and evaluation);

(F) effectively manage a classroom, including the ability to implement positive behavioral interventions and support strategies;

(G) communicate and work with parents, and involve parents in their children's education; and

(H) use, in the case of an early childhood educator, age-appropriate and developmentally appropriate strategies and practices for children in early childhood education programs.

(Pub. L. 89–329, title II, §200 as added Pub. L. 110–315, title II, §201(1), Aug. 14, 2008, 122 Stat. 3126; amended Pub. L. 111–39, title II, §201(1), July 1, 2009, 123 Stat. 1936; Pub. L. 114–95, title IX, §§9214(c)(1), 9215(oo)(2), Dec. 10, 2015, 129 Stat. 2161, 2178.)

REFERENCES IN TEXT

Section 6368 of this title as such section was in effect on the day before December 10, 2015, referred to in par. (7), means section 6368 of this title prior to being omitted in the general amendment of part B of subchapter I of chapter 70 of this title by Pub. L. 114–95, title I, §1201, Dec. 10, 2015, 129 Stat. 1879.

Section 7801 of this title as such section was in effect on the day before December 10, 2015, referred to in par. (8), means section 7801 of this title prior to amendment by Pub. L. 114–95, title VIII, §§8001(a)(1), (b)(2), (3), 8002, Dec. 10, 2015, 129 Stat. 2088, 2089.

The Richard B. Russell National School Lunch Act, referred to in par. (11)(A)(i)(II), (ii), (B)(ii)(I)(bb), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in par. (11)(A)(i)(III), (B)(ii)(I)(cc), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1021, Pub. L. 89–329, title II, §201, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1623; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to purposes and definitions, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1021, Pub. L. 89–329, title II, §201, as added Pub. L. 96–374, title II, §201, Oct. 3,

1980, 94 Stat. 1383; amended Pub. L. 99–498, title II, §201(b), (c), Oct. 17, 1986, 100 Stat. 1287; Pub. L. 100–418, title VI, §6241, Aug. 23, 1988, 102 Stat. 1520; Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 467, related to congressional statement of purpose and authorization of appropriations, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1021, Pub. L. 89–329, title II, §201, as added Pub. L. 92–318, title I, §111(b)(1), June 23, 1972, 86 Stat. 238; amended Pub. L. 94–482, title I, §106, Oct. 12, 1976, 90 Stat. 2089; Pub. L. 96–49, §3(a), Aug. 13, 1979, 93 Stat. 351, provided for college library programs, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1021, Pub. L. 89–329, title II, §201, Nov. 8, 1965, 79 Stat. 1224; Pub. L. 90–575, title II, §211, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, §111(a)(1), June 23, 1972, 86 Stat. 238, authorized appropriations of $50,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $25,000,000; $75,000,000; $90,000,000; and $18,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, for library resources grants, prior to repeal by Pub. L. 92–318, title I, §111(b)(1), June 23, 1972, 86 Stat. 238.

AMENDMENTS

2015—Par. (3). Pub. L. 114–95, §9215(oo)(2)(A), substituted "The term 'core academic subjects' means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography" for "The term 'core academic subjects' has the meaning given the term in section 7801 of this title".

Par. (5). Pub. L. 114–95, §9215(oo)(2)(B), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

Par. (6)(B)(x). Pub. L. 114–95, §9215(oo)(2)(C), made technical amendment to reference in original act which appears in text as reference to section 7221i of this title.

Par. (7). Pub. L. 114–95, §9215(oo)(2)(D), added par. (7) and struck out former par. (7). Prior to amendment, text read as follows: "The term 'essential components of reading instruction' has the meaning given the term in section 6368 of this title."

Par. (8). Pub. L. 114–95, §9215(oo)(2)(E), added par. (8) and struck out former par. (8). Prior to amendment, text read as follows: "The term 'exemplary teacher' has the meaning given the term in section 7801 of this title."

Par. (10)(A)(iii). Pub. L. 114–95, §9215(oo)(2)(F)(i), made technical amendment to reference in original act which appears in text as reference to section 7345(b) of this title.

Par. (10)(A)(iv). Pub. L. 114–95, §9215(oo)(2)(F)(ii), made technical amendment to reference in original act which appears in text as reference to section 7351(b) of this title.

Par. (13). Pub. L. 114–95, §9214(c)(1)(A), struck out par. (13). Text read as follows: "The term 'highly qualified' has the meaning given such term in section 7801 of this title and, with respect to special education teachers, in section 1401 of this title."

Par. (15). Pub. L. 114–95, §9215(oo)(2)(G), substituted "The term 'limited English proficient' has the meaning given the term 'English learner' in section 7801 of this title." for "The term 'limited English proficient' has the meaning given the term in section 7801 of this title."

Par. (16). Pub. L. 114–95, §9215(oo)(2)(H), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

Par. (17)(B)(ii). Pub. L. 114–95, §9214(c)(1)(B), substituted "who meets the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title" for "to become highly qualified".

Par. (19). Pub. L. 114–95, §9215(oo)(2)(I), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

Par. (22)(D)(i). Pub. L. 114–95, §9214(c)(1)(C), substituted ", with respect to special education teachers, meets the qualifications described in section 1412(a)(14)(C) of this title" for "becomes highly qualified".

2009—Par. (22)(D). Pub. L. 111–39 added subpar. (D) and struck out former subpar (D) which read as follows: "prior to completion of the program, earns a master's degree, attains full State teacher certification or licensure, and becomes highly qualified."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART A—TEACHER QUALITY PARTNERSHIP GRANTS

PRIOR PROVISIONS

A prior part A, consisted of sections 1021 to 1030, related to teacher quality enhancement grants for States and partnerships, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

§1022. Purposes

The purposes of this part are to—

(1) improve student achievement;

(2) improve the quality of prospective and new teachers by improving the preparation of prospective teachers and enhancing professional development activities for new teachers;

(3) hold teacher preparation programs at institutions of higher education accountable for preparing teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title; and

(4) recruit highly qualified individuals, including minorities and individuals from other occupations, into the teaching force.

(Pub. L. 89–329, title II, §201, as added Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133; amended Pub. L. 114–95, title IX, §9214(c)(2), Dec. 10, 2015, 129 Stat. 2161.)

PRIOR PROVISIONS

A prior section 1022, Pub. L. 89–329, title II, §202, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1624; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to award of State grants, prior to repeal by Pub. L. 110–315, title II, Sec. 201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1022, Pub. L. 89–329, title II, §202, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1384; amended Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 468, required each institution of higher education receiving grants under this subchapter to annually notify designated State agency of its activities under this subchapter, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1022, Pub. L. 89–329, title II, §202, Nov. 8, 1965, 79 Stat. 1224; Pub. L. 89–752, §9, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title II, §214(a), Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, §§111(b)(2)(A), 112(a), (b)(1), June 23, 1972, 86 Stat. 238, 240, related to the basic grants for the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 201 of Pub. L. 89–329 was classified to section 1021 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 201 of Pub. L. 89–329 was classified to section 1021 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 201 of Pub. L. 89–329 was classified to section 1021 of this title, prior to repeal by Pub. L. 92–318.

AMENDMENTS

2015—Par. (3). Pub. L. 114–95 substituted "teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title" for "highly qualified teachers".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive

programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1022a. Partnership grants

(a) Program authorized

From amounts made available under section 1022h of this title, the Secretary is authorized to award grants, on a competitive basis, to eligible partnerships, to enable the eligible partnerships to carry out the activities described in subsection (c).

(b) Application

Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain—

(1) a needs assessment of the partners in the eligible partnership with respect to the preparation, ongoing training, professional development, and retention of general education and special education teachers, principals, and, as applicable, early childhood educators;

(2) a description of the extent to which the program to be carried out with grant funds, as described in subsection (c), will prepare prospective and new teachers with strong teaching skills;

(3) a description of how such program will prepare prospective and new teachers to understand and use research and data to modify and improve classroom instruction;

(4) a description of—

(A) how the eligible partnership will coordinate strategies and activities assisted under the grant with other teacher preparation or professional development programs, including programs funded under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] and the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], and through the National Science Foundation; and

(B) how the activities of the partnership will be consistent with State, local, and other education reform activities that promote teacher quality and student academic achievement;

(5) an assessment that describes the resources available to the eligible partnership, including—

(A) the integration of funds from other related sources;

(B) the intended use of the grant funds; and

(C) the commitment of the resources of the partnership to the activities assisted under this section, including financial support, faculty participation, and time commitments, and to the continuation of the activities when the grant ends;

(6) a description of—

(A) how the eligible partnership will meet the purposes of this part;

(B) how the partnership will carry out the activities required under subsection (d) or (e), based on the needs identified in paragraph (1), with the goal of improving student academic achievement;

(C) if the partnership chooses to use funds under this section for a project or activities under subsection (f) or (g), how the partnership will carry out such project or required activities based on the needs identified in paragraph (1), with the goal of improving student academic achievement;

(D) the partnership's evaluation plan under section 1022c(a) of this title;

(E) how the partnership will align the teacher preparation program under subsection (c) with the—

(i) State early learning standards for early childhood education programs, as appropriate, and with the relevant domains of early childhood development; and

(ii) challenging State academic standards under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(b)(1)], established by the State in which

the partnership is located;

(F) how the partnership will prepare general education teachers to teach students with disabilities, including training related to participation as a member of individualized education program teams, as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act [20 U.S.C. 1414(d)(1)(B)];

(G) how the partnership will prepare general education and special education teachers to teach students who are limited English proficient;

(H) how faculty at the partner institution will work, during the term of the grant, with teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(14)(C)], in the classrooms of high-need schools served by the high-need local educational agency in the partnership to—

(i) provide high-quality professional development activities to strengthen the content knowledge and teaching skills of elementary school and secondary school teachers; and

(ii) train other classroom teachers to implement literacy programs that incorporate the essential components of reading instruction;

(I) how the partnership will design, implement, or enhance a year-long and rigorous teaching preservice clinical program component;

(J) how the partnership will support in-service professional development strategies and activities; and

(K) how the partnership will collect, analyze, and use data on the retention of all teachers and early childhood educators in schools and early childhood education programs located in the geographic area served by the partnership to evaluate the effectiveness of the partnership's teacher and educator support system; and

(7) with respect to the induction program required as part of the activities carried out under this section—

(A) a demonstration that the schools and departments within the institution of higher education that are part of the induction program will effectively prepare teachers, including providing content expertise and expertise in teaching, as appropriate;

(B) a demonstration of the eligible partnership's capability and commitment to, and the accessibility to and involvement of faculty in, the use of empirically-based practice and scientifically valid research on teaching and learning;

(C) a description of how the teacher preparation program will design and implement an induction program to support, through not less than the first two years of teaching, all new teachers who are prepared by the teacher preparation program in the partnership and who teach in the high-need local educational agency in the partnership, and, to the extent practicable, all new teachers who teach in such high-need local educational agency, in the further development of the new teachers' teaching skills, including the use of mentors who are trained and compensated by such program for the mentors' work with new teachers; and

(D) a description of how faculty involved in the induction program will be able to substantially participate in an early childhood education program or an elementary school or secondary school classroom setting, as applicable, including release time and receiving workload credit for such participation.

(c) Use of grant funds

An eligible partnership that receives a grant under this section—

(1) shall use grant funds to carry out a program for the preparation of teachers under subsection (d), a teaching residency program under subsection (e), or a combination of such programs; and

(2) may use grant funds to carry out a leadership development program under subsection (f).

(d) Partnership grants for the preparation of teachers

An eligible partnership that receives a grant to carry out a program for the preparation of teachers shall carry out an effective pre-baccalaureate teacher preparation program or a 5th year initial licensing program that includes all of the following:

(1) Reforms

(A) In general

Implementing reforms, described in subparagraph (B), within each teacher preparation program and, as applicable, each preparation program for early childhood education programs, of the eligible partnership that is assisted under this section, to hold each program accountable for—

(i) preparing—

(I) new or prospective teachers to meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(14)(C)] (including teachers in rural school districts, special educators, and teachers of students who are limited English proficient);

(II) such teachers and, as applicable, early childhood educators, to understand empirically-based practice and scientifically valid research related to teaching and learning and the applicability of such practice and research, including through the effective use of technology, instructional techniques, and strategies consistent with the principles of universal design for learning, and through positive behavioral interventions and support strategies to improve student achievement; and

(III) as applicable, early childhood educators to be highly competent; and

(ii) promoting strong teaching skills and, as applicable, techniques for early childhood educators to improve children's cognitive, social, emotional, and physical development.

(B) Required reforms

The reforms described in subparagraph (A) shall include—

(i) implementing teacher preparation program curriculum changes that improve, evaluate, and assess how well all prospective and new teachers develop teaching skills;

(ii) using empirically-based practice and scientifically valid research, where applicable, about teaching and learning so that all prospective teachers and, as applicable, early childhood educators—

(I) understand and can implement research-based teaching practices in classroom instruction;

(II) have knowledge of student learning methods;

(III) possess skills to analyze student academic achievement data and other measures of student learning, and use such data and measures to improve classroom instruction;

(IV) possess teaching skills and an understanding of effective instructional strategies across all applicable content areas that enable general education and special education teachers and early childhood educators to—

(aa) meet the specific learning needs of all students, including students with disabilities, students who are limited English proficient, students who are gifted and talented, students with low literacy levels and, as applicable, children in early childhood education programs; and

(bb) differentiate instruction for such students;

(V) can effectively participate as a member of the individualized education program team, as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act [20 U.S.C. 1414(d)(1)(B)]; and

(VI) can successfully employ effective strategies for reading instruction using the essential components of reading instruction;

(iii) ensuring collaboration with departments, programs, or units of a partner institution outside of the teacher preparation program in all academic content areas to ensure that prospective teachers receive training in both teaching and relevant content areas in order to meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(14)(C)], which may include training in multiple subjects to teach multiple grade levels as may be needed for individuals preparing to teach in rural communities and for individuals preparing to teach students with disabilities;

(iv) developing and implementing an induction program;

(v) developing admissions goals and priorities aligned with the hiring objectives of the high-need local educational agency in the eligible partnership; and

(vi) implementing program and curriculum changes, as applicable, to ensure that prospective teachers have the requisite content knowledge, preparation, and degree to teach Advanced Placement or International Baccalaureate courses successfully.

(2) Clinical experience and interaction

Developing and improving a sustained and high-quality preservice clinical education program to further develop the teaching skills of all prospective teachers and, as applicable, early childhood educators, involved in the program. Such program shall do the following:

(A) Incorporate year-long opportunities for enrichment, including—

(i) clinical learning in classrooms in high-need schools served by the high-need local educational agency in the eligible partnership, and identified by the eligible partnership; and

(ii) closely supervised interaction between prospective teachers and faculty, experienced teachers, principals, other administrators, and school leaders at early childhood education programs (as applicable), elementary schools, or secondary schools, and providing support for such interaction.

(B) Integrate pedagogy and classroom practice and promote effective teaching skills in academic content areas.

(C) Provide high-quality teacher mentoring.

(D) Be offered over the course of a program of teacher preparation.

(E) Be tightly aligned with course work (and may be developed as a fifth year of a teacher preparation program).

(F) Where feasible, allow prospective teachers to learn to teach in the same local educational agency in which the teachers will work, learning the instructional initiatives and curriculum of that local educational agency.

(G) As applicable, provide training and experience to enhance the teaching skills of prospective teachers to better prepare such teachers to meet the unique needs of teaching in rural or urban communities.

(H) Provide support and training for individuals participating in an activity for prospective or new teachers described in this paragraph or paragraph (1) or (3), and for individuals who serve as mentors for such teachers, based on each individual's experience. Such support may include—

(i) with respect to a prospective teacher or a mentor, release time for such individual's participation;

(ii) with respect to a faculty member, receiving course workload credit and compensation for time teaching in the eligible partnership's activities; and

(iii) with respect to a mentor, a stipend, which may include bonus, differential, incentive, or performance pay, based on the mentor's extra skills and responsibilities.

(3) Induction programs for new teachers

Creating an induction program for new teachers or, in the case of an early childhood education program, providing mentoring or coaching for new early childhood educators.

(4) Support and training for participants in early childhood education programs

In the case of an eligible partnership focusing on early childhood educator preparation, implementing initiatives that increase compensation for early childhood educators who attain associate or baccalaureate degrees in early childhood education.

(5) Teacher recruitment

Developing and implementing effective mechanisms (which may include alternative routes to State certification of teachers) to ensure that the eligible partnership is able to recruit qualified individuals to become teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(14)(C)] through the activities of the eligible partnership, which may include an emphasis on recruiting into the teaching profession—

(A) individuals from under [1] represented populations;

(B) individuals to teach in rural communities and teacher shortage areas, including mathematics, science, special education, and the instruction of limited English proficient students; and

(C) mid-career professionals from other occupations, former military personnel, and recent college graduates with a record of academic distinction.

(6) Literacy training

Strengthening the literacy teaching skills of prospective and, as applicable, new elementary school and secondary school teachers—

(A) to implement literacy programs that incorporate the essential components of reading instruction;

(B) to use screening, diagnostic, formative, and summative assessments to determine students' literacy levels, difficulties, and growth in order to improve classroom instruction and improve student reading and writing skills;

(C) to provide individualized, intensive, and targeted literacy instruction for students with deficiencies in literacy skills; and

(D) to integrate literacy skills in the classroom across subject areas.

(e) Partnership grants for the establishment of teaching residency programs

(1) In general

An eligible partnership receiving a grant to carry out an effective teaching residency program shall carry out a program that includes all of the following activities:

(A) Supporting a teaching residency program described in paragraph (2) for high-need subjects and areas, as determined by the needs of the high-need local educational agency in the partnership.

(B) Placing graduates of the teaching residency program in cohorts that facilitate professional collaboration, both among graduates of the teaching residency program and between such graduates and mentor teachers in the receiving school.

(C) Ensuring that teaching residents who participate in the teaching residency program receive—

(i) effective preservice preparation as described in paragraph (2);

(ii) teacher mentoring;

(iii) support required through the induction program as the teaching residents enter the classroom as new teachers; and

(iv) the preparation described in subparagraphs (A), (B), and (C) of subsection (d)(2).

(2) Teaching residency programs

(A) Establishment and design

A teaching residency program under this paragraph shall be a program based upon models of successful teaching residencies that serves as a mechanism to prepare teachers for success in the high-need schools in the eligible partnership, and shall be designed to include the following characteristics of successful programs:

(i) The integration of pedagogy, classroom practice, and teacher mentoring.

(ii) Engagement of teaching residents in rigorous graduate-level course work leading to a master's degree while undertaking a guided teaching apprenticeship.

(iii) Experience and learning opportunities alongside a trained and experienced mentor teacher—

(I) whose teaching shall complement the residency program so that classroom clinical practice is tightly aligned with coursework;

(II) who shall have extra responsibilities as a teacher leader of the teaching residency program, as a mentor for residents, and as a teacher coach during the induction program for new teachers, and for establishing, within the program, a learning community in which all individuals are expected to continually improve their capacity to advance student learning; and

(III) who may be relieved from teaching duties as a result of such additional responsibilities.

(iv) The establishment of clear criteria for the selection of mentor teachers based on measures of teacher effectiveness and the appropriate subject area knowledge. Evaluation of teacher effectiveness shall be based on, but not limited to, observations of the following:

(I) Planning and preparation, including demonstrated knowledge of content, pedagogy, and assessment, including the use of formative and diagnostic assessments to improve student learning.

(II) Appropriate instruction that engages students with different learning styles.

(III) Collaboration with colleagues to improve instruction.

(IV) Analysis of gains in student learning, based on multiple measures that are valid and reliable and that, when feasible, may include valid, reliable, and objective measures of the influence of teachers on the rate of student academic progress.

(V) In the case of mentor candidates who will be mentoring new or prospective literacy and mathematics coaches or instructors, appropriate skills in the essential components of reading instruction, teacher training in literacy instructional strategies across core subject areas, and teacher training in mathematics instructional strategies, as appropriate.

(v) Grouping of teaching residents in cohorts to facilitate professional collaboration among such residents.

(vi) The development of admissions goals and priorities—

(I) that are aligned with the hiring objectives of the local educational agency partnering with the program, as well as the instructional initiatives and curriculum of such agency, in exchange for a commitment by such agency to hire qualified graduates from the teaching residency program; and

(II) which may include consideration of applicants who reflect the communities in which they will teach as well as consideration of individuals from underrepresented populations in the teaching profession.

(vii) Support for residents, once the teaching residents are hired as teachers of record, through an induction program, professional development, and networking opportunities to support the residents through not less than the residents' first two years of teaching.

(B) Selection of individuals as teacher residents

(i) Eligible individual

In order to be eligible to be a teacher resident in a teaching residency program under this paragraph, an individual shall—

(I) be a recent graduate of a four-year institution of higher education or a mid-career professional from outside the field of education possessing strong content knowledge or a record of professional accomplishment; and

(II) submit an application to the teaching residency program.

(ii) Selection criteria

An eligible partnership carrying out a teaching residency program under this subsection shall establish criteria for the selection of eligible individuals to participate in the teaching residency program based on the following characteristics:

(I) Strong content knowledge or record of accomplishment in the field or subject area to be taught.

(II) Strong verbal and written communication skills, which may be demonstrated by performance on appropriate tests.

(III) Other attributes linked to effective teaching, which may be determined by interviews or performance assessments, as specified by the eligible partnership.

(C) Stipends or salaries; applications; agreements; repayments

(i) Stipends or salaries

A teaching residency program under this subsection shall provide a one-year living stipend or salary to teaching residents during the teaching residency program.

(ii) Applications for stipends or salaries

Each teacher residency candidate desiring a stipend or salary during the period of residency shall submit an application to the eligible partnership at such time, and containing such information and assurances, as the eligible partnership may require.

(iii) Agreements to serve

Each application submitted under clause (ii) shall contain or be accompanied by an agreement that the applicant will—

(I) serve as a full-time teacher for a total of not less than three academic years immediately after successfully completing the teaching residency program;

(II) fulfill the requirement under subclause (I) by teaching in a high-need school served by the high-need local educational agency in the eligible partnership and teach a subject or area that is designated as high need by the partnership;

(III) provide to the eligible partnership a certificate, from the chief administrative officer of the local educational agency in which the resident is employed, of the employment required in subclauses (I) and (II) at the beginning of, and upon completion of, each year or partial year of service;

(IV) meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(14)(C)], when the applicant begins to fulfill the service obligation under this clause; and

(V) comply with the requirements set by the eligible partnership under clause (iv) if the applicant is unable or unwilling to complete the service obligation required by this clause.

(iv) Repayments

(I) In general

A grantee carrying out a teaching residency program under this paragraph shall require a recipient of a stipend or salary under clause (i) who does not complete, or who notifies the partnership that the recipient intends not to complete, the service obligation required by

clause (iii) to repay such stipend or salary to the eligible partnership, together with interest, at a rate specified by the partnership in the agreement, and in accordance with such other terms and conditions specified by the eligible partnership, as necessary.

(II) Other terms and conditions

Any other terms and conditions specified by the eligible partnership may include reasonable provisions for pro-rata repayment of the stipend or salary described in clause (i) or for deferral of a teaching resident's service obligation required by clause (iii), on grounds of health, incapacitation, inability to secure employment in a school served by the eligible partnership, being called to active duty in the Armed Forces of the United States, or other extraordinary circumstances.

(III) Use of repayments

An eligible partnership shall use any repayment received under this clause to carry out additional activities that are consistent with the purposes of this subsection.

(f) Partnership grants for the development of leadership programs

(1) In general

An eligible partnership that receives a grant under this section may carry out an effective school leadership program, which may be carried out in partnership with a local educational agency located in a rural area and that shall include all of the following activities:

(A) Preparing individuals enrolled or preparing to enroll in school leadership programs for careers as superintendents, principals, early childhood education program directors, or other school leaders (including individuals preparing to work in local educational agencies located in rural areas who may perform multiple duties in addition to the role of a school leader).

(B) Promoting strong leadership skills and, as applicable, techniques for school leaders to effectively—

(i) create and maintain a data-driven, professional learning community within the leader's school;

(ii) provide a climate conducive to the professional development of teachers, with a focus on improving student academic achievement and the development of effective instructional leadership skills;

(iii) understand the teaching and assessment skills needed to support successful classroom instruction and to use data to evaluate teacher instruction and drive teacher and student learning;

(iv) manage resources and school time to improve student academic achievement and ensure the school environment is safe;

(v) engage and involve parents, community members, the local educational agency, businesses, and other community leaders, to leverage additional resources to improve student academic achievement; and

(vi) understand how students learn and develop in order to increase academic achievement for all students.

(C) Ensuring that individuals who participate in the school leadership program receive—

(i) effective preservice preparation as described in subparagraph (D);

(ii) mentoring; and

(iii) if applicable, full State certification or licensure to become a school leader.

(D) Developing and improving a sustained and high-quality preservice clinical education program to further develop the leadership skills of all prospective school leaders involved in the program. Such clinical education program shall do the following:

(i) Incorporate year-long opportunities for enrichment, including—

(I) clinical learning in high-need schools served by the high-need local educational agency or a local educational agency located in a rural area in the eligible partnership and

identified by the eligible partnership; and

(II) closely supervised interaction between prospective school leaders and faculty, new and experienced teachers, and new and experienced school leaders, in such high-need schools.

(ii) Integrate pedagogy and practice and promote effective leadership skills, meeting the unique needs of urban, rural, or geographically isolated communities, as applicable.

(iii) Provide for mentoring of new school leaders.

(E) Creating an induction program for new school leaders.

(F) Developing and implementing effective mechanisms to ensure that the eligible partnership is able to recruit qualified individuals to become school leaders through the activities of the eligible partnership, which may include an emphasis on recruiting into school leadership professions—

(i) individuals from underrepresented populations;

(ii) individuals to serve as superintendents, principals, or other school administrators in rural and geographically isolated communities and school leader shortage areas; and

(iii) mid-career professionals from other occupations, former military personnel, and recent college graduates with a record of academic distinction.

(2) Selection of individuals for the leadership program

In order to be eligible for the school leadership program under this subsection, an individual shall be enrolled in or preparing to enroll in an institution of higher education, and shall—

(A) be a—

(i) recent graduate of an institution of higher education;

(ii) mid-career professional from outside the field of education with strong content knowledge or a record of professional accomplishment;

(iii) current teacher who is interested in becoming a school leader; or

(iv) school leader who is interested in becoming a superintendent; and

(B) submit an application to the leadership program.

(g) Partnership with digital education content developer

An eligible partnership that receives a grant under this section may use grant funds provided to carry out the activities described in subsection (d) or (e), or both, to partner with a television public broadcast station, as defined in section 397(6) of title 47, or another entity that develops digital educational content, for the purpose of improving the quality of pre-baccalaureate teacher preparation programs or to enhance the quality of preservice training for prospective teachers.

(h) Evaluation and reporting

The Secretary shall—

(1) evaluate the programs assisted under this section; and

(2) make publicly available a report detailing the Secretary's evaluation of each such program.

(i) Consultation

(1) In general

Members of an eligible partnership that receives a grant under this section shall engage in regular consultation throughout the development and implementation of programs and activities carried out under this section.

(2) Regular communication

To ensure timely and meaningful consultation as described in paragraph (1), regular communication shall occur among all members of the eligible partnership, including the high-need local educational agency. Such communication shall continue throughout the implementation of the grant and the assessment of programs and activities under this section.

(3) Written consent

The Secretary may approve changes in grant activities of a grant under this section only if the eligible partnership submits to the Secretary a written consent to such changes signed by all members of the eligible partnership.

(j) Construction

Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of eligible partnerships in other States or on a regional basis through Governors, State boards of education, State educational agencies, State agencies responsible for early childhood education, local educational agencies, or State agencies for higher education.

(k) Supplement, not supplant

Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities under this section.

(Pub. L. 89–329, title II, §202, as added Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133; amended Pub. L. 111–39, title II, §201(2), July 1, 2009, 123 Stat. 1936; Pub. L. 114–95, title IX, §§9214(c)(3), 9215(oo)(3), Dec. 10, 2015, 129 Stat. 2161, 2179.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(4)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(4)(A), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

Prior section 202 of Pub. L. 89–329 was classified to section 1022 of this title, prior to repeal by Pub. L. 110–315.

A prior section 202 of Pub. L. 89–329 was classified to section 1022 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 202 of Pub. L. 89–329 was classified to section 1022 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2015—Subsec. (b)(6)(E)(ii). Pub. L. 114–95, §9215(oo)(3), substituted "challenging State academic standards under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965," for "student academic achievement standards and academic content standards under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965,".

Subsec. (b)(6)(H). Pub. L. 114–95, §9214(c)(3)(A), substituted "teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act," for "highly qualified teachers" in introductory provisions.

Subsec. (d)(1)(A)(i)(I). Pub. L. 114–95, §9214(c)(3)(B)(i)(I), substituted "meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act (including teachers in rural school districts, special educators, and teachers of students who are limited English proficient)" for "be highly qualified (including teachers in rural school districts who may teach multiple subjects, special educators, and teachers of students who are limited English proficient who may teach multiple subjects)".

Subsec. (d)(1)(B)(iii). Pub. L. 114–95, §9214(c)(3)(B)(i)(II), substituted "meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, which may include training in multiple subjects to teach multiple grade levels as may be needed for individuals preparing to teach in rural

communities and for individuals preparing to teach students with disabilities" for "become highly qualified, which may include training in multiple subjects to teach multiple grade levels as may be needed for individuals preparing to teach in rural communities and for individuals preparing to teach students with disabilities as described in section 602(10)(D) of the Individuals with Disabilities Education Act".

Subsec. (d)(5). Pub. L. 114–95, §9214(c)(3)(B)(ii), substituted "become teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act" for "become highly qualified teachers" in introductory provisions.

Subsec. (e)(2)(C)(iii)(IV). Pub. L. 114–95, §9214(c)(3)(C), added subcl. (IV) and struck out former subcl. (IV) which read as follows: "meet the requirements to be a highly qualified teacher, as defined in section 9101 of the Elementary and Secondary Education Act of 1965, or section 602 of the Individuals with Disabilities Education Act, when the applicant begins to fulfill the service obligation under this clause; and".

2009—Subsec. (b)(6)(E)(ii). Pub. L. 111–39, §201(2)(A), substituted "section 1111(b)(1)" for "section 1111(b)(2)".

Subsec. (c)(1). Pub. L. 111–39, §201(2)(B), struck out "pre-baccalaureate" before "preparation".

Subsec. (d). Pub. L. 111–39, §201(2)(C), substituted "the preparation" for "pre-baccalaureate preparation" in heading, added introductory provisions, and struck out former introductory provisions which read as follows: "An eligible partnership that receives a grant to carry out an effective program for the pre-baccalaureate preparation of teachers shall carry out a program that includes all of the following:".

Subsec. (e)(2). Pub. L. 111–39, §201(2)(D), in subpar. (A)(ii), substituted "leading to" for "to earn" and, in subpar. (C), struck out "one-year" before "teaching residency program" in cls. (i) and (iii)(I).

Subsec. (i)(3). Pub. L. 111–39, §201(2)(E), substituted "consent to" for "consent of".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

[1] So in original. Probably should be followed by a hyphen.

§1022b. Administrative provisions

(a) Duration; number of awards; payments

(1) Duration

A grant awarded under this part shall be awarded for a period of five years.

(2) Number of awards

An eligible partnership may not receive more than one grant during a five-year period. Nothing in this subchapter shall be construed to prohibit an individual member, that can demonstrate need, of an eligible partnership that receives a grant under this subchapter from entering into another eligible partnership consisting of new members and receiving a grant with such other eligible partnership before the five-year period described in the preceding sentence applicable to the eligible partnership with which the individual member has first partnered has expired.

(b) Peer review

(1) Panel

The Secretary shall provide the applications submitted under this part to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

(2) Priority

The Secretary, in funding applications under this part, shall give priority—

(A) to eligible partnerships that include an institution of higher education whose teacher preparation program has a rigorous selection process to ensure the highest quality of students entering such program; and

(B)(i) to applications from broad-based eligible partnerships that involve businesses and community organizations; or

(ii) to eligible partnerships so that the awards promote an equitable geographic distribution of grants among rural and urban areas.

(3) Secretarial selection

The Secretary shall determine, based on the peer review process, which applications shall receive funding and the amounts of the grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this part and the types of activities proposed to be carried out by the eligible partnership.

(c) Matching requirements

(1) In general

Each eligible partnership receiving a grant under this part shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, which may be provided in cash or in-kind, to carry out the activities supported by the grant.

(2) Waiver

The Secretary may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible partnership if the Secretary determines that applying the matching requirement to the eligible partnership would result in serious hardship or an inability to carry out the authorized activities described in this part.

(d) Limitation on administrative expenses

An eligible partnership that receives a grant under this part may use not more than two percent of the funds provided to administer the grant.

(Pub. L. 89–329, title II, §203, as added Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3145.)

PRIOR PROVISIONS

A prior section 203 of Pub. L. 89–329 was classified to section 1023 of this title, prior to repeal by Pub. L. 110–315.

Another prior section 203 of Pub. L. 89–329 was classified to section 1023 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 203 of Pub. L. 89–329 was classified to section 1023 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1022c. Accountability and evaluation

(a) Eligible partnership evaluation

Each eligible partnership submitting an application for a grant under this part shall establish, and include in such application, an evaluation plan that includes strong and measurable performance objectives. The plan shall include objectives and measures for increasing—

(1) achievement for all prospective and new teachers, as measured by the eligible partnership;

(2) teacher retention in the first three years of a teacher's career;

(3) improvement in the pass rates and scaled scores for initial State certification or licensure of teachers; and

(4)(A) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to

certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, hired by the high-need local educational agency participating in the eligible partnership;

(B) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, hired by the high-need local educational agency who are members of underrepresented groups;

(C) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, hired by the high-need local educational agency who teach high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages and critical foreign languages);

(D) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, hired by the high-need local educational agency who teach in high-need areas (including special education, language instruction educational programs for limited English proficient students, and early childhood education);

(E) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, hired by the high-need local educational agency who teach in high-need schools, disaggregated by the elementary school and secondary school levels;

(F) as applicable, the percentage of early childhood education program classes in the geographic area served by the eligible partnership taught by early childhood educators who are highly competent; and

(G) as applicable, the percentage of teachers trained—

(i) to integrate technology effectively into curricula and instruction, including technology consistent with the principles of universal design for learning; and

(ii) to use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of improving student academic achievement.

(b) Information

An eligible partnership receiving a grant under this part shall ensure that teachers, principals, school superintendents, faculty, and leadership at institutions of higher education located in the geographic areas served by the eligible partnership are provided information, including through electronic means, about the activities carried out with funds under this part.

(c) Revised application

If the Secretary determines that an eligible partnership receiving a grant under this part is not making substantial progress in meeting the purposes, goals, objectives, and measures of the grant, as appropriate, by the end of the third year of a grant under this part, then the Secretary—

(1) shall cancel the grant; and

(2) may use any funds returned or available because of such cancellation under paragraph (1) to—

(A) increase other grant awards under this part; or

(B) award new grants to other eligible partnerships under this part.

(d) Evaluation and dissemination

The Secretary shall evaluate the activities funded under this part and report the findings regarding the evaluation of such activities to the authorizing committees. The Secretary shall broadly disseminate—

(1) successful practices developed by eligible partnerships under this part; and
(2) information regarding such practices that were found to be ineffective.

(Pub. L. 89–329, title II, §204, as added Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3146; amended Pub. L. 114–95, title IX, §9214(c)(4), Dec. 10, 2015, 129 Stat. 2162.)

PRIOR PROVISIONS

A prior section 204 of Pub. L. 89–329 was classified to section 1024 of this title, prior to repeal by Pub. L. 110–315.

Another prior section 204 of Pub. L. 89–329 was classified to section 1024 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2015—Subsec. (a)(4)(A) to (E). Pub. L. 114–95 substituted "teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title," for "highly qualified teachers".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1022d. Accountability for programs that prepare teachers

(a) Institutional and program report cards on the quality of teacher preparation

(1) Report card

Each institution of higher education that conducts a traditional teacher preparation program or alternative routes to State certification or licensure program and that enrolls students receiving Federal assistance under this chapter and part C of subchapter I of chapter 34 of title 42 shall report annually to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, the following:

(A) Goals and assurances

(i) For the most recent year for which the information is available for the institution—
(I) whether the goals set under section 1022e of this title have been met; and
(II) a description of the activities the institution implemented to achieve such goals.

(ii) A description of the steps the institution is taking to improve its performance in meeting the annual goals set under section 1022e of this title.

(iii) A description of the activities the institution has implemented to meet the assurances provided under section 1022e of this title.

(B) Pass rates and scaled scores

For the most recent year for which the information is available for those students who took the assessments used for teacher certification or licensure by the State in which the program is located and are enrolled in the traditional teacher preparation program or alternative routes to State certification or licensure program, and for those who have taken such assessments and have completed the traditional teacher preparation program or alternative routes to State certification or licensure program during the two-year period preceding such year, for each of such assessments—

(i) the percentage of students who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

(ii) the percentage of all students who passed such assessment;

(iii) the percentage of students who have taken such assessment who enrolled in and

completed the traditional teacher preparation program or alternative routes to State certification or licensure program, as applicable;

(iv) the average scaled score for all students who took such assessment;

(v) a comparison of the program's pass rates with the average pass rates for programs in the State; and

(vi) a comparison of the program's average scaled scores with the average scaled scores for programs in the State.

(C) Program information

A description of—

(i) the criteria for admission into the program;

(ii) the number of students in the program (disaggregated by race, ethnicity, and gender);

(iii) the average number of hours of supervised clinical experience required for those in the program;

(iv) the number of full-time equivalent faculty and students in the supervised clinical experience; and

(v) the total number of students who have been certified or licensed as teachers, disaggregated by subject and area of certification or licensure.

(D) Statement

In States that require approval or accreditation of teacher preparation programs, a statement of whether the institution's program is so approved or accredited, and by whom.

(E) Designation as low-performing

Whether the program has been designated as low-performing by the State under section 1022f(a) of this title.

(F) Use of technology

A description of the activities, including activities consistent with the principles of universal design for learning, that prepare teachers to integrate technology effectively into curricula and instruction, and to use technology effectively to collect, manage, and analyze data in order to improve teaching and learning for the purpose of increasing student academic achievement.

(G) Teacher training

A description of the activities that prepare general education and special education teachers to teach students with disabilities effectively, including training related to participation as a member of individualized education program teams, as defined in section 1414(d)(1)(B) of this title, and to effectively teach students who are limited English proficient.

(2) Report

Each eligible partnership receiving a grant under section 1022a of this title shall report annually on the progress of the eligible partnership toward meeting the purposes of this part and the objectives and measures described in section 1022c(a) of this title.

(3) Fines

The Secretary may impose a fine not to exceed $27,500 on an institution of higher education for failure to provide the information described in this subsection in a timely or accurate manner.

(4) Special rule

In the case of an institution of higher education that conducts a traditional teacher preparation program or alternative routes to State certification or licensure program and has fewer than 10 scores reported on any single initial teacher certification or licensure assessment during an academic year, the institution shall collect and publish information, as required under paragraph (1)(B), with respect to an average pass rate and scaled score on each State certification or licensure assessment taken over a three-year period.

(b) State report card on the quality of teacher preparation

(1) In general

Each State that receives funds under this chapter and part C of subchapter I of chapter 34 of title 42 shall provide to the Secretary, and make widely available to the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, an annual State report card on the quality of teacher preparation in the State, both for traditional teacher preparation programs and for alternative routes to State certification or licensure programs, which shall include not less than the following:

(A) A description of the reliability and validity of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State.

(B) The standards and criteria that prospective teachers must meet to attain initial teacher certification or licensure and to be certified or licensed to teach particular academic subjects, areas, or grades within the State.

(C) A description of how the assessments and requirements described in subparagraph (A) are aligned with the challenging State academic standards required under section 6311(b)(1) of this title and, as applicable, State early learning standards for early childhood education programs.

(D) For each of the assessments used by the State for teacher certification or licensure—

(i) for each institution of higher education located in the State and each entity located in the State, including those that offer an alternative route for teacher certification or licensure, the percentage of students at such institution or entity who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

(ii) the percentage of all such students at all such institutions and entities who have taken the assessment who pass such assessment;

(iii) the percentage of students who have taken the assessment who enrolled in and completed a teacher preparation program; and

(iv) the average scaled score of individuals participating in such a program, or who have completed such a program during the two-year period preceding the first year for which the annual State report card is provided, who took each such assessment.

(E) A description of alternative routes to teacher certification or licensure in the State (including any such routes operated by entities that are not institutions of higher education), if any, including, for each of the assessments used by the State for teacher certification or licensure—

(i) the percentage of individuals participating in such routes, or who have completed such routes during the two-year period preceding the date for which the determination is made, who passed each such assessment; and

(ii) the average scaled score of individuals participating in such routes, or who have completed such routes during the two-year period preceding the first year for which the annual State report card is provided, who took each such assessment.

(F) A description of the State's criteria for assessing the performance of teacher preparation programs within institutions of higher education in the State. Such criteria shall include indicators of the academic content knowledge and teaching skills of students enrolled in such programs.

(G) For each teacher preparation program in the State—

(i) the criteria for admission into the program;

(ii) the number of students in the program, disaggregated by race, ethnicity, and gender (except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student);

(iii) the average number of hours of supervised clinical experience required for those in the program; and

(iv) the number of full-time equivalent faculty, adjunct faculty, and students in supervised

clinical experience.

(H) For the State as a whole, and for each teacher preparation program in the State, the number of teachers prepared, in the aggregate and reported separately by—

(i) area of certification or licensure;

(ii) academic major; and

(iii) subject area for which the teacher has been prepared to teach.

(I) A description of the extent to which teacher preparation programs are addressing shortages of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, by area of certification or licensure, subject, and specialty, in the State's public schools.

(J) The extent to which teacher preparation programs prepare teachers, including general education and special education teachers, to teach students with disabilities effectively, including training related to participation as a member of individualized education program teams, as defined in section 1414(d)(1)(B) of this title.

(K) A description of the activities that prepare teachers to—

(i) integrate technology effectively into curricula and instruction, including activities consistent with the principles of universal design for learning; and

(ii) use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of increasing student academic achievement.

(L) The extent to which teacher preparation programs prepare teachers, including general education and special education teachers, to effectively teach students who are limited English proficient.

(2) Prohibition against creating a national list

The Secretary shall not create a national list or ranking of States, institutions, or schools using the scaled scores provided under this subsection.

(c) Data quality

The Secretary shall prescribe regulations to ensure the reliability, validity, integrity, and accuracy of the data submitted pursuant to this section.

(d) Report of the Secretary on the quality of teacher preparation

(1) Report card

The Secretary shall annually provide to the authorizing committees, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in subparagraphs (A) through (L) of subsection (b)(1). Such report shall identify States for which eligible partnerships received a grant under this part.

(2) Report to Congress

The Secretary shall prepare and submit a report to the authorizing committees that contains the following:

(A) A comparison of States' efforts to improve the quality of the current and future teaching force.

(B) A comparison of eligible partnerships' efforts to improve the quality of the current and future teaching force.

(C) The national mean and median scaled scores and pass rate on any standardized test that is used in more than one State for teacher certification or licensure.

(3) Special rule

In the case of a teacher preparation program with fewer than ten scores reported on any single

initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish, and make publicly available, information with respect to an average pass rate and scaled score on each State certification or licensure assessment taken over a three-year period.

(e) Coordination

The Secretary, to the extent practicable, shall coordinate the information collected and published under this part among States for individuals who took State teacher certification or licensure assessments in a State other than the State in which the individual received the individual's most recent degree.

(Pub. L. 89–329, title II, §205, as added Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3147; amended Pub. L. 114–95, title IX, §§9214(c)(5), 9215(oo)(4), Dec. 10, 2015, 129 Stat. 2163, 2179.)

PRIOR PROVISIONS

A prior section 205 of Pub. L. 89–329 was classified to section 1025 of this title, prior to repeal by Pub. L. 110–315.

Another prior section 205 of Pub. L. 89–329 was classified to section 1025 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2015—Subsec. (b)(1)(C). Pub. L. 114–95, §9215(oo)(4), substituted "are aligned with the challenging State academic standards required under section 6311(b)(1) of this title" for "are aligned with the State's challenging academic content standards required under section 6311(b)(1) of this title".

Subsec. (b)(1)(I). Pub. L. 114–95, §9214(c)(5), substituted "teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title" for "highly qualified teachers".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1022e. Teacher development

(a) Annual goals

Each institution of higher education that conducts a traditional teacher preparation program (including programs that offer any ongoing professional development programs) or alternative routes to State certification or licensure program, and that enrolls students receiving Federal assistance under this chapter and part C of subchapter I of chapter 34 of title 42, shall set annual quantifiable goals for increasing the number of prospective teachers trained in teacher shortage areas designated by the Secretary or by the State educational agency, including mathematics, science, special education, and instruction of limited English proficient students.

(b) Assurances

Each institution described in subsection (a) shall provide assurances to the Secretary that—

(1) training provided to prospective teachers responds to the identified needs of the local educational agencies or States where the institution's graduates are likely to teach, based on past hiring and recruitment trends;

(2) training provided to prospective teachers is closely linked with the needs of schools and the instructional decisions new teachers face in the classroom;

(3) prospective special education teachers receive course work in core academic subjects and receive training in providing instruction in core academic subjects;

(4) general education teachers receive training in providing instruction to diverse populations, including children with disabilities, limited English proficient students, and children from

low-income families; and

(5) prospective teachers receive training on how to effectively teach in urban and rural schools, as applicable.

(c) Rule of construction

Nothing in this section shall be construed to require an institution to create a new teacher preparation area of concentration or degree program or adopt a specific curriculum in complying with this section.

(Pub. L. 89–329, title II, §206, as added Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3152.)

PRIOR PROVISIONS

A prior section 206 of Pub. L. 89–329 was classified to section 1026 of this title, prior to repeal by Pub. L. 110–315.

Another prior section 206 of Pub. L. 89–329 was classified to section 1026 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1022f. State functions

(a) State assessment

In order to receive funds under this chapter and part C of subchapter I of chapter 34 of title 42, a State shall conduct an assessment to identify low-performing teacher preparation programs in the State and to assist such programs through the provision of technical assistance. Each such State shall provide the Secretary with an annual list of low-performing teacher preparation programs and an identification of those programs at risk of being placed on such list, as applicable. Such assessment shall be described in the report under section 1022d(b) of this title. Levels of performance shall be determined solely by the State and may include criteria based on information collected pursuant to this part, including progress in meeting the goals of—

(1) increasing the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, in the State, including increasing professional development opportunities;

(2) improving student academic achievement for elementary and secondary students; and

(3) raising the standards for entry into the teaching profession.

(b) Termination of eligibility

Any teacher preparation program from which the State has withdrawn the State's approval, or terminated the State's financial support, due to the low performance of the program based upon the State assessment described in subsection (a)—

(1) shall be ineligible for any funding for professional development activities awarded by the Department;

(2) may not be permitted to accept or enroll any student who receives aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the institution's teacher preparation program;

(3) shall provide transitional support, including remedial services if necessary, for students enrolled at the institution at the time of termination of financial support or withdrawal of approval; and

(4) shall be reinstated upon demonstration of improved performance, as determined by the State.

(c) Negotiated rulemaking

If the Secretary develops any regulations implementing subsection (b)(2), the Secretary shall submit such proposed regulations to a negotiated rulemaking process, which shall include

representatives of States, institutions of higher education, and educational and student organizations.

(d) Application of the requirements

The requirements of this section shall apply to both traditional teacher preparation programs and alternative routes to State certification and licensure programs.

(Pub. L. 89–329, title II, §207, as added Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3152; amended Pub. L. 114–95, title IX, §9214(c)(6), Dec. 10, 2015, 129 Stat. 2163.)

PRIOR PROVISIONS

A prior section 207 of Pub. L. 89–329 was classified to section 1027 of this title, prior to repeal by Pub. L. 110–315.

Another prior section 207 of Pub. L. 89–329 was classified to section 1027 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95 substituted "teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title," for "highly qualified teachers".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1022g. General provisions

(a) Methods

In complying with sections 1022d and 1022e of this title, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods in reporting and that the reporting methods do not reveal personally identifiable information.

(b) Special rule

For each State that does not use content assessments as a means of ensuring that all teachers teaching in core academic subjects within the State meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, in accordance with the State plan submitted or revised under section 6311 of this title, and that each person employed as a special education teacher in the State who teaches elementary school or secondary school meets the qualifications described in section 1412(a)(14)(C) of this title, the Secretary shall—

(1) to the extent practicable, collect data comparable to the data required under this part from States, local educational agencies, institutions of higher education, or other entities that administer such assessments to teachers or prospective teachers; and

(2) notwithstanding any other provision of this part, use such data to carry out requirements of this part related to assessments, pass rates, and scaled scores.

(c) Release of information to teacher preparation programs

(1) In general

For the purpose of improving teacher preparation programs, a State that receives funds under this chapter and part C of subchapter I of chapter 34 of title 42, or that participates as a member of a partnership, consortium, or other entity that receives such funds, shall provide to a teacher preparation program, upon the request of the teacher preparation program, any and all pertinent education-related information that—

(A) may enable the teacher preparation program to evaluate the effectiveness of the program's graduates or the program itself; and

(B) is possessed, controlled, or accessible by the State.

(2) Content of information

The information described in paragraph (1)—

(A) shall include an identification of specific individuals who graduated from the teacher preparation program to enable the teacher preparation program to evaluate the information provided to the program from the State with the program's own data about the specific courses taken by, and field experiences of, the individual graduates; and

(B) may include—

(i) kindergarten through grade 12 academic achievement and demographic data, without revealing personally identifiable information about an individual student, for students who have been taught by graduates of the teacher preparation program; and

(ii) teacher effectiveness evaluations for teachers who graduated from the teacher preparation program.

(Pub. L. 89–329, title II, §208, as added Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3153; amended Pub. L. 114–95, title IX, §9214(c)(7), Dec. 10, 2015, 129 Stat. 2163.)

PRIOR PROVISIONS

A prior section 208 of Pub. L. 89–329 was classified to section 1028 of this title, prior to repeal by Pub. L. 110–315.

Another prior section 208 of Pub. L. 89–329 was classified to section 1028 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–95, in introductory provisions, substituted "meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification," for "are highly qualified, as required under section 6319 of this title," and "meets the qualifications described in section 1412(a)(14)(C) of this title" for "is highly qualified by the deadline, as required under section 1412(a)(14)(C) of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1022h. Authorization of appropriations

There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 2009 and such sums as may be necessary for each of the two succeeding fiscal years.

(Pub. L. 89–329, title II, §209, as added Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3154.)

PRIOR PROVISIONS

A prior section 209 of Pub. L. 89–329 was classified to section 1029 of this title, prior to repeal by Pub. L. 110–315.

A prior section 1023, Pub. L. 89–329, title II, §203, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1625; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to partnership grants, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1023, Pub. L. 89–329, title II, §203, as added Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 468, required Secretary to ensure that programs under this subchapter were administered by appropriate library experts, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1023, Pub. L. 89–329, title II, §203, Nov. 8, 1965, 79 Stat. 1225; Pub. L. 90–575, title II, §212(a), Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, §§111(b)(2)(B), 112(b)(2), 113(a), June 23, 1972, 86 Stat. 239, 240, provided for supplemental grants in the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1024, Pub. L. 89–329, title II, §204, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1627; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to teacher recruitment grants, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1024, Pub. L. 89–329, title II, §204, Nov. 8, 1965, 79 Stat. 1226; Pub. L. 90–575, title II, §§212(b), (c), 213(a), Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, §111(b)(2)(C), June 23, 1972, 86 Stat. 239, provided for special purpose grants in the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1025, Pub. L. 89–329, title II, §205, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1628; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to administrative provisions, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1025, Pub. L. 89–329, title II, §205, Nov. 8, 1965, 79 Stat. 1226; Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174, created the Advisory Council on College Library Resources, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1026, Pub. L. 89–329, title II, §206, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1630; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to accountability and evaluation, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1026, Pub. L. 89–329, title II, §206, Nov. 8, 1965, 79 Stat. 1226, related to the accreditation of educational institutions, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1027, Pub. L. 89–329, title II, §207, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1632; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to accountability for programs that prepare teachers, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1027, Pub. L. 89–329, title II, §207, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 92–318, title I, §131(d)(2)(B), June 23, 1972, 86 Stat. 260, prohibited grants for library resources to be used for sectarian instruction or religious worship, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1028, Pub. L. 89–329, title II, §208, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1634; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to State functions, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1028, Pub. L. 89–329, title II, §208, Nov. 8, 1965, 79 Stat. 1227, required that institutions inform State agencies of their activities under the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1029, Pub. L. 89–329, title II, §209, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1635; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to general provisions, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1029, Pub. L. 89–329, title II, §211, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1384; amended Pub. L. 99–498, title II, §202, Oct. 17, 1986, 100 Stat. 1287; Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 468, related to college library technology and cooperation grants, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

A prior section 1030, Pub. L. 89–329, title II, §210, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1635; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080, related to authorization of appropriations, prior to repeal by Pub. L. 110–315, title II, §201(2), Aug. 14, 2008, 122 Stat. 3133.

Another prior section 1030, Pub. L. 89–329, title II, §213, as added Pub. L. 99–498, title II, §203, Oct. 17, 1986, 100 Stat. 1289, which defined "full-time equivalent students", was omitted in the general amendment of this subchapter by Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 467.

PART B—ENHANCING TEACHER EDUCATION

PRIOR PROVISIONS

A prior part B, consisting of sections 1041 to 1044, related to preparing tomorrow's teachers to use technology, prior to repeal by Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3154.

§1031. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title II, §230, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3154.)

PRIOR PROVISIONS

A prior section 1031, Pub. L. 89–329, title II, §221, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 99–498, title II, §204(b)(1), Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 469, authorized grants in accordance with former sections 1032 and 1033 of this title, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1031, Pub. L. 89–329, title II, §221, as added Pub. L. 92–318, title I, §111(b)(3)(A), June 23, 1972, 86 Stat. 239, contained the grant authority for training and research programs, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1031, Pub. L. 89–329, title II, §221, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 90–575, title II, §215, Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, §111(a)(2), June 23, 1972, 86 Stat. 238, authorized appropriations of $15,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $11,800,000; $28,000,000; $38,000,000; and $12,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, prior to repeal by Pub. L. 92–318, title I, §111(b)(3)(A), June 23, 1972, 86 Stat. 239.

SUBPART 1—PREPARING TEACHERS FOR DIGITAL AGE LEARNERS

§1032. Program authorized

(a) Program authority

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, eligible consortia to pay the Federal share of the costs of projects to—

(1) assist in the graduation of teacher candidates who are prepared to use modern information, communication, and learning tools to—

(A) improve student learning, assessment, and learning management; and

(B) help students develop learning skills to succeed in higher education and to enter the workforce;

(2) strengthen and develop partnerships among the stakeholders in teacher preparation to transform teacher education and ensure technology-rich teaching and learning environments throughout a teacher candidate's preservice education, including clinical experiences; and

(3) assess the effectiveness of departments, schools, and colleges of education at institutions of higher education in preparing teacher candidates for successful implementation of technology-rich teaching and learning environments, including environments consistent with the principles of universal design for learning, that enable kindergarten through grade 12 students to develop learning skills to succeed in higher education and to enter the workforce.

(b) Amount and duration

A grant, contract, or cooperative agreement under this subpart—

(1) shall be for not more than $2,000,000;

(2) shall be for a three-year period; and

(3) may be renewed for one additional year.

(c) Non-Federal share requirement

The Federal share of the cost of any project funded under this subpart shall not exceed 75 percent. The non-Federal share of the cost of such project may be provided in cash or in kind, fairly

evaluated, including services.

(d) Definition of eligible consortium

In this subpart, the term "eligible consortium" means a consortium of members that includes the following:

(1) Not less than one institution of higher education that awards baccalaureate or masters degrees and prepares teachers for initial entry into teaching.

(2) Not less than one State educational agency or local educational agency.

(3) A department, school, or college of education at an institution of higher education.

(4) A department, school, or college of arts and sciences at an institution of higher education.

(5) Not less than one entity with the capacity to contribute to the technology-related reform of teacher preparation programs, which may be a professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity.

(Pub. L. 89–329, title II, §231, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3154; amended Pub. L. 111–39, title II, §201(3), July 1, 2009, 123 Stat. 1936.)

PRIOR PROVISIONS

A prior section 1032, Pub. L. 89–329, title II, §222, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 469, related to library education and human resource development, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1032, Pub. L. 89–329, title II, §222, Nov. 8, 1965, 79 Stat. 1227, defined the term "librarianship", prior to repeal by Pub. L. 92–318, title I, §111(b)(3)(A), June 23, 1972, 86 Stat. 239.

A prior section 231 of Pub. L. 89–329 was classified to section 1041 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 231 of Pub. L. 89–329 was classified to section 1041 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 231 of Pub. L. 89–329 was classified to section 1041 of this title, prior to the general amendment of former part C of this subchapter by Pub. L. 94–482.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–39 substituted "assist in the graduation of" for "serve graduate" in introductory provisions.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1032a. Uses of funds

(a) In general

An eligible consortium that receives a grant or enters into a contract or cooperative agreement under this subpart shall use funds made available under this subpart to carry out a project that—

(1) develops long-term partnerships among members of the consortium that are focused on effective teaching with modern digital tools and content that substantially connect preservice preparation of teacher candidates with high-need schools; or

(2) transforms the way departments, schools, and colleges of education teach classroom technology integration, including the principles of universal design, to teacher candidates.

(b) Uses of funds for partnership grants

In carrying out a project under subsection (a)(1), an eligible consortium shall—

(1) provide teacher candidates, early in their preparation, with field experiences with technology in educational settings;

(2) build the skills of teacher candidates to support technology-rich instruction, assessment and

learning management in content areas, technology literacy, an understanding of the principles of universal design, and the development of other skills for entering the workforce;

(3) provide professional development in the use of technology for teachers, administrators, and content specialists who participate in field placement;

(4) provide professional development of technology pedagogical skills for faculty of departments, schools, and colleges of education and arts and sciences;

(5) implement strategies for the mentoring of teacher candidates by members of the consortium with respect to technology implementation;

(6) evaluate teacher candidates during the first years of teaching to fully assess outcomes of the project;

(7) build collaborative learning communities for technology integration within the consortium to sustain meaningful applications of technology in the classroom during teacher preparation and early career practice; and

(8) evaluate the effectiveness of the project.

(c) Uses of funds for transformation grants

In carrying out a project under subsection (a)(2), an eligible consortium shall—

(1) redesign curriculum to require collaboration between the department, school, or college of education faculty and the department, school, or college of arts and sciences faculty who teach content or methods courses for training teacher candidates;

(2) collaborate between the department, school, or college of education faculty and the department, school, or college of arts and science faculty and academic content specialists at the local educational agency to educate preservice teachers who can integrate technology and pedagogical skills in content areas;

(3) collaborate between the department, school, or college of education faculty and the department, school, or college of arts and sciences faculty who teach courses to preservice teachers to—

(A) develop and implement a plan for preservice teachers and continuing educators that demonstrates effective instructional strategies and application of such strategies in the use of digital tools to transform the teaching and learning process; and

(B) better reach underrepresented preservice teacher populations with programs that connect such preservice teacher populations with applications of technology;

(4) collaborate among faculty and students to create and disseminate case studies of technology applications in classroom settings with a goal of improving student academic achievement in high-need schools;

(5) provide additional technology resources for preservice teachers to plan and implement technology applications in classroom settings that provide evidence of student learning; and

(6) bring together expertise from departments, schools, or colleges of education, arts and science faculty, and academic content specialists at the local educational agency to share and disseminate technology applications in the classroom through teacher preparation and into early career practice.

(Pub. L. 89–329, title II, §232, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3155.)

PRIOR PROVISIONS

A prior section 232 of Pub. L. 89–329 was classified to section 1042 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 232 of Pub. L. 89–329 was classified to section 1042 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 232 of Pub. L. 89–329 was classified to section 1042 of this title, prior to the general amendment of former part C of this subchapter by Pub. L. 94–482.

§1032b. Application requirements

To be eligible to receive a grant or enter into a contract or cooperative agreement under this subpart, an eligible consortium shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include the following:

(1) A description of the project to be carried out with the grant, including how the project will—

(A) develop a long-term partnership focused on effective teaching with modern digital tools and content that substantially connects preservice preparation of teacher candidates with high-need schools; or

(B) transform the way departments, schools, and colleges of education teach classroom technology integration, including the principles of universal design, to teacher candidates.

(2) A demonstration of—

(A) the commitment, including the financial commitment, of each of the members of the consortium for the proposed project; and

(B) the support of the leadership of each organization that is a member of the consortium for the proposed project.

(3) A description of how each member of the consortium will participate in the project.

(4) A description of how the State educational agency or local educational agency will incorporate the project into the agency's technology plan, if such a plan already exists.

(5) A description of how the project will be continued after Federal funds are no longer available under this subpart for the project.

(6) A description of how the project will incorporate—

(A) State teacher technology standards; and

(B) State student technology standards.

(7) A plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

(Pub. L. 89–329, title II, §233, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3157.)

PRIOR PROVISIONS

A prior section 233 of Pub. L. 89–329 was classified to section 1043 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1032c. Evaluation

Not less than ten percent of the funds awarded to an eligible consortium to carry out a project under this subpart shall be used to evaluate the effectiveness of such project.

(Pub. L. 89–329, title II, §234, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3157.)

PRIOR PROVISIONS

A prior section 234 of Pub. L. 89–329 was classified to section 1044 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

SUBPART 2—HONORABLE AUGUSTUS F. HAWKINS CENTERS OF EXCELLENCE

§1033. Definitions

In this subpart:

(1) Eligible institution

The term "eligible institution" means—

(A) an institution of higher education that has a teacher preparation program that is a qualified teacher preparation program and that is—

(i) a part B institution (as defined in section 1061 of this title);

(ii) a Hispanic-serving institution (as defined in section 1101a of this title);

(iii) a Tribal College or University (as defined in section 1059c of this title);

(iv) an Alaska Native-serving institution (as defined in section 1059d(b) of this title);

(v) a Native Hawaiian-serving institution (as defined in section 1059d(b) of this title);

(vi) a Predominantly Black Institution (as defined in section 1059e of this title);

(vii) an Asian American and Native American Pacific Islander-serving institution (as defined in section 1059g(b) of this title); or

(viii) a Native American-serving, nontribal institution (as defined in section 1059f of this title);

(B) a consortium of institutions described in subparagraph (A); or

(C) an institution described in subparagraph (A), or a consortium described in subparagraph (B), in partnership with any other institution of higher education, but only if the center of excellence established under section 1033a of this title is located at an institution described in subparagraph (A).

(2) Scientifically based reading research

The term "scientifically based reading research"—

(A) means research that applies rigorous, systemic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

(B) includes research that—

(i) employs systemic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(Pub. L. 89–329, title II, §241, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3158; amended Pub. L. 114–95, title IX, §9215(oo)(5), Dec. 10, 2015, 129 Stat. 2179.)

PRIOR PROVISIONS

A prior section 1033, Pub. L. 89–329, title II, §223, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 99–498, title II, §205, Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 470, authorized Secretary to make grants and enter into contracts for research and development projects, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1033, Pub. L. 89–329, title II, §222, formerly §223, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 90–575, title II, §216, Oct. 16, 1968, 82 Stat. 1037, renumbered and amended Pub. L. 92–318, title I, §111(b)(3)(B)–(D), June 23, 1972, 86 Stat. 239, 240, related to grants for training in librarianship, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 241 of Pub. L. 89–329 was classified to section 1047 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 241 of Pub. L. 89–329 was classified to section 1047 of this title, prior to the general amendment of former part D of this subchapter by Pub. L. 99–498.

AMENDMENTS

2015—Par. (2). Pub. L. 114–95 added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The term 'scientifically based reading research' has the meaning given such term in section 6368 of this title."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1033a. Augustus F. Hawkins centers of excellence

(a) Program authorized

From the amounts appropriated to carry out this part, the Secretary is authorized to award competitive grants to eligible institutions to establish centers of excellence.

(b) Use of funds

Grants provided by the Secretary under this subpart shall be used to ensure that current and future teachers meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, by carrying out one or more of the following activities:

(1) Implementing reforms within teacher preparation programs to ensure that such programs are preparing teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, are able to understand scientifically valid research, and are able to use advanced technology effectively in the classroom, including use of instructional techniques to improve student academic achievement, by—

(A) retraining or recruiting faculty; and

(B) designing (or redesigning) teacher preparation programs that—

(i) prepare teachers to serve in low-performing schools and close student achievement gaps, and that are based on rigorous academic content, scientifically valid research (including scientifically based reading research and mathematics research, as it becomes available), and challenging State academic content standards and student academic achievement standards; and

(ii) promote strong teaching skills.

(2) Providing sustained and high-quality preservice clinical experience, including the mentoring of prospective teachers by exemplary teachers, substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and providing support, including preparation time, for such interaction.

(3) Developing and implementing initiatives to promote retention of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, and highly qualified principals, including minority teachers and principals, including programs that provide—

(A) teacher or principal mentoring from exemplary teachers or principals, respectively; or

(B) induction and support for teachers and principals during their first three years of employment as teachers or principals, respectively.

(4) Awarding scholarships based on financial need to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program, not to exceed the cost of attendance.

(5) Disseminating information on effective practices for teacher preparation and successful teacher certification and licensure assessment preparation strategies.

(6) Activities authorized under section 1022a of this title.

(c) Application

Any eligible institution desiring a grant under this subpart shall submit an application to the Secretary at such a time, in such a manner, and accompanied by such information as the Secretary may require.

(d) Minimum grant amount

The minimum amount of each grant under this subpart shall be $500,000.

(e) Limitation on administrative expenses

An eligible institution that receives a grant under this subpart may use not more than two percent of the funds provided to administer the grant.

(f) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out this subpart.

(Pub. L. 89–329, title II, §242, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3158; amended Pub. L. 114–95, title IX, §9214(c)(8), Dec. 10, 2015, 129 Stat. 2163.)

PRIOR PROVISIONS

A prior section 242 of Pub. L. 89–329 was classified to section 1047a of this title, prior to the general amendment of former part D of this subchapter by Pub. L. 99–498.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–95, §9214(c)(8)(A), substituted "meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title," for "are highly qualified" in introductory provisions.

Subsec. (b)(1). Pub. L. 114–95, §9214(c)(8)(B), substituted "meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title," for "are highly qualified," in introductory provisions.

Subsec. (b)(3). Pub. L. 114–95, §9214(c)(8)(C), substituted "teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, and highly qualified principals" for "highly qualified teachers and principals" in introductory provisions.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 3—PREPARING GENERAL EDUCATION TEACHERS TO MORE EFFECTIVELY EDUCATE STUDENTS WITH DISABILITIES

§1034. Teach to reach grants

(a) Authorization of program

(1) In general

The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to

improve the preparation of general education teacher candidates to ensure that such teacher candidates possess the knowledge and skills necessary to effectively instruct students with disabilities in general education classrooms.

(2) Duration of grants

A grant under this section shall be awarded for a period of not more than five years.

(3) Non-Federal share

An eligible partnership that receives a grant under this section shall provide not less than 25 percent of the cost of the activities carried out with such grant from non-Federal sources, which may be provided in cash or in kind.

(b) Definition of eligible partnership

In this section, the term "eligible partnership" means a partnership that—

(1) shall include—

(A) one or more departments or programs at an institution of higher education—

(i) that prepare elementary or secondary general education teachers;

(ii) that have a program of study that leads to an undergraduate degree, a master's degree, or completion of a postbaccalaureate program required for teacher certification; and

(iii) the graduates of which meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title;

(B) a department or program of special education at an institution of higher education;

(C) a department or program at an institution of higher education that provides degrees in core academic subjects; and

(D) a high-need local educational agency; and

(2) may include a department or program of mathematics, earth or physical science, foreign language, or another department at the institution that has a role in preparing teachers.

(c) Activities

An eligible partnership that receives a grant under this section—

(1) shall use the grant funds to—

(A) develop or strengthen an undergraduate, postbaccalaureate, or master's teacher preparation program by integrating special education strategies into the general education curriculum and academic content;

(B) provide teacher candidates participating in the program under subparagraph (A) with skills related to—

(i) response to intervention, positive behavioral interventions and supports, differentiated instruction, and data driven instruction;

(ii) universal design for learning;

(iii) determining and utilizing accommodations for instruction and assessments;

(iv) collaborating with special educators, related services providers, and parents, including participation in individualized education program development and implementation; and

(v) appropriately utilizing technology and assistive technology for students with disabilities; and

(C) provide extensive clinical experience for participants described in subparagraph (B) with mentoring and induction support throughout the program that continues during the first two years of full-time teaching; and

(2) may use grant funds to develop and administer alternate assessments of students with disabilities.

(d) Application

An eligible partnership seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

(1) a self-assessment by the eligible partnership of the existing teacher preparation program at the institution of higher education and needs related to preparing general education teacher candidates to instruct students with disabilities; and

(2) an assessment of the existing personnel needs for general education teachers who instruct students with disabilities, performed by the local educational agency in which most graduates of the teacher preparation program are likely to teach after completion of the program under subsection (c)(1).

(e) Peer review

The Secretary shall convene a peer review committee to review applications for grants under this section and to make recommendations to the Secretary regarding the selection of grantees. Members of the peer review committee shall be recognized experts in the fields of special education, teacher preparation, and general education and shall not be in a position to benefit financially from any grants awarded under this section.

(f) Evaluations

(1) By the partnership

(A) In general

An eligible partnership receiving a grant under this section shall conduct an evaluation at the end of the grant period to determine—

(i) the effectiveness of the general education teachers who completed a program under subsection (c)(1) with respect to instruction of students with disabilities in general education classrooms; and

(ii) the systemic impact of the activities carried out by such grant on how each institution of higher education that is a member of the partnership prepares teachers for instruction in elementary schools and secondary schools.

(B) Report to the Secretary

Each eligible partnership performing an evaluation under subparagraph (A) shall report the findings of such evaluation to the Secretary.

(2) Report by the Secretary

Not later than 180 days after the last day of the grant period under this section, the Secretary shall make available to Congress and the public the findings of the evaluations submitted under paragraph (1), and information on best practices related to effective instruction of students with disabilities in general education classrooms.

(Pub. L. 89–329, title II, §251, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3159; amended Pub. L. 114–95, title IX, §9214(c)(9), Dec. 10, 2015, 129 Stat. 2163.)

PRIOR PROVISIONS

A prior section 1034, Pub. L. 89–329, title II, §224, as added Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 470, required Secretary to consult with appropriate library and information science professional bodies in determining critical needs and priorities under former sections 1032 and 1033 of this title, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1034, Pub. L. 89–329, title II, §224, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1385, authorized special purpose grants, prior to repeal by Pub. L. 99–498, title II, §204(a), Oct. 17, 1986, 100 Stat. 1289.

Another prior section 1034, Pub. L. 89–329, title II, §223, formerly §224, Nov. 8, 1965, 79 Stat. 1228, Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174, and renumbered Pub. L. 92–318, title I, §111(b)(3)(D), June 23, 1972, 86 Stat. 240, related to grants for research and demonstration projects, prior to

the general amendment of this subchapter by Pub. L. 96–374.

A prior section 251 of Pub. L. 89–329 was classified to section 1047j of this title, prior to the general amendment of former part D of this subchapter by Pub. L. 99–498.

AMENDMENTS

2015—Subsec. (b)(1)(A)(iii). Pub. L. 114–95 substituted "meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title" for "are highly qualified".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 4—ADJUNCT TEACHER CORPS

§1035. Adjunct teacher corps

(a) Purpose

The purpose of this section is to create opportunities for professionals and other individuals with subject matter expertise in mathematics, science, or critical foreign languages to provide such subject matter expertise to secondary school students on an adjunct basis.

(b) Program authorized

The Secretary is authorized to award grants on a competitive basis to eligible entities to identify, recruit, and train qualified individuals with subject matter expertise in mathematics, science, or critical foreign languages to serve as adjunct content specialists.

(c) Duration of grants

The Secretary may award grants under this section for a period of not more than five years.

(d) Eligible entity

In this section, the term "eligible entity" means—

(1) a local educational agency; or

(2) a partnership consisting of a local educational agency, serving as a fiscal agent, and a public or private educational organization or business.

(e) Uses of funds

An eligible entity that receives a grant under this section is authorized to use such grant to carry out one or both of the following activities:

(1) To develop the capacity of the eligible entity to identify, recruit, and train individuals with subject matter expertise in mathematics, science, or critical foreign languages who are not employed in the elementary and secondary education system (including individuals in business and government, and individuals who would participate through distance-learning arrangements) to become adjunct content specialists.

(2) To provide preservice training and on-going professional development to adjunct content specialists.

(f) Applications

(1) Application required

An eligible entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may

require.

(2) Contents

An application submitted under paragraph (1) shall include—

(A) a description of—

(i) the need for, and expected benefits of using, adjunct content specialists in the schools served by the local educational agency, which may include information on the difficulty the local educational agency faces in recruiting qualified faculty in mathematics, science, and critical foreign language courses;

(ii) measurable objectives for the activities supported by the grant, including the number of adjunct content specialists the eligible entity intends to place in schools and classrooms, and the gains in academic achievement expected as a result of the addition of such specialists;

(iii) how the eligible entity will establish criteria for and recruit the most qualified individuals and public or private organizations and businesses to participate in the activities supported by the grant;

(iv) how the eligible entity will provide preservice training and on-going professional development to adjunct content specialists to ensure that such specialists have the capacity to serve effectively;

(v) how the eligible entity will use funds received under this section, including how the eligible entity will evaluate the success of the activities supported by the grant; and

(vi) how the eligible entity will support and continue the activities supported by the grant after the grant has expired, including how such entity will seek support from other sources, such as State and local government and the private sector; and

(B) an assurance that the use of adjunct content specialists will not result in the displacement or transfer of currently employed teachers nor a reduction in the number of overall teachers in the district.

(g) Priorities

In awarding grants under this section, the Secretary shall give priority to eligible entities that demonstrate in the application for such a grant a plan to—

(1) serve the schools served by the local educational agency that have a large number or percentage of students performing below grade level in mathematics, science, or critical foreign language courses;

(2) serve local educational agencies that have a large number or percentage of students from low-income families; and

(3) recruit and train individuals to serve as adjunct content specialists in schools that have an insufficient number of teachers in mathematics, science, or critical foreign languages.

(h) Matching requirement

Each eligible entity that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of such grant (in cash or in kind) to carry out the activities supported by such grant.

(i) Performance report

Each eligible entity receiving a grant under this section shall prepare and submit to the Secretary a final report on the results of the activities supported by such grant, which shall contain such information as the Secretary may require, including any improvements in student academic achievement as a result of the use of adjunct content specialists.

(j) Evaluation

The Secretary shall evaluate the activities supported by grants under this section, including the impact of such activities on student academic achievement, and shall report the results of such evaluation to the authorizing committees.

(k) Definition

In this section, the term "adjunct content specialist" means an individual who—

(1) meets the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title;

(2) has demonstrated expertise in mathematics, science, or a critical foreign language, as determined by the local educational agency; and

(3) is not the primary provider of instructional services to a student, unless the adjunct content specialist is under the direct supervision of a teacher who meets the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title.

(Pub. L. 89–329, title II, §255, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3161; amended Pub. L. 114–95, title IX, §9214(c)(10), Dec. 10, 2015, 129 Stat. 2164.)

AMENDMENTS

2015—Subsec. (k)(1). Pub. L. 114–95, §9214(c)(10)(A), added par. (1) and struck out former par. (1) which read as follows: "meets the requirements of section 7801(23)(B)(ii) of this title;".

Subsec. (k)(3). Pub. L. 114–95, §9214(c)(10)(B), substituted "teacher who meets the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title" for "teacher who meets the requirements of section 7801(23) of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 5—GRADUATE FELLOWSHIPS TO PREPARE FACULTY IN HIGH-NEED AREAS AT COLLEGES OF EDUCATION

§1036. Graduate fellowships to prepare faculty in high-need areas at colleges of education

(a) Grants by Secretary

The Secretary shall make grants to eligible institutions to enable such institutions to make graduate fellowship awards to qualified individuals in accordance with the provisions of this section.

(b) Eligible institutions

In this section, the term "eligible institution" means an institution of higher education, or a consortium of such institutions, that offers a program of postbaccalaureate study leading to a doctoral degree.

(c) Applications

An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(d) Types of fellowships supported

(1) In general

An eligible institution that receives a grant under this section shall use the grant funds to provide graduate fellowships to individuals who are preparing for the professorate in order to prepare individuals to become elementary school and secondary school mathematics and science

teachers, special education teachers, and teachers who provide instruction for limited English proficient students, who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title.

(2) Types of study

A graduate fellowship provided under this section shall support an individual in pursuing postbaccalaureate study, which leads to a doctoral degree and may include a master's degree as part of such study, related to teacher preparation and pedagogy in one of the following areas:

(A) Science, technology, engineering, or mathematics, if the individual has completed a master's degree in mathematics or science and is pursuing a doctoral degree in mathematics, science, or education.

(B) Special education.

(C) The instruction of limited English proficient students, including postbaccalaureate study in language instruction educational programs.

(e) Fellowship terms and conditions

(1) Selection of fellows

The Secretary shall ensure that an eligible institution that receives a grant under this section—

(A) shall provide graduate fellowship awards to individuals who plan to pursue a career in instruction at an institution of higher education that has a teacher preparation program; and

(B) may not provide a graduate fellowship to an otherwise eligible individual—

(i) during periods in which such individual is enrolled at an institution of higher education unless such individual is maintaining satisfactory academic progress in, and devoting full-time study or research to, the pursuit of the degree for which the fellowship support was provided; or

(ii) if the individual is engaged in gainful employment, other than part-time employment related to teaching, research, or a similar activity determined by the institution to be consistent with and supportive of the individuals's [1] progress toward the degree for which the fellowship support was provided.

(2) Amount of fellowship awards

(A) In general

An eligible institution that receives a grant under this section shall award stipends to individuals who are provided graduate fellowships under this section.

(B) Awards based on need

A stipend provided under this section shall be in an amount equal to the level of support provided by the National Science Foundation graduate fellowships, except that such stipend shall be adjusted as necessary so as not to exceed the fellowship recipient's demonstrated need, as determined by the institution of higher education where the fellowship recipient is enrolled.

(3) Service requirement

(A) Teaching required

Each individual who receives a graduate fellowship under this section and earns a doctoral degree shall teach for one year at an institution of higher education that has a teacher preparation program for each year of fellowship support received under this section.

(B) Institutional obligation

Each eligible institution that receives a grant under this section shall provide an assurance to the Secretary that the institution has inquired of and determined the decision of each individual

who has received a graduate fellowship to, within three years of receiving a doctoral degree, begin employment at an institution of higher education that has a teacher preparation program, as required by this section.

(C) Agreement required

Prior to receiving an initial graduate fellowship award, and upon the annual renewal of the graduate fellowship award, an individual selected to receive a graduate fellowship under this section shall sign an agreement with the Secretary agreeing to pursue a career in instruction at an institution of higher education that has a teacher preparation program in accordance with subparagraph (A).

(D) Failure to comply

If an individual who receives a graduate fellowship award under this section fails to comply with the agreement signed pursuant to subparagraph (C), the sum of the amounts of any graduate fellowship award received by such recipient shall, upon a determination of such a failure, be treated as a Federal Direct Unsubsidized Stafford Loan under part C of subchapter IV, and shall be subject to repayment, together with interest thereon accruing from the date of the fellowship award, in accordance with terms and conditions specified by the Secretary in regulations under this subpart.

(E) Modified service requirement

The Secretary may waive or modify the service requirement of this paragraph in accordance with regulations promulgated by the Secretary with respect to the criteria to determine the circumstances under which compliance with such service requirement is inequitable or represents a substantial hardship. The Secretary may waive the service requirement if compliance by the fellowship recipient is determined to be inequitable or represent a substantial hardship—

(i) because the individual is permanently and totally disabled at the time of the waiver request; or

(ii) based on documentation presented to the Secretary of substantial economic or personal hardship.

(f) Institutional support for fellows

An eligible institution that receives a grant under this section may reserve not more than ten percent of the grant amount for academic and career transition support for graduate fellowship recipients and for meeting the institutional obligation described in subsection (e)(3)(B).

(g) Restriction on use of funds

An eligible institution that receives a grant under this section may not use grant funds for general operational overhead of the institution.

(Pub. L. 89–329, title II, §258, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3163; amended Pub. L. 114–95, title IX, §9214(c)(11), Dec. 10, 2015, 129 Stat. 2164.)

AMENDMENTS

2015—Subsec. (d)(1). Pub. L. 114–95 struck out "highly qualified" after "become" and inserted ", who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title" before period at end.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be "individual's".*

PART C—GENERAL PROVISIONS

§1041. Limitations

(a) Federal control prohibited

Nothing in this subchapter shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to prohibit private, religious, or home schools from participation in programs or services under this subchapter.

(b) No change in State control encouraged or required

Nothing in this subchapter shall be construed to encourage or require any change in a State's treatment of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law.

(c) National system of teacher certification or licensure prohibited

Nothing in this subchapter shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification or licensure.

(d) Rule of construction

Nothing in this subchapter shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to the employees of local educational agencies under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

(Pub. L. 89–329, title II, §261, as added Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3166.)

PRIOR PROVISIONS

A prior section 1041, Pub. L. 89–329, title II, §221, as added Pub. L. 107–110, title X, §1051(3), Jan. 8, 2002, 115 Stat. 2080, set out purpose and program authority for teacher preparation programs to enable teachers to use advanced technology in the classroom, prior to repeal by Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3154.

Another prior section 1041, Pub. L. 89–329, title II, §231, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1386; amended Pub. L. 99–498, title II, §§204(b)(2), 206, Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 470, authorized grants to institutions with major research libraries, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1041, Pub. L. 89–329, title II, §231, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090, set out the Congressional statement of findings and purpose for the research library resources strengthening program, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1041, Pub. L. 89–329, title II, §231, Nov. 8, 1965, 79 Stat. 1228; Pub. L. 90–575, title II, §§217, 218, Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, §114(a), June 23, 1972, 86 Stat. 240, authorized appropriations for assistance to Library of Congress for acquisition of Library material, prior to the general amendment of former part C of this subchapter by Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090.

A prior section 1042, Pub. L. 89–329, title II, §222, as added Pub. L. 107–110, title X, §1051(3), Jan. 8, 2002, 115 Stat. 2081, related to eligibility to receive a grant or enter into a contract or cooperative agreement under sections 1041 to 1044 of this title, prior to repeal by Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3154.

Another prior section 1042, Pub. L. 89–329, title II, §232, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1386; amended Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 471, required Secretary to endeavor to achieve broad and equitable geographical distribution of grants, prior to repeal by Pub. L.

104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1042, Pub. L. 89–329, title II, §232, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090; amended Pub. L. 96–49, §3(b), Aug. 13, 1979, 93 Stat. 351, which authorized appropriations through fiscal year 1980, was omitted in the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1042, Pub. L. 89–329, title II, §232, as added Pub. L. 92–318, title I, §115(a), June 23, 1972, 86 Stat. 241, which required an evaluation and report to Congressional committees by the Librarian of the Congress, was omitted in the general amendment of former part C of this subchapter by Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090.

A prior section 1043, Pub. L. 89–329, title II, §223, as added Pub. L. 107–110, title X, §1051(3), Jan. 8, 2002, 115 Stat. 2082, related to use of funds, prior to repeal by Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3154.

Another prior section 1043, Pub. L. 89–329, title II, §233, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090, related to eligibility for assistance under research library resources strengthening program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1044, Pub. L. 89–329, title II, §224, as added Pub. L. 107–110, title X, §1051(3), Jan. 8, 2002, 115 Stat. 2083, related to authorization of appropriations, prior to repeal by Pub. L. 110–315, title II, §201(3), Aug. 14, 2008, 122 Stat. 3154.

Another prior section 1044, Pub. L. 89–329, title II, §234, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090, related to regional balance in allocation of funds, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1045 and 1046 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1045, Pub. L. 89–329, title II, §235, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2091, set out limitations on grants as regards sectarian or religious use.

Section 1046, Pub. L. 89–329, title II, §236, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2091, required consultations by grantees with State agencies.

A prior section 1047, Pub. L. 89–329, title II, §241, as added Pub. L. 99–498, title II, §207, Oct. 17, 1986, 100 Stat. 1289; amended Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 471; Pub. L. 103–208, §2(a)(3), Dec. 20, 1993, 107 Stat. 2457, authorized Secretary to make grants to and enter into contracts with eligible institutions, library organizations or agencies to assist in strengthening library and information science programs and libraries in historically black colleges and universities and other minority-serving institutions, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1047 and prior sections 1047a to 1047j were omitted in the general amendment of former part D of this subchapter by Pub. L. 99–498.

Section 1047, Pub. L. 89–329, title II, §241, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1386, stated congressional declaration of purpose.

Section 1047a, Pub. L. 89–329, title II, §242, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1387, established National Periodical System Corporation.

Section 1047b, Pub. L. 89–329, title II, §243, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1387, related to functions of National Periodical System Corporation.

Section 1047c, Pub. L. 89–329, title II, §244, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1387, related to board of directors of National Periodical System Corporation.

Section 1047d, Pub. L. 89–329, title II, §245, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1388, related to director and staff of National Periodical System Corporation.

Section 1047e, Pub. L. 89–329, title II, §246, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1388, related to nonprofit nature of National Periodical System Corporation.

Section 1047f, Pub. L. 89–329, title II, §247, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1388, related to authority of National Periodical System Corporation.

Section 1047g, Pub. L. 89–329, title II, §248, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1389, related to congressional approval of design for national periodical system.

Section 1047h, Pub. L. 89–329, title II, §249, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1389, related to effect of former part D of this subchapter on copyright law.

Section 1047i, Pub. L. 89–329, title II, §250, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1389, defined terms used in former part D of this subchapter.

Section 1047j, Pub. L. 89–329, title II, §251, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1390, authorized appropriations to carry out former part D of this subchapter.

SUBCHAPTER III—INSTITUTIONAL AID

CODIFICATION

Title III of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title III, Nov. 8, 1965, 79 Stat. 1229, and amended by Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–95, Sept. 26, 1983, 97 Stat. 708; Pub. L. 98–312, June 12, 1984, 98 Stat. 233. Such title is shown herein, however, as having been added by Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1290, without reference to such intervening amendments because of the extensive revision of title III by Pub. L. 99–498.

§1051. Findings and purpose

(a) Findings

The Congress finds that—

(1) there are a significant number of institutions of higher education serving high percentages of minority students and students from low-income backgrounds, that face problems that threaten their ability to survive;

(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning and development activities, including endowment building;

(3) in order to be competitive and provide a high-quality education for all, institutions of higher education should improve their technological capacity and make effective use of technology;

(4) the subchapter III program prior to 1985 did not always meet the specific development needs of historically Black colleges and universities and other institutions with large concentrations of minority, low-income students;

(5) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

(6) providing assistance to eligible institutions will enhance the role of such institutions in providing access and quality education to low-income and minority students;

(7) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent; and

(8) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

(b) Purpose

It is the purpose of this subchapter to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

(Pub. L. 89–329, title III, §301, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1290; amended Pub. L. 102–325, title III, §301, July 23, 1992, 106 Stat. 472; Pub. L. 103–208, §2(a)(4), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, §302, Oct. 7, 1998, 112 Stat. 1637.)

PRIOR PROVISIONS

A prior section 1051, Pub. L. 89–329, title III, §301, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1390, stated Congressional findings and purposes for program of providing Federal assistance to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1051, Pub. L. 89–329, title III, §301, Nov. 8, 1965, 79 Stat. 1229; Pub. L. 89–752, §10, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title II, §§221, 222, Oct. 16, 1968, 82 Stat. 1038; Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 241; Pub. L. 94–482, title I, §111, Oct. 12, 1976, 90 Stat. 2091; Pub. L. 96–49, §4, Aug. 13, 1979, 93 Stat. 351, related to a program of special assistance to strengthen the academic quality of developing institutions, prior to the general revision of this subchapter by Pub. L. 96–374.

Prior sections 1052 to 1056 were omitted in the general revision of this subchapter by Pub. L. 96–374.

Section 1052, Pub. L. 89–329, title III, §302, Nov. 8, 1965, 79 Stat. 1229; Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 241; Pub. L. 93–380, title VIII, §832, Aug. 21, 1974, 88 Stat. 603; Pub. L. 94–482, title I, §112, Oct. 12, 1976, 90 Stat. 2091, related to eligibility for special assistance.

Section 1053, Pub. L. 89–329, title III, §303, Nov. 8, 1965, 79 Stat. 1230; Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174; Pub. L. 92–318, title I, §121(a), title III, §301(a)(1), June 23, 1972, 86 Stat. 242, 326, provided for the establishment of an Advisory Council on Developing Institutions.

Section 1054, Pub. L. 89–329, title III, §304, Nov. 8, 1965, 79 Stat. 1230; Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 243, authorized the Commissioner of Education to make grants and awards.

Section 1055, Pub. L. 89–329, title III, §305, Nov. 8, 1965, 79 Stat. 1231; Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 244, related to assistance to developing institutions under other programs.

Section 1056, Pub. L. 89–329, title III, §306, as added Pub L. 90–575, title II, §223(a), Oct. 16, 1968, 82 Stat. 1038; amended Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 245, prohibited the use of funds for religious activities.

AMENDMENTS

1998—Pars. (3) to (8). Pub. L. 105–244 added par. (3) and redesignated former pars. (3) to (7) as (4) to (8), respectively.

1993—Subsec. (a)(2). Pub. L. 103–208 struck out the comma after "planning".

1992—Subsec. (a)(1). Pub. L. 102–325, §301(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;".

Subsec. (a)(2). Pub. L. 102–325, §301(2), struck out "recruitment activities," after "long-range planning,".

Subsec. (a)(5). Pub. L. 102–325, §301(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "providing a minimum level of assistance to all categories of eligible institutions will assure the continued participation of the institutions in the program established in this subchapter and enhance their role in providing access and quality education to low-income and minority students;".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–208, §5, Dec. 20, 1993, 107 Stat. 2488, provided that:

"(a) IN GENERAL.—Except as otherwise provided therein or in subsection (b) of this section, the amendments made by section 2 of this Act [see Tables for classification] shall be effective as if such amendments were included in the Higher Education Amendments of 1992 (Public Law 102–325), except that section 492 of the Act [section 1098a of this title] shall not apply to the amendments made by this Act [see Tables for classification].

"(b) EXCEPTIONS.—

"(1) EFFECTIVE ON OCTOBER 1, 1993.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after October 1, 1993: (b)(29), (j)(28), (j)(36), and (j)(40) [amending sections 1070d–34, 1134e, 1134j, and 1134q of this title].

"(2) EFFECTIVE ON DATE OF ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after the date of enactment of this Act [Dec. 20, 1993]: (b)(2), (b)(7), (b)(28), (c)(3), (c)(5), (c)(13)(B), (c)(13)(C), (c)(18), (c)(30), (c)(62) [amending sections 1070a, 1070a–11, 1070d–33, 1075, 1077a, 1078, 1078–1, and 1085 of this title].

"(3) EFFECTIVE 30 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 30 days after the date of enactment of this Act [Dec. 20, 1993]: (c)(19), (c)(20), (c)(21), (c)(59) [amending sections 1078 and 1085 of this title].

"(4) EFFECTIVE 60 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 60 days after the date of enactment of this Act [Dec. 20, 1993]: (c)(31) and (c)(53) [amending sections 1078–1 and 1083 of this title].

"(5) EFFECTIVE ON APRIL 1, 1994.—The amendments made by section 2(c)(43)(B) of this Act [amending section 1078–8 of this title] shall be effective on and after April 1, 1994.

"(6) EFFECTIVE ON JULY 1, 1994.—The amendments made by the following subsection[s] of section 2 of this Act shall be effective on and after July 1, 1994: (b)(25), (c)(2), (c)(13)(A), (c)(29) [amending sections 1070b–2, 1075, 1078, and 1078–1 of this title].

"(7) COHORT DEFAULT DATA EXAMINATIONS.—The amendment made by section 2(c)(60)(A) [amending section 1085 of this title] shall be effective on and after October 1, 1994.

"(8) COHORT DEFAULT RATE DETERMINATIONS.—The amendments made to subsection[s] (a)(3) and (m)(1)(B) of section 435 of this [the] Act [section 1085(a)(3) and (m)(1)(B) of this title] shall apply with respect to the determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Pub. L. 99–498, title III, §301(b), Oct. 17, 1986, 100 Stat. 1308, provided that: "The amendment made by subsection (a) [enacting this subchapter] shall take effect July 1, 1987."

PART A—STRENGTHENING INSTITUTIONS

§1057. Program purpose

(a) General authorization

The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

(b) Grants awarded; special consideration

(1) From the sums available for this part under section 1068h(a)(1) of this title, the Secretary may award grants to any eligible institution with an application approved under section 1068 of this title in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

(2) Special consideration shall be given to any eligible institution—

(A) which has endowment funds (other than any endowment fund built under section 1065 of this title as in effect on September 30, 1986, and under part B of this subchapter) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 1065 of this title as in effect on September 30, 1986, and under part B of this subchapter) at similar institutions; or

(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

(A) faculty development;

(B) funds and administrative management;

(C) development and improvement of academic programs;

(D) acquisition of equipment for use in strengthening funds management and academic programs;

(E) joint use of facilities such as libraries and laboratories; and

(F) student services, including services that will assist in the education of special populations.

(c) Authorized activities

Grants awarded under this section shall be used for 1 or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including the integration of computer technology into institutional facilities to create smart buildings.

(3) Support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the field of instruction of the faculty.

(4) Development and improvement of academic programs.

(5) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

(6) Tutoring, counseling, and student service programs designed to improve academic success, including innovative, customized, instruction courses designed to help retain students and move the students rapidly into core courses and through program completion, which may include remedial education and English language instruction.

(7) Education or counseling services designed to improve the financial literacy and economic literacy of students or the students' families.

(8) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

(9) Joint use of facilities, such as laboratories and libraries.

(10) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(11) Establishing or improving an endowment fund.

(12) Creating or improving facilities for Internet or other distance education technologies, including purchase or rental of telecommunications technology equipment or services.

(13) Other activities proposed in the application submitted pursuant to subsection (b) and section 1068 of this title that—

(A) contribute to carrying out the purposes of the program assisted under this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(d) Endowment fund

(1) In general

An eligible institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at such institution.

(2) Matching requirement

In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

(3) Comparability

The provisions of part C of this subchapter, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(Pub. L. 89–329, title III, §311, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1291; amended Pub. L. 100–50, §2(a)(1), June 3, 1987, 101 Stat. 335; Pub. L. 105–244, title III, §§301(c)(1), 303(a), Oct. 7, 1998, 112 Stat. 1636, 1638; Pub. L. 110–315, title III, §301, Aug. 14, 2008, 122 Stat. 3166.)

PRIOR PROVISIONS

A prior section 1057, Pub. L. 89–329, title III, §311, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1391, enumerated purposes and established grant authority for program to strengthen eligible institutions, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–315, §301(1)(A), made technical amendment to reference in original act which appears in text as reference to section 1068 of this title.

Subsec. (b)(3)(F). Pub. L. 110–315, §301(1)(B), inserted ", including services that will assist in the education of special populations" before period at end.

Subsec. (c)(6). Pub. L. 110–315, §301(2)(A), inserted ", including innovative, customized, instruction courses designed to help retain students and move the students rapidly into core courses and through program completion, which may include remedial education and English language instruction" before period at end.

Subsec. (c)(7) to (13). Pub. L. 110–315, §301(2)(B)–(E), added par. (7), redesignated former pars. (7) to (12) as pars. (8) to (13), respectively, in par. (12), substituted "distance education technologies" for "distance learning academic instruction capabilities" and, in introductory provisions of par. (13), substituted "subsection (b) and section 1068 of this title" for "subsection (c)".

1998—Subsec. (b)(1). Pub. L. 105–244, §301(c)(1), substituted "section 1068h(a)(1)" for "section 1069f(a)(1)".

Subsecs. (c), (d). Pub. L. 105–244, §303(a), added subsecs. (c) and (d).

1987—Subsec. (b)(1). Pub. L. 100–50 substituted "section 1069f(a)(1) of this title" for "section 1069d(a)(1) of this title".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1058. Definitions; eligibility

(a) Educational and general expenditures

For the purpose of this part, the term "educational and general expenditures" means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

(b) Eligible institution

For the purpose of this part, the term "eligible institution" means—

(1) an institution of higher education—

(A) which has an enrollment of needy students as required by subsection (d);

(B) except as provided in section 1068a(b) of this title, the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(C) which is—

(i) legally authorized to provide, and provides within the State, an educational program for which such institution awards a bachelor's degree;

(ii) a junior or community college; or

(iii) the College of the Marshall Islands, the College of Micronesia/Federated States of Micronesia, and Palau Community College;

(D) which is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or which

is, according to such an agency or association, making reasonable progress toward accreditation;

(E) which meets such other requirements as the Secretary may prescribe; and

(F) located in a State; and

(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph,[1] the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

(c) Endowment fund

For the purpose of this part, the term "endowment fund" means a fund that—

(1) is established by State law, by an institution of higher education, or by a foundation that is exempt from Federal income taxation;

(2) is maintained for the purpose of generating income for the support of the institution; and

(3) does not include real estate.

(d) Enrollment of needy students

Except as provided in section 1059e(b) of this title, for the purpose of this part, the term "enrollment of needy students" means an enrollment at an institution of higher education or a junior or community college which includes—

(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the second fiscal year preceding the fiscal year for which the determination is being made (other than loans for which an interest subsidy is paid pursuant to section 1078 of this title), or

(2) a substantial percentage of students receiving Pell Grants in the second fiscal year preceding the fiscal year for which determination is being made, in comparison with the percentage of students receiving Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this paragraph is waived under section 1068a(a) of this title.

(e) Full-time equivalent students

For the purpose of this part, the term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(f) Junior or community college

For the purpose of this part, the term "junior or community college" means an institution of higher education—

(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(g) Low-income individual

For the purpose of this part, the term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(h) Historically black college or university

For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this subchapter is eligible for or may receive funds under this part.

(Pub. L. 89–329, title III, §312, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1292; amended Pub. L. 100–50, §2(a)(2)–(6), June 3, 1987, 101 Stat. 335; Pub. L. 100–369, §10(a), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title III, §302(a), (b), July 23, 1992, 106 Stat. 472; Pub. L. 103–208, §2(a)(5), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, title III, §353, Oct. 20, 1994, 108 Stat. 3966; Pub. L. 105–244, title III, §§301(c)(2), 303(b), Oct. 7, 1998, 112 Stat. 1636, 1639; Pub. L. 110–315, title III, §§302, 305(b), Aug. 14, 2008, 122 Stat. 3167, 3173.)

PRIOR PROVISIONS

A prior section 1058, Pub. L. 89–329, title III, §312, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1391, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(1)(A). Pub. L. 110–315, §302(1), substituted "subsection (d)" for "subsection (c) of this section".

Subsec. (d). Pub. L. 110–315, §305(b), substituted "Except as provided in section 1059e(b) of this title, for the purpose" for "For the purpose" in introductory provisions.

Subsec. (d)(2). Pub. L. 110–315, §302(2), substituted "paragraph" for "subdivision".

Subsecs. (g), (h). Pub. L. 110–315, §302(3), (4), added subsec. (g) and redesignated former subsec. (g) as (h).

1998—Subsec. (b)(1)(B). Pub. L. 105–244, §301(c)(2)(A), substituted "section 1068a(b)" for "section 1067(b)".

Subsec. (c). Pub. L. 105–244, §303(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (c)(2). Pub. L. 105–244, §301(c)(2)(B), substituted "section 1068a(a)" for "section 1067(a)".

Subsecs. (d) to (g). Pub. L. 105–244, §303(b)(1), redesignated subsecs. (c) to (f) as (d) to (g), respectively.

1994—Subsec. (b)(1)(C). Pub. L. 103–382, §353(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "(C)(i) which is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (ii) which is a junior or community college;".

Subsec. (b)(1)(F). Pub. L. 103–382, §353(2), (3), added subpar. (F).

1993—Subsec. (c)(2). Pub. L. 103–208 inserted "the" after "such institutions in".

1992—Subsec. (b)(1), (2). Pub. L. 102–325, §302(a)(1), (2), inserted "and" at end of subpar. (D), struck out subpar. (E), redesignated subpar. (F) as (E) and inserted "and" at end, and substituted period for semicolon at end of par. (2). Prior to amendment, subpar. (E) of par. (1) read as follows: "except as provided in section 1067(b) of this title which has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

"(i) met the requirement of either subparagraph (C)(i) or (C)(ii), or of both such subparagraphs (simultaneously or consecutively); and

"(ii) met the requirement of subparagraph (D); and".

Subsec. (b)(3) to (5). Pub. L. 102–325, §302(a)(3), struck out pars. (3) to (5) which read as follows:

"(3) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1);

"(4) any institution of higher education which has an enrollment of at least 60 percent American Indian, or in the case of Alaska natives, an enrollment of at least 5 percent, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1); and

"(5) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1)."

Subsec. (c)(2). Pub. L. 102–325, §302(b), substituted "second fiscal year preceding the fiscal year for which the determination is made, unless the requirement" for "second preceding fiscal year, unless the requirement".

1988—Subsec. (f). Pub. L. 100–369 added subsec. (f).

1987—Subsec. (b)(1)(C), (D). Pub. L. 100–50, §2(a)(2)(A), inserted "which" before "is" wherever appearing.

Subsec. (b)(1)(E). Pub. L. 100–50, §2(a)(2)(B), inserted "which" before "has".

Subsec. (b)(1)(F). Pub. L. 100–50, §2(a)(2)(C), inserted "which" before "meets".

Subsec. (b)(3), (5). Pub. L. 100–50, §2(a)(3), (4), substituted "subparagraphs (A), (B), (C), and (D)" for "subparagraphs (A) and (B)".

Subsec. (c)(1). Pub. L. 100–50, §2(a)(5), inserted "in the second fiscal year preceding the fiscal year for which the determination is being made" after "chapter 34 of title 42".

Subsec. (c)(2). Pub. L. 100–50, §2(a)(6), substituted "fiscal year preceding the fiscal year for which determination is being made" for "preceding fiscal year" and "second preceding fiscal year" for "such fiscal year".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

[1] So in original. Probably should be "subsection,".

§1059. Duration of grant

(a) Award period

The Secretary may award a grant to an eligible institution under this part for 5 years.

(b) Limitations

In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part, except that for the purpose of this subsection a grant under subsection (c) of this section and a grant under section 1068c(a)(1) of this title shall not be considered a grant under this part.

(c) Planning grants

Notwithstanding subsection (a) of this section, the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

(d) Wait-out-period

Each eligible institution that received a grant under this part for a 5-year period shall not be eligible to receive an additional grant under this part until 2 years after the date on which the 5-year grant period terminates.

(Pub. L. 89–329, title III, §313, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1294; amended Pub. L. 102–325, title III, §302(c), July 23, 1992, 106 Stat. 472; Pub. L. 103–208,

§2(a)(6), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, §§301(c)(3), 303(c), Oct. 7, 1998, 112 Stat. 1637, 1639.)

PRIOR PROVISIONS

A prior section 1059, Pub. L. 89–329, title III, §313, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1392, provided for duration of grants under this part, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244, §303(c)(1), inserted "subsection (c) of this section and a grant under" after "this subsection a grant under".

Pub. L. 105–244, §301(c)(3), substituted "section 1068c(a)(1)" for "section 1069(a)(1)".

Subsec. (d). Pub. L. 105–244, §303(c)(2), added subsec. (d).

1993—Subsec. (b). Pub. L. 103–208 inserted before period at end ", except that for the purpose of this subsection a grant under section 1069(a)(1) of this title shall not be considered a grant under this part".

1992—Subsecs. (a), (b). Pub. L. 102–325 amended subsecs. (a) and (b) generally, substituting present provisions for provisions which related: in subsec. (a), to the awarding of grants for not to exceed 3, 4, or 5 years; and in subsec. (b), to waiting periods for awarding of subsequent grants.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§1059a. Applications

Each eligible institution desiring to receive assistance under this part shall submit an application in accordance with the requirements of section 1068 of this title.

(Pub. L. 89–329, title III, §314, as added Pub. L. 105–244, title III, §303(d), Oct. 7, 1998, 112 Stat. 1639.)

PRIOR PROVISIONS

A prior section 1059a, Pub. L. 89–329, title III, §314, as added Pub. L. 100–50, §2(b), June 3, 1987, 101 Stat. 336, related to application review process, prior to repeal by Pub. L. 105–244, §3, title III, §303(d), Oct. 7, 1998, 112 Stat. 1585, 1639, effective Oct. 1, 1998.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1059b. Goals for financial management and academic program

(a) Goals

Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

(b) Continuation requirements

Any continuation application shall demonstrate the progress made toward achievement of the goals described pursuant to subsection (a) of this section.

(Pub. L. 89–329, title III, §315, as added Pub. L. 102–325, title III, §302(d)(1), July 23, 1992, 106 Stat. 472.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§1059c. American Indian tribally controlled colleges and universities

(a) Program authorized

The Secretary shall provide grants and related assistance to Tribal Colleges and Universities to enable such institutions to improve and expand their capacity to serve Indian students.

(b) Definitions

In this section:

(1) Indian

The term "Indian" has the meaning given the term in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978 [25 U.S.C. 1801].

(2) Indian tribe

The term "Indian tribe" has the meaning given the term in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978 [25 U.S.C. 1801].

(3) Tribal College or University

The term "Tribal College or University" means an institution that—

(A) qualifies for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a note); [1] or

(B) is cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).

(4) Institution of higher education

The term "institution of higher education" means an institution of higher education as defined in section 1001(a) of this title, except that paragraph (2) of such section shall not apply.

(c) Authorized activities

(1) In general

Grants awarded under this section shall be used by Tribal Colleges or Universities to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Indian students.

(2) Examples of authorized activities

The activities described in paragraph (1) may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services, and the acquisition of real property adjacent to the campus of the institution on which to construct such facilities;

(C) support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction or in tribal governance or tribal public policy;

(D) academic instruction in disciplines in which Indians are underrepresented and instruction in tribal governance or tribal public policy;

(E) purchase of library books, periodicals, and other educational materials, including telecommunications program material;

(F) tutoring, counseling, and student service programs designed to improve academic success;

(G) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' families;

(H) funds management, administrative management, and acquisition of equipment for use in strengthening funds management;

(I) joint use of facilities, such as laboratories and libraries;

(J) establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

(K) establishing or enhancing a program of teacher education designed to qualify students to teach in elementary schools or secondary schools, with a particular emphasis on teaching Indian children and youth, that shall include, as part of such program, preparation for teacher certification;

(L) establishing community outreach programs that encourage Indian elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education;

(M) developing or improving facilities for Internet use or other distance education technologies; and

(N) other activities proposed in the application submitted pursuant to subsection (d) of this section that—

(i) contribute to carrying out the activities described in subparagraphs (A) through (M); and

(ii) are approved by the Secretary as part of the review and acceptance of such application.

(3) Endowment fund

(A) In general

A Tribal College or University may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

(B) Matching requirement

In order to be eligible to use grant funds in accordance with subparagraph (A), the Tribal College or University shall provide matching funds, in an amount equal to the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

(C) Comparability

The provisions of part C of this subchapter regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this paragraph, shall apply to funds used under subparagraph (A).

(d) Application, plan, and allocation

(1) Institutional eligibility

To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 1058(b) of this title.

(2) Application

(A) In general

A Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(B) Streamlined process

The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants under this section.

(3) Awards and allocations to institutions

(A) Construction grants

(i) In general

Of the amount appropriated to carry out this section for any fiscal year, the Secretary may reserve 30 percent for the purpose of awarding one-year grants of not less than $1,000,000 to address construction, maintenance, and renovation needs at eligible institutions.

(ii) Preference

In providing grants under clause (i) for any fiscal year, the Secretary shall give preference to eligible institutions that have not received an award under this section for a previous fiscal year.

(B) Allotment of remaining funds

(i) In general

Except as provided in clause (ii), the Secretary shall distribute the remaining funds appropriated for any fiscal year to each eligible institution as follows:

(I) 60 percent of the remaining appropriated funds shall be distributed among the eligible Tribal Colleges and Universities on a pro rata basis, based on the respective Indian student counts (as defined in section 2(a) of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801(a)) [2] of the Tribal Colleges and Universities.

(II) The remaining 40 percent shall be distributed in equal shares to the eligible Tribal Colleges and Universities.

(ii) Minimum grant

The amount distributed to a Tribal College or University under clause (i) shall not be less than $500,000.

(4) Special rules

(A) Concurrent funding

No Tribal College or University that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or part A of subchapter V.

(B) Exemption

Section 1059(d) of this title shall not apply to institutions that are eligible to receive funds under this section.

(Pub. L. 89–329, title III, §316, as added Pub. L. 102–325, title III, §302(d)(1), July 23, 1992, 106 Stat. 473; amended Pub. L. 103–208, §2(a)(7), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, §303(e), Oct. 7, 1998, 112 Stat. 1639; Pub. L. 106–211, §1(a), (b)(1), May 26, 2000, 114 Stat. 330; Pub. L. 110–315, title III, §303, Aug. 14, 2008, 122 Stat. 3167; Pub. L. 111–39, title III, §301(1), July 1, 2009, 123 Stat. 1936.)

REFERENCES IN TEXT

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in subsec. (b)(3)(A), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Navajo Community College Act, referred to in subsec. (b)(3)(A), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

Section 532 of the Equity in Educational Land-Grant Status Act of 1994, referred to in subsec. (b)(3)(B), is section 532 of Pub. L. 103–382, which is set out in a note under section 301 of Title 7, Agriculture.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–39, §301(1)(A), substituted "Tribal" for "Indian Tribal".

Subsec. (b)(1), (2). Pub. L. 111–39, §301(1)(B)(i), (ii), substituted "the Tribally Controlled Colleges and Universities Assistance Act of 1978" for "the Tribally Controlled College or University Assistance Act of 1978".

Subsec. (b)(3)(A). Pub. L. 111–39, §301(1)(B)(iii), substituted "the Navajo Community College Act" for "the Navajo Community College Assistance Act of 1978".

2008—Subsec. (b)(3). Pub. L. 110–315, §303(1), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "The term 'Tribal College or University' has the meaning give the term 'tribally controlled college or university' in section 1801 of title 25, and includes an institution listed in the Equity in Educational Land Grant Status Act of 1994.

Subsec. (c)(2)(B). Pub. L. 110–315, §303(2)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: "construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;".

Subsec. (c)(2)(C). Pub. L. 110–315, §303(2)(B), inserted "or in tribal governance or tribal public policy" before semicolon at end.

Subsec. (c)(2)(D). Pub. L. 110–315, §303(2)(C), inserted "and instruction in tribal governance or tribal public policy" before semicolon at end.

Subsec. (c)(2)(G) to (N). Pub. L. 110–315, §303(2)(D)–(H), added subpars. (G) and (M), redesignated former subpars. (G), (H), (I), (J), (K), and (L) as subpars. (H), (I), (J), (K), (L), and (N), respectively, and in subpar. (N)(i) substituted "subparagraphs (A) through (M)" for "subparagraphs (A) through (K)".

Subsec. (d). Pub. L. 110–315, §303(3), added subsec. (d) and struck out former subsec. (d) which related to the application process for assistance under this section.

2000—Subsec. (d)(2). Pub. L. 106–211, §1(a), inserted after first sentence "The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section."

Subsec. (d)(3). Pub. L. 106–211, §1(b)(1), added par. (3) and struck out heading and text of former par. (3). Text read as follows: "For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section may concurrently receive other funds under this part or part B of this subchapter."

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (e) authorizing grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

1993—Subsec. (c). Pub. L. 103–208 substituted "(2) EXAMPLES OF AUTHORIZED ACTIVITIES .—Such programs may include—" for "Such programs may include—".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–211, §1(c), May 26, 2000, 114 Stat. 331, provided that: "The amendments made by this Act [amending this section and section 1059d of this title] shall be effective on the date of the enactment of this Act [May 26, 2000]."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

[1] *See References in Text note below.*

[2] *So in original. Probably should be followed by a third closing parenthesis.*

§1059d. Alaska Native and Native Hawaiian-serving institutions

(a) Program authorized

The Secretary shall provide grants and related assistance to Alaska Native-serving institutions and Native Hawaiian-serving institutions to enable such institutions to improve and expand their capacity to serve Alaska Natives and Native Hawaiians.

(b) Definitions

For the purpose of this section—

(1) the term "Alaska Native" has the meaning given the term in section 7546 of this title;

(2) the term "Alaska Native-serving institution" means an institution of higher education that—

(A) is an eligible institution under section 1058(b) of this title; and

(B) at the time of application, has an enrollment of undergraduate students that is at least 20 percent Alaska Native students;

(3) the term "Native Hawaiian" has the meaning given the term in section 7517 of this title; and

(4) the term "Native Hawaiian-serving institution" means an institution of higher education which—

(A) is an eligible institution under section 1058(b) of this title; and

(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students.

(c) Authorized activities

(1) Types of activities authorized

Grants awarded under this section shall be used by Alaska Native-serving institutions and Native Hawaiian-serving institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Alaska Natives or Native Hawaiians.

(2) Examples of authorized activities

Such programs may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(D) curriculum development and academic instruction;

(E) purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) joint use of facilities such as laboratories and libraries;

(H) academic tutoring and counseling programs and student support services; and

(I) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' families.

(d) Application process

(1) Institutional eligibility

Each Alaska Native-serving institution and Native Hawaiian-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is an Alaska Native-serving institution or a Native Hawaiian-serving institution as defined in subsection (b) of this section, along with such other information and data as the Secretary may by regulation require.

(2) Applications

Any institution which is determined by the Secretary to be an Alaska Native-serving institution or a Native Hawaiian-serving institution may submit an application for assistance under this section to the Secretary. The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section. Such application shall include—

(A) a 5-year plan for improving the assistance provided by the Alaska Native-serving institution or the Native Hawaiian-serving institution to Alaska Native or Native Hawaiian students; and

(B) such other information and assurance as the Secretary may require.

(3) Special rules

(A) Eligibility

No Alaskan Native-serving institution or Native Hawaiian-serving institution that receives funds under this section shall concurrently receive funds under other provisions of this part or part B of this subchapter.

(B) Exemption

Section 1059(d) of this title shall not apply to institutions that are eligible to receive funds under this section.

(C) Distribution

In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.

(Pub. L. 89–329, title III, §317, as added Pub. L. 105–244, title III, §303(f), Oct. 7, 1998, 112 Stat. 1641; amended Pub. L. 106–211, §1(a), (b)(2), May 26, 2000, 114 Stat. 330; Pub. L. 107–110, title VII, §702(a), Jan. 8, 2002, 115 Stat. 1946; Pub. L. 110–315, title III, §304, Aug. 14, 2008, 122 Stat. 3169; Pub. L. 114–95, title IX, §9215(oo)(6), Dec. 10, 2015, 129 Stat. 2179.)

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114–95, §9215(oo)(6)(A), made technical amendment to reference in original act which appears in text as reference to section 7546 of this title.

Subsec. (b)(3). Pub. L. 114–95, §9215(oo)(6)(B), made technical amendment to reference in original act which appears in text as reference to section 7517 of this title.

2008—Subsec. (c)(2)(I). Pub. L. 110–315 added subpar. (I).

2002—Subsec. (b)(1). Pub. L. 107–110, §702(a)(1), substituted "section 7546" for "section 7938".

Subsec. (b)(3). Pub. L. 107–110, §702(a)(2), substituted "section 7517" for "section 7912".

2000—Subsec. (d)(2). Pub. L. 106–211, §1(a), inserted after first sentence "The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section."

Subsec. (d)(3). Pub. L. 106–211, §1(b)(2), added par. (3).

Subsec. (e). Pub. L. 106–211, §1(b)(2), struck out heading and text of subsec. (e). Text read as follows: "For the purposes of this section, no Alaska Native-serving institution or Native Hawaiian-serving institution which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B of this subchapter."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1059e. Predominantly Black Institutions

(a) Purpose

It is the purpose of this section to assist Predominantly Black Institutions in expanding educational opportunity through a program of Federal assistance.

(b) Definitions

In this section:

(1) Eligible institution

The term "eligible institution" means an institution of higher education that—

(A) has an enrollment of needy undergraduate students;

(B) has an average educational and general expenditure that is low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditure per full-time equivalent undergraduate student of institutions that offer similar instruction, except that the Secretary may apply the waiver requirements described in section 1068a(b) of this title to this subparagraph in the same manner as the Secretary applies the waiver requirements to section 1058(b)(1)(B) of this title;

(C) has an enrollment of undergraduate students that is not less than 40 percent Black American students;

(D) is legally authorized to provide, and provides, within the State an educational program for which the institution of higher education awards a baccalaureate degree or, in the case of a junior or community college, an associate's degree;

(E) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation; and

(F) is not receiving assistance under—

(i) part B;

(ii) part A of subchapter V; or

(iii) an annual authorization of appropriations under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123).

(2) Enrollment of needy students

The term "enrollment of needy students" means the enrollment at an eligible institution with respect to which not less than 50 percent of the undergraduate students enrolled in an academic program leading to a degree—

(A) in the second fiscal year preceding the fiscal year for which the determination is made, were Federal Pell Grant recipients for such year;

(B) come from families that receive benefits under a means-tested Federal benefit program;

(C) attended a public or nonprofit private secondary school that—

(i) is in the school district of a local educational agency that was eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C.

6311 et seq.] for any year during which the student attended such secondary school; and

(ii) for the purpose of this paragraph and for such year of attendance, was determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children meeting a measure of poverty under section 1113(a)(5) of such Act [20 U.S.C. 6313(a)(5)] exceeds 30 percent of the total enrollment of such school; or

(D) are first-generation college students and a majority of such first-generation college students are low-income individuals.

(3) First-generation college student

The term "first-generation college student" has the meaning given the term in section 1070a–11(h) of this title.

(4) Low-income individual

The term "low-income individual" has the meaning given such term in section 1070a–11(h) of this title.

(5) Means-tested Federal benefit program

The term "means-tested Federal benefit program" means a program of the Federal Government, other than a program under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, in which eligibility for the program's benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit.

(6) Predominantly Black Institution

The term "Predominantly Black Institution" means an institution of higher education, as defined in section 1001(a) of this title—

(A) that is an eligible institution with not less than 1,000 undergraduate students;

(B) at which not less than 50 percent of the undergraduate students enrolled at the eligible institution are low-income individuals or first-generation college students; and

(C) at which not less than 50 percent of the undergraduate students are enrolled in an educational program leading to a bachelor's or associate's degree that the eligible institution is licensed to award by the State in which the eligible institution is located.

(7) State

The term "State" means each of the 50 States and the District of Columbia.

(c) Grant authority

(1) In general

The Secretary is authorized to award grants, from allotments under subsection (e), to Predominantly Black Institutions to enable the Predominantly Black Institutions to carry out the authorized activities described in subsection (d).

(2) Priority

In awarding grants under this section the Secretary shall give priority to Predominantly Black Institutions with large numbers or percentages of students described in subsections [1] (b)(1)(A) or (b)(1)(C). The level of priority given to Predominantly Black Institutions with large numbers or percentages of students described in subsection (b)(1)(A) shall be twice the level of priority given to Predominantly Black Institutions with large numbers or percentages of students described in subsection (b)(1)(C).

(d) Authorized activities

(1) Required activities

Grant funds provided under this section shall be used—

(A) to assist the Predominantly Black Institution to plan, develop, undertake, and implement

programs to enhance the institution's capacity to serve more low- and middle-income Black American students;

(B) to expand higher education opportunities for students eligible to participate in programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 by encouraging college preparation and student persistence in secondary school and postsecondary education; and

(C) to strengthen the financial ability of the Predominantly Black Institution to serve the academic needs of the students described in subparagraphs (A) and (B).

(2) Additional activities

Grant funds provided under this section shall be used for one or more of the following activities:

(A) The activities described in paragraphs (1) through (12) of section 1057(c) of this title.

(B) Academic instruction in disciplines in which Black Americans are underrepresented.

(C) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary school or secondary school in the State that shall include, as part of such program, preparation for teacher certification or licensure.

(D) Establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

(E) Other activities proposed in the application submitted pursuant to subsection (f) that—

(i) contribute to carrying out the purpose of this section; and

(ii) are approved by the Secretary as part of the review and approval of an application submitted under subsection (f).

(3) Endowment fund

(A) In general

A Predominantly Black Institution may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

(B) Matching requirement

In order to be eligible to use grant funds in accordance with subparagraph (A), a Predominantly Black Institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

(C) Comparability

The provisions of part C, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under subparagraph (A).

(4) Limitation

Not more than 50 percent of the grant funds provided to a Predominantly Black Institution under this section may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

(e) Allotments to Predominantly Black Institutions

(1) Federal Pell Grant basis

From the amounts appropriated to carry out this section for any fiscal year, the Secretary shall allot to each Predominantly Black Institution having an application approved under subsection (f) a sum that bears the same ratio to one-half of that amount as the number of Federal Pell Grant recipients in attendance at such institution at the end of the academic year preceding the beginning of that fiscal year, bears to the total number of Federal Pell Grant recipients at all such institutions at the end of such academic year.

(2) Graduates basis

From the amounts appropriated to carry out this section for any fiscal year, the Secretary shall allot to each Predominantly Black Institution having an application approved under subsection (f) a sum that bears the same ratio to one-fourth of that amount as the number of graduates for such academic year at such institution, bears to the total number of graduates for such academic year at all such institutions.

(3) Graduates seeking a higher degree basis

From the amounts appropriated to carry out this section for any fiscal year, the Secretary shall allot to each Predominantly Black Institution having an application approved under subsection (f) a sum that bears the same ratio to one-fourth of that amount as the percentage of graduates from such institution who are admitted to and in attendance at, not later than two years after graduation with an associate's degree or a baccalaureate degree, a baccalaureate degree-granting institution or a graduate or professional school in a degree program in disciplines in which Black American students are underrepresented, bears to the percentage of such graduates for all such institutions.

(4) Minimum allotment

(A) In general

Notwithstanding paragraphs (1), (2), and (3), the amount allotted to each Predominantly Black Institution under this section may not be less than $250,000.

(B) Insufficient amount

If the amounts appropriated to carry out this section for a fiscal year are not sufficient to pay the minimum allotment provided under subparagraph (A) for the fiscal year, then the amount of such minimum allotment shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allotment shall be increased on the same basis as the allotment was reduced until the amount allotted equals the minimum allotment required under subparagraph (A).

(5) Reallotment

The amount of a Predominantly Black Institution's allotment under paragraph (1), (2), (3), or (4) for any fiscal year that the Secretary determines will not be needed for such institution for the period for which such allotment is available, shall be available for reallotment to other Predominantly Black Institutions in proportion to the original allotments to such other institutions under this section for such fiscal year. The Secretary shall reallot such amounts from time to time, on such date and during such period as the Secretary determines appropriate.

(f) Applications

Each Predominantly Black Institution desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(g) Application review process

Section 1068b of this title shall not apply to applications under this section.

(h) Duration and carryover

Any grant funds paid to a Predominantly Black Institution under this section that are not expended or used for the purposes for which the funds were paid within ten years following the date on which the grant was awarded, shall be repaid to the Treasury.

(i) Special rule on eligibility

No Predominantly Black Institution that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or part A of subchapter V.

(Pub. L. 89–329, title III, §318, as added Pub. L. 110–315, title III, §305(a), Aug. 14, 2008, 122 Stat. 3169; amended Pub. L. 111–39, title III, §301(2), July 1, 2009, 123 Stat. 1937.)

REFERENCES IN TEXT

The Act of March 2, 1867, referred to in subsec. (b)(1)(F)(iii), is act Mar. 2, 1867, ch. 162, 14 Stat. 438. Provisions relating to authorization of appropriations are contained in section 8 of the Act, which is classified to section 123 of this title. For complete classification of this Act to the Code, see Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2)(C)(i), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

2009—Subsec. (b)(1)(F). Pub. L. 111–39 added subpar. (F) and struck out former subpar. (F) which read as follows: "is not receiving assistance under part B or part A of subchapter V."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

[1] *So in original. Probably should be "subsection".*

§1059f. Native American-serving, nontribal institutions

(a) Program authorized

The Secretary shall provide grants and related assistance to Native American-serving, nontribal institutions to enable such institutions to improve and expand their capacity to serve Native Americans and low-income individuals.

(b) Definitions

In this section:

(1) Native American

The term "Native American" means an individual who is of a tribe, people, or culture that is indigenous to the United States.

(2) Native American-serving, nontribal institution

The term "Native American-serving, nontribal institution" means an institution of higher education, as defined in section 1001(a) of this title, that, at the time of application—

(A) is an eligible institution under section 1058(b) of this title;

(B) has an enrollment of undergraduate students that is not less than 10 percent Native American students; and

(C) is not a Tribal College or University (as defined in section 1059c of this title).

(c) Authorized activities

(1) Types of activities authorized

Grants awarded under this section shall be used by Native American-serving, nontribal institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Native Americans and low-income individuals.

(2) Examples of authorized activities

Such programs may include—

(A) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist

faculty in attaining advanced degrees in the faculty's field of instruction;

(D) curriculum development and academic instruction;

(E) the purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) the joint use of facilities such as laboratories and libraries;

(H) academic tutoring and counseling programs and student support services; and

(I) education or counseling services designed to improve the financial and economic literacy of students or the students' families.

(d) Application process

(1) Institutional eligibility

A Native American-serving, nontribal institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Native American-serving, nontribal institution, along with such other information and data as the Secretary may reasonably require.

(2) Applications

(A) Authority to submit applications

Any institution that is determined by the Secretary to be a Native American-serving, nontribal institution may submit an application for assistance under this section to the Secretary.

(B) Simplified and streamlined format

The Secretary shall, to the extent possible, continue to prescribe a simplified and streamlined format for applications under this section that takes into account the limited number of institutions that are eligible for assistance under this section.

(C) Content

An application submitted under subparagraph (A) shall include—

(i) a five-year plan for improving the assistance provided by the Native American-serving, nontribal institution to Native Americans and low-income individuals; and

(ii) such other information and assurances as the Secretary may reasonably require.

(3) Special rules

(A) Eligibility

No Native American-serving, nontribal institution that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or part A of subchapter V.

(B) Exemption

Section 1059(d) of this title shall not apply to institutions that are eligible to receive funds under this section.

(C) Distribution

In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.

(D) Minimum grant amount

The minimum amount of a grant under this section shall be $200,000.

(Pub. L. 89–329, title III, §319, as added Pub. L. 110–315, title III, §306, Aug. 14, 2008, 122 Stat. 3173.)

§1059g. Asian American and Native American Pacific Islander-serving

institutions

(a) Program authorized

The Secretary shall provide grants and related assistance to Asian American and Native American Pacific Islander-serving institutions to enable such institutions to improve and expand their capacity to serve Asian Americans and Native American Pacific Islanders and low-income individuals.

(b) Definitions

In this section:

(1) Asian American

The term "Asian American" has the meaning given the term "Asian" in the Office of Management and Budget's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published on October 30, 1997 (62 Fed. Reg. 58789).

(2) Asian American and Native American Pacific Islander-serving institution

The term "Asian American and Native American Pacific Islander-serving institution" means an institution of higher education that—

(A) is an eligible institution under section 1058(b) of this title; and

(B) at the time of application, has an enrollment of undergraduate students that is not less than 10 percent students who are Asian American or Native American Pacific Islander.

(3) Native American Pacific Islander

The term "Native American Pacific Islander" means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(c) Authorized activities

(1) Types of activities authorized

Grants awarded under this section shall be used by Asian American and Native American Pacific Islander-serving institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Asian Americans and Native American Pacific Islanders and low-income individuals.

(2) Examples of authorized activities

Such programs may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(D) curriculum development and academic instruction;

(E) purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) joint use of facilities such as laboratories and libraries;

(H) academic tutoring and counseling programs and student support services;

(I) establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education;

(J) establishing or improving an endowment fund;

(K) academic instruction in disciplines in which Asian Americans and Native American Pacific Islanders are underrepresented;

(L) conducting research and data collection for Asian American and Native American Pacific Islander populations and subpopulations;

(M) establishing partnerships with community-based organizations serving Asian Americans and Native American Pacific Islanders; and

(N) education or counseling services designed to improve the financial and economic literacy of students or the students' families.

(d) Application process

(1) Institutional eligibility

Each Asian American and Native American Pacific Islander-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is an Asian American and Native American Pacific Islander-serving institution as defined in subsection (b), along with such other information and data as the Secretary may reasonably require.

(2) Applications

Any institution that is determined by the Secretary to be an Asian American and Native American Pacific Islander-serving institution may submit an application for assistance under this section to the Secretary. Such application shall include—

(A) a five-year plan for improving the assistance provided by the Asian American and Native American Pacific Islander-serving institution to Asian American and Native American Pacific Islander students and low-income individuals; and

(B) such other information and assurances as the Secretary may reasonably require.

(3) Special rules

(A) Eligibility

No Asian American and Native American Pacific Islander-serving institution that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or subchapter V.

(B) Exemption

Section 1059(d) of this title shall not apply to institutions that are eligible to receive funds under this section.

(C) Distribution

In awarding grants under this section, the Secretary shall—

(i) to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions; and

(ii) give priority consideration to institutions for which not less than 10 percent of such institution's Asian American and Native American Pacific Islander students are low-income individuals.

(Pub. L. 89–329, title III, §320, as added Pub. L. 110–315, title III, §307, Aug. 14, 2008, 122 Stat. 3175.)

PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

§1060. Findings and purposes

The Congress finds that—

(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and

educationally disadvantaged Americans;

(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 [7 U.S.C. 301 et seq.] and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this chapter and part C of subchapter I of chapter 34 of title 42 and other Federal programs which benefit institutions of higher education;

(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

(Pub. L. 89–329, title III, §321, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1294.)

REFERENCES IN TEXT

The Morrill Act of 1862, referred to in par. (2), is act July 2, 1862, ch. 130, 12 Stat. 503, also known as the First Morrill Act, which is classified generally to subchapter I (§301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

PRIOR PROVISIONS

A prior section 1060, Pub. L. 89–329, title III, §321, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1393, set out purpose and grant authority for program of aiding institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1060, Pub. L. 90–575, title V, §504, Oct. 16, 1968, 82 Stat. 1062, related to eligibility for student assistance because of conviction of crimes involving force, disruption, or seizure of property of educational institution; refusal to obey regulations or orders and disruption of administration of institution; other misconduct, disciplinary proceedings, and freedom of expression; and description of programs covered by such disqualification, prior to repeal by Pub. L. 92–318, title I, §139B(b), June 23, 1972, 86 Stat. 282.

EXECUTIVE ORDER NO. 12320

Ex. Ord. No. 12320, Sept. 15, 1981, 46 F.R. 46107, which provided for the development of a Federal program to achieve a significant increase in the participation by historically Black colleges and universities in Federally sponsored programs, was revoked by Ex. Ord. No. 12677, Apr. 28, 1989, 54 F.R. 18869, formerly set out below.

EXECUTIVE ORDER NO. 12677

Ex. Ord. No. 12677, Apr. 28, 1989, 54 F.R. 18869, which provided for the development of a Federal program to achieve a significant increase in the participation by historically Black colleges and universities in Federally sponsored programs, was revoked by Ex. Ord. No. 12876, §13, Nov. 1, 1993, 58 F.R. 58735, formerly set out below.

EXECUTIVE ORDER NO. 12876

Ex. Ord. No. 12876, Nov. 1, 1993, 58 F.R. 58735, which established in the Department of Education the President's Board of Advisors on Historically Black Colleges and Universities, a Presidential advisory committee, was revoked by Ex. Ord. No. 13256, §11, Feb. 12, 2002, 67 F.R. 6825, formerly set out below.

EXECUTIVE ORDER NO. 13256

Ex. Ord. No. 13256, Feb. 12, 2002, 67 F.R. 6823, which established in the Office of the Secretary of Education the President's Board of Advisors on Historically Black Colleges and Universities, a Presidential advisory committee, was revoked by Ex. Ord. No. 13532, §4(g), Feb. 26, 2010, 75 F.R. 9752, set out below.

EX. ORD. NO. 13532. PROMOTING EXCELLENCE, INNOVATION, AND SUSTAINABILITY AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Ex. Ord. No. 13532, Feb. 26, 2010, 75 F.R. 9749, as amended by Ex. Ord. No. 13569, §4, Apr. 5, 2011, 76 F.R. 19891, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to advance the development of the Nation's full human potential and to advance equal opportunity in higher education, strengthen the capacity of historically black colleges and universities to provide the highest quality education, increase opportunities for these institutions to participate in and benefit from Federal programs, and ensure that our Nation has the highest proportion of college graduates in the world by the year 2020, it is hereby ordered as follows:

SECTION 1. *Policy*. Historically black colleges and universities (HBCUs) have made historic and ongoing contributions to the general welfare and prosperity of our country. Established by visionary leaders, America's HBCUs, for over 150 years, have produced many of the Nation's leaders in business, government, academia, and the military and have provided generations of American men and women with hope and educational opportunity. The Nation's 105 HBCUs are located in 20 States, the District of Columbia, and the U.S. Virgin Islands and serve more than 300,000 undergraduate and graduate students. These institutions continue to be important engines of economic growth and community service, and they are proven ladders of intergenerational advancement for men and women of all ethnic, racial, and economic backgrounds, especially African Americans. These institutions also produce a high number of baccalaureate recipients who go on to assume leadership and service roles in their communities and who successfully complete graduate and professional degree programs.

SEC. 2. *White House Initiative on HBCUs.*

(a) *Establishment*. There is established the White House Initiative on Historically Black Colleges and Universities (Initiative), to be housed in the Department of Education (Department).

(b) *Mission and Functions*. The Initiative shall work with executive departments, agencies, and offices, the private sector, educational associations, philanthropic organizations, and other partners to increase the capacity of HBCUs to provide the highest-quality education to a greater number of students, and to take advantage of these institutions' capabilities in serving the Nation's needs through five core tasks:

(i) strengthening the capacity of HBCUs to participate in Federal programs;

(ii) fostering enduring private-sector initiatives and public-private partnerships while promoting specific areas and centers of academic research and programmatic excellence throughout all HBCUs;

(iii) improving the availability, dissemination, and quality of information concerning HBCUs to inform public policy and practice;

(iv) sharing administrative and programmatic practices within the HBCU community for the benefit of all; and

(v) exploring new ways of improving the relationship between the Federal Government and HBCUs.

(c) *Administration*. There shall be an Executive Director of the Initiative. The Department shall provide the staff, resources, and assistance for the Initiative, and shall assist the Initiative in fulfilling its mission and responsibilities under this order.

(d) *Federal Agency Plans*. (1) Each executive department and agency designated by the Secretary of Education (Secretary) shall prepare an annual plan (agency plan) of its efforts to strengthen the capacity of HBCUs through increased participation in appropriate Federal programs and initiatives. Where appropriate, each agency plan shall address, among other things, the agency's proposed efforts to:

(i) establish how the department or agency intends to increase the capacity of HBCUs to compete effectively for grants, contracts, or cooperative agreements and to encourage HBCUs to participate in Federal programs;

(ii) identify Federal programs and initiatives in which HBCUs may be either underserved or underused as national resources, and improve HBCUs' participation therein; and

(iii) encourage public-sector, private-sector, and community involvement in improving the overall capacity of HBCUs.

(2) Each department and agency, in its agency plan, shall provide appropriate measurable objectives and, after the first year, shall annually assess that department's or agency's performance on the goals set in the previous year's agency plan.

(3) The Secretary shall establish a date by which agency plans shall be submitted to the Secretary. The Secretary and the Executive Director shall review the agency plans in consultation with the President's Board of Advisors on HBCUs, established in section 3 of this order, and shall submit to the President an annual plan to strengthen the overall capacity of HBCUs.

(4) To help fulfill the objectives of these plans, the head of each department and agency identified by the Secretary shall provide, as appropriate, technical assistance and information to the Executive Director for purposes of communicating with HBCUs concerning program activities of the department or agency and the

preparation of applications or proposals for grants, contracts, or cooperative agreements.

(5) To help fulfill the goals of this order, each executive department and agency identified by the Secretary shall appoint a senior official to report directly to the department or agency head with respect to that department's or agency's activities under this order, and to serve as liaison to the President's Board of Advisors on HBCUs and to the Initiative.

(e) *Interagency Working Group*. There is established the Interagency Working Group, which shall be convened by the Executive Director and that shall consist of representatives from agencies designated by the Secretary, to help advance and coordinate the work of Federal agencies pursuant to this order, where appropriate.

SEC. 3. *President's Board of Advisors on HBCUs.*

(a) *Establishment*. There is established in the Department the President's Board of Advisors on Historically Black Colleges and Universities (the Board). The Board shall consist of not more than 25 members appointed by the President. The President shall designate one member of the Board to serve as Chair, who shall coordinate with the Executive Director to convene meetings and help direct the work of the Board. The Board shall include representatives of a variety of sectors, including philanthropy, education, business, finance, entrepreneurship, innovation, and private foundations, as well as sitting HBCU presidents.

(b) *Mission and Functions*. Through the Initiative, the Board shall advise the President and the Secretary on all matters pertaining to strengthening the educational capacity of HBCUs. In particular, the Board shall advise the President and the Secretary in the following areas:

(i) improving the identity, visibility, and distinctive capabilities and overall competitiveness of HBCUs;

(ii) engaging the philanthropic, business, government, military, homeland-security, and education communities in a national dialogue regarding new HBCU programs and initiatives;

(iii) improving the ability of HBCUs to remain fiscally secure institutions that can assist the Nation in reaching its goal of having the highest proportion of college graduates by 2020;

(iv) elevating the public awareness of HBCUs; and

(v) encouraging public-private investments in HBCUs.

(c) *Administration*. The Executive Director of the Initiative shall also serve as the Executive Director of the Board. The Department shall provide funding and administrative support for the Board to the extent permitted by law and within existing appropriations. Members of the Board shall serve without compensation, but shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by law. Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.), may apply to the Board, any functions of the President under that Act, except for those of reporting to the Congress, shall be performed by the Secretary, in accordance with guidelines issued by the Administrator of General Services.

(d) *Report*. As part of the annual report of the Initiative, the Board shall report to the President and the Secretary on their progress in carrying out its duties under this section.

SEC. 4. *General Provisions*. (a) For the purposes of this order, "historically black colleges and universities" shall mean those institutions listed in 34 C.F.R. 608.2.

(b) This order shall apply to executive departments and agencies designated by the Secretary. Those departments and agencies shall provide timely reports and such information as is required to effectively carry out the objectives of this order.

(c) The heads of executive departments and agencies shall assist and provide information through the White House Initiative to the Board, consistent with applicable law, as may be necessary to carry out the functions of the Board. Each executive department and agency shall bear its own expenses of participating in the Initiative.

(d) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(e) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(f) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(g) Executive Order 13256 of February 12, 2002, is hereby revoked.

BARACK OBAMA.

EXTENSION OF TERM OF PRESIDENT'S BOARD OF ADVISORS ON HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept.

30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 1999, by Ex. Ord. No. 13062, §1(e), Sept. 29, 1997, 62 F.R. 51755, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

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

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

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

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 2007, by Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 2009, by Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 2011, by Ex. Ord. No. 13511, Sept. 29, 2009, 74 F.R. 50909, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 2013, by Ex. Ord. No. 13591, Nov. 23, 2011, 76 F.R. 74623, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 2015, by Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 2017, by Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

DETERMINATIONS REGARDING PRESIDENT'S BOARD OF ADVISORS

Memorandum of the President of the United States, Aug. 17, 1990, 55 F.R. 46491, provided:

Memorandum for the Secretary of Education

By virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, including section 208 of title 18 of the United States Code and section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Education my authority to make determinations under subsection (b) of section 208 of title 18, United States Code, for the members of the President's Board of Advisors on Historically Black Colleges and Universities, established pursuant to Executive Order 12677 of April 28, 1989 [formerly set out above].

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

§1061. Definitions

For the purpose of this part:

(1) The term "graduate" means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

(2) The term "part B institution" means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation,,[1] except that any

branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 1060 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution.

(3) The term "Pell Grant recipient" means a recipient of financial aid under subpart 1 of part A of subchapter IV of this chapter.

(4) The term "professional and academic areas in which Blacks are underrepresented" shall be determined by the Secretary, in consultation with the Commissioner for Education Statistics and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

(5) The term "school year" means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

(Pub. L. 89–329, title III, §322, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1294; amended Pub. L. 100–369, §10(c), July 18, 1988, 102 Stat. 838; Pub. L. 110–315, title III, §308, Aug. 14, 2008, 122 Stat. 3177.)

PRIOR PROVISIONS

A prior section 1061, Pub. L. 89–329, title III, §322, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1393, defined terms used in this part, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1061, Pub. L. 89–329, title IV, §401, Nov. 8, 1965, 79 Stat. 1232; Pub. L. 90–575, title I, §101(a), (b)(1), Oct. 16, 1968, 82 Stat. 1017; Pub. L. 91–95, §4, Oct. 22, 1969, 83 Stat. 143; Pub. L. 92–318, title I, §131(a)(1)(A), June 23, 1972, 86 Stat. 247, related to statement of purpose and authorization of appropriations for educational opportunity grants, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

2008—Par. (4). Pub. L. 110–315 inserted ", in consultation with the Commissioner for Education Statistics" before "and the Commissioner".

1988—Par. (2). Pub. L. 100–369 inserted ",, except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 1060 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution" after "accreditation".

[1] *So in original.*

§1062. Grants to institutions

(a) General authorization; uses of funds

From amounts available under section 1068h(a)(2) of this title for any fiscal year, the Secretary shall make grants (under section 1063 of this title) to institutions which have applications approved by the Secretary (under section 1063a of this title) for any of the following uses:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

(3) Support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

(4) Academic instruction in disciplines in which Black Americans are underrepresented.

(5) Purchase of library books, periodicals, microfilm, and other educational materials, including telecommunications program materials.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary or secondary school in the State that shall include, as part of such program, preparation for teacher certification.

(11) Establishing community outreach programs which will encourage elementary and secondary students to develop the academic skills and the interest to pursue postsecondary education.

(12) Acquisition of real property in connection with the construction, renovation, or addition to or improvement of campus facilities.

(13) Education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(14) Services necessary for the implementation of projects or activities that are described in the grant application and that are approved, in advance, by the Secretary, except that not more than two percent of the grant amount may be used for this purpose.

(15) Other activities proposed in the application submitted pursuant to section 1063a of this title that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(b) Endowment fund

(1) In general

An institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at the institution.

(2) Matching requirement

In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

(3) Comparability

The provisions of part C of this subchapter regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(c) Limitations

(1) No grant may be made under this chapter and part C of subchapter I of chapter 34 of title 42 for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For the purpose of this subsection, the term "school or department of divinity" means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(2) Not more than 50 percent of the allotment of any institution may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

(Pub. L. 89–329, title III, §323, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat.

1295; amended Pub. L. 100–50, §2(a)(7), June 3, 1987, 101 Stat. 335; Pub. L. 100–369, §10(b), July 18, 1988, 102 Stat. 838; Pub. L. 102–325, title III, §303(a), (b), July 23, 1992, 106 Stat. 474, 475; Pub. L. 103–208, §2(a)(8), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, §304(a), Oct. 7, 1998, 112 Stat. 1642; Pub. L. 110–315, title III, §309, Aug. 14, 2008, 122 Stat. 3177; Pub. L. 111–39, title III, §301(3), July 1, 2009, 123 Stat. 1937.)

PRIOR PROVISIONS

A prior section 1062, Pub. L. 89–329, title III, §323, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1395, provided for duration of grants to institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1062, Pub. L. 89–329, title IV, §402, Nov. 8, 1965, 79 Stat. 1232; Pub. L. 90–575, title I, §102, Oct. 16, 1968, 82 Stat. 1017, related to determination of amount of grant and establishment of basic criteria or schedules, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–39 substituted "for any fiscal year," for "in any fiscal year" in introductory provisions.

2008—Subsec. (a). Pub. L. 110–315, §309(1), substituted "section 1068h(a)(2)" for "section 1069f(a)(2)" in introductory provisions.

Subsec. (a)(12) to (15). Pub. L. 110–315, §309(2), (3), added pars. (12) to (14) and redesignated former par. (12) as (15).

1998—Subsecs. (b), (c). Pub. L. 105–244, §304(a)(1), (2), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c)(3). Pub. L. 105–244, §304(a)(3), struck out par. (3) which read as follows: "The Secretary shall not award a grant under this part for telecommunications technology equipment, facilities or services, if such equipment, facilities or services are available pursuant to section 396(k) of title 47."

1993—Subsec. (b)(3). Pub. L. 103–208 realigned margin.

1992—Subsec. (a)(2). Pub. L. 102–325, §303(a)(1), inserted ", including purchase or rental of telecommunications technology equipment or services" after "facilities".

Subsec. (a)(5). Pub. L. 102–325, §303(a)(2), inserted ", including telecommunications program materials" after "materials".

Subsec. (a)(9) to (12). Pub. L. 102–325, §303(a)(3), added pars. (9) to (12).

Subsec. (b)(3). Pub. L. 102–325, §303(b), added par. (3).

1988—Subsec. (a)(3). Pub. L. 100–369, §10(b)(1), inserted ", and faculty development" after "exchanges".

Subsec. (a)(7), (8). Pub. L. 100–369, §10(b)(2), added pars. (7) and (8).

1987—Subsec. (a). Pub. L. 100–50 substituted "section 1069f(a)(2) of this title" for "section 1069d(a)(2) of this title".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1063. Allotments to institutions

(a) Allotment; Pell Grant basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

(b) Allotment; graduates basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

(c) Allotment; graduate and professional student basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth of that amount as the percentage of graduates per institution, who are admitted to and in attendance at, within 5 years of graduation with a baccalaureate degree, a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the percentage of such graduates per institution for all part B institutions.

(d) Minimum allotment

(1) Notwithstanding subsections (a) through (c), and subject to subsection (h), if the amount of an award under this section for a part B institution, based on the data provided by the part B institution and the formula under subsections (a) through (c), would be—

(A) an amount that is greater than $250,000 but less than $500,000, the Secretary shall award the part B institution an allotment in the amount of $500,000; and

(B) an amount that is equal to or less than $250,000, the Secretary shall award the part B institution an allotment in the amount of $250,000.

(2) If the amount appropriated pursuant to section 1068h(a)(2)(A) of this title for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocations shall be increased on the same basis as the basis on which they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).

(e) Reallotment

The amount of any part B institution's allotment under subsection (a), (b), (c), or (d) of this section for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

(f) Special merger rule

(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

(g) Special rule for certain District of Columbia eligible institutions

In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Home Rule Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

(h) Conditions for allotments

(1) Student requirements for allotment

Notwithstanding any other provision of this section, a part B institution that would otherwise be eligible for funds under this part shall not receive an allotment under this part for a fiscal year, including the minimum allotment under subsection (d), if the part B institution, in the academic year preceding such fiscal year—

(A) did not have any enrolled students who were Pell Grant recipients;

(B) did not graduate any students; or

(C) where appropriate, did not have any students who, within 5 years of graduation from the part B institution, were admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented.

(2) Data requirements for allotments

Notwithstanding any other provision of this section, a part B institution shall not receive an allotment under this part for a fiscal year, including the minimum allotment under subsection (d), unless the institution provides the Secretary with the data required by the Secretary and for purposes of the formula described in subsections (a) through (c), including—

(A) the number of Pell Grant recipients enrolled in the part B institution in the academic year preceding such fiscal year;

(B) the number of students who earned an associate or baccalaureate degree from the part B institution in the academic year preceding such fiscal year; and

(C) where appropriate, the percentage of students who, within 5 years of graduation from the part B institution, were admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented in the academic year preceding such fiscal year.

(Pub. L. 89–329, title III, §324, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1296; amended Pub. L. 99–509, title VII, §7007, Oct. 21, 1986, 100 Stat. 1950; Pub. L. 102–325, title III, §303(c), (d), July 23, 1992, 106 Stat. 475; Pub. L. 105–33, title XI, §11717(b), Aug. 5, 1997, 111 Stat. 786; Pub. L. 110–315, title III, §310, Aug. 14, 2008, 122 Stat. 3177; Pub. L. 111–39, title III, §301(4), July 1, 2009, 123 Stat. 1937.)

REFERENCES IN TEXT

The Act of March 2, 1867, referred to in subsec. (g), is act Mar. 2, 1867, ch. 162, 14 Stat. 438. Provisions relating to authorization of appropriations are contained in section 8 of the Act, which is classified to section 123 of this title. For complete classification of this Act to the Code, see Tables.

The District of Columbia Home Rule Act, referred to in subsec. (g), is Pub. L. 93–198, Dec. 24, 1973, 87 Stat. 774, as amended. For classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1063, Pub. L. 89–329, title III, §324, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1395, related to Federal share of grants to institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1063, Pub. L. 89–329, title IV, §403, Nov. 8, 1965, 79 Stat. 1233, related to duration of grant and eligibility for payments, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–39 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

2008—Subsec. (d). Pub. L. 110–315, §310(a), amended subsec. (d) generally. Prior to amendment, text read as follows:

"(1) Notwithstanding subsections (a), (b), and (c) of this section, the amount allotted to each part B institution under this section shall not be less than $500,000.

"(2) If the amount appropriated pursuant to section 1069f(a)(2)(A) of this title for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) of this subsection to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocation shall be increased on the same basis as they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1))."

Subsec. (h). Pub. L. 110–315, §310(b), added subsec. (h).

1997—Subsec. (g). Pub. L. 105–33 substituted "District of Columbia Home Rule Act" for "District of Columbia Self-Government and Governmental Reorganization Act".

1992—Subsec. (c). Pub. L. 102–325, §303(c), inserted ", within 5 years of graduation with a baccalaureate degree," after "in attendance at".

Subsec. (d)(1). Pub. L. 102–325, §303(d), substituted "$500,000" for "$350,000".

1986—Subsec. (c). Pub. L. 99–509, §7007(4), amended subsec. generally, substituting "percentage of graduates per institution" for "number of graduates" and "percentage of such graduates per institution" for "number of such graduates".

Subsec. (d). Pub. L. 99–509, §7007(1), (2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99–509, §7007(1), (3), redesignated former subsec. (d) as (e), and substituted "subsection (a), (b), (c), or (d) of this section" for "subsection (a), (b), or (c) of this section". Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 99–509, §7007(1), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§1063a. Applications

(a) Contents

No part B institution shall be entitled to its allotment of Federal funds for any grant under section 1063 of this title for any period unless that institution meets the requirements of subparagraphs (C), (D), and (E) [1] of section 1058(b)(1) of this title and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this chapter and part C of subchapter I of chapter 34 of title 42 will be used for the purposes set forth in section 1062 of this title; and

(2) provide for making an annual report to the Secretary and provide for—

(A) conducting, except as provided in subparagraph (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this subchapter at least once every 2 years and covering the period since the most recent audit, conducted by a qualified,

independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(B) with regard to an eligible institution which is audited under chapter 75 of title 31 deeming such audit to satisfy the requirements of subparagraph (A) for the period covered by such audit.

(b) Approval

The Secretary shall approve any application which meets the requirements of subsection (a) of this section and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

(c) Goals for financial management and academic programs

Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs and include a plan of how the applicant intends to achieve those goals.

(Pub. L. 89–329, title III, §325, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1296; amended Pub. L. 100–50, §2(a)(8), June 3, 1987, 101 Stat. 335; Pub. L. 102–325, title III, §303(e), July 23, 1992, 106 Stat. 475.)

REFERENCES IN TEXT

Section 1058(b)(1)(E) of this title, referred to in subsec. (a), was repealed and section 1058(b)(1)(F) was redesignated section 1058(b)(1)(E) by Pub. L. 102–325, title III, §302(a)(1)(B), (C), July 23, 1992, 106 Stat. 472.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–325 added subsec. (c).

1987—Subsec. (a)(1). Pub. L. 100–50 substituted "section 1062 of this title" for "section 1061 of this title".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

[1] *See References in Text note below.*

§1063b. Professional or graduate institutions

(a) General authorization

(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) of this section that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities in mathematics, engineering, or the physical or natural sciences for Black Americans.

(2) No grant in excess of $1,000,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f) of this section, the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

(b) Duration

Grants shall be made for a period not to exceed 5 years. Any funds awarded for such five-year grant period that are obligated during such five-year period may be expended during the 10-year period beginning on the first day of such five-year period.

(c) Uses of funds

A grant under this section may be used for—

(1) purchase, rental or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

(4) scholarships, fellowships, and other financial assistance for needy graduate and professional students to permit the enrollment of the students in and completion of the doctoral degree in medicine, dentistry, pharmacy, veterinary medicine, law, and the doctorate degree in the physical or natural sciences, engineering, mathematics, or other scientific disciplines in which African Americans are underrepresented;

(5) establishing or improving a development office to strengthen and increase contributions from alumni and the private sector;

(6) assisting in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 1065 of this title;

(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems;

(8) acquisition of real property that is adjacent to the campus in connection with the construction, renovation, or addition to or improvement of campus facilities;

(9) education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(10) services necessary for the implementation of projects or activities that are described in the grant application and that are approved, in advance, by the Secretary, except that not more than two percent of the grant amount may be used for this purpose;

(11) tutoring, counseling, and student service programs designed to improve academic success; and

(12) other activities proposed in the application submitted under subsection (d) that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(d) Application

Any institution eligible for a grant under this section shall submit an application which—

(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

(2) provides, in the case of applications for grants in excess of $1,000,000, the assurances required by subsection (a)(2) of this section and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(e) Eligibility

(1) In general

Independent professional or graduate institutions and programs eligible for grants under subsection (a) of this section are the following:

(A) Morehouse School of Medicine;

(B) Meharry Medical School;

(C) Charles R. Drew Postgraduate Medical School;
(D) Clark-Atlanta University;
(E) Tuskegee University School of Veterinary Medicine and other qualified graduate programs;
(F) Xavier University School of Pharmacy and other qualified graduate programs;
(G) Southern University School of Law and other qualified graduate programs;
(H) Texas Southern University School of Law and School of Pharmacy and other qualified graduate programs;
(I) Florida A&M University School of Pharmaceutical Sciences and other qualified graduate programs;
(J) North Carolina Central University School of Law and other qualified graduate programs;
(K) Morgan State University qualified graduate program;
(L) Hampton University qualified graduate program;
(M) Alabama A&M qualified graduate program;
(N) North Carolina A&T State University qualified graduate program;
(O) University of Maryland Eastern Shore qualified graduate program;
(P) Jackson State University qualified graduate program;
(Q) Norfolk State University qualified graduate programs;
(R) Tennessee State University qualified graduate programs;
(S) Alabama State University qualified graduate programs;
(T) Prairie View A&M University qualified graduate programs;
(U) Delaware State University qualified graduate programs;
(V) Langston University qualified graduate programs;
(W) Bowie State University qualified graduate programs; and
(X) University of the District of Columbia David A. Clarke School of Law.

(2) Qualified graduate program

(A) For the purposes of this section, the term "qualified graduate program" means a graduate or professional program that provides a program of instruction in law or in the physical or natural sciences, engineering, mathematics, psychometrics, or other scientific discipline in which African Americans are underrepresented and has students enrolled in such program at the time of application for a grant under this section.

(B) Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified graduate program.

(3) Special rule

Institutions that were awarded grants under this section prior to October 1, 2008, shall continue to receive such grants, subject to the availability of appropriated funds, regardless of the eligibility of the institutions described in subparagraphs (S) through (X) of paragraph (1).

(4) One grant per institution

The Secretary shall not award more than 1 grant under this section in any fiscal year to any institution of higher education.

(5) Institutional choice

The president or chancellor of the institution may decide which graduate or professional school or qualified graduate program will receive funds under the grant in any 1 fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

(f) Funding rule

Subject to subsection (g) of this section, of the amount appropriated to carry out this section for any fiscal year—

(1) the first $56,900,000 (or any lesser amount appropriated) shall be available only for the

purposes of making grants to institutions or programs described in subparagraphs (A) through (R) of subsection (e)(1) of this section;

(2) any amount in excess of $56,900,000, but not in excess of $62,900,000, shall be available for the purpose of making grants to institutions or programs described in subparagraphs (S) through (X) of subsection (e)(1) of this section; and

(3) any amount in excess of $62,900,000, shall be made available to each of the institutions or programs identified in subparagraphs (A) through (X) [1] pursuant to a formula developed by the Secretary that uses the following elements:

(A) The ability of the institution to match Federal funds with non-Federal funds.

(B) The number of students enrolled in the programs for which the eligible institution received funding under this section in the previous year.

(C) The average cost of education per student, for all full-time graduate or professional students (or the equivalent) enrolled in the eligible professional or graduate school, or for doctoral students enrolled in the qualified graduate programs.

(D) The number of students in the previous year who received their first professional or doctoral degree from the programs for which the eligible institution received funding under this section in the previous year.

(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving graduate or professional degrees in the professions or disciplines related to the programs for the previous year.

(g) Hold harmless rule

Notwithstanding paragraphs (2) and (3) of subsection (f) of this section, no institution or qualified program identified in subsection (e)(1) of this section that received a grant for fiscal year 2008 and that is eligible to receive a grant in a subsequent fiscal year shall receive a grant amount in any such subsequent fiscal year that is less than the grant amount received for fiscal year 2008, unless the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs, or the institution cannot provide sufficient matching funds to meet the requirements of this section.

(h) Interaction with other grant programs

No institution that is eligible for and receives an award under section 1102a, 1136a, or 1136b of this title for a fiscal year shall be eligible to apply for a grant, or receive grant funds, under this section for the same fiscal year.

(Pub. L. 89–329, title III, §326, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1297; amended Pub. L. 100–50, §2(a)(9), (10), June 3, 1987, 101 Stat. 335; Pub. L. 102–325, title III, §303(f)(1), (g), July 23, 1992, 106 Stat. 475, 476; Pub. L. 103–208, §2(a)(9), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 104–141, §2, May 6, 1996, 110 Stat. 1328; Pub. L. 105–244, title III, §304(b), Oct. 7, 1998, 112 Stat. 1643; Pub. L. 110–315, title III, §311, Aug. 14, 2008, 122 Stat. 3178.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–315, §311(a), inserted at end "Any funds awarded for such five-year grant period that are obligated during such five-year period may be expended during the 10-year period beginning on the first day of such five-year period."

Subsec. (c)(5). Pub. L. 110–315, §311(b)(1), substituted "establishing or improving" for "establish or improve".

Subsec. (c)(6). Pub. L. 110–315, §311(b)(2), substituted "assisting" for "assist" and struck out "and" after semicolon.

Subsec. (c)(8) to (12). Pub. L. 110–315, §311(b)(3), (4), added pars. (8) to (12).

Subsec. (e)(1). Pub. L. 110–315, §311(c)(1)(A), inserted a colon after "the following" in introductory provisions.

Subsec. (e)(1)(S) to (X). Pub. L. 110–315, §311(c)(1)(B)–(D), added subpars. (S) to (X).

Subsec. (e)(2)(A). Pub. L. 110–315, §311(c)(3), inserted "in law or" after "instruction" and substituted "mathematics, psychometrics, or" for "mathematics, or".

Subsec. (e)(3). Pub. L. 110–315, §311(c)(2), substituted "2008" for "1998" and "subparagraphs (S) through (X)" for "subparagraphs (Q) and (R)".

Subsec. (e)(4). Pub. L. 110–315, §311(c)(4), struck out "or university system" after "higher education".

Subsec. (f)(1). Pub. L. 110–315, §311(d)(1), substituted "$56,900,000" for "$26,600,000" and "through (R)" for "through (P)".

Subsec. (f)(2). Pub. L. 110–315, §311(d)(2), substituted "$56,900,000, but not in excess of $62,900,000" for "$26,600,000, but not in excess of $28,600,000" and "subparagraphs (S) through (X)" for "subparagraphs (Q) and (R)".

Subsec. (f)(3). Pub. L. 110–315, §311(d)(3), in introductory provisions, substituted "$62,900,000" for "$28,600,000" and "through (X)" for "through (R)".

Subsec. (g). Pub. L. 110–315, §311(e), substituted "2008" for "1998" in two places.

Subsec. (h). Pub. L. 110–315, §311(f), added subsec. (h).

1998—Subsec. (a)(1). Pub. L. 105–244, §304(b)(1)(A)(i), inserted "in mathematics, engineering, or the physical or natural sciences" after "graduate education opportunities".

Subsec. (a)(2). Pub. L. 105–244, §304(b)(1)(A)(ii), substituted "$1,000,000 may" for "$500,000 may" and ", except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f) of this section, the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement." for "except that the Morehouse School of Medicine shall receive at least $3,000,000."

Subsec. (c). Pub. L. 105–244, §304(b)(2), added pars. (1) to (7) and struck out former pars. (1) to (3) which read as follows:

"(1) any of the purposes enumerated under section 1062 of this title;

"(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

"(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 1065 of this title."

Subsec. (d)(2). Pub. L. 105–244, §304(b)(1)(B), substituted "$1,000,000" for "$500,000".

Subsec. (e)(1). Pub. L. 105–244, §304(b)(3)(A)(i), substituted "are the following" for "include—" in introductory provisions.

Subsec. (e)(1)(E) to (J). Pub. L. 105–244, §304(b)(3)(A)(ii), inserted "and other qualified graduate programs" before semicolon at end.

Subsec. (e)(1)(P). Pub. L. 105–244, §304(b)(3)(A)(iv)(I), inserted "University" after "State".

Subsec. (e)(1)(Q), (R). Pub. L. 105–244, §304(b)(3)(A)(iii), (iv)(II), (III), added subpars. (Q) and (R).

Subsec. (e)(2). Pub. L. 105–244, §304(b)(3)(B), added par. (2) and struck out heading and text of former par. (2). Text read as follows: "For the purposes of this section, the term 'qualified graduate program' means a graduate or professional program that—

"(A) provides a program of instruction in the physical or natural sciences, engineering, mathematics, or other scientific discipline in which African Americans are underrepresented; and

"(B) has students enrolled in such program at the time of application for a grant under this section."

Subsec. (e)(3). Pub. L. 105–244, §304(b)(3)(B), added par. (3) and struck out heading and text of former par. (3). Text read as follows: "Graduate institutions that were awarded grants under this section prior to October 1, 1992 shall continue to receive such grant payments, regardless of the eligibility of the graduate institutions described in subparagraphs (F) through (P), until such grant period has expired or September 30, 1993, whichever is later."

Subsec. (e)(5). Pub. L. 105–244, §304(b)(3)(C), added par. (5).

Subsec. (f). Pub. L. 105–244, §304(b)(4)(A), substituted "Subject to subsection (g), of the amount appropriated" for "Of the amount appropriated" in introductory provisions.

Subsec. (f)(1). Pub. L. 105–244, §304(b)(4)(B), substituted "$26,600,000" for "$12,000,000" and "(A) through (P)" for "(A) through (E)".

Subsec. (f)(2), (3). Pub. L. 105–244, §304(b)(4)(C), added pars. (2) and (3) and struck out former par. (2) which read as follows: "any amount appropriated in excess of $12,000,000 shall be available—

"(A) for the purposes of making grants, in equal amounts not to exceed $500,000, to institutions or programs described in subparagraphs (F) through (P) of subsection (e)(1) of this section; and

"(B) secondly for the purposes of making grants to institutions or programs described in subparagraphs (A) through (P) of subsection (e)(1) of this section."

Subsec. (g). Pub. L. 105–244, §304(b)(5), added subsec. (g).

1996—Subsec. (b). Pub. L. 104–141 struck out at end "No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution."

1993—Subsec. (e)(2). Pub. L. 103–208 redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "has been accredited by a nationally recognized accrediting agency or association or has been approved by a nationally recognized approving agency; and".

1992—Subsec. (e). Pub. L. 102–325, §303(f)(1), substituted "Eligibility" for "Eligible professional or graduate institutions" in heading and amended text generally. Prior to amendment, text read as follows: "Independent professional or graduate institutions eligible for grants under subsection (a) of this section include—

"(1) Morehouse School of Medicine;

"(2) Meharry Medical School;

"(3) Charles R. Drew Postgraduate Medical School;

"(4) Atlanta University; and

"(5) Tuskegee Institute School of Veterinary Medicine."

Subsec. (f). Pub. L. 102–325, §303(g), added subsec. (f).

1987—Subsec. (a)(2). Pub. L. 100–50, §2(a)(9), inserted "except that the Morehouse School of Medicine shall receive at least $3,000,000".

Subsec. (c)(3). Pub. L. 100–50, §2(a)(10), made technical amendment to reference to section 1065 of this title to correct reference to corresponding section of original act.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

CONGRESSIONAL FINDINGS

Pub. L. 104–141, §1, May 6, 1996, 110 Stat. 1328, provided that: "The Congress finds the following:

"(1) The Historically Black Graduate Professional Schools identified under section 326 of the Higher Education Act [20 U.S.C. 1063b] may receive grant funds if the Secretary of Education determines that such institutions make a substantial contribution to the legal, medical, dental, veterinary, or other graduate opportunity for African Americans.

"(2) The health professions schools which participate under section 326 train 50 percent of the Nation's African American physicians, 50 percent of the Nation's African American dentists, 50 percent of the Nation's African American pharmacists, and 75 percent of the Nation's African American veterinarians.

"(3) A majority of the graduates of these schools practice in poor urban and rural areas of the country providing care to many disadvantaged Americans.

"(4) The survival of these schools will contribute to the improved health status of disadvantaged persons, and of all Americans."

[1] *So in original. Probably should be "subparagraphs (A) to (X) of subsection (e)(1) of this section".*

§1063c. Reporting and audit requirements

(a) Recordkeeping

Each recipient of a grant under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose—

(1) the amount and disposition by such recipient of the proceeds of such assistance;

(2) the cost of the project or undertaking in connection with which such assistance is given or used;

(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(4) such other records as will facilitate an effective audit.

(b) Use of unexpended funds

Any funds paid to an institution and not expended or used for the purposes for which the funds were paid during the five-year period following the date of the initial grant award, may be carried over and expended during the succeeding five-year period, if such funds were obligated for a purpose for which the funds were paid during the five-year period following the date of the initial grant award.

(Pub. L. 89–329, title III, §327, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1298; amended Pub. L. 100–50, §2(a)(11), June 3, 1987, 101 Stat. 335; Pub. L. 110–315, title III, §312, Aug. 14, 2008, 122 Stat. 3180.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–315 amended subsec. (b) generally. Prior to amendment, text read as follows: "Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this subchapter shall be repaid to the Treasury of the United States."

1987—Subsec. (a). Pub. L. 100–50 substituted "part" for "chapter" in introductory text.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PART C—ENDOWMENT CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

§1064. Repealed. Pub. L. 102–325, title III, §304(a)(2), July 23, 1992, 106 Stat. 476

Section, Pub. L. 89–329, title III, §331, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1298, related to establishment of challenge grant program.

A prior section 1064, Pub. L. 89–329, title III, §331, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1395; amended Pub. L. 97–35, title V, §516(c)(2), Aug. 13, 1981, 95 Stat. 447, established a challenge grant program, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1064, Pub. L. 89–329, title IV, §404, Nov. 8, 1965, 79 Stat. 1233, related to time and manner of making application for grant, selection of recipients and conditions precedent to award, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§1065. Endowment challenge grants

(a) Purpose; definitions

(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

(2) For the purpose of this section:

(A) The term "endowment fund" means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

(B) The term "endowment fund corpus" means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

(C) The term "endowment fund income" means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

(D)(i) The term "eligible institution" means an institution that is an—

(I) eligible institution under part A of this subchapter or would be considered to be such an institution if section 1058(b)(1)(C) of this title referred to a postgraduate degree rather than a bachelor's degree;

(II) institution eligible for assistance under part B of this subchapter or would be considered to be such an institution if section 1063 of this title referred to a postgraduate degree rather than a baccalaureate degree; or

(III) institution of higher education that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

(ii) The Secretary may waive the requirements of subclauses (I) and (II) of clause (i) with respect to a postgraduate degree in the case of any institution otherwise eligible under clause (i) for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

(b) Grants authorized

(1) From sums available for this section under section 1068h of this title, the Secretary is authorized to award endowment challenge grants to eligible institutions to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g) of this section.

(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

(B) The Secretary may make a grant under this part to an eligible institution in any fiscal year if the institution—

(i) applies for a grant in an amount not exceeding $1,000,000; and

(ii) has deposited in the eligible institution's endowment fund established under this section an amount which is equal to ½ of the amount of such grant.

(C) An eligible institution of higher education that is awarded a grant under subparagraph (B) shall not be eligible to receive an additional grant under subparagraph (B) until 10 years after the date on which the grant period terminates.

(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an

eligible institution as described in subsection (a)(2)(D) of this section.

(B) No institution shall be ineligible for an endowment challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

(5) An endowment challenge grant awarded under this section to an eligible institution shall be in an amount which is not less than $100,000 in any fiscal year.

(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

(c) Grant agreement; endowment fund provisions

(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2) of this section, (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

(d) Repayment provisions

(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

(2) If an institution expends more of the endowment fund income than is permitted under subsection (c) of this section, the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

(e) Audit information

An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

(f) Selection criteria

In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

(1) give priority to an applicant that is receiving assistance under part A of this subchapter or part B of this subchapter or has received a grant under part A of this subchapter or part B of this subchapter within the 5 fiscal years preceding the fiscal year in which the applicant is applying for a grant under this section;

(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution; and

(3) consider—

(A) the effort made by the applicant to build or maintain its existing endowment fund; and

(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

(g) Application

Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe, including a description of the long- and short-term plans for raising and using the funds under this part. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f) of this section, the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

(h) Termination and recovery provisions

(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3) of this section;

(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2) of this section; or

(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

(i) Technical assistance

The Secretary, directly or by grant or contract, may provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a grant, under this section.

(Pub. L. 89–329, title III, §331, formerly §332, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1299; amended Pub. L. 100–50, §2(a)(12), June 3, 1987, 101 Stat. 336; renumbered §331 and amended Pub. L. 102–325, title III, §304(a)(3), (b), July 23, 1992, 106 Stat. 476; Pub. L. 103–208, §2(a)(8), (10), (11), Dec. 20, 1993, 107 Stat. 2457, 2458; Pub. L. 105–244, title III, §305, Oct. 7, 1998, 112 Stat. 1646; Pub. L. 110–315, title III, §313, Aug. 14, 2008, 122 Stat. 3180.)

PRIOR PROVISIONS

A prior section 331 of Pub. L. 89–329, title III, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1298, related to establishment of challenge grant program, was classified to section 1064 of this title prior to repeal by Pub. L. 102–325, §304(a)(2).

A prior section 1065, Pub. L. 89–329, title III, §332, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1396, related to applications for challenge grants, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1065, Pub. L. 89–329, title IV, §405, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, §101(b)(2), Oct. 16, 1968, 82 Stat. 1017, related to allotment and reallotment of funds among the States, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

A prior section 1065a, Pub. L. 89–329, title III, §333, as added Pub. L. 98–95, §2, Sept. 26, 1983, 97 Stat. 708, established program of matching grants to increase endowments at eligible institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(2)(B)(i). Pub. L. 110–315, §313(a)(1), substituted "$1,000,000" for "$500,000".

Subsec. (b)(5). Pub. L. 110–315, §313(a)(2), substituted "$100,000" for "$50,000".

Subsec. (i). Pub. L. 110–315, §313(b), added subsec. (i).

1998—Subsec. (b)(1). Pub. L. 105–244, §305(1), substituted "section 1068h" for "section 1069f".

Subsec. (b)(2)(B), (C). Pub. L. 105–244, §305(2), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which authorized Secretary to make grants under this part to eligible institutions in amounts which varied depending on amount appropriated in each fiscal year to carry out this part and limited rights of institutions to reapply for grants when amount appropriated was below specified amounts.

1993—Subsecs. (a)(2)(D), (b)(2)(B), (C), (5). Pub. L. 103–208 realigned margins and in subsec. (b)(5) substituted "An endowment" for "an endowment".

1992—Subsec. (a)(1). Pub. L. 102–325, §304(b)(1)(A), struck out "of higher education" after "eligible institutions".

Subsec. (a)(2)(D). Pub. L. 102–325, §304(b)(1)(B), added subpar. (D).

Subsec. (b)(1). Pub. L. 102–325, §304(b)(2), inserted "endowment" before "challenge grants" and struck out "of higher education" after "eligible institutions".

Subsec. (b)(2)(B), (C). Pub. L. 102–325, §304(b)(3), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

"(B) In any fiscal year in which the appropriations for this part exceeds $10,000,000, the Secretary may make a grant under this part to an eligible institution of higher education if such institution—

"(i) has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant; and

"(ii) applies for a grant in an amount exceeding $1,000,000.

"(C) An eligible institution of higher education that is awarded a grant under this section shall not be eligible to reapply for a grant under this section during the 10 years immediately following the period that it received such grant."

Subsec. (b)(4)(A). Pub. L. 102–325, §304(b)(4), substituted "subsection (a)(2)(D) of this section" for "section 1064(a)(1) of this title".

Subsec. (b)(4)(B). Pub. L. 102–325, §304(b)(5), substituted "an endowment challenge grant" for "a challenge grant".

Subsec. (b)(5). Pub. L. 102–325, §304(b)(6), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution year shall—

"(A) not be less than $50,000 for any fiscal year; and

"(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year."

Subsec. (f)(1). Pub. L. 102–325, §304(b)(7), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "give priority to an applicant which is a recipient of a grant made under part A or B of this subchapter (or section 1069a of this title) during the academic year in which the applicant is applying for a grant under this section;".

Subsec. (g). Pub. L. 102–325, §304(b)(8), inserted ", including a description of the long- and short-term plans for raising and using the funds under this part" before period at end of first sentence.

1987—Subsec. (f)(1). Pub. L. 100–50 inserted "(or section 1069a of this title)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PART D—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

CODIFICATION

Pub. L. 105–244, title III, §301(a)(3), Oct. 7, 1998, 112 Stat. 1636, redesignated part B of subchapter VII of this chapter as part D of subchapter III of this chapter.

PRIOR PROVISIONS

A prior part D, consisting of sections 1066 to 1069, 1069b to 1069d, and 1069f, was redesignated part F (§1068 et seq.) of this subchapter by Pub. L. 105–244, title III, §301(a)(1), Oct. 7, 1998, 112 Stat. 1636.

§1066. Findings

The Congress finds that—

(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical skills, and honing their social and political skills through higher education;

(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

(4) due to their small enrollments, limited endowments and other financial factors normally considered by lenders in construction financing, historically Black colleges and universities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

(5) despite their track record of long-standing and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

(Pub. L. 89–329, title III, §341, formerly title VII, §721, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 741; renumbered title III, §341, Pub. L. 105–244, title III, §301(a)(3), (4),

Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1132c of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1066, Pub. L. 89–329, title III, §351, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1302, and amended, which related to applications for assistance under this subchapter, was renumbered section 391 of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068 of this title.

Another prior section 1066, Pub. L. 89–329, title III, §341, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1396, related to applications for assistance, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1066, Pub. L. 89–329, title IV, §406, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, §101(b)(2), Oct. 16, 1968, 82 Stat. 1017, related to allocation of allotted funds to institutions, filing dates for application, criteria for making allocations, additional allocations and payments, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§1066a. Definitions

For the purposes of this part:

(1) The term "eligible institution" means a "part B institution" as that term is defined in section 1061(2) of this title.

(2) The term "loan" means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

(3) The term "qualified bond" means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 1066b(b) of this title.

(4) The term "funding" means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 1066b of this title.

(5) The term "capital project" means, subject to section 1066c(b) of this title, the repair, renovation, or, in exceptional circumstances, the construction or acquisition, of—

(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

(B) a facility for the administration of an educational program, or a student center or student union, except that not more than 5 percent of the loan proceeds provided under this part may be used for the facility, center or union if the facility, center or union is owned, leased, managed, or operated by a private business, that, in return for such use, makes a payment to the eligible institution;

(C) instructional equipment, technology, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

(D) a maintenance, storage, or utility facility that is essential to the operation of a facility, a library, a dormitory, equipment, instrumentation, a fixture, real property or an interest therein, described in this paragraph;

(E) a facility designed to provide primarily outpatient health care for students or faculty;

(F) physical infrastructure essential to support the projects authorized under this paragraph, including roads, sewer and drainage systems, and water, power, lighting, telecommunications, and other utilities;

(G) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by an accrediting agency or association recognized by the Secretary under subpart 2 of part G of subchapter IV; and

(H) any real property or interest therein underlying facilities described in subparagraph (A) or (G).

(6) The term "interest" includes accredited value or any other payment constituting interest on an obligation.

(7) The term "outstanding", when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

(8) The term "designated bonding authority" means the private, for-profit corporation selected by the Secretary pursuant to section 1066d(1) of this title for the purpose of issuing taxable capital project construction bonds in furtherance of the purposes of this part.

(9) The term "Advisory Board" means the Advisory Board established by section 1066f of this title.

(Pub. L. 89–329, title III, §342, formerly title VII, §722, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 742; renumbered title III, §342, and amended Pub. L. 105–244, title III, §§301(a)(3), (4), (c)(4), 306(a), Oct. 7, 1998, 112 Stat. 1636, 1637, 1646; Pub. L. 110–315, title III, §§314(a), 320(1), Aug. 14, 2008, 122 Stat. 3180, 3187.)

CODIFICATION

Section was formerly classified to section 1132c–1 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 342 of Pub. L. 89–329 was classified to section 1067 of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Par. (5). Pub. L. 110–315, §320(1)(A), inserted a comma after "1066c(b) of this title" in introductory provisions.

Par. (5)(C). Pub. L. 110–315, §320(1)(B), substituted "equipment, technology," for "equipment technology,,".

Par. (5)(G). Pub. L. 110–315, §314(a)(1), substituted "by an accrediting agency or association recognized by the Secretary under subpart 2 of part G of subchapter IV" for "by a nationally recognized accrediting agency or association".

Par. (8). Pub. L. 110–315, §314(a)(2), inserted "capital project" after "issuing taxable".

1998—Par. (3). Pub. L. 105–244, §301(c)(4)(A), substituted "section 1066b(b)" for "section 1132c–2(b)".

Par. (4). Pub. L. 105–244, §301(c)(4)(B), substituted "section 1066b" for "section 1132c–2".

Par. (5). Pub. L. 105–244, §301(c)(4)(C), substituted "section 1066c(b)" for "section 1132c–3(b)" in introductory provisions.

Par. (5)(B). Pub. L. 105–244, §306(a)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Par. (5)(C). Pub. L. 105–244, §306(a)(1), (3), redesignated subpar. (B) as (C) and inserted "technology," after "instructional equipment". Former subpar. (C) redesignated (G).

Par. (5)(D) to (F). Pub. L. 105–244, §306(a)(4), added subpars. (D) to (F). Former subpar. (D) redesignated (H).

Par. (5)(G). Pub. L. 105–244, §306(a)(1), redesignated subpar. (C) as (G).

Par. (5)(H). Pub. L. 105–244, §306(a)(1), (5), redesignated subpar. (D) as (H) and substituted "(G)" for "(C)".

Par. (8). Pub. L. 105–244, §301(c)(4)(D), substituted "section 1066d(1)" for "section 1132c–4(1)".

Par. (9). Pub. L. 105–244, §301(c)(4)(E), substituted "section 1066f" for "section 1132c–6".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1066b. Federal insurance for bonds

(a) General rule

Subject to the limitations in section 1066c of this title, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d) of this section.

(b) Responsibilities of designated bonding authority

The Secretary may not enter into an insurance agreement described in subsection (a) of this section unless the Secretary designates a qualified bonding authority in accordance with sections 1066d(1) and 1066e [1] of this title and the designated bonding authority agrees in such agreement to—

(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

(A) to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project; or

(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

(8) establish an escrow account—

(A) into which each eligible institution shall deposit 5 percent of the proceeds of any loan made under this part, with each eligible institution required to maintain in the escrow account an amount equal to 5 percent of the outstanding principal of all loans made to such institution under this part; and

(B) the balance of which—

(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

(ii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 5 percent deposit of loan proceeds within 120 days following scheduled repayment of such institution's loan;

(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan

results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

(10) comply with the limitations set forth in section 1066c of this title;

(11) make loans only to eligible institutions under this part in accordance with conditions prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions; and

(12) limit loan collateralization, with respect to any loan made under this part, to 100 percent of the loan amount, except as otherwise required by the Secretary.

(c) Additional agreement provisions

Any insurance agreement described in subsection (a) of this section shall provide as follows:

(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8) of this section.

(3) The Secretary shall create a letter of credit authorizing the Department of the Treasury to disburse funds to the designated bonding authority or its assignee.

(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

(6) All funds provided under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

(d) Full faith and credit provisions

Subject to subsection (c)(1) of this section the full faith and credit of the United States is pledged to the payment of all funds which may be required to be paid under the provisions of this section.

(e) Sale of qualified bonds

Notwithstanding any other provision of law, a qualified bond guaranteed under this part may be sold to any party that offers terms that the Secretary determines are in the best interest of the eligible institution.

(Pub. L. 89–329, title III, §343, formerly title VII, §723, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 743; amended Pub. L. 103–382, title III, §360C, Oct. 20, 1994, 108 Stat. 3972; renumbered title III, §343, and amended Pub. L. 105–244, title III, §§301(a)(3), (4), (c)(5), 306(b), Oct. 7, 1998, 112 Stat. 1636, 1637, 1646; Pub. L. 110–315, title III, §§314(b), 320(2), Aug. 14, 2008, 122 Stat. 3181, 3187.)

REFERENCES IN TEXT

Section 1066e of this title, referred to in subsec. (b), was repealed by Pub. L. 105–244, title III, §306(d), Oct. 7, 1998, 112 Stat. 1647.

CODIFICATION

Section was formerly classified to section 1132c–2 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 343 of Pub. L. 89–329 was classified to section 1068 of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(8)(B)(ii). Pub. L. 110–315, §314(b)(1)(B), inserted "within 120 days" after "loan proceeds".

Pub. L. 110–315, §314(b)(1)(A), which directed the substitution of "5" for "10", could not be executed because "10" did not appear subsequent to amendment by Pub. L. 105–244, §306(b)(1). See 1998 Amendment note below.

Subsec. (b)(12). Pub. L. 110–315, §314(b)(2)–(4), added par. (12).

Subsec. (e). Pub. L. 110–315, §320(2), inserted heading.

1998—Subsec. (a). Pub. L. 105–244, §301(c)(5)(A), substituted "section 1066c" for "section 1132c–3".

Subsec. (b). Pub. L. 105–244, §301(c)(5)(B)(i), substituted "sections 1066d(1) and 1066e" for "sections 1132c–4(1) and 1132c–5" in introductory provisions.

Subsec. (b)(8). Pub. L. 105–244, §306(b)(1), substituted "5 percent" for "10 percent" wherever appearing.

Subsec. (b)(10). Pub. L. 105–244, §301(c)(5)(B)(ii), substituted "section 1066c" for "section 1132c–3".

Subsec. (d). Pub. L. 105–244, §301(c)(5)(B)(iii), made technical amendment to reference in original act which appears in text as reference to subsection (c)(1) of this section.

Subsec. (e). Pub. L. 105–244, §306(b)(2), added subsec. (e).

1994—Subsec. (b)(8)(A). Pub. L. 103–382, §360C(1)(A), inserted before semicolon ", with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part".

Subsec. (b)(8)(B)(ii). Pub. L. 103–382, §360C(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "when all bonds under this part are retired or canceled, shall be divided among the eligible institutions making deposits into such account on the basis of the amount of each such institution's deposit;".

Subsec. (b)(11). Pub. L. 103–382, §360C(2), substituted "conditions" for "regulations".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

[1] *See References in Text note below.*

§1066c. Limitations on Federal insurance for bonds issued by designated bonding authority

(a) Limit on amount

At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $1,100,000,000, of which—

(1) not more than $733,333,333 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

(2) not more than $366,666,667 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

For purposes of paragraphs (1) and (2), Lincoln University of Pennsylvania is an historically Black public institution. No institution of higher education that has received assistance under section 123 of this title shall be eligible to receive assistance under this part.

(b) Limitation on credit authority

The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

(c) Religious activity prohibition

No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

(d) Discrimination prohibition

No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), or disabling condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

(Pub. L. 89–329, title III, §344, formerly title VII, §724, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 745; renumbered title III, §344, Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636; Pub. L. 110–315, title III, §314(c), Aug. 14, 2008, 122 Stat. 3181.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (d), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1132c–3 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 344 of Pub. L. 89–329 was classified to section 1069 of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §314(c)(1), substituted "$1,100,000,000" for "$375,000,000" in introductory provisions.

Subsec. (a)(1). Pub. L. 110–315, §314(c)(2), substituted "$733,333,333" for "$250,000,000".

Subsec. (a)(2). Pub. L. 110–315, §314(c)(3), substituted "$366,666,667" for "$125,000,000".

§1066d. Authority of Secretary

In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

(1) shall, within 120 days of August 14, 2008, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

(A) specify the time and manner for submission of proposals; and

(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

(2) shall ensure that—

(A) the selection process for the designated bonding authority is conducted on a competitive basis; and

(B) the evaluation and selection process is transparent;

(3) shall—

(A) review the performance of the designated bonding authority after the third year of the insurance agreement; and

(B) following the review described in subparagraph (A), implement a revised competitive

selection process, if determined necessary by the Secretary in consultation with the Advisory Board established pursuant to section 1066f of this title;

(4) shall require that the first loans for capital projects authorized under section 1066b of this title be made no later than March 31, 1994;

(5) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

(6)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(7) may sell, exchange, or lease real or personal property and securities or obligations;

(8) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved;

(9) may, directly or by grant or contract, provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a capital improvement loan, including a loan under this part; and

(10) not later than 120 days after August 14, 2008, shall submit to the authorizing committees a report on the progress of the Department in implementing the recommendations made by the Government Accountability Office in October 2006 for improving the Historically Black College and Universities Capital Financing Program.

(Pub. L. 89–329, title III, §345, formerly title VII, §725, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 745; amended Pub. L. 103–208, §2(j)(16), Dec. 20, 1993, 107 Stat. 2481; renumbered title III, §345, and amended Pub. L. 105–244, title III, §§301(a)(3), (4), (c)(6), 306(c), Oct. 7, 1998, 112 Stat. 1636, 1637, 1647; Pub. L. 110–315, title III, §314(d), Aug. 14, 2008, 122 Stat. 3181.)

CODIFICATION

Section was formerly classified to section 1132c–4 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 345 of Pub. L. 89–329 was classified to section 1069a of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Par. (1). Pub. L. 110–315, §314(d)(1), substituted "August 14, 2008," for "July 23, 1992," in introductory provisions.

Pars. (2) to (9). Pub. L. 110–315, §314(d)(2), (3), added pars. (2) and (3) and redesignated former pars. (2) to (7) as (4) to (9), respectively.

Par. (10). Pub. L. 110–315, §314(d)(4)–(6), added par. (10).

1998—Par. (2). Pub. L. 105–244, §301(c)(6), substituted "section 1066b" for "section 1132c–2".

Par. (7). Pub. L. 105–244, §306(c), added par. (7).

1993—Pars. (2) to (6). Pub. L. 103–208 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6),

respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1066e. Repealed. Pub. L. 105–244, title III, §306(d), Oct. 7, 1998, 112 Stat. 1647

Section, Pub. L. 89–329, title III, §346, formerly title VII, §726, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 746; amended Pub. L. 103–208, §2(j)(17), Dec. 20, 1993, 107 Stat. 2481; renumbered title III, §346, Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, prohibited institution receiving a loan under this part from receiving grant under former part A of subchapter VII of this chapter.

CODIFICATION

Section was formerly classified to section 1132c–5 of this title prior to renumbering by Pub. L. 105–244.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1066f. HBCU Capital Financing Advisory Board

(a) Establishment and purpose

There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory Board (hereinafter in this part referred to as the "Advisory Board") which shall provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on African American college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities, how those needs can be met through the program authorized by this part, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

(b) Board membership

(1) Composition

The Advisory Board shall be appointed by the Secretary and shall be composed of 11 members as follows:

(A) The Secretary or the Secretary's designee.

(B) Three members who are presidents of private historically Black colleges or universities.

(C) Three members who are presidents of public historically Black colleges or universities.

(D) The president of the United Negro College Fund, Inc., or the president's designee.

(E) The president of the National Association for Equal Opportunity in Higher Education, or the designee of the Association.

(F) The executive director of the White House Initiative on historically Black colleges and universities.

(G) The president of the Thurgood Marshall College Fund, or the designee of the president.

(2) Terms

The term of office of each member appointed under paragraphs (1)(B) and (1)(C) shall be 3 years, except that—

(A) of the members first appointed pursuant to paragraphs (1)(B) and (1)(C), 2 shall be appointed for terms of 1 year, and 3 shall be appointed for terms of 2 years;

(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

(C) a member may continue to serve after the expiration of a term until a successor is appointed.

(c) Additional recommendations from Advisory Board

(1) In general

In addition to the responsibilities of the Advisory Board described in subsection (a), the Advisory Board shall advise the Secretary and the authorizing committees regarding—

(A) the fiscal status and strategic financial condition of not less than ten historically Black colleges and universities that have—

(i) obtained construction financing through the program under this part and seek additional financing or refinancing under such program; or

(ii) applied for construction financing through the program under this part but have not received financing under such program; and

(B) the feasibility of reducing borrowing costs associated with the program under this part, including reducing interest rates.

(2) Report

Not later than six months after August 14, 2008, the Advisory Board shall prepare and submit a report to the authorizing committees regarding the historically Black colleges and universities described in paragraph (1)(A) that includes administrative and legislative recommendations for addressing the issues related to construction financing facing such historically Black colleges and universities.

(Pub. L. 89–329, title III, §347, formerly title VII, §727, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 746; renumbered title III, §347, and amended Pub. L. 105–244, title III, §§301(a)(3), (4), 306(e), Oct. 7, 1998, 112 Stat. 1636, 1647; Pub. L. 110–315, title III, §314(e), Aug. 14, 2008, 122 Stat. 3182.)

CODIFICATION

Section was formerly classified to section 1132c–6 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 347 of Pub. L. 89–329 was classified to section 1069c of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–315, §314(e)(1)(A), substituted "11 members" for "9 members" in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 110–315, §314(e)(1)(B), substituted "Three members" for "Two members".

Subsec. (b)(1)(G). Pub. L. 110–315, §314(e)(1)(C), added subpar. (G).

Subsec. (c). Pub. L. 110–315, §314(e)(2), added subsec. (c).

1998—Subsec. (b)(1)(D). Pub. L. 105–244, §306(e)(1)(A), inserted ", or the president's designee." after "Fund, Inc."

Subsec. (b)(1)(E). Pub. L. 105–244, §306(e)(1)(B), inserted ", or the designee of the Association" before the period.

Subsec. (c). Pub. L. 105–244, §306(e)(2), struck out heading and text of subsec. (c). Text read as follows: "There are authorized to be appropriated $50,000 for fiscal year 1993 and each of the 4 succeeding fiscal years to carry out this section."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§1066g. Minority business enterprise utilization

In the performance of and with respect to the Secretary's effectuation of his responsibilities under section 1066d(1) of this title and to the maximum extent feasible in the implementation of the purposes of this part, minority business persons, including bond underwriters and credit enhancers, bond counsel, marketers, accountants, advisors, construction contractors, and managers should be utilized.

(Pub. L. 89–329, title III, §348, formerly title VII, §728, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 747; renumbered title III, §348, and amended Pub. L. 105–244, title III, §301(a)(3), (4), (c)(7), Oct. 7, 1998, 112 Stat. 1636, 1637.)

CODIFICATION

Section was formerly classified to section 1132c–7 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Pub. L. 105–244, §301(c)(7), substituted "section 1066d(1)" for "section 1132c–4(1)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

PART E—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SUBPART 1—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

CODIFICATION

Pub. L. 105–244, title III, §§301(a)(5), 307(d), Oct. 7, 1998, 112 Stat. 1636, 1648, redesignated subpart 1 (§1135b et seq.) of part B of subchapter X of this chapter as subpart 1 of part E of subchapter III of this chapter and inserted "AND ENGINEERING" before "IMPROVEMENT PROGRAM" in heading.

§1067. Findings

Congress makes the following findings:

(1) It is incumbent on the Federal Government to support the technological and economic competitiveness of the United States by improving and expanding the scientific and technological capacity of the United States. More and better prepared scientists, engineers, and technical experts are needed to improve and expand such capacity.

(2) As the Nation's population becomes more diverse, it is important that the educational and training needs of all Americans are met. Underrepresentation of minorities in science and technological fields diminishes our Nation's competitiveness by impairing the quantity of well

prepared scientists, engineers, and technical experts in these fields.

(3) Despite significant limitations in resources, minority institutions provide an important educational opportunity for minority students, particularly in science and engineering fields. Aid to minority institutions is a good way to address the underrepresentation of minorities in science and technological fields.

(4) There is a strong Federal interest in improving science and engineering programs at minority institutions as such programs lag behind in program offerings and in student enrollment compared to such programs at other institutions of higher education.

(Pub. L. 89–329, title III, §350, as added Pub. L. 105–244, title III, §307(a), Oct. 7, 1998, 112 Stat. 1647.)

PRIOR PROVISIONS

A prior section 1067, Pub. L. 89–329, title III, §352, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1304, and amended, which related to waiver authority and reporting requirement, was renumbered section 392 of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068a of this title.

Another prior section 1067, Pub. L. 89–329, title III, §342, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1398, set waiver authority and reporting requirements for this part, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1067, Pub. L. 89–329, title IV, §407, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, §§101(b)(2), 103, 104, Oct. 16, 1968, 82 Stat. 1017, 1018, related to agreements with institutions, required provisions and use of funds as additional Federal capital contribution for student loan fund, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1067a. Purpose; authority

(a) Congressional declaration of purpose

It is the purpose of this subpart to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 1862(a)(1) of title 42 and transferred to the Department by section 3444(a)(1) of this title.

(b) Grant authority

The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities, particularly minority women, in scientific and technological careers.

(Pub. L. 89–329, title III, §351, formerly title X, §1021, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1561; amended Pub. L. 102–325, title X, §1002(a), July 23, 1992, 106 Stat. 780; renumbered title III, §351, Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636; Pub. L. 111–39, title III, §301(5), July 1, 2009, 123 Stat. 1937.)

CODIFICATION

Section was formerly classified to section 1135b of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 351 of Pub. L. 89–329 was renumbered section 391 and is classified to section 1068 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–39 made technical amendment to reference in original act which appears in text as reference to section 3444(a)(1) of this title.

1992—Subsec. (b). Pub. L. 102–325 inserted ", particularly minority women," after "ethnic minorities".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§1067b. Grant recipient selection

(a) Establishment of criteria

Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations.

(b) Priorities to be given in criteria

In establishing criteria under subsection (a) of this section, the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

(c) Required criteria

In establishing criteria under subsection (a) of this section, the Secretary may consider the following selection criteria in making grants:

(1) plan of operation;
(2) quality of key personnel;
(3) budget and cost effectiveness;
(4) evaluation plan;
(5) adequacy of resources;
(6) identification of need for the project;
(7) potential institutional impact of the project;
(8) institutional commitment to the project;
(9) expected outcomes; and
(10) scientific and educational value of the proposed project.

(Pub. L. 89–329, title III, §352, formerly title X, §1022, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1561; renumbered title III, §352, Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1135b–1 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 352 of Pub. L. 89–329 was renumbered section 392 and is classified to section 1068a of this title.

§1067c. Use of funds

(a) Types of grants

Funds appropriated to carry out this subpart may be made available as—

(1) institutional grants (as defined in section 1067k(6) of this title);

(2) cooperative grants (as defined in section 1067k(7) of this title);
(3) design projects (as defined in section 1067k(8) of this title); or
(4) special projects (as defined in section 1067k(9) of this title).

(b) Authorized uses for each type of grant

(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

(A) faculty development programs; or
(B) development of curriculum materials.

(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—

(A) assisting institutions in sharing facilities and personnel;
(B) disseminating information about established programs in science and engineering;
(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or
(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

(3) The authorized uses of funds made available as design projects include (but are not limited to)—

(A) developing planning, management, and evaluation systems; or
(B) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

(4) The authorized uses of funds made available as special projects include (but are not limited to)—

(A) advanced science seminars;
(B) science faculty workshops and conferences;
(C) faculty training to develop specific science research or education skills;
(D) research in science education;
(E) programs for visiting scientists;
(F) preparation of films or audio-visual materials in science;
(G) development of learning experiences in science beyond those normally available to minority undergraduate students;
(H) development of pre-college enrichment activities in science; or
(I) any other activities designed to address specific barriers to the entry of minorities into science.

(Pub. L. 89–329, title III, §353, formerly title X, §1023, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1562; renumbered title III, §353, and amended Pub. L. 105–244, title III, §301(a)(5), (7), (c)(8), Oct. 7, 1998, 112 Stat. 1636, 1637.)

CODIFICATION

Section was formerly classified to section 1135b–2 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 353 of Pub. L. 89–329 was renumbered section 393 and is classified to section 1068b of this title.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, §301(c)(8)(A), substituted "section 1067k(6)" for "section 1135d–5(6)".
Subsec. (a)(2). Pub. L. 105–244, §301(c)(8)(B), substituted "section 1067k(7)" for "section 1135d–5(7)".
Subsec. (a)(3). Pub. L. 105–244, §301(c)(8)(C), substituted "section 1067k(8)" for "section 1135d–5(8)".

Subsec. (a)(4). Pub. L. 105–244, §301(c)(8)(D), substituted "section 1067k(9)" for "section 1135d–5(9)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1067d. Repealed. Pub. L. 111–39, title III, §302, July 1, 2009, 123 Stat. 1938

Section, Pub. L. 89–329, title III, formerly title X, §1024, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1562; amended Pub. L. 102–325, title X, §1002(b), July 23, 1992, 106 Stat. 780; renumbered title III, Pub. L. 105–244, title III, §301(a)(5), Oct. 7, 1998, 112 Stat. 1636, required Secretary to submit to President and Congress a report by Jan. 1, 1996, summarizing and evaluating Federal programs to increase minority participation and representation in scientific fields.

Section was formerly classified to section 1135b–3 of this title prior to renumbering by Pub. L. 105–244.

EFFECTIVE DATE OF REPEAL

Repeal effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as an Effective Date of 2009 Amendment note under section 1001 of this title.

SUBPART 2—PROGRAMS IN STEM FIELDS

PRIOR PROVISIONS

A prior subpart 2, consisting of sections 1067g to 1067l, was redesignated subpart 3 of this part by Pub. L. 110–315, title III, §315(a)(1), Aug. 14, 2008, 122 Stat. 3182.

§1067e. YES partnerships grant program

(a) Grant program authorized

Subject to the availability of appropriations to carry out this subpart, the Secretary shall make grants to eligible partnerships (as described in subsection (f)) to support the engagement of underrepresented minority youth and youth who are low-income individuals (as such term is defined in section 1058 of this title) in science, technology, engineering, and mathematics through outreach and hands-on, experiential-based learning projects that encourage students in kindergarten through grade 12 who are underrepresented minority youth or low-income individuals to pursue careers in science, technology, engineering, and mathematics.

(b) Minimum grant amount

A grant awarded to a partnership under this subpart shall be for an amount that is not less than $500,000.

(c) Duration

A grant awarded under this subpart shall be for a period of five years.

(d) Non-Federal matching share required

A partnership receiving a grant under this subpart shall provide, from non-Federal sources, in cash or in-kind, an amount equal to 50 percent of the costs of the project supported by such grant.

(e) Distribution of grants

In awarding grants under this subpart, the Secretary shall ensure that, to the maximum extent practicable, the projects funded under this subpart are located in diverse geographic regions of the United States.

(f) Eligible partnerships

Notwithstanding the general eligibility provision in section 1067g of this title, eligibility to receive

grants under this subpart is limited to partnerships described in paragraph (5) of such section.

(Pub. L. 89–329, title III, §355, as added Pub. L. 110–315, title III, §315(a)(2), Aug. 14, 2008, 122 Stat. 3182; amended Pub. L. 111–39, title III, §301(6), July 1, 2009, 123 Stat. 1937.)

PRIOR PROVISIONS

A prior section 355 of Pub. L. 89–329 was classified to section 1069a of this title, prior to repeal by Pub. L. 102–325.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–39 substituted "section 1058 of this title" for "section 302".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1067e–1. Promotion of entry into STEM fields

(a) Authority to contract, subject to appropriations

The Secretary is authorized to enter into a contract with a firm with a demonstrated record of success in advertising to implement a campaign to expand the population of qualified individuals in science, technology, engineering, and mathematics fields (referred to in this section as "STEM fields") by encouraging young Americans to enter such fields.

(b) Design of campaign

The campaign under this section shall be designed to enhance the image of education and professions in the STEM fields and promote participation in the STEM fields, and may include—

(1) monitoring trends in youths' attitudes toward pursuing education and professions in the STEM fields and their propensity toward entering the STEM fields;

(2) determining what factors contribute to encouraging and discouraging Americans from pursuing study in STEM fields and entering the STEM fields professionally;

(3) determining what specific factors limit the participation of groups currently underrepresented in STEM fields, including Latinos, African-Americans, and women; and

(4) drawing from the market research performed under this section and implementing an advertising campaign to encourage young Americans to take up studies in STEM fields, beginning at an early age.

(c) Required components

The campaign under this section shall—

(1) include components that focus tailored messages on appropriate age groups, starting with elementary school students; and

(2) link participation in the STEM fields to the concept of service to one's country, so that young people will be encouraged to enter the STEM fields in order fulfill the obligation to be of service to their country.

(d) Priority

The campaign under this section shall hold as a high priority making specific appeals to Hispanic Americans, African Americans, Native Americans, students with disabilities, and women, who are currently underrepresented in the STEM fields, in order to increase their numbers in the STEM fields, and shall tailor recruitment efforts to each specific group.

(e) Use of variety of media

The campaign under this section shall make use of a variety of media, with an emphasis on television advertising, to reach its intended audience.

(f) Teaching

The campaign under this section shall include a narrowly focused effort to attract current professionals in the STEM fields, through advertising in mediums likely to reach that specific group, into teaching in a STEM field in elementary schools and secondary schools.

(Pub. L. 89–329, title III, §356, as added Pub. L. 110–315, title III, §315(a)(2), Aug. 14, 2008, 122 Stat. 3183.)

PRIOR PROVISIONS

A prior section 356 of Pub. L. 89–329 was renumbered section 395 and is classified to section 1068d of this title.

§1067e–2. Evaluation and accountability plan

The Secretary shall develop an evaluation and accountability plan for projects funded under this subpart. Such plan shall include, if the Secretary determines that it is practical, an objective measure of the impact of such projects, such as a measure of whether underrepresented minority student enrollment in courses related to science, technology, engineering, and mathematics increases at the secondary and postsecondary levels.

(Pub. L. 89–329, title III, §357, as added Pub. L. 110–315, title III, §315(a)(2), Aug. 14, 2008, 122 Stat. 3184.)

PRIOR PROVISIONS

A prior section 357 of Pub. L. 89–329 was renumbered section 396 and is classified to section 1068e of this title.

SUBPART 3—ADMINISTRATIVE AND GENERAL PROVISIONS

CODIFICATION

Pub. L. 110–315, title III, §315(a)(1), Aug. 14, 2008, 122 Stat. 3182, redesignated subpart 2 (§1067 et seq.) of this part as subpart 3 of this part.

Pub. L. 105–244, title III, §301(a)(5), Oct. 7, 1998, 112 Stat. 1636, redesignated subpart 3 (§1135d et seq.) of part B of subchapter X of this chapter as subpart 2 of this part.

§1067g. Eligibility for grants

Eligibility to receive grants under this part is limited to—

(1) public and private nonprofit institutions of higher education that—

(A) award baccalaureate degrees; and

(B) are minority institutions;

(2) public or private nonprofit institutions of higher education that—

(A) award associate degrees; and

(B) are minority institutions that—

(i) have a curriculum that includes science or engineering subjects; and

(ii) enter into a partnership with public or private nonprofit institutions of higher education that award baccalaureate degrees in science and engineering;

(3) nonprofit science-oriented organizations, professional scientific societies, and institutions of higher education that award baccalaureate degrees, that—

(A) provide a needed service to a group of minority institutions; or

(B) provide in-service training for project directors, scientists, and engineers from minority institutions;

(4) consortia of organizations, that provide needed services to one or more minority institutions, the membership of which may include—

(A) public and private nonprofit institutions of higher education which have a curriculum in science or engineering;

(B) institutions of higher education that have a graduate or professional program in science or engineering;

(C) research laboratories of, or under contract with, the Department of Energy, the Department of Defense, or the National Institutes of Health;

(D) relevant offices of the National Aeronautics and Space Administration, National Oceanic and Atmospheric Administration, National Science Foundation, and National Institute of Standards and Technology;

(E) quasi-governmental entities that have a significant scientific or engineering mission; or

(F) institutions of higher education that have State-sponsored centers for research in science, technology, engineering, and mathematics; or

(5) only with respect to grants under subpart 2, partnerships of organizations, the membership of which shall include—

(A) at least one institution of higher education eligible for assistance under this subchapter or subchapter V;

(B) at least one high-need local educational agency (as defined in section 1021 of this title); and

(C) at least two community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, or State agencies.

(Pub. L. 89–329, title III, §361, formerly title X, §1041, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1564; renumbered title III, §361, and amended Pub. L. 105–244, title III, §§301(a)(5), (7), (b), (c)(9), 307(b), Oct. 7, 1998, 112 Stat. 1636, 1637, 1648; Pub. L. 110–315, title III, §315(b), Aug. 14, 2008, 122 Stat. 3184.)

CODIFICATION

Section was formerly classified to section 1135d of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

2008—Par. (3)(B). Pub. L. 110–315, §315(b)(1), struck out "or" at end.

Par. (4)(A). Pub. L. 110–315, §315(b)(2)(A), substituted "public and private nonprofit institutions of higher education" for "institutions of higher education".

Par. (4)(C). Pub. L. 110–315, §315(b)(2)(B), inserted ", the Department of Defense, or the National Institutes of Health" before the semicolon.

Par. (4)(D). Pub. L. 110–315, §315(b)(2)(C), added subpar. (D) and struck out former subpar. (D) which read as follows: "private organizations that have science or engineering facilities; or".

Par. (4)(F). Pub. L. 110–315, §315(b)(2)(D), (E), added subpar. (F).

Par. (5). Pub. L. 110–315, §315(b)(3), added par. (5).

1998—Pub. L. 105–244, §307(b), amended section catchline and text generally. Prior to amendment, text read as follows: "Eligibility to receive grants under this part is limited to—

"(1) public and private nonprofit institutions that are minority institutions (as defined in section 1067k(3) of this title); and

"(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions."

Par. (1). Pub. L. 105–244, §301(c)(9), substituted "section 1067k(3)" for "section 1135d–5(3)".

Pub. L. 105–244, §301(b)(1), inserted "and" after the semicolon.

Par. (2). Pub. L. 105–244, §301(b)(2), substituted a period for "; and".

Par. (3). Pub. L. 105–244, §301(b)(3), struck out par. (3) which read as follows: "for the purposes of section 1135c–1 of this title, public and private nonprofit institutions that have at least 10 percent minority enrollment."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1067h. Grant application

(a) Submission and contents of applications

An eligible applicant (as determined under section 1067g of this title) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

(1) a program of activities for carrying out one or more of the purposes described in section 1067a(b) of this title in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) Approval based on likelihood of progress

The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part.

(Pub. L. 89–329, title III, §362, formerly title X, §1042, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1564; renumbered title III, §362, and amended Pub. L. 105–244, title III, §301(a)(5), (7), (c)(10), Oct. 7, 1998, 112 Stat. 1636, 1637.)

CODIFICATION

Section was formerly classified to section 1135d–1 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, §301(c)(10), substituted "section 1067g" for "section 1135d" in introductory provisions and "section 1067a(b)" for "section 1135b(b)" in par. (1).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1067i. Cross program and cross agency cooperation

The Minority Science and Engineering Improvement Programs shall cooperate and consult with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

(Pub. L. 89–329, title III, §363, formerly title X, §1043, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1564; amended Pub. L. 102–325, title X, §1002(d), July 23, 1992, 106 Stat. 780; renumbered title III, §363, Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1135d–2 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1992—Pub. L. 102–325 inserted "and consult" after "cooperate".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§1067j. Administrative provisions

(a) Technical staff

The Secretary shall appoint, without regard to the provisions of title 5 governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Procedures for grant review

The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this subchapter may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

(Pub. L. 89–329, title III, §364, formerly title X, §1044, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1564; renumbered title III, §364, Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1135d–3 of this title prior to renumbering by Pub. L. 105–244.

§1067k. Definitions

For the purpose of this part—

(1) The term "accredited" means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

(2) The term "minority" means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

(3) The term "minority institution" means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

(4) The term "science" means, for the purpose of this program, the biological, engineering, mathematical, physical, behavioral, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

(5) The term "underrepresented in science and engineering" means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

(6) The term "institutional grant" means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

(7) The term "cooperative grant" means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

(8) The term "design projects" means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

(9) The term "special projects" means—

(A) a special project grant to a minority institution which supports activities that—
(i) improve the quality of training in science and engineering at minority institutions; or
(ii) enhance the minority institutions' general scientific research capabilities; or

(B) a special project grant to any eligible applicant which supports activities that—
(i) provide a needed service to a group of eligible minority institutions; or
(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

(Pub. L. 89–329, title III, §365, formerly title X, §1046, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1566; renumbered title III, §365, and amended Pub. L. 105–244, title III, §§301(a)(5), (7), 307(c), Oct. 7, 1998, 112 Stat. 1636, 1648; Pub. L. 110–315, title III, §320(3), Aug. 14, 2008, 122 Stat. 3187.)

CODIFICATION

Section was formerly classified to section 1135d–5 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

2008—Par. (9)(A). Pub. L. 110–315 substituted "supports" for "support" in introductory provisions.
1998—Par. (4). Pub. L. 105–244, §307(c), inserted "behavioral," after "physical,".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1067*l*. Repealed. Pub. L. 105–244, title III, §301(a)(8), Oct. 7, 1998, 112 Stat. 1636

Section, Pub. L. 89–329, title III, §366, formerly title X, §1047, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 100–418, title VI, §6221, Aug. 23, 1988, 102 Stat. 1518; Pub. L. 102–325, title X, §1002(f), July 23, 1992, 106 Stat. 780; renumbered title III, §366, Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, authorized appropriations to carry out Fund for Improvement of Postsecondary Education program.

CODIFICATION

Section was formerly classified to section 1135d–6 of this title prior to renumbering by Pub. L. 105–244.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

PART F—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS

CODIFICATION

Part F of title III of Pub. L. 89–329, comprising this part, was originally added as part J of title IV of Pub. L. 89–329 by Pub. L. 110–84, title VIII, §802, Sept. 27, 2007, 121 Stat. 817, and was classified to part I (§1099e) of subchapter IV of this chapter. Part J of title IV of Pub. L. 89–329 was subsequently redesignated part F of title III of Pub. L. 89–329 by Pub. L. 110–315, title III, §316(a)(2), Aug. 14, 2008, 122 Stat. 3185, and transferred to this part.

PRIOR PROVISIONS

A prior part F [§1068 et seq.] of this subchapter was redesignated part G by Pub. L. 110–315, title III, §316(a)(1), Aug. 14, 2008, 122 Stat. 3185.

§1067q. Investment in historically Black colleges and universities and other minority-serving institutions

(a) Eligible institution

An institution of higher education is eligible to receive funds from the amounts made available under this section if such institution is—

(1) a part B institution (as defined in section 1061 of this title);

(2) a Hispanic-serving institution (as defined in section 1101a of this title);

(3) a Tribal College or University (as defined in section 1059c of this title);

(4) an Alaska Native-serving institution or a Native Hawaiian-serving institution (as defined in section 1059d(b) of this title);

(5) a Predominantly Black Institution (as defined in subsection (c));

(6) an Asian American and Native American Pacific Islander-serving institution (as defined in subsection (c)); or

(7) a Native American-serving nontribal institution (as defined in subsection (c)).

(b) New investment of funds

(1) In general

(A) Provision of funds

There shall be available to the Secretary to carry out this section, from funds in the Treasury not otherwise appropriated, $255,000,000 for each of the fiscal years 2008 through 2019. The authority to award grants under this section shall expire at the end of fiscal year 2019.

(B) Availability

Funds made available under subparagraph (A) for a fiscal year shall remain available for the next succeeding fiscal year.

(2) Allocation and allotment

(A) In general

Of the amounts made available under paragraph (1) for each fiscal year—

(i) $100,000,000 shall be available for allocation under subparagraph (B);

(ii) $100,000,000 shall be available for allocation under subparagraph (C); and

(iii) $55,000,000 shall be available for allocation under subparagraph (D).

(B) HSI STEM and articulation programs

The amount made available for allocation under this subparagraph by subparagraph (A)(i) for any fiscal year shall be available for Hispanic-serving Institutions [1] for activities described in section 1101b of this title, with a priority given to applications that propose—

(i) to increase the number of Hispanic and other low income students attaining degrees in the fields of science, technology, engineering, or mathematics; and

(ii) to develop model transfer and articulation agreements between 2-year Hispanic-serving institutions and 4-year institutions in such fields.

(C) Allocation and allotment HBCUS and PBIS

From the amount made available for allocation under this subparagraph by subparagraph (A)(ii) for any fiscal year—

(i) 85 percent shall be available to eligible institutions described in subsection (a)(1) and shall be made available as grants under section 1062 of this title and allotted among such institutions under section 1063 of this title, treating such amount, plus the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out part B of this subchapter, as the amount appropriated to carry out part B of this subchapter for purposes of allotments under section 1063 of this title, for use by such institutions with a priority for—

(I) activities described in paragraphs (1), (2), (4), (5), and (10) of section 1062(a) of this title; and

(II) other activities, consistent with the institution's comprehensive plan and designed to increase the institution's capacity to prepare students for careers in the physical or natural sciences, mathematics, computer science or information technology or sciences, engineering, language instruction in the less-commonly taught languages or international affairs, or nursing or allied health professions; and

(ii) 15 percent shall be available to eligible institutions described in subsection (a)(5) and shall be available for a competitive grant program to award 25 grants of $600,000 annually for programs in any of the following areas:

(I) science, technology, engineering, or mathematics (STEM);

(II) health education;

(III) internationalization or globalization;

(IV) teacher preparation; or

(V) improving educational outcomes of African American males.

(D) Allocation and allotment to other minority-serving institutions

From the amount made available for allocation under this subparagraph by subparagraph (A)(iii) for any fiscal year—

(i) $30,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(3) and shall be made available as grants under section 1059c of this title, treating such $30,000,000 as part of the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out such section, and using such $30,000,000 for purposes described in subsection (c) of such section;

(ii) $15,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(4) and shall be made available as grants under section 1059d of this title, treating such $15,000,000 as part of the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out such section and using such $15,000,000 for purposes described in subsection (c) of such section;

(iii) $5,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(6) for activities described in section 1057(c) of this title; and

(iv) $5,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(7)—

(I) to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Native Americans, which may include—

(aa) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(bb) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(cc) support of faculty exchanges, faculty development, and faculty fellowships to assist faculty in attaining advanced degrees in the faculty's field of instruction;

(dd) curriculum development and academic instruction;

(ee) the purchase of library books, periodicals, microfilm, and other educational materials;

(ff) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(gg) the joint use of facilities such as laboratories and libraries; and

(hh) academic tutoring and counseling programs and student support services; and

(II) to which the Secretary, to the extent possible and consistent with a competitive process under which such grants are awarded, allocates funds under this clause to ensure maximum and equitable distribution among all such eligible institutions.

(c) Definitions

(1) Asian American

The term "Asian American" has the meaning given the term "Asian" in the Office of Management and Budget's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published on October 30, 1997 (62 Fed. Reg. 58789).

(2) Asian American and Native American Pacific Islander-serving institution

The term "Asian American and Native American Pacific Islander-serving institution" means an institution of higher education that—

(A) is an eligible institution under section 1058(b) of this title; and

(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Asian American and Native American Pacific Islander students.

(3) Enrollment of needy students

The term "enrollment of needy students" means the enrollment at an institution of higher education with respect to which not less than 50 percent of the undergraduate students enrolled in an academic program leading to a degree—

(A) in the second fiscal year preceding the fiscal year for which the determination is made, were Federal Pell Grant recipients for such year;

(B) come from families that receive benefits under a means-tested Federal benefit program (as defined in paragraph (5));

(C) attended a public or nonprofit private secondary school—

(i) that is in the school district of a local educational agency that was eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.] for any year during which the student attended such secondary school; and

(ii) which for the purpose of this paragraph and for that year was determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under a measure of poverty described in section 1113(a)(5) of such Act [20 U.S.C. 6313(a)(5)] exceeds 30 percent of the total enrollment of such school; or

(D) are first-generation college students (as that term is defined in section 1070a–11(h) of this title), and a majority of such first-generation college students are low-income individuals.

(4) Low-income individual

The term "low-income individual" has the meaning given such term in section 1070a–11(h) of this title.

(5) Means-tested Federal benefit program

The term "means-tested Federal benefit program" means a program of the Federal Government, other than a program under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, in which eligibility for the programs' benefits or the amount of such benefits are determined on the basis of income or resources of the individual or family seeking the benefit.

(6) Native American

The term "Native American" means an individual who is of a tribe, people, or culture that is indigenous to the United States.

(7) Native American Pacific Islander

The term "Native American Pacific Islander" means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(8) Native American-serving nontribal institution

The term "Native American-serving nontribal institution" means an institution of higher education that—

(A) at the time of application—

(i) has an enrollment of undergraduate students that is not less than 10 percent Native American students; and

(ii) is not a Tribal College or University (as defined in section 1059c of this title); and

(B) submits to the Secretary such enrollment data as may be necessary to demonstrate that the institution is described in subparagraph (A), along with such other information and data as the Secretary may by regulation require.

(9) Predominantly Black institution

The term "Predominantly Black institution" means an institution of higher education that—

(A) has an enrollment of needy students as defined by paragraph (3);

(B) has an average educational and general expenditure which is low, per full-time equivalent undergraduate student in comparison with the average educational and general expenditure per full-time equivalent undergraduate student of institutions of higher education that offer similar instruction, except that the Secretary may apply the waiver requirements described in section 1068a(b) of this title to this subparagraph in the same manner as the Secretary applies the waiver requirements to section 1058(b)(1)(B) of this title;

(C) has an enrollment of undergraduate students—

(i) that is at least 40 percent Black American students;

(ii) that is at least 1,000 undergraduate students;

(iii) of which not less than 50 percent of the undergraduate students enrolled at the institution are low-income individuals or first-generation college students (as that term is defined in section 1070a–11(h) of this title); and

(iv) of which not less than 50 percent of the undergraduate students are enrolled in an educational program leading to a bachelor's or associate's degree that the institution is licensed to award by the State in which the institution is located;

(D) is legally authorized to provide, and provides within the State, an educational program for which the institution of higher education awards a bachelor's degree, or in the case of a junior or community college, an associate's degree;

(E) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered, or is, according to such an agency or association, making reasonable progress toward accreditation; and

(F) is not receiving assistance under—

(i) part B;

(ii) part A of subchapter V; or

(iii) an annual authorization of appropriations under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123).

(Pub. L. 89–329, title III, §371, formerly title IV, §499A, as added Pub. L. 110–84, title VIII, §802, Sept. 27, 2007, 121 Stat. 817; renumbered title III, §371, and amended Pub. L. 110–315, title III, §316(a)(3), (b), (c), Aug. 14, 2008, 122 Stat. 3185; Pub. L. 111–39, title III, §301(7), July 1, 2009, 123 Stat. 1937; Pub. L. 111–152, title II, §2103, Mar. 30, 2010, 124 Stat. 1074.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(3)(C)(i), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Act of March 2, 1867, referred to in subsec. (c)(9)(F)(iii), is act Mar. 2, 1867, ch. 162, 14 Stat. 438. Provisions relating to authorization of appropriations are contained in section 8 of the Act, which is classified to section 123 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 1099e of this title prior to renumbering by Pub. L. 110–315.

AMENDMENTS

2010—Subsec. (b)(1)(A). Pub. L. 111–152 substituted "through 2019. The authority to award grants under this section shall expire at the end of fiscal year 2019." for "and 2009. The authority to award grants under this section shall expire at the end of fiscal year 2009."

2009—Subsec. (c)(3)(D), (4), (9)(C)(iii). Pub. L. 111–39, §301(7)(A)–(C)(i), substituted "1070a–11(h)" for "1070a–11(g)".

Subsec. (c)(9)(F). Pub. L. 111–39, §301(7)(C)(ii), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "is not receiving assistance under part B of this subchapter."

2008—Subsec. (b)(1). Pub. L. 110–315, §316(c), amended par. (1) generally. Prior to amendment, text read as follows: "There shall be available to the Secretary to carry out this section, from funds not otherwise appropriated, $255,000,000 for each of the fiscal years 2008 and 2009. The authority to award grants under this section shall expire at the end of fiscal year 2009."

Subsec. (b)(2)(C)(i). Pub. L. 110–315, §316(b)(1), substituted "this subchapter" for "subchapter III" in two places.

Subsec. (c)(9)(F). Pub. L. 110–315, §316(b)(2), substituted "this subchapter" for "subchapter III".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as an Effective Date of 2007 Amendment note under section 1070a of this title.

[1] *So in original. Probably should not be capitalized.*

PART G—GENERAL PROVISIONS

CODIFICATION

Pub. L. 110–315, title III, §316(a)(1), Aug. 14, 2008, 122 Stat. 3185, redesignated part F (§1068 et seq.) of this subchapter as part G of this subchapter.

§1068. Applications for assistance

(a) Applications

(1) Applications required

Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for the assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for assistance under this subchapter only if the Secretary determines that—

(A) the application meets the requirements of subsection (b) of this section;

(B) the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought; and

(C) the applicant's performance goals are sufficiently rigorous as to meet the purposes of this subchapter and the performance objectives and indicators for this subchapter established by the Secretary pursuant to the Government Performance and Results Act of 1993 and the amendments made by such Act.

(2) Preliminary applications

In carrying out paragraph (1), the Secretary may develop a preliminary application for use by

eligible institutions applying under part A of this subchapter prior to the submission of the principal application.

(b) Contents

An institution, in its application for a grant, shall—

(1) set forth, or describe how the institution (other than an institution applying under part C, D or E of this subchapter) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this subchapter);

(2) set forth policies and procedures to ensure that Federal funds made available under this subchapter for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 1057(b) or 1062 of this title, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this subchapter;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this subchapter;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this subchapter, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 1068e of this title, except that for purposes of section 1059c of this title, paragraphs (2) and (3) of section 1068e of this title shall not apply;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this subchapter in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this subchapter, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (D); and

(8) include such other information as the Secretary may prescribe.

(c) Priority criteria publication required

The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, all policies and procedures required to exercise the authority set forth in subsection (a) of this section. No other criteria, policies, or procedures shall apply.

(d) Eligibility data

The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in making eligibility determinations under section 1058 of this title and shall advance the base-year forward following each annual grant cycle.

(e) Technical assistance

The Secretary, directly or by grant or contract, may provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a grant, under this subchapter.

(Pub. L. 89–329, title III, §391, formerly §351, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1302; amended Pub. L. 100–50, §2(a)(13), June 3, 1987, 101 Stat. 336; Pub. L. 102–325, title III, §305(a), July 23, 1992, 106 Stat. 478; renumbered §391 and amended Pub. L. 105–244, title III, §§301(a)(2), (c)(11), 308(a)–(c), Oct. 7, 1998, 112 Stat. 1636, 1637, 1648, 1649; Pub. L. 110–315, title III, §§317, 320(4), Aug. 14, 2008, 122 Stat. 3185, 3188.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (a)(1)(C), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

CODIFICATION

Section was formerly classified to section 1066 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1068, Pub. L. 89–329, title III, §353, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1305, which related to application review process, was renumbered section 393 of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068b of this title.

Another prior section 1068, Pub. L. 89–329, title III, §343, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1398, related to application review process and provided for reader panels, recommendation of such panels, and notification to institutions, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1068, Pub. L. 89–329, title IV, §408, Nov. 8, 1965, 79 Stat. 1235; Pub. L. 90–575, title I, §105(a), Oct. 16, 1968, 82 Stat. 1018; Pub. L. 91–230, title VIII, §801, Apr. 13, 1970, 84 Stat. 190; Pub. L. 92–318, title I, §131(a)(1)(B), June 23, 1972, 86 Stat. 247, related to programs for identifying qualified low-income students and preparing them for post secondary education, grants or contracts for planning, developing or carrying out programs, "Talent Search" program, "Upward Bound" program, "Special Services for Disadvantaged Students" program, nature of programs, waiver of matching requirement in the "Upward Bound" program and authorization of appropriations, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

2008—Subsec. (b)(7)(E). Pub. L. 110–315, §320(4), substituted "subparagraph (D)" for "subparagraph (E)".

Subsec. (e). Pub. L. 110–315, §317, added subsec. (e).

1998—Subsec. (a). Pub. L. 105–244, §308(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for a grant under this subchapter if the application meets the requirements of subsection (b) of this section and shows that the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought."

Subsec. (b)(1). Pub. L. 105–244, §308(b), inserted ", D or E" after "part C".

Subsec. (b)(6). Pub. L. 105–244, §§301(c)(11), 308(c), substituted "section 1068e" for "section 1069c" and inserted ", except that for purposes of section 1059c of this title, paragraphs (2) and (3) of section 1068e of

this title shall not apply" before semicolon.

1992—Subsec. (b)(7)(D) to (F). Pub. L. 102–325 redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: "information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, and other problems;".

1987—Subsec. (b)(6). Pub. L. 100–50 substituted "section 1069c of this title" for "section 1069b of this title".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1068a. Waiver authority and reporting requirement

(a) Waiver requirements; need-based assistance students

The Secretary may waive the requirements set forth in section 1058(b)(1)(A) of this title in the case of an institution—

(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

(2) which serves a substantial number of low-income students as a percentage of its total student population;

(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

(5) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

(6) that is a tribally controlled college or university as defined in section 1801 of title 25; or

(7) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Black Americans, Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians.

(b) Waiver determinations; expenditures

(1) The Secretary may waive the requirements set forth in section 1058(b)(1)(B) of this title if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A of this subchapter is otherwise consistent with the purposes of such parts.[1]

(2) The Secretary shall submit to the Congress every other year a report concerning the institutions which, although not satisfying the criterion contained in section 1058(b)(1)(B) of this title, have been determined to be eligible institutions under part A which enroll significant numbers of Black American, Hispanic, Native American, Asian American, or Native Hawaiian students under part A, as the case may be. Such report shall—

(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as

factors that distorted the determination of compliance with subparagraphs (A) and (B) of section 1058(b)(1) of this title; and

(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

(3) The Secretary may waive the requirement set forth in section 1058(b)(1)(E) [2] of this title in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.

(c) Waiver authority with respect to institutions located in an area affected by a Gulf hurricane disaster

(1) Waiver authority

Notwithstanding any other provision of law, unless enacted with specific reference to this section, for any affected institution that was receiving assistance under this subchapter at the time of a Gulf hurricane disaster, the Secretary shall, for each of the fiscal years 2009 through 2011 (and may, for each of the fiscal years 2012 and 2013)—

(A) waive—

(i) the eligibility data requirements set forth in section 1068(d) of this title;

(ii) the wait-out period set forth in section 1059(d) of this title;

(iii) the allotment requirements under section 1063 of this title; and

(iv) the use of the funding formula developed pursuant to section 1063b(f)(3) of this title;

(B) waive or modify any statutory or regulatory provision to ensure that affected institutions that were receiving assistance under this subchapter at the time of a Gulf hurricane disaster are not adversely affected by any formula calculation for fiscal year 2009 or for any of the four succeeding fiscal years, as necessary; and

(C) make available to each affected institution an amount that is not less than the amount made available to such institution under this subchapter for fiscal year 2006, except that for any fiscal year for which the funds appropriated for payments under this subchapter are less than the appropriated level for fiscal year 2006, the amount made available to such institutions shall be ratably reduced among the institutions receiving funds under this subchapter.

(2) Definitions

In this subsection:

(A) Affected institution

The term "affected institution" means an institution of higher education that—

(i) is—

(I) a part A institution (which term shall have the meaning given the term "eligible institution" under section 1058(b) of this title); or

(II) a part B institution, as such term is defined in section 1061(2) of this title, or as identified in section 1063b(e) of this title;

(ii) is located in an area affected by a Gulf hurricane disaster; and

(iii) is able to demonstrate that, as a result of the impact of a Gulf hurricane disaster, the institution—

(I) incurred physical damage;

(II) has pursued collateral source compensation from insurance, the Federal Emergency Management Agency, and the Small Business Administration, as appropriate; and

(III) was not able to fully reopen in existing facilities or to fully reopen to the pre-hurricane enrollment levels during the 30-day period beginning on August 29, 2005.

(B) Area affected by a Gulf hurricane disaster; Gulf hurricane disaster

The terms "area affected by a Gulf hurricane disaster" and "Gulf hurricane disaster" have the

meanings given such terms in section 209 of the Higher Education Hurricane Relief Act of 2005 (Public Law 109–148, 119 Stat. 2809).

(Pub. L. 89–329, title III, §392, formerly §352, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1304; amended Pub. L. 100–50, §2(a)(14), (15), June 3, 1987, 101 Stat. 336; Pub. L. 102–325, title III, §305(b), July 23, 1992, 106 Stat. 478; renumbered §392 and amended Pub. L. 105–244, title III, §§301(a)(2), 308(d), Oct. 7, 1998, 112 Stat. 1636, 1649; Pub. L. 110–315, title III, §§318, 320(5), Aug. 14, 2008, 122 Stat. 3185, 3188; Pub. L. 111–39, title III, §301(8), July 1, 2009, 123 Stat. 1938.)

REFERENCES IN TEXT

Section 1058(b)(1)(E) of this title, referred to in subsec. (b)(3), was repealed and section 1058(b)(1)(F) was redesignated section 1058(b)(1)(E) by Pub. L. 102–325, title III, §302(a)(1)(B), (C), July 23, 1992, 106 Stat. 472.

Section 209 of the Higher Education Hurricane Relief Act of 2005, referred to in subsec. (c)(2)(B), is section 209 of title IV of div. B of Pub. L. 109–148, Dec. 30, 2005, 119 Stat. 2808, which is not classified to the Code.

CODIFICATION

Section was formerly classified to section 1067 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

2009—Subsec. (a)(6). Pub. L. 111–39 made technical amendment to reference in original act which appears in text as reference to section 1801 of title 25.

2008—Subsec. (b)(2). Pub. L. 110–315, §320(5), substituted "eligible institutions under part A" for "eligible institutions under part A institutions" in introductory provisions. See Codification note above.

Subsec. (c). Pub. L. 110–315, §318, added subsec. (c).

1998—Subsec. (a)(5) to (7). Pub. L. 105–244 struck out "or" at end of par. (5), added par. (6), and redesignated former par. (6) as (7).

1992—Subsec. (a). Pub. L. 102–325 substituted "Secretary may waive" for "Secretary shall waive".

1987—Subsec. (a)(2). Pub. L. 100–50, §2(a)(14), substituted "low-income" for "low- and middle-income".

Subsec. (b)(3). Pub. L. 100–50, §2(a)(15), added par. (3).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the last item on page 79 identifies a reporting provision which, as subsequently amended, is contained in subsec. (b)(2) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

[1] *So in original. Probably should be "part."*

[2] *See References in Text note below.*

§1068b. Application review process

(a) Review panel

(1) All applications submitted under this subchapter by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Tribal Colleges and Universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this subchapter and consistent with the provisions of this subchapter, including—

(A) explanations and examples of the types of activities referred to in section 1057(b) of this title that should receive special consideration for grants awarded under part A of this subchapter and of the types of activities referred to in section 1062 of this title that should receive special consideration for grants awarded under part B of this subchapter;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this subchapter; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this subchapter, the amount of any such grant, and the duration of any such grant.

(b) Recommendations of panel

In awarding grants under this subchapter, the Secretary shall take into consideration the recommendations of the panel made under subsection (a) of this section.

(c) Notification

Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this subchapter of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this subchapter, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(d) Exclusion

The provisions of this section shall not apply to applications submitted under part D of this subchapter.

(Pub. L. 89–329, title III, §393, formerly §353, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1305; renumbered §393 and amended Pub. L. 105–244, title III, §§301(a)(2), 308(e), Oct. 7, 1998, 112 Stat. 1636, 1649.)

CODIFICATION

Section was formerly classified to section 1068 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244, §308(e)(1), substituted "Tribal Colleges and Universities" for "Native American colleges and universities".

Subsec. (d). Pub. L. 105–244, §308(e)(2), added subsec. (d).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244,

see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1068c. Cooperative arrangements

(a) General authority

The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A of this subchapter, between institutions eligible for assistance under part A of this subchapter and between such institutions and institutions not receiving assistance under this subchapter; or

(2) with funds available to carry out part B of this subchapter, between institutions eligible for assistance under part B of this subchapter and institutions not receiving assistance under this subchapter;

for the activities described in section 1057(b) of this title or section 1062 of this title, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

(b) Priority

The Secretary shall give priority to grants for the purposes described under subsection (a) of this section whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

(c) Duration

Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 1059 of this title or section 1062 of this title.

(Pub. L. 89–329, title III, §394, formerly §354, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1305; renumbered §394, Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1069 of this title prior to renumbering by Pub. L. 105–244.

§1068d. Assistance to institutions under other programs

(a) Assistance eligibility

Each institution which the Secretary determines to be an institution eligible under part A of this subchapter or an institution eligible under part B of this subchapter may be eligible for waivers in accordance with subsection (b) of this section.

(b) Waiver applicability

(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) of this section for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) The provisions of this section shall apply to any program authorized by part D of this subchapter or subchapter IV of this chapter or part C of subchapter I of chapter 34 of title 42.

(c) Limitation

The Secretary shall not waive, under subsection (b) of this section, the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of

more than 10 percent of the appropriations for the program for any fiscal year.

(Pub. L. 89–329, title III, §395, formerly §356, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1306; amended Pub. L. 102–325, title III, §305(d), July 23, 1992, 106 Stat. 478; Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–314; renumbered §395 and amended Pub. L. 105–244, title III, §§301(a)(2), 308(f), Oct. 7, 1998, 112 Stat. 1636, 1649.)

CODIFICATION

Section was formerly classified to section 1069b of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–244, §308(f), substituted "part D of this subchapter or subchapter IV of this chapter" for "subchapter IV, VII, or VIII of this chapter".

1996—Subsec. (b)(2). Pub. L. 104–208 struck out "II," after "authorized by subchapter".

1992—Subsec. (a). Pub. L. 102–325 substituted "may be eligible" for "shall be eligible".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§1068e. Limitations

The funds appropriated under section 1068h of this title may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

(Pub. L. 89–329, title III, §396, formerly §357, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1307; renumbered §396, Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636; amended Pub. L. 110–315, title III, §320(6), Aug. 14, 2008, 122 Stat. 3188.)

CODIFICATION

Section was formerly classified to section 1069c of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

2008—Pub. L. 110–315 substituted "1068h of this title" for "1069f of this title" in introductory provisions.

§1068f. Penalties

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this subchapter embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(Pub. L. 89–329, title III, §397, formerly §358, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1307; renumbered §397, Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1069d of this title prior to renumbering by Pub. L. 105–244.

§1068g. Continuation awards

The Secretary shall make continuation awards under this subchapter for the second and succeeding years of a grant only after determining that the recipient is making satisfactory progress in carrying out the grant.

(Pub. L. 89–329, title III, §398, as added Pub. L. 105–244, title III, §308(g), Oct. 7, 1998, 112 Stat. 1649.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1068h. Authorization of appropriations

(a) Authorizations

(1) Part A

(A) There are authorized to be appropriated to carry out part A (other than sections 1059c through 1059g of this title), $135,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1059c of this title, $30,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(C) There are authorized to be appropriated to carry out section 1059d of this title, $15,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(D) There are authorized to be appropriated to carry out section 1059e of this title, $75,000,000 for fiscal year 2009 and each of the five succeeding fiscal years.

(E) There are authorized to be appropriated to carry out section 1059f of this title, $25,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(F) There are authorized to be appropriated to carry out section 1059g of this title, $30,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(2) Part B

(A) There are authorized to be appropriated to carry out part B (other than section 1063b of this title), $375,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1063b of this title, $125,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(3) Part C

There are authorized to be appropriated to carry out part C, $10,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(4) Part D

(A) There are authorized to be appropriated to carry out part D (other than section 1066d(9) of this title, but including section 1066f of this title), $185,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1066d(9) of this title such sums

as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(5) Part E

(A) There are authorized to be appropriated to carry out subpart 1 of part E, $12,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(B) There are authorized to be appropriated to carry out subpart 2 of part E, such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) Use of multiple year awards

In the event of a multiple year award to any institution under this subchapter, the Secretary shall make funds available for such award from funds appropriated for this subchapter for the fiscal year in which such funds are to be used by the recipient.

(Pub. L. 89–329, title III, §399, formerly §360, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1307; amended Pub. L. 102–325, title III, §305(e)–(g), July 23, 1992, 106 Stat. 479; renumbered §399, and amended Pub. L. 105–244, title III, §§301(a)(2), 308(h), Oct. 7, 1998, 112 Stat. 1636, 1649; Pub. L. 110–315, title III, §319, Aug. 14, 2008, 122 Stat. 3186.)

CODIFICATION

Section was formerly classified to section 1069f of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1069, Pub. L. 89–329, title III, §354, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1305, which related to cooperative arrangements, was renumbered section 394 of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068c of this title.

Another prior section 1069, Pub. L. 89–329, title III, §344, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1399, provided for a program of grants to encourage cooperative arrangements between institutions, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1069, Pub. L. 89–329, title IV, §409, Nov. 8, 1965, 79 Stat. 1236, related to definition of academic year, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

A prior section 1069a, Pub. L. 89–329, title III, §355, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1306; amended Pub. L. 100–50, §2(a)(16), (17), June 3, 1987, 101 Stat. 336, related to special payments rules, prior to repeal by Pub. L. 102–325, §2, title III, §305(c), July 23, 1992, 106 Stat. 458, 478, effective Oct. 1, 1992.

Another prior section 1069a, Pub. L. 89–329, title III, §345, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1399, related to assistance to institutions under other programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1069b, Pub. L. 89–329, title III, §356, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1306, and amended, which related to assistance to institutions under other programs, was renumbered section 395 of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068d of this title.

Another prior section 1069b, Pub. L. 89–329, title III, §346, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1400, limited activities for which funds appropriated to carry out this subchapter could be expended, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1069c, Pub. L. 89–329, title III, §357, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1307, which related to limitations on use of funds, was renumbered section 396 of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068e of this title.

Another prior section 1069c, Pub. L. 89–329, title III, §347, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1400, and Pub. L. 98–95, §3, Sept. 26, 1983, 97 Stat. 711; Pub. L. 98–312, §1, June 12, 1984, 98 Stat. 233, authorized appropriations to carry out parts A to C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1069d, Pub. L. 89–329, title III, §358, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1307, which related to penalties, was renumbered section 397 of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068f of this title.

A prior section 1069e, Pub. L. 89–329, title III, §359, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1307, required application for challenge grant, prior to repeal by Pub. L. 102–325, §2, title III,

§305(c), July 23, 1992, 106 Stat. 458, 478, effective Oct. 1, 1992.

A prior section 1069f, Pub. L. 89–329, title III, §360, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1307, and amended, which authorized appropriations, was renumbered section 399 of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to this section.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to authorizations for parts A to E for fiscal year 1999 and each of the 4 succeeding fiscal years.

1998—Subsec. (a)(1)(A). Pub. L. 105–244, §308(h)(1)(A), substituted "1999" for "1993".

Subsec. (a)(1)(B). Pub. L. 105–244, §308(h)(1)(B), redesignated cl. (i) as entire subpar., substituted "$10,000,000 for fiscal year 1999" for "$45,000,000 for fiscal year 1993", and struck out cl. (ii) which read as follows: "No funds are authorized to be appropriated pursuant to clause (i) for any fiscal year unless the amount appropriated pursuant to paragraph (1)(A) for such fiscal year equals or exceeds $80,000,000."

Subsec. (a)(1)(C). Pub. L. 105–244, §308(h)(1)(C), added subpar. (C).

Subsec. (a)(2)(A). Pub. L. 105–244, §308(h)(2)(A), substituted "1999" for "1993".

Subsec. (a)(2)(B). Pub. L. 105–244, §308(h)(2)(B), substituted "$35,000,000 for fiscal year 1999" for "$20,000,000 for fiscal year 1993".

Subsec. (a)(3). Pub. L. 105–244, §308(h)(3), substituted "$10,000,000 for fiscal year 1999" for "$50,000,000 for fiscal year 1993".

Subsec. (a)(4), (5). Pub. L. 105–244, §308(h)(4), added pars. (4) and (5).

Subsec. (c). Pub. L. 105–244, §308(h)(5), struck out heading and text of subsec. (c). Text read as follows: "If the amount appropriated under subsection (a)(1) of this section for part A of this subchapter for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986, the Secretary shall, for such fiscal year—

"(1) allocate 25 percent of the excess (above the amount appropriated for part A of this subchapter for fiscal year 1986) among eligible institutions at which at least 60 percent of the students are African Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

"(2) allocate 75 percent of such excess among other eligible institutions."

Subsec. (d). Pub. L. 105–244, §308(h)(5), struck out heading and text of subsec. (d). Text read as follows: "In any fiscal year in which the sums appropriated for part A of this subchapter are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation."

Subsec. (e). Pub. L. 105–244, §308(h)(5), struck out heading and text of subsec. (e). Text read as follows: "In any fiscal year beginning after September 30, 1992, the Secretary shall award at least 25 percent of the amount appropriated pursuant to the authority of paragraph (3) of subsection (a) of this section in each fiscal year to historically black colleges and universities that meet the requirements of part C of this subchapter, unless there are an insufficient number of quality applications or an insufficient number of applications due to the provisions in subsection (b)(2)(C) or subsection (b)(4)(B) of section 1065 of this title."

1992—Subsec. (a). Pub. L. 102–325, §305(e), amended subsec. (a) generally, substituting present provisions for provisions authorizing appropriations for fiscal year 1987 and the four succeeding fiscal years.

Subsec. (c). Pub. L. 102–325, §305(f), substituted "1986, the Secretary shall, for such fiscal year—" for "1986—" in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

"(1) the Secretary shall, for such fiscal year, make available for use for the purposes of part A of this subchapter to institutions that are junior or community colleges not less than $51,400,000; and

"(2) the Secretary shall, for such fiscal year—

"(A) allocate 25 percent of the excess (above the amount appropriated for part A of this subchapter for fiscal year 1986) among eligible institutions with the highest percentages of students who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

"(B) allocate 75 percent of such excess among other eligible institutions."

Subsec. (e). Pub. L. 102–325, §305(g), added subsec. (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SUBCHAPTER IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

CODIFICATION

Part A of title IV of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title IV, Nov. 8, 1965, 79 Stat. 1232, and amended by Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–328, June 30, 1976, 90 Stat. 727; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–336, Aug. 4, 1978, 92 Stat. 451; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–558, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99–145, Nov. 8, 1985, 99 Stat. 583. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1308, without reference to such intervening amendments because of the extensive revision of part A by Pub. L. 99–498.

§1070. Statement of purpose; program authorization

(a) Purpose

It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 1091 of this title) in institutions of higher education by—

(1) providing Federal Pell Grants to all eligible students;

(2) providing supplemental educational opportunity grants to those students who demonstrate financial need;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) Secretary required to carry out purposes

The Secretary shall, in accordance with subparts 1 through 9 of this part, carry out programs to achieve the purposes of this part.

(Pub. L. 89–329, title IV, §400, formerly §401, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1308; renumbered §400, Pub. L. 102–325, title IV, §402(a)(3), July 23, 1992, 106 Stat. 482; amended Pub. L. 105–244, title IV, §401(g)(1), Oct. 7, 1998, 112 Stat. 1652; Pub. L. 111–39, title IV, §401(a)(1), July 1, 2009, 123 Stat. 1938.)

PRIOR PROVISIONS

A prior section 1070, Pub. L. 89–329, title IV, §401, as added and amended Pub. L. 92–318, title I, §131(b)(1), title X, §1001(c)(1), (2), June 23, 1972, 86 Stat. 247, 381; Pub. L. 94–482, title I, §125, Oct. 12,

1976, 90 Stat. 2096; Pub. L. 96–374, title IV, §401, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503, stated purpose of program of grants to students in attendance at institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–39 substituted "1 through 9" for "1 through 8".

1998—Subsec. (a)(1). Pub. L. 105–244 substituted "Federal Pell Grants" for "basic educational opportunity grants".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS

Pub. L. 108–76, §§1–5, Aug. 18, 2003, 117 Stat. 904, formerly set out in a note under this section, was transferred to part F–1 (§1098aa et seq.) of this subchapter. Pub. L. 108–76, §6, Aug. 18, 2003, 117 Stat. 908, as amended by Pub. L. 109–78, §1, Sept. 30, 2005, 119 Stat. 2043, formerly set out in the same note under this section, which provided for termination of Pub. L. 108–76 on Sept. 30, 2007, was repealed by Pub. L. 110–93, §2, Sept. 30, 2007, 121 Stat. 999.

Pub. L. 107–122, Jan. 15, 2002, 115 Stat. 2386, known as the Higher Education Relief Opportunities for Students Act of 2001, authorized the Secretary of Education to waive or modify statutory or regulatory provisions applicable to the student financial aid programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.) as deemed necessary because of a national emergency, provided sense of Congress as to tuition refunds from institutions of postsecondary education, and provided that the Act ceased to be effective Sept. 30, 2003.

COMMUNITY SCHOLARSHIP MOBILIZATION

Pub. L. 105–244, title VIII, part C, Oct. 7, 1998, 112 Stat. 1810, known as the Community Scholarship Mobilization Act, which established regional, State and community program centers to foster development of local entities in high poverty areas that promote higher education goals for low-income students with academic support and scholarship assistance for postsecondary education, was repealed by Pub. L. 110–315, title IX, §931(2), Aug. 14, 2008, 122 Stat. 3456.

COMMUNITY SCHOOL PARTNERSHIPS

Pub. L. 103–382, title V, part B, Oct. 20, 1994, 108 Stat. 4045, which provided for grants to establish community centers giving academic support and postsecondary scholarships to poor students, was repealed by Pub. L. 105–277, div. A, §101(f) [title VIII, §301(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

STUDY OF FEDERAL BENEFIT COORDINATION

Pub. L. 102–325, title XIV, §1405, July 23, 1992, 106 Stat. 818, directed Secretary of Education to conduct a study to evaluate the coordination of Federal student financial assistance programs under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] with other programs funded in whole or in part with Federal funds, with Secretary to prepare and submit to appropriate committees of Congress a report on the study not later than 3 years after July 23, 1992, together with such recommendations as the Secretary deemed appropriate, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

OLYMPIC SCHOLARSHIPS

Pub. L. 102–325, title XV, §1543, July 23, 1992, 106 Stat. 836, as amended by Pub. L. 105–244, title VIII, §836, Oct. 7, 1998, 112 Stat. 1820; Pub. L. 106–554, §1(a)(1) [title III, §319], Dec. 21, 2000, 114 Stat. 2763, 2763A–49; Pub. L. 107–116, title III, §305(a), Jan. 10, 2002, 115 Stat. 2208; Pub. L. 110–315, title IX, §934, Aug. 14, 2008, 122 Stat. 3460, provided that:

"(a) SCHOLARSHIPS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary of Education is authorized to provide financial assistance to the United States Olympic Education Center or the United States Olympic Training Center to enable such centers to provide financial assistance to athletes who are training at such centers and are pursuing

postsecondary education at institutions of higher education (as such term is defined in section 481(a) of the Higher Education Act of 1965 [20 U.S.C. 1088(a)]).

"(2) AWARD DETERMINATION.—The amount of the financial assistance provided to an athlete described in paragraph (1) shall be determined in accordance with criteria, and in amounts, specified in the application of the center under subsection (c). Such assistance shall not exceed the athlete's cost of attendance as determined under section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll).

"(3) INFORMATION ON DISTRIBUTION OF ASSISTANCE.—Each center providing such assistance shall annually report to the Secretary such information as the Secretary may reasonably require on the distribution of such assistance among athletes and institutions of higher education. The Secretary shall compile such reports and submit them to the Committees on Education and the Workforce and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate.

"(b) ELIGIBILITY.—The Secretary of Education shall ensure that financial assistance provided under this part [part E (§1543) of Pub. L. 102–325] is available to both full-time and part-time students who are athletes at centers described in subsection (a).

"(c) APPLICATION.—Each center desiring financial assistance under this section shall submit an application to the Secretary of Education at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years to carry out this section.

"(e) DESIGNATION.—Scholarships awarded under this section shall be known as 'B.J. Stupak Olympic Scholarships'."

[Pub. L. 107–116, title III, §305(b), Jan. 10, 2002, 115 Stat. 2208, provided that: "The amendments made by subsection (a) [amending section 1543 of Pub. L. 102–325, set out above] shall apply with respect to any funds appropriated pursuant to section 1543(d) of the Higher Education Amendments of 1992 [section 1543(d) of Pub. L. 102–325, set out above], including funds appropriated pursuant to that section in fiscal years 2000 and 2001, that are available for financial assistance under section 1543 on or after the date of enactment of this Act [Jan. 10, 2002]."]

PERSIAN GULF CONFLICT HIGHER EDUCATION ASSISTANCE

Pub. L. 102–26, §§4–6, Apr. 9, 1991, 105 Stat. 125–127, provided that:

"SEC. 4. OPERATION DESERT SHIELD/DESERT STORM WAIVER AUTHORITY.

"(a) PURPOSE.—It is the purpose of this section to ensure that—

"(1) the men and women serving on active duty in connection with Operation Desert Shield or Operation Desert Storm who are borrowers of Stafford Loans or Perkins Loans are not placed in a worse position financially in relation to those loans because of such service;

"(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] who are engaged in such military service are minimized to the extent possible without impairing the integrity of the student loan programs, in order to ease the burden on such borrowers, and to avoid inadvertent, technical defaults; and

"(3) the future eligibility of such an individual for Pell Grants is not reduced by the amount of such assistance awarded for a period of instruction that such individual was unable to complete, or for which the individual did not receive academic credit, because he or she was called up for such service.

"(b) WAIVER REQUIREMENT.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Act that the Secretary deems necessary to achieve the purposes stated in subsection (a), including—

"(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(ii), 428(b)(1)(M)(ii), and 464(c)(2)(A)(ii) of the Act [20 U.S.C. 1077(a)(2)(C)(ii), 1078(b)(1)(M)(ii), 1087dd(c)(2)(A)(ii)], in order to enable the borrower of a Stafford Loan or a Perkins Loan who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm to obtain a military deferment, under which interest shall accrue and shall, if otherwise payable by the Secretary, be paid by the Secretary of Education, for the duration of such service;

"(2) administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act who are or were engaged in such military service;

"(3) the number of years for which individuals who are engaged in such military service may be eligible for Pell Grants under subpart 1 of part A of title IV of the Act [20 U.S.C. 1070a et seq.];

"(4) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a period of deferment under section 427(a)(2)(C)(ii) or 428(b)(1)(M)(ii) of the Act;

"(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i) of the Act subsequent to such service; and

"(6) the modification of the terms 'annual adjusted family income' and 'available income,' as used in the determination of need for student financial assistance under title IV of the Act for such individual (and the determination of such need for his or her spouse and dependents, if applicable), to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such individual and his or her family.

"(c) NOTICE OF WAIVER.—Notwithstanding section 431 [now 437] of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section. Such notice shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions. The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

"(d) DEFINITIONS.—For purposes of this Act [probably should be "section"]—

"(1) Individuals 'serving on active duty in connection with Operation Desert Shield or Operation Desert Storm' shall include—

"(A) any Reserve of an Armed Force called to active duty under section 672(a) [now 12301(a)], 672(g) [now 12301(g)], 673 [now 12302], 673b [now 12304], 674 [now 12306], or 688 of title 10, United States Code, for service in connection with Operation Desert Shield or Operation Desert Storm, regardless of the location at which such active duty service is performed; and

"(B) for purposes of waivers of administrative requirements under subsection (b)(2) only, any other member of an Armed Force on active duty in connection with Operation Desert Shield or Operation Desert Storm, who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

"(2) The term 'active duty' has the meaning given such term in section 101(22) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

"SEC. 5. TUITION REFUNDS OR CREDITS.

"(a) SENSE OF CONGRESS.—It is the sense of the Congress that all institutions offering postsecondary education should provide a full refund to any member or Reserve of an Armed Force on active duty service in connection with Operation Desert Shield or Operation Desert Storm for that portion of a period of instruction such individual was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for such service. For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

"(b) ENCOURAGEMENT AND REPORT.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on the actions taken in accordance with this subsection as well as information he receives regarding any institutions that are not providing such refunds or credits.

"SEC. 6. TERMINATION OF AUTHORITY.

"The provisions of sections 4 and 5 shall cease to be effective on September 30, 1997."

Pub. L. 102–25, title III, part E (§§371–376), Apr. 6, 1991, 105 Stat. 93, provided that:

"SEC. 371. SHORT TITLE

"This part may be cited as the 'Persian Gulf Conflict Higher Education Assistance Act'.

"SEC. 372. [Superseded by section 4 of Pub. L. 102–26, set out above.]

"SEC. 373. [Superseded by section 5 of Pub. L. 102–26, set out above.]

"SEC. 374. [Amended section 294d of Title 42, The Public Health and Welfare.]

"SEC. 375. [Superseded by section 6 of Pub. L. 102–26, set out above.]

"SEC. 376. COORDINATION WITH OTHER LAW

"If the Higher Education Technical Amendments of 1991 [Pub. L. 102–26, see Short Title of 1991 Amendment note set out under section 1001 of this title] is enacted, the provisions of sections 4, 5, and 6 of that Act shall supersede sections 372, 373, and 375."

SUBPART 1—FEDERAL PELL GRANTS

CODIFICATION

Pub. L. 105–244, title IV, §401(g)(2), Oct. 7, 1998, 112 Stat. 1652, amended subpart heading generally.

§1070a. Federal Pell Grants: amount and determinations; applications

(a) Program authority and method of distribution

(1) For each fiscal year through fiscal year 2017, the Secretary shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 1091 of this title) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a Federal Pell Grant in the amount for which that student is eligible, as determined pursuant to subsection (b) of this section. Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Grants made under this subpart shall be known as "Federal Pell Grants".

(b) Purpose and amount of grants

(1) The purpose of this subpart is to provide a Federal Pell Grant that in combination with reasonable family and student contribution and supplemented by the programs authorized under subparts 3 and 4 of this part, will meet at least 75 percent of a student's cost of attendance (as defined in section 1087ll of this title), unless the institution determines that a greater amount of assistance would better serve the purposes of this section.

(2)(A) The amount of the Federal Pell Grant for a student eligible under this part shall be—

(i) the maximum Federal Pell Grant, as specified in the last enacted appropriation Act applicable to that award year, plus

(ii) the amount of the increase calculated under paragraph (7)(B) for that year, less

(iii) an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

(B) In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the Federal Pell Grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 1089 of this title.

(3) No Federal Pell Grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 1087ll of this title) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a Federal Pell Grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the Federal

Pell Grant shall be reduced until the combination of expected family contribution and the amount of the Federal Pell Grant does not exceed the cost of attendance at such institution.

(4) No Federal Pell Grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than ten percent of the maximum amount of a Federal Pell Grant award determined under paragraph (2)(A) for such academic year.

(5) Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the Federal Pell Grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student's home institution, except that the amount of such Federal Pell Grant in any fiscal year shall not exceed the maximum amount of a Federal Pell Grant award determined under paragraph (2)(A), for which a student is eligible during such award year. If the preceding sentence applies, the financial aid administrator at the home institution may use the cost of the study abroad program, rather than the home institution's cost, to determine the cost of attendance of the student.

(6) No Federal Pell Grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution or who is subject to an involuntary civil commitment upon completion of a period of incarceration for a forcible or nonforcible sexual offense (as determined in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program).

(7) ADDITIONAL FUNDS.—

(A) IN GENERAL.—There are authorized to be appropriated, and there are appropriated (in addition to any other amounts appropriated to carry out this section and out of any money in the Treasury not otherwise appropriated) the following amounts—

(i) $2,030,000,000 for fiscal year 2008;

(ii) $2,733,000,000 for fiscal year 2009;

(iii) to carry out subparagraph (B) of this paragraph, such sums as may be necessary for fiscal year 2010 and each subsequent fiscal year to provide the amount of increase of the maximum Federal Pell Grant required by clauses (ii) and (iii) of subparagraph (B); and

(iv) to carry out this section—

(I) $13,500,000,000 for fiscal year 2011;

(II) $13,795,000,000 for fiscal year 2012;

(III) $7,587,000,000 for fiscal year 2013;

(IV) $588,000,000 for fiscal year 2014;

(V) $0 for fiscal year 2015;

(VI) $0 for fiscal year 2016;

(VII) $1,574,000,000 for fiscal year 2017;

(VIII) $1,382,000,000 for fiscal year 2018;

(IX) $1,409,000,000 for fiscal year 2019;

(X) $1,430,000,000 for fiscal year 2020; and

(XI) $1,145,000,000 for fiscal year 2021 and each succeeding fiscal year.

(B) INCREASE IN FEDERAL PELL GRANTS.—The amounts made available pursuant to clauses (i) through (iii) of subparagraph (A) of this paragraph shall be used to increase the amount of the maximum Federal Pell Grant for which a student shall be eligible during an award year, as specified in the last enacted appropriation Act applicable to that award year, by—

(i) $490 for each of the award years 2008–2009 and 2009–2010;

(ii) $690 for each of the award years 2010–2011, 2011–2012, and 2012–2013; and

(iii) the amount determined under subparagraph (C) for each succeeding award year.

(C) ADJUSTMENT AMOUNTS.—

(i) AWARD YEAR 2013–2014.—For award year 2013–2014, the amount determined under this subparagraph for purposes of subparagraph (B)(iii) shall be equal to—

(I) $5,550 or the total maximum Federal Pell Grant for the preceding award year (as determined under clause (iv)(II)), whichever is greater, increased by a percentage equal to the annual adjustment percentage for award year 2013–2014, reduced by

(II) $4,860 or the maximum Federal Pell Grant for which a student was eligible for the preceding award year, as specified in the last enacted appropriation Act applicable to that year, whichever is greater; and

(III) rounded to the nearest $5.

(ii) AWARD YEARS 2014–2015 THROUGH 2017–2018.—For each of the award years 2014–2015 through 2017–2018, the amount determined under this subparagraph for purposes of subparagraph (B)(iii) shall be equal to—

(I) the total maximum Federal Pell Grant for the preceding award year (as determined under clause (iv)(II)), increased by a percentage equal to the annual adjustment percentage for the award year for which the amount under this subparagraph is being determined, reduced by

(II) $4,860 or the maximum Federal Pell Grant for which a student was eligible for the preceding award year, as specified in the last enacted appropriation Act applicable to that year, whichever is greater; and

(III) rounded to the nearest $5.

(iii) SUBSEQUENT AWARD YEARS.—For award year 2018–2019 and each subsequent award year, the amount determined under this subparagraph for purposes of subparagraph (B)(iii) shall be equal to the amount determined under clause (ii) for award year 2017–2018.

(iv) DEFINITIONS.—For purposes of this subparagraph—

(I) the term "annual adjustment percentage" as applied to an award year, is equal to the estimated percentage change in the Consumer Price Index (as determined by the Secretary, using the definition in section 1087rr(f) of this title) for the most recent calendar year ending prior to the beginning of that award year; and

(II) the term "total maximum Federal Pell Grant" as applied to a preceding award year, is equal to the sum of—

(aa) the maximum Federal Pell Grant for which a student is eligible during an award year, as specified in the last enacted appropriation Act applicable to that preceding award year; and

(bb) the amount of the increase in the maximum Federal Pell Grant required by this paragraph for that preceding award year.

(D) PROGRAM REQUIREMENTS AND OPERATIONS OTHERWISE UNAFFECTED .—Except as provided in subparagraphs (B) and (C), nothing in this paragraph shall be construed to alter the requirements and operations of the Federal Pell Grant Program as authorized under this section, or authorize the imposition of additional requirements or operations for the determination and allocation of Federal Pell Grants under this section.

(E) RATABLE INCREASES AND DECREASES.—The amounts specified in subparagraph (B) shall be ratably increased or decreased to the extent that funds available under subparagraph (A) exceed or are less than (respectively) the amount required to provide the amounts specified in subparagraph (B).

(F) AVAILABILITY OF FUNDS.—The amounts made available by subparagraph (A) for any fiscal year shall be available beginning on October 1 of that fiscal year, and shall remain available through September 30 of the succeeding fiscal year.

(c) Period of eligibility for grants

(1) The period during which a student may receive Federal Pell Grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that

student at the institution at which the student is in attendance except that any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.

(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills. Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

(3) No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

(4) Notwithstanding paragraph (1), the Secretary may allow, on a case-by-case basis, a student to receive a Federal Pell Grant if the student—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education; and

(B) is enrolled or accepted for enrollment in a postbaccalaureate program that does not lead to a graduate degree, and in courses required by a State in order for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State,

except that this paragraph shall not apply to a student who is enrolled in an institution of higher education that offers a baccalaureate degree in education.

(5) The period during which a student may receive Federal Pell Grants shall not exceed 12 semesters, or the equivalent of 12 semesters, as determined by the Secretary by regulation. Such regulations shall provide, with respect to a student who received a Federal Pell Grant for a term but was enrolled at a fraction of full-time, that only that same fraction of such semester or equivalent shall count towards such duration limits.

(d) Applications for grants

(1) The Secretary shall from time to time set dates by which students shall file applications for Federal Pell Grants under this subpart.

(2) Each student desiring a Federal Pell Grant for any year shall file an application therefor containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(e) Distribution of grants to students

Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

(f) Calculation of eligibility

(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a Federal Pell Grant under this subpart is attending), as a part of its regular output document, the expected family contribution for each such student. Each such student financial aid administrator shall—

(A) examine and assess the data used to calculate the expected family contribution of the student furnished pursuant to this subsection;

(B) recalculate the expected family contribution of the student if there has been a change in circumstances of the student or in the data submitted;

(C) make the award to the student in the correct amount; and

(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the expected family contribution for each such student.

(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986–1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the expected family contribution, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the authorizing committees.

(g) Insufficient appropriations

If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) of this section (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).

(h) Use of excess funds

(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this paragraph only with respect to entitlements for that fiscal year.

(i) Treatment of institutions and students under other laws

Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of Pell Grants shall not be considered to be individual grantees for purposes of chapter 81 of title 41.

(j) Institutional ineligibility based on default rates

(1) In general

No institution of higher education shall be an eligible institution for purposes of this subpart if such institution of higher education is ineligible to participate in a loan program under part B or C of this subchapter as a result of a final default rate determination made by the Secretary under part B or C of this subchapter after the final publication of cohort default rates for fiscal year 1996 or a succeeding fiscal year.

(2) Sanctions subject to appeal opportunity

No institution may be subject to the terms of this subsection unless the institution has had the opportunity to appeal the institution's default rate determination under regulations issued by the Secretary for the loan program authorized under part B or C of this subchapter, as applicable. This

subsection shall not apply to an institution that was not participating in the loan program authorized under part B or C of this subchapter on October 7, 1998, unless the institution subsequently participates in the loan programs.

(Pub. L. 89–329, title IV, §401, formerly §411, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1309; amended Pub. L. 100–50, §3(a), June 3, 1987, 101 Stat. 337; renumbered §401 and amended Pub. L. 102–325, title IV, §§401(a)–(h), 402(a)(3), July 23, 1992, 106 Stat. 479–482; Pub. L. 103–208, §2(b)(1)–(5), (k)(1), Dec. 20, 1993, 107 Stat. 2458, 2485; Pub. L. 103–322, title II, §20411(a), Sept. 13, 1994, 108 Stat. 1828; Pub. L. 105–244, title IV, §401(a)–(f), (g)(3), (4), Oct. 7, 1998, 112 Stat. 1650–1652; Pub. L. 110–84, title I, §§101(a), 102, Sept. 27, 2007, 121 Stat. 784; Pub. L. 110–315, title I, §103(b)(3), title IV, §401(a)(1), (b), (c)(1), Aug. 14, 2008, 122 Stat. 3088, 3188, 3189; Pub. L. 111–5, div. A, title VIII, §806, Feb. 17, 2009, 123 Stat. 190; Pub. L. 111–39, title IV, §401(a)(2), (3), July 1, 2009, 123 Stat. 1938; Pub. L. 111–152, title II, §2101(a), (b)(1), Mar. 30, 2010, 124 Stat. 1071, 1073; Pub. L. 112–10, div. B, title VIII, §1860(a), Apr. 15, 2011, 125 Stat. 169; Pub. L. 112–25, title V, §501, Aug. 2, 2011, 125 Stat. 266; Pub. L. 112–74, div. F, title III, §309(a), (f), Dec. 23, 2011, 125 Stat. 1100, 1103; Pub. L. 113–235, div. G, title III, §309(b), Dec. 16, 2014, 128 Stat. 2506; Pub. L. 114–113, div. H, title III, §313(2), Dec. 18, 2015, 129 Stat. 2639.)

CODIFICATION

In subsec. (i), "chapter 81 of title 41" substituted for "subtitle D of title V of Public Law 100–690" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 1070a, Pub. L. 89–329, title IV, §411, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 248; amended Pub. L. 94–328, §2(f), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, §121(a), (b)(1), (c)–(i), Oct. 12, 1976, 90 Stat. 2091–2093; Pub. L. 95–43, §1(a)(5), June 15, 1977, 91 Stat. 213; Pub. L. 95–566, §2, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 96–49, §5(a)(1), (2)(A), Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, title IV, §402, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503; Pub. L. 97–301, §8(a), Oct. 13, 1982, 96 Stat. 1402, related to basic educational opportunity grants, amount and determinations, and applications, prior to the general revision of this part by Pub. L. 99–498.

A prior section 401 of Pub. L. 89–329 was renumbered section 400 by section 402(a)(3) of Pub. L. 102–325 and is classified to section 1070 of this title.

Another prior section 401 of Pub. L. 89–329, title IV, as added and amended Pub. L. 92–318, title I, §131(b)(1), title X, §1001(c)(1), (2), June 23, 1972, 86 Stat. 247, 381; Pub. L. 94–482, title I, §125, Oct. 12, 1976, 90 Stat. 2096; Pub. L. 96–374, title IV, §401, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503, which stated purpose of program of grants to students in attendance at institutions of higher education, was classified to section 1070 of this title, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2015—Subsec. (b)(2)(A)(ii). Pub. L. 114–113 struck out "except that a student eligible only under 1091(d)(1)(A) of this title who first enrolls in an eligible program of study on or after July 1, 2015 shall not be eligible for the amount of the increase calculated under paragraph (7)(B)" after "year".

2014—Subsec. (b)(2)(A)(ii). Pub. L. 113–235 inserted "except that a student eligible only under 1091(d)(1)(A) of this title who first enrolls in an eligible program of study on or after July 1, 2015 shall not be eligible for the amount of the increase calculated under paragraph (7)(B)" after "year".

2011—Subsec. (b)(2)(A)(ii). Pub. L. 112–10, §1860(a)(1), substituted "paragraph (7)(B)" for "paragraph (8)(B)".

Subsec. (b)(4). Pub. L. 112–74, §309(a)(1), substituted period at end for ", except that a student who is eligible for a Federal Pell Grant in an amount that is equal to or greater than five percent of such Federal Pell Grant amount but less than ten percent of such Federal Pell Grant amount shall be awarded a Federal Pell grant in the amount of ten percent of such Federal Pell Grant amount."

Subsec. (b)(5). Pub. L. 112–10, §1860(a)(4), redesignated par. (6) as (5).

Pub. L. 112–10, §1860(a)(2), struck out par. (5) which read as follows:

"(A) The Secretary shall award a student not more than two Federal Pell Grants during a single award year to permit such student to accelerate the student's progress toward a degree or certificate if the student is enrolled—

"(i) on at least a half-time basis for a period of more than one academic year, or more than two

semesters or an equivalent period of time, during a single award year; and

"(ii) in a program of instruction at an institution of higher education for which the institution awards an associate or baccalaureate degree or a certificate.

"(B) In the case of a student receiving more than one Federal Pell Grant in a single award year under subparagraph (A), the total amount of Federal Pell Grants awarded to such student for the award year may exceed the maximum basic grant level specified in the appropriate appropriations Act for such award year."

Subsec. (b)(6). Pub. L. 112–10, §1860(a)(4), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Subsec. (b)(7). Pub. L. 112–10, §1860(a)(4), redesignated par. (8) as (7). Former par. (7) redesignated (6).

Subsec. (b)(7)(A)(iv). Pub. L. 112–74, §309(f), amended cl. (iv) generally. Prior to amendment, cl. (iv) authorized appropriations for fiscal years 2011 to 2021 and succeeding fiscal years.

Subsec. (b)(7)(A)(iv)(II). Pub. L. 112–25, §501(1), substituted "$13,183,000,000" for "$3,183,000,000".

Subsec. (b)(7)(A)(iv)(III). Pub. L. 112–25, §501(2), substituted "$7,000,000,000" for "$0".

Subsec. (b)(8). Pub. L. 112–10, §1860(a)(4), redesignated par. (8) as (7).

Subsec. (b)(8)(A)(iv). Pub. L. 112–10, §1860(a)(3)(A), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: "to carry out this section, $13,500,000,000 for fiscal year 2011."

Subsec. (b)(8)(C)(i)(I), (ii)(I). Pub. L. 112–10, §1860(a)(3)(B), substituted "clause (iv)(II)" for "clause (v)(II)".

Subsec. (c)(5). Pub. L. 112–74, §309(a)(2), substituted "12" for "18" in two places and struck out at end "The provisions of this paragraph shall apply only to a student who receives a Federal Pell Grant for the first time on or after July 1, 2008."

2010—Subsec. (b)(2)(A). Pub. L. 111–152, §2101(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) established grant amounts for academic years 2009–2010 to 2014–2015.

Subsec. (b)(4). Pub. L. 111–152, §2101(b)(1)(A), substituted "maximum amount of a Federal Pell Grant award determined under paragraph (2)(A)" for "maximum basic grant level specified in the appropriate appropriation Act" and substituted "such Federal Pell Grant amount" for "such level" wherever appearing.

Subsec. (b)(6). Pub. L. 111–152, §2101(b)(1)(B), substituted "the maximum amount of a Federal Pell Grant award determined under paragraph (2)(A), for which a student is eligible during such award year" for "the grant level specified in the appropriate Appropriation Act for this subpart for such year".

Subsec. (b)(8)(A). Pub. L. 111–152, §2101(a)(2)(A)(i), struck out ", to carry out subparagraph (B) of this paragraph" after "are appropriated" in introductory provisions.

Subsec. (b)(8)(A)(iii) to (x). Pub. L. 111–152, §2101(a)(2)(A)(ii), added cls. (iii) and (iv) and struck out former cls. (iii) to (x), which appropriated additional funds for fiscal years 2010 to 2017.

Subsec. (b)(8)(B). Pub. L. 111–152, §2101(a)(2)(B)(i), substituted "clauses (i) through (iii) of subparagraph (A)" for "subparagraph (A)" in introductory provisions.

Subsec. (b)(8)(B)(ii). Pub. L. 111–152, §2101(a)(2)(B)(ii), substituted ", 2011–2012, and 2012–2013" for "and 2011–2012".

Subsec. (b)(8)(B)(iii). Pub. L. 111–152, §2101(a)(2)(B)(iii), added cl. (iii) and struck out former cl. (iii) which read as follows: "$1,090 for award year 2012–2013."

Subsec. (b)(8)(C). Pub. L. 111–152, §2101(a)(2)(C), added subpar. (C) and struck out former subpar. (C). Prior to amendment, text read as follows: "The Secretary shall only award an increased amount of a Federal Pell Grant under this section for any award year pursuant to the provisions of this paragraph to students who qualify for a Federal Pell Grant award under the maximum grant award enacted in the annual appropriation Act for such award year without regard to the provisions of this paragraph."

2009—Subsec. (a)(1). Pub. L. 111–39, §401(a)(2)(A), substituted "manner," for "manner,,".

Subsec. (b)(1). Pub. L. 111–39, §401(a)(2)(B), made technical amendment to reference in original act which appears in text as reference to this section.

Subsec. (b)(8)(A)(ii), (iii). Pub. L. 111–5, which directed amendment of par. (9)(A) by substituting "$2,733,000,000" for "$2,090,000,000" in cl. (ii) and "$3,861,000,000" for "$3,030,000,000" in cl. (iii), was executed by making the substitutions in par. (8)(A) to reflect the probable intent of Congress.

Subsec. (b)(8)(A)(vi), (viii). Pub. L. 111–39, §401(a)(2)(C), which directed amendment of par. (9)(A) by substituting "$258,000,000" for "$105,000,000" in cl. (vi) and "$4,452,000,000" for "$4,400,000,000" in cl. (viii) effective Aug. 14, 2008, was executed by making the substitutions in par. (8)(A). Subsec. (b)(8) would have been subsec. (b)(9) on Aug. 14, 2008, but for the probable intent execution of the amendment by Pub. L. 110–84, §101(a)(2). See 2007 Amendment note below.

Subsec. (f)(4). Pub. L. 111–39, §401(a)(3), struck out par. (4) which attributed expected family contribution of zero to certain eligible students whose parent or guardian died as a result of performing military service in Iraq or Afghanistan after Sept. 11, 2001. See section 1070h of this title.

2008—Subsec. (b). Pub. L. 110–315, §401(a)(1)(B), which directed amendment of subsec. (b) by

designating the pars. following par. (2), in the order in which such pars. appear, as pars. (3) through (8), was a technical correction to sequence of amendments by Pub. L. 110–84 and required no change in text. See 2007 Amendment notes below.

Subsec. (b)(2)(A). Pub. L. 110–315, §401(a)(1)(A), amended subpar. (A) generally, substituting Pell Grant amounts for academic years 2009 to 2015 for amounts for academic years 1999 to 2004.

Subsec. (b)(4). Pub. L. 110–315, §401(a)(1)(C), substituted "ten percent of the maximum basic grant level specified in the appropriate appropriation Act for such academic year, except that a student who is eligible for a Federal Pell Grant in an amount that is equal to or greater than five percent of such level but less than ten percent of such level shall be awarded a Federal Pell grant in the amount of ten percent of such level" for "$400, except that a student who is eligible for a Federal Pell Grant that is equal to or greater than $200 but less than $400 shall be awarded a Federal Pell Grant of $400".

Subsec. (b)(5). Pub. L. 110–315, §401(a)(1)(D), added par. (5) and struck out former par. (5) which read: "The Secretary may allow, on a case-by-case basis, a student to receive 2 Pell grants during a single award year, if—

"(i) the student is enrolled full-time in an associate or baccalaureate degree program of study that is 2 years or longer at an eligible institution that is computed in credit hours; and

"(ii) the student completes course work toward completion of an associate or baccalaureate degree that exceeds the requirements for a full academic year as defined by the institution.

"(B) The Secretary shall promulgate regulations implementing this paragraph."

Subsec. (b)(7). Pub. L. 110–315, §401(a)(1)(E), inserted before period at end "or who is subject to an involuntary civil commitment upon completion of a period of incarceration for a forcible or nonforcible sexual offense (as determined in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program)".

Subsec. (b)(8)(D). Pub. L. 110–315, §401(a)(1)(F)(i), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows:

"(D) FORMULA OTHERWISE UNAFFECTED.—Except as provided in subparagraphs (B) and (C), nothing in this paragraph shall be construed to alter the requirements of this section, or authorize the imposition of additional requirements, for the determination and allocation of Federal Pell Grants under this section."

Subsec. (b)(8)(F). Pub. L. 110–315, §401(a)(1)(F)(ii), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows:

"(F) USE OF FISCAL YEAR FUNDS FOR AWARD YEARS.—The amounts made available by subparagraph (A) for any fiscal year shall be available and remain available for use under subparagraph (B) for the award year that begins in such fiscal year."

Subsec. (c)(5). Pub. L. 110–315, §401(b), added par. (5).

Subsec. (f)(3). Pub. L. 110–315, §103(b)(3), substituted "to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the authorizing committees" for "to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives".

Subsec. (f)(4). Pub. L. 110–315, §401(c)(1), added par. (4).

2007—Subsec. (a)(1). Pub. L. 110–84, §102(a), substituted "fiscal year 2017" for "fiscal year 2004".

Subsec. (b)(3) to (7). Pub. L. 110–84, §101(a), redesignated pars. (4) to (8) as (3) to (7), respectively, and struck out former par. (3) which related to the amount of a student's basic grant for any academic year for which an appropriation Act provided a maximum basic grant of more than $2,700.

Subsec. (b)(8). Pub. L. 110–84, §101(a)(2), which directed redesignation of par. (9) as (8), was executed by redesignating the par. (9) enacted by Pub. L. 110–84, §102(b), as (8) to reflect the probable intent of Congress. See below. Former par. (8) redesignated (7).

Subsec. (b)(9). Pub. L. 110–84, §102(b), added par. (9).

1998—Pub. L. 105–244, §401(g)(3)(A), substituted "Federal Pell" for "Basic educational opportunity" in section catchline.

Subsec. (a)(1). Pub. L. 105–244, §401(g)(3)(C), substituted "Federal Pell Grant" for "basic grant".

Pub. L. 105–244, §401(a), substituted "For each fiscal year through fiscal year 2004, the Secretary shall" for "The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1998," and inserted "until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner," after "pay eligible students".

Subsec. (a)(3). Pub. L. 105–244, §401(g)(3)(B), substituted "Grants made" for "Basic grants made".

Subsec. (b)(1). Pub. L. 105–244, §401(g)(3)(C), substituted "Federal Pell Grant" for "basic grant".

Subsec. (b)(2)(A). Pub. L. 105–244, §401(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "The amount of the basic grant for a student eligible under this part shall be—

"(i) $3,700 for academic year 1993–1994,

"(ii) $3,900 for academic year 1994–1995,

"(iii) $4,100 for academic year 1995–1996,

"(iv) $4,300 for academic year 1996–1997, and

"(v) $4,500 for academic year 1997–1998,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year."

Subsec. (b)(2)(B). Pub. L. 105–244, §401(g)(3)(C), substituted "Federal Pell Grant" for "basic grant".

Subsec. (b)(3). Pub. L. 105–244, §401(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

"(3)(A) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,400, the amount of a student's basic grant shall equal $2,400 plus—

"(i) one-half of the amount by which such maximum basic grant exceeds $2,400; plus

"(ii) the lesser of—

"(I) the remaining one-half of such excess; or

"(II) the sum of the student's tuition and the student's allowance determined under subparagraph (B), if applicable.

"(B) For purposes of subparagraph (A)(ii)(II), a student's allowance is $750 if the student has dependent care expenses (as defined in section 1087ll(8) of this title) or disability related expenses (as defined in section 1087ll(9) of this title)."

Subsec. (b)(4), (5). Pub. L. 105–244, §401(g)(3)(C), substituted "Federal Pell Grant" for "basic grant" wherever appearing.

Subsec. (b)(6). Pub. L. 105–244, §401(d), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

Subsec. (b)(7), (8). Pub. L. 105–244, §401(g)(3)(C), substituted "Federal Pell Grant" for "basic grant" wherever appearing.

Subsec. (c)(1). Pub. L. 105–244, §401(g)(3)(D), substituted "Federal Pell Grants" for "basic grants".

Subsec. (c)(4). Pub. L. 105–244, §401(g)(3)(C), substituted "Federal Pell Grant" for "basic grant" in introductory provisions.

Pub. L. 105–244, §401(e), added par. (4).

Subsec. (d)(1). Pub. L. 105–244, §401(g)(3)(D), substituted "Federal Pell Grants" for "basic grants".

Subsecs. (d)(2), (f)(1). Pub. L. 105–244, §401(g)(3)(C), substituted "Federal Pell Grant" for "basic grant".

Subsec. (f)(3). Pub. L. 105–244, §401(g)(4), substituted "Education and the Workforce" for "Education and Labor".

Subsec. (j). Pub. L. 105–244, §401(f), added subsec. (j).

1994—Subsec. (b)(8). Pub. L. 103–322 amended par. (8) generally. Prior to amendment, par. (8) read as follows:

"(8)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release.

"(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988."

1993—Subsec. (a)(1). Pub. L. 103–208, §2(b)(1), inserted before period at end of second sentence ", except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment".

Subsec. (b)(2)(B). Pub. L. 103–208, §2(k)(1), amended directory language of Pub. L. 102–325, §401(d)(2)(A). See 1992 Amendment note below.

Subsec. (b)(6). Pub. L. 103–208, §2(b)(2)–(4), substituted "single award year" for "single 12-month period" in introductory provisions, "an associate or baccalaureate" for "a baccalaureate" in subpar. (A), and "an associate or baccalaureate" for "a bachelor's" in subpar. (B).

Subsec. (i). Pub. L. 103–208, §2(b)(5), substituted "subtitle D of title V" for "part D of title V".

1992—Subsec. (a)(1). Pub. L. 102–325, §401(a), substituted "September 30, 1998" for "September 30, 1992" and "subsection (b) of this section" for "paragraph (2)".

Subsec. (a)(3). Pub. L. 102–325, §401(b), substituted "Federal Pell Grants" for "Pell Grants".

Subsec. (b)(1). Pub. L. 102–325, §401(c), struck out "(A) as determined under paragraph (2), will meet 60 percent of a student's cost of attendance (as defined in section 1070a–6 of this title); and (B)" after "basic grant that" and substituted "family and student" for "parental or independent student", "subparts 3 and 4" for "subparts 2 and 3", and "will meet at least 75 percent" for "will meet 75 percent".

Subsec. (b)(2)(A)(i) to (v). Pub. L. 102–325, §401(d)(1), added cls. (i) to (v) and struck out former cls. (i) to (v) which read as follows:

"(i) $2,300 for academic year 1987–1988,

"(ii) $2,500 for academic year 1988–1989,

"(iii) $2,700 for academic year 1989–1990,

"(iv) $2,900 for academic year 1990–1991, and

"(v) $3,100 for academic year 1991–1992,".

Subsec. (b)(2)(B). Pub. L. 102–325, §401(d)(2)(A), as amended by Pub. L. 103–208, §2(k)(1), inserted "(including a student who attends an institution of higher education on less than a half-time basis)" in first sentence after "full-time basis" the first time appearing.

Pub. L. 102–325, §401(d)(2)(B), inserted ", computed in accordance with this subpart" before period at end of first sentence.

Subsec. (b)(3). Pub. L. 102–325, §401(d)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 percent of the cost of attendance (as defined in section 1070a–6 of this title) at the institution at which the student is in attendance for that year."

Subsec. (b)(4). Pub. L. 102–325, §401(d)(4), substituted "section 1087ll" for "section 1070a–6".

Subsec. (b)(5). Pub. L. 102–325, §401(d)(5), substituted "$400, except that a student who is eligible for a basic grant that is equal to or greater than $200 but less than $400 shall be awarded a basic grant of $400" for "$200".

Subsec. (b)(6) to (8). Pub. L. 102–325, §401(d)(6), added pars. (6) to (8) and struck out former pars. (6) and (7) which limited or prohibited basic grants from funds appropriated for fiscal years prior to 1992 to students attending on a less than half-time basis.

Subsec. (c)(1). Pub. L. 102–325, §401(e)(1), substituted "any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph." for "—

"(A) such period may not exceed the full-time equivalent of—

"(i) 5 academic years in the case of an undergraduate degree or certificate program normally requiring 4 years or less;

"(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 years;

"(B) any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of subparagraph (A); and

"(C) an institution of higher education at which the student is in attendance may waive subparagraph (A) for undue hardship based on—

"(i) the death of a relative of the student;

"(ii) the personal injury or illness of the student; or

"(iii) special circumstances as determined by the institution."

Subsec. (c)(2). Pub. L. 102–325, §401(e)(2), inserted at end "Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled."

Subsec. (f)(1). Pub. L. 102–325, §401(f)(1), substituted ", as a part of its regular output document, the expected family contribution" for "an estimate of the eligibility index" in introductory provisions and "expected family contribution" for "eligibility index" in subpars. (A), (B), and (D).

Subsec. (f)(3). Pub. L. 102–325, §401(f)(2), substituted "expected family contribution" for "eligibility index".

Subsec. (g). Pub. L. 102–325, §401(g), struck out "Adjustments for" before "insufficient appropriations" in heading and amended text generally. Prior to amendment, text read as follows:

"(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) of this section, the amount paid with respect to each entitlement shall be—

"(A) the full amount for any student whose expected family contribution is $200 or less, or

"(B) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

"(2) Any schedule established by the Secretary for the purpose of paragraph (1)(B) of this subsection shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made."

Subsec. (i). Pub. L. 102–325, §401(h), substituted "Treatment of institutions and students under other laws" for "Noncontractor status of institutions" in heading and inserted at end of text "Recipients of Pell Grants shall not be considered to be individual grantees for purposes of part D of title V of Public Law 100–690."

1987—Subsec. (g)(2). Pub. L. 100–50 substituted "paragraph (1)(B)" for "paragraph (1)".

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 309(a) of Pub. L. 112–74 effective July 1, 2012, see section 309(g) of Pub. L. 112–74, set out as a note under section 1001 of this title.

Pub. L. 112–10, div. B, title VIII, §1860(b), Apr. 15, 2011, 125 Stat. 170, provided that: "The amendment made by subsection (a)(2) [amending this section] shall be effective with respect to the 2011–2012 award year and succeeding award years."

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–152, title II, §2101(c), Mar. 30, 2010, 124 Stat. 1073, provided that: "The amendments made by subsections (a) and (b) [amending this section and sections 1070a–14, 1085, 1090, 1092f, and 1161y of this title] shall take effect on July 1, 2010."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §401(a)(2), Aug. 14, 2008, 122 Stat. 3189, provided that:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by paragraph (1) [amending this section] shall take effect on July 1, 2009.

"(B) SPECIAL RULE.—The amendments made by subparagraph (F) of paragraph (1) [amending this section] shall take effect on the date of enactment of this Act [Aug 14, 2008]."

Pub. L. 110–315, title IV, §401(c)(2), Aug. 14, 2008, 122 Stat. 3190, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on July 1, 2009."

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–84, §1(c), Sept. 27, 2007, 121 Stat. 784, provided that: "Except as otherwise expressly provided, the amendments made by this Act [enacting subpart 9 of this part and sections 1098e, 1098f, 1099d, 1099e, and 1141 of this title, amending this section and sections 1070a–13, 1077a, 1078, 1078–3, 1085, 1087–1, 1087e, 1087h, 1087dd, 1087ff, 1087oo to 1087tt, and 1087vv of this title, repealing section 1078–9 of this title, and amending provisions set out as a note under section 1078 of this title] shall be effective on October 1, 2007."

Pub. L. 110–84, title I, §101(b), Sept. 27, 2007, 121 Stat. 784, provided that: "The amendments made by subsection (a) [amending this section] shall be effective with respect to determinations of Federal Pell Grant amounts for award years beginning on or after July 1, 2007."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–322, title II, §20411(b), Sept. 13, 1994, 108 Stat. 1828, provided that: "The amendment made by this section [amending this section] shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act [Sept. 13, 1994]."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(b)(1), (3)–(5), (k)(1) of Pub. L. 103–208 effective as if included in the Higher

Education Amendments of 1992, Pub. L. 102–325, and amendment by section 2(b)(2) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(a), (b)(2) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–325, title IV, §410, July 23, 1992, 106 Stat. 510, provided that: "The changes made in part A of title IV of the Act [20 U.S.C. 1070 et seq.] by the amendments made by this part [part A (§§401–410) of title IV of Pub. L. 102–325, see Tables for classification] shall take effect on the date of enactment of this Act [July 23, 1992], except—

"(1) as otherwise provided in such part A;

"(2) that the changes made in section 411 [this section], relating to Pell Grants, shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1993; and

"(3) that the changes in section 413C(a)(2) [20 U.S.C. 1070b–2(a)(2)], relating to the Federal share for the supplemental educational opportunity grant program, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Pub. L. 99–498, title IV, §401(b)(3), (4), Oct. 17, 1986, 100 Stat. 1353, provided that:

"(3) Section 411(c) of the Act [20 U.S.C. 1070a(c)] as amended by this section shall apply only to individuals who receive a Pell Grant for the first time for a period of enrollment beginning on or after July 1, 1987.

"(4) Section 411(f) of the Act [20 U.S.C. 1070a(f)] as amended by this section shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1987."

STUDY OF PELL GRANT ELIGIBILITY FOR LESS THAN HALF-TIME STUDENTS

Pub. L. 99–498, title XIII, §1306, Oct. 17, 1986, 100 Stat. 1582, directed Secretary to conduct a study and report to Congress not later than Sept. 30, 1988, on the number of less than half-time students who would be eligible for Pell grants by reason of having an expected family contribution of $0 and of $0–$200 for the appropriate academic years, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

MAXIMUM PELL GRANTS

Provisions limiting the maximum Pell grant that a student may receive were contained in the following appropriation acts:

Pub. L. 114–113, div. H, title III, Dec. 18, 2015, 129 Stat. 2635.
Pub. L. 113–235, div. G, title III, Dec. 16, 2014, 128 Stat. 2501.
Pub. L. 113–76, div. H, title III, Jan. 17, 2014, 128 Stat. 396.
Pub. L. 112–74, div. F, title III, Dec. 23, 2011, 125 Stat. 1097.
Pub. L. 112–10, div. B, title VIII, §1839(b), Apr. 15, 2011, 125 Stat. 165.
Pub. L. 111–242, §218, as added Pub. L. 112–4, par. (2), Mar. 2, 2011, 125 Stat. 11.
Pub. L. 111–242, §164(b), as added Pub. L. 111–322, title I, §1(a)(2), Dec. 22, 2010, 124 Stat. 3521.
Pub. L. 111–117, div. D, title III, Dec. 16, 2009, 123 Stat. 3267.
Pub. L. 111–8, div. F, title III, Mar. 11, 2009, 123 Stat. 789.
Pub. L. 111–5, div. A, title VIII, Feb. 17, 2009, 123 Stat. 183.
Pub. L. 110–161, div. G, title III, Dec. 26, 2007, 121 Stat. 2195.
Pub. L. 109–289, div. B, title II, §20633(b), as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 36.
Pub. L. 109–149, title III, Dec. 30, 2005, 119 Stat. 2868.
Pub. L. 108–447, div. F, title III, Dec. 8, 2004, 118 Stat. 3148.
Pub. L. 108–199, div. E, title III, Jan. 23, 2004, 118 Stat. 261.
Pub. L. 108–7, div. G, title III, Feb. 20, 2003, 117 Stat. 330.
Pub. L. 107–116, title III, Jan. 10, 2002, 115 Stat. 2205.
Pub. L. 106–554, §1(a)(1) [title III], Dec. 21, 2000, 114 Stat. 2763, 2763A–37.
Pub. L. 106–113, div. B, §1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A–251.
Pub. L. 105–277, div. A, §101(f) [title III], Oct. 21, 1998, 112 Stat. 2681–337, 2681–369.

Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1501.
Pub. L. 104–208, div. A, title I, §101(e) [title III], Sept. 30, 1996, 110 Stat. 3009–233, 3009–257.
Pub. L. 104–134, title I, §101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–232; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.
Pub. L. 104–99, title I, §119, Jan. 26, 1996, 110 Stat. 30, prior to repeal by Pub. L. 104–134, title I, §101(d) [title V, §518], Apr. 26, 1996, 110 Stat. 1321–211, 1321–248; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.
Pub. L. 103–333, title III, Sept. 30, 1994, 108 Stat. 2564.
Pub. L. 103–112, title III, Oct. 21, 1993, 107 Stat. 1104.
Pub. L. 102–394, title III, Oct. 6, 1992, 106 Stat. 1816.
Pub. L. 102–170, title III, Nov. 26, 1991, 105 Stat. 1131.
Pub. L. 101–517, title III, Nov. 5, 1990, 104 Stat. 2212.
Pub. L. 101–166, title III, Nov. 21, 1989, 103 Stat. 1182.
Pub. L. 100–436, title III, Sept. 20, 1988, 102 Stat. 1704.
Pub. L. 100–202, §101(h) [title III], Dec. 22, 1987, 101 Stat. 1329–256, 1329–279.

§1070a–1. Academic competitiveness grants

(a) Academic competitiveness grant program authorized

The Secretary shall award grants, in the amounts specified in subsection (d)(1), to eligible students to assist the eligible students in paying their college education expenses.

(b) Designation

A grant under this section—

(1) for the first or second year of a program of undergraduate education shall be known as an "Academic Competitiveness Grant"; and

(2) for the third, fourth, or fifth year of a program of undergraduate education shall be known as a "National Science and Mathematics Access to Retain Talent Grant" or a "National SMART Grant".

(c) Definition of eligible student

In this section the term "eligible student" means a student who, for the award year for which the determination of eligibility is made for a grant under this section—

(1) is eligible for a Federal Pell Grant;

(2) is enrolled or accepted for enrollment in an institution of higher education on not less than a half-time basis; and

(3) in the case of a student enrolled or accepted for enrollment in—

(A) the first year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than one year for which the institution awards a certificate)—

(i) has successfully completed, after January 1, 2006, a rigorous secondary school program of study that prepares students for college and is recognized as such by the State official designated for such recognition, or with respect to any private or home school, the school official designated for such recognition for such school, consistent with State law, which recognized program shall be reported to the Secretary; and

(ii) has not been previously enrolled in a program of undergraduate education, except as part of a secondary school program of study;

(B) the second year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than two years for which the institution awards a certificate)—

(i)(I) successfully completes, after January 1, 2005, but before July 1, 2009, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; or

(II) successfully completes, on or after July 1, 2009, a rigorous secondary school program of study that prepares students for college—

(aa)(AA) that is recognized as such by the official designated for such recognition consistent with State law; and

(BB) about which the designated official has reported to the Secretary, at such time as the Secretary may reasonably require, in order to assist financial aid administrators to determine that the student is an eligible student under this section; or

(bb) that is recognized as such by the Secretary in regulations promulgated to carry out this section, as such regulations were in effect on May 6, 2008; and

(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the first year of such program of undergraduate education;

(C) the third or fourth year of a program of undergraduate education at a four-year degree-granting institution of higher education—

(i) is certified by the institution to be pursuing a major in—

(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

(II) a critical foreign language; and

(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i);

(D) the third or fourth year of a program of undergraduate education at an institution of higher education (as defined in section 1001(a) of this title), is attending an institution that demonstrates, to the satisfaction of the Secretary, that the institution—

(i) offers a single liberal arts curriculum leading to a baccalaureate degree, under which students are not permitted by the institution to declare a major in a particular subject area, and the student—

(I)(aa) studies, in such years, a subject described in subparagraph (C)(i) that is at least equal to the requirements for an academic major at an institution of higher education that offers a baccalaureate degree in such subject, as certified by an appropriate official from the institution; and

(bb) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the relevant coursework; or

(II) is required, as part of the student's degree program, to undertake a rigorous course of study in mathematics, biology, chemistry, and physics, which consists of at least—

(aa) 4 years of study in mathematics; and

(bb) 3 years of study in the sciences, with a laboratory component in each of those years; and

(ii) offered such curriculum prior to February 8, 2006; or

(E) the fifth year of a program of undergraduate education that requires 5 full years of coursework, as certified by the appropriate official of the degree-granting institution of higher education, for which a baccalaureate degree is awarded by a degree-granting institution of higher education—

(i) is certified by the institution of higher education to be pursuing a major in—

(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

(II) a critical foreign language; and

(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent, as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i).

(d) Grant award

(1) Amounts

(A) In general

The Secretary shall award a grant under this section in the amount of—

(i) $750 for an eligible student under subsection (c)(3)(A);

(ii) $1,300 for an eligible student under subsection (c)(3)(B);

(iii) $4,000 for an eligible student under subparagraph (C) or (D) of subsection (c)(3), for each of the two years described in such subparagraphs; or

(iv) $4,000 for an eligible student under subsection (c)(3)(E).

(B) Limitation; ratable reduction

Notwithstanding subparagraph (A)—

(i) in any case in which a student attends an institution of higher education on less than a full-time basis, the amount of the grant that such student may receive shall be reduced in the same manner as a Federal Pell Grant is reduced under section 1070a(b)(2)(B) of this title;

(ii) the amount of such grant, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, shall not exceed the student's cost of attendance;

(iii) if the amount made available under subsection (e) for any fiscal year is less than the amount required to be provided grants to all eligible students in the amounts determined under subparagraph (A) and clause (i) of this subparagraph, then the amount of the grant to each eligible student shall be ratably reduced; and

(iv) if additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

(2) Limitations

(A) No grants for previous credit

The Secretary may not award a grant under this section to any student for any year of a program of undergraduate education for which the student received credit before February 8, 2006.

(B) Number of grants

The Secretary may not award more than one grant to a student described in subsection (c)(3) for each year of study described in such subsection.

(3) Calculation of grant payments

An institution of higher education shall make payments of a grant awarded under this section in the same manner, using the same payment periods, as such institution makes payments for Federal Pell Grants under section 1070a of this title.

(e) Funding

(1) Authorization and appropriation of funds

There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Education to carry out this section—

(A) $790,000,000 for fiscal year 2006;

(B) $850,000,000 for fiscal year 2007;

(C) $920,000,000 for fiscal year 2008;

(D) $960,000,000 for fiscal year 2009; and

(E) $1,010,000,000 for fiscal year 2010.

(2) Availability of funds

Funds made available under paragraph (1) for a fiscal year shall remain available for the succeeding fiscal year.

(f) Recognition of programs of study

The Secretary shall recognize not less than one rigorous secondary school program of study in each State under subparagraphs (A) and (B) of subsection (c)(3) for the purpose of determining student eligibility under such subsection.

(g) Sunset provision

The authority to make grants under this section shall expire at the end of award year 2010–2011.

(Pub. L. 89–329, title IV, §401A, as added Pub. L. 109–171, title VIII, §8003, Feb. 8, 2006, 120 Stat. 155; amended Pub. L. 110–227, §10(a), May 7, 2008, 122 Stat. 748; Pub. L. 110–315, title IV, §402(a)(1), Aug. 14, 2008, 122 Stat. 3190.)

PRIOR PROVISIONS

A prior section 1070a–1, Pub. L. 89–329, title IV, §411A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1312; amended Pub. L. 100–50, §3(b)(1), June 3, 1987, 101 Stat. 337; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837, related to family contribution schedule for Pell Grants and data elements, prior to repeal by Pub. L. 102–325, title IV, §401(i), July 23, 1992, 106 Stat. 482.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–227, §10(a)(1), added subsec. (a) and struck out former subsec. (a) which established Academic Competitiveness Grants and Academic Competitiveness Council and required report to Congress.

Subsec. (b)(1). Pub. L. 110–227, §10(a)(2)(A), substituted "year" for "academic year".

Subsec. (b)(2). Pub. L. 110–227, §10(a)(2), substituted "third, fourth, or fifth" for "third or fourth" and "year" for "academic year".

Subsec. (c). Pub. L. 110–227, §10(a)(3)(A), in introductory provisions, struck out "full-time" before "student who, for the" and substituted "award" for "academic" and "is made for a grant under this section" for "is made".

Subsec. (c)(1), (2). Pub. L. 110–227, §10(a)(3)(B), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) is a citizen of the United States;

"(2) is eligible for a Federal Pell Grant; and".

Subsec. (c)(3). Pub. L. 110–227, §10(a)(3)(C)(i), struck out "academic" before "year of" wherever appearing.

Subsec. (c)(3)(A). Pub. L. 110–227, §10(a)(3)(C)(ii)(I), substituted, in introductory provisions, "the first year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than one year for which the institution awards a certificate)—" for "the first year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education—".

Subsec. (c)(3)(A)(i). Pub. L. 110–315, §402(a)(1)(A)(i), added cl. (i) and struck out former cl. (i) which read as follows: "has successfully completed, after January 1, 2006, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and". See Effective Date of 2008 Amendment notes below.

Pub. L. 110–227, §10(a)(3)(C)(ii)(II), added cl. (i) and struck out former cl. (i), as amended by Pub. L. 110–315, §402(a)(1)(A)(i), which read as follows:

"(I) successfully completes, after January 1, 2006, but before July 1, 2009, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; or

"(II) successfully completes, on or after July 1, 2009, a rigorous secondary school program of study that prepares students for college—

"(aa)(AA) that is recognized as such by the official designated for such recognition consistent with State law; and

"(BB) about which the designated official has reported to the Secretary, at such time as the Secretary may reasonably require, in order to assist financial aid administrators to determine that the student is an eligible student under this section; or

"(bb) that is recognized as such by the Secretary in regulations promulgated to carry out this section, as such regulations were in effect on May 6, 2008; and".

See Effective Date of 2008 Amendment notes below.

Subsec. (c)(3)(A)(ii). Pub. L. 110–227, §10(a)(3)(C)(ii)(III), inserted ", except as part of a secondary school program of study" before semicolon.

Subsec. (c)(3)(B). Pub. L. 110–227, §10(a)(3)(C)(iii)(I), in introductory provisions, substituted "year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than two years for which the institution awards a certificate)" for "year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education".

Subsec. (c)(3)(B)(i). Pub. L. 110–315, §402(a)(1)(A)(ii), added cl. (i) and struck out former cl. (i) which read as follows: "has successfully completed, after January 1, 2005, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and".

Subsec. (c)(3)(C)(i). Pub. L. 110–227, §10(a)(3)(C)(iv)(I), inserted "certified by the institution to be" after "is" in introductory provisions.

Subsec. (c)(3)(C)(i)(II). Pub. L. 110–227, §10(a)(3)(C)(iv)(II), added subcl. (II) and struck out former subcl. (II) which read as follows: "a foreign language that the Secretary, in consultation with the Director of National Intelligence, determines is critical to the national security of the United States; and".

Subsec. (c)(3)(D), (E). Pub. L. 110–227, §10(a)(3)(C)(iii)(II), (iv)(III), (v), added subpars. (D) and (E).

Subsec. (d)(1)(A). Pub. L. 110–227, §10(a)(4)(A)(i), inserted heading, substituted "subparagraph (C) or (D) of subsection (c)(3), for each of the two years described in such subparagraphs; or" for "subsection (c)(3)(C)." in cl. (iii), and added cl. (iv).

Subsec. (d)(1)(B). Pub. L. 110–227, §10(a)(4)(A)(ii), inserted heading, added cl. (i), and redesignated former cls. (i) to (iii) as (ii) to (iv), respectively.

Subsec. (d)(2), (3). Pub. L. 110–227, §10(a)(4)(B), (C), added pars. (2) and (3) and struck out former par. (2). Prior to amendment, text read as follows: "The Secretary shall not award a grant under this section—

"(A) to any student for an academic year of a program of undergraduate education described in subparagraph (A), (B), or (C) of subsection (c)(3) for which the student received credit before February 8, 2006; or

"(B) to any student for more than—

"(i) one academic year under subsection (c)(3)(A);

"(ii) one academic year under subsection (c)(3)(B); or

"(iii) two academic years under subsection (c)(3)(C)."

Subsec. (e)(2). Pub. L. 110–315, §402(a)(1)(B), amended par. (2) generally. Prior to amendment, text read as follows: "If, at the end of a fiscal year, the funds available for awarding grants under this section exceed the amount necessary to make such grants in the amounts authorized by subsection (d), then all of the excess funds shall remain available for awarding grants under this section during the subsequent fiscal year." See Effective Date of 2008 Amendment notes below.

Pub. L. 110–227, §10(a)(5), added par. (2) and struck out former par. (2), as amended by Pub. L. 110–315, §402(a)(1)(B). Prior to amendment, text read as follows: "The amounts made available by paragraph (1) for any fiscal year shall be available from October 1 of that fiscal year and remain available through September 30 of the succeeding fiscal year." See Effective Date of 2008 Amendment notes below.

Subsec. (f). Pub. L. 110–227, §10(a)(6), substituted "not less than one" for "at least one" and "subparagraphs (A) and (B) of subsection (c)(3)" for "subsection (c)(3)(A) and (B)".

Subsec. (g). Pub. L. 110–227, §10(a)(7), substituted "award" for "academic".

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §402(a)(2), Aug. 14, 2008, 122 Stat. 3191, provided that: "The amendment made by paragraph (1)(B) [amending this section] shall take effect on October 1, 2008."

Pub. L. 110–227, §10(b), May 7, 2008, 122 Stat. 752, as amended by Pub. L. 110–315, title IV, §402(a)(3), Aug. 14, 2008, 122 Stat. 3191, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on July 1, 2009."

EFFECTIVE DATE

Section effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as an Effective Date of 2006 Amendment note under section 1002 of this title.

§§1070a–2 to 1070a–6. Repealed. Pub. L. 102–325, title IV, §401(i), July 23, 1992,

Section 1070a–2, Pub. L. 89–329, title IV, §411B, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1313; amended Pub. L. 100–50, §3(b)(2), (c)–(f)(1), (4), (5), (g), June 3, 1987, 101 Stat. 337, 338; Pub. L. 102–54, §13(g)(1)(B), June 13, 1991, 105 Stat. 275, related to eligibility determination for dependent students.

Section 1070a–3, Pub. L. 89–329, title IV, §411C, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1316; amended Pub. L. 100–50, §3(b)(3), (c)(1), (f)(2), (4), (5), (g), (h)(2), June 3, 1987, 101 Stat. 337, 338; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–54, §13(g)(1)(C), June 13, 1991, 105 Stat. 275, related to eligibility determination for independent students with dependents other than a spouse.

Section 1070a–4, Pub. L. 89–329, title IV, §411D, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1319; amended Pub. L. 100–50, §3(b)(4), (c)(1), (f)(3), (4), (g), June 3, 1987, 101 Stat. 337, 338; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–54, §13(g)(1)(D), June 13, 1991, 105 Stat. 275, related to eligibility determination for single independent students or for married independent students without other dependents.

Section 1070a–5, Pub. L. 89–329, title IV, §411E, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1322, related to regulations and updated tables.

Section 1070a–6, Pub. L. 89–329, title IV, §411F, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1323; amended Pub. L. 100–50, §3(h)(1), (i)–(m), June 3, 1987, 101 Stat. 338, 339; Pub. L. 100–369, §7(a), (c), July 18, 1988, 102 Stat. 836, 837; Pub. L. 101–610, title I, §185(1), (2), Nov. 16, 1990, 104 Stat. 3167, related to definitions and determinations.

SUBPART 2—FEDERAL EARLY OUTREACH AND STUDENT SERVICES PROGRAMS

CODIFICATION

Pub. L. 102–325, title IV, §402(a)(2), (4), July 23, 1992, 106 Stat. 482, added subpart 2 and redesignated former subpart 2 comprising sections 1070b to 1070b–3 of this title as subpart 3.

Division 1—Federal TRIO Programs

§1070a–11. Program authority; authorization of appropriations

(a) Grants and contracts authorized

The Secretary shall, in accordance with the provisions of this division, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, to motivate and prepare students for doctoral programs, and to train individuals serving or preparing for service in programs and projects so designed.

(b) Recipients, duration, and size

(1) Recipients

For the purposes described in subsection (a) of this section, the Secretary is authorized, without regard to section 6101 of title 41, to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, including community-based organizations with experience in serving disadvantaged youth, combinations of such institutions, agencies and organizations, and, as appropriate to the purposes of the program, secondary schools, for planning, developing, or carrying out one or more of the services assisted under this division.

(2) Duration

Grants or contracts made under this division shall be awarded for a period of 5 years, except that—

(A) in order to synchronize the awarding of grants for programs under this division, the Secretary may, under such terms as are consistent with the purposes of this division, provide a one-time, limited extension of the length of such an award;

(B) grants made under section 1070a–17 of this title shall be awarded for a period of 2 years; and

(C) grants under section 1070a–18 of this title shall be awarded for a period determined by the Secretary.

(3) Minimum grants

Unless the institution or agency requests a smaller amount, an individual grant authorized under this division shall be awarded in an amount that is not less than $200,000, except that an individual grant authorized under section 1070a–17 of this title shall be awarded in an amount that is not less than $170,000.

(c) Procedures for awarding grants and contracts

(1) Application requirements

An eligible entity that desires to receive a grant or contract under this division shall submit an application to the Secretary in such manner and form, and containing such information and assurances, as the Secretary may reasonably require.

(2) Considerations

(A) Prior experience

In making grants under this division, the Secretary shall consider each applicant's prior experience of high quality service delivery, as determined under subsection (f), under the particular program for which funds are sought. The level of consideration given the factor of prior experience shall not vary from the level of consideration given such factor during fiscal years 1994 through 1997, except that grants made under section 1070a–18 of this title shall not be given prior experience consideration.

(B) Participant need

In making grants under this division, the Secretary shall consider the number, percentages, and needs of eligible participants in the area, institution of higher education, or secondary school to be served to aid such participants in preparing for, enrolling in, or succeeding in postsecondary education, as appropriate to the particular program for which the eligible entity is applying.

(3) Order of awards; program fraud

(A) Except with respect to grants made under sections 1070a–17 and 1070a–18 of this title and as provided in subparagraph (B), the Secretary shall award grants and contracts under this division in the order of the scores received by the application for such grant or contract in the peer review process required under paragraph (4) and adjusted for prior experience in accordance with paragraph (2) of this subsection.

(B) The Secretary shall not provide assistance to a program otherwise eligible for assistance under this division, if the Secretary has determined that such program has involved the fraudulent use of funds under this division.

(4) Peer review process

(A) The Secretary shall ensure that, to the extent practicable, members of groups underrepresented in higher education, including African Americans, Hispanics, Native Americans, Alaska Natives, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submitted under this division. The Secretary shall also ensure that persons from urban and rural backgrounds are represented as readers.

(B) The Secretary shall ensure that each application submitted under this division is read by at least three readers who are not employees of the Federal Government (other than as readers of applications).

(5) Number of applications for grants and contracts

The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this division if the additional applications describe programs serving different populations or different campuses.

(6) Coordination with other programs for disadvantaged students

The Secretary shall encourage coordination of programs assisted under this division with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this division because such entity sponsors a program similar to the program to be assisted under this division, regardless of the funding source of such program. The Secretary shall permit the Director of a program receiving funds under this division to administer one or more additional programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding sources of such programs. The Secretary shall, as appropriate, require each applicant for funds under the programs authorized by this division to identify and make available services under such program, including mentoring, tutoring, and other services provided by such program, to foster care youth (including youth in foster care and youth who have left foster care after reaching age 13) or to homeless children and youths as defined in section 11434a of title 42.

(7) Application status

The Secretary shall inform each entity operating programs under this division regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this division, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of the preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this division for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

(8) Review and notification by the Secretary

(A) Guidance

Not later than 180 days after August 14, 2008, the Secretary shall issue nonregulatory guidance regarding the rights and responsibilities of applicants with respect to the application and evaluation process for programs and projects assisted under this division, including applicant access to peer review comments. The guidance shall describe the procedures for the submission, processing, and scoring of applications for grants under this division, including—

(i) the responsibility of applicants to submit materials in a timely manner and in accordance with the processes established by the Secretary under the authority of the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(ii) steps the Secretary will take to ensure that the materials submitted by applicants are processed in a proper and timely manner;

(iii) steps the Secretary will take to ensure that prior experience points for high quality service delivery are awarded in an accurate and transparent manner;

(iv) steps the Secretary will take to ensure the quality and integrity of the peer review process, including assurances that peer reviewers will consider applications for grants under this division in a thorough and complete manner consistent with applicable Federal law; and

(v) steps the Secretary will take to ensure that the final score of an application, including prior experience points for high quality service delivery and points awarded through the peer review process, is determined in an accurate and transparent manner.

(B) Updated guidance

Not later than 45 days before the date of the commencement of each competition for a grant under this division that is held after the expiration of the 180-day period described in subparagraph (A), the Secretary shall update and publish the guidance described in such subparagraph.

(C) Review

(i) In general

With respect to any competition for a grant under this division, an applicant may request a review by the Secretary if the applicant—

(I) has evidence of a specific technical, administrative, or scoring error made by the Department, an agent of the Department, or a peer reviewer, with respect to the scoring or processing of a submitted application; and

(II) has otherwise met all of the requirements for submission of the application.

(ii) Technical or administrative error

In the case of evidence of a technical or administrative error listed in clause (i)(I), the Secretary shall review such evidence and provide a timely response to the applicant. If the Secretary determines that a technical or administrative error was made by the Department or an agent of the Department, the application of the applicant shall be reconsidered in the peer review process for the applicable grant competition.

(iii) Scoring error

In the case of evidence of a scoring error listed in clause (i)(I), when the error relates to either prior experience points for high quality service delivery or to the final score of an application, the Secretary shall—

(I) review such evidence and provide a timely response to the applicant; and

(II) if the Secretary determines that a scoring error was made by the Department or a peer reviewer, adjust the prior experience points or final score of the application appropriately and quickly, so as not to interfere with the timely awarding of grants for the applicable grant competition.

(iv) Error in peer review process

(I) Referral to secondary review

In the case of a peer review process error listed in clause (i)(I), if the Secretary determines that points were withheld for criteria not required in Federal statute, regulation, or guidance governing a program assisted under this division or the application for a grant for such program, or determines that information pertaining to selection criteria was wrongly determined to be missing from an application by a peer reviewer, then the Secretary shall refer the application to a secondary review panel.

(II) Timely review; replacement score

The secondary review panel described in subclause (I) shall conduct a secondary review in a timely fashion, and the score resulting from the secondary review shall replace the score from the initial peer review.

(III) Composition of secondary review panel

The secondary review panel shall be composed of reviewers each of whom—

(aa) did not review the application in the original peer review;

(bb) is a member of the cohort of peer reviewers for the grant program that is the subject of such secondary review; and

(cc) to extent practicable, has conducted peer reviews in not less than two previous competitions for the grant program that is the subject of such secondary review.

(IV) Final score

The final peer review score of an application subject to a secondary review under this clause shall be adjusted appropriately and quickly using the score awarded by the secondary review panel, so as not to interfere with the timely awarding of grants for the applicable grant competition.

(V) Qualification for secondary review

To qualify for a secondary review under this clause, an applicant shall have evidence of a scoring error and demonstrate that—

(aa) points were withheld for criteria not required in statute, regulation, or guidance governing the Federal TRIO programs or the application for a grant for such programs; or

(bb) information pertaining to selection criteria was wrongly determined to be missing from the application.

(v) Finality

(I) In general

A determination by the Secretary under clause (i), (ii), or (iii) shall not be reviewable by any officer or employee of the Department.

(II) Scoring

The score awarded by a secondary review panel under clause (iv) shall not be reviewable by any officer or employee of the Department other than the Secretary.

(vi) Funding of applications with certain adjusted scores

To the extent feasible based on the availability of appropriations, the Secretary shall fund applications with scores that are adjusted upward under clauses (ii), (iii), and (iv) to equal or exceed the minimum cut off score for the applicable grant competition.

(d) Outreach

(1) In general

The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this division submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this division.

(2) Notice

In carrying out the provisions of paragraph (1), the Secretary shall notify the entities described in subsection (b) of this section of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this division and shall consult national, State, and regional organizations about candidates for notification.

(3) Technical assistance

The Secretary shall provide technical training to applicants for projects and programs authorized under this division. The Secretary shall give priority to serving programs and projects that serve geographic areas and eligible populations which have been underserved by the programs assisted under this division. Technical training activities shall include the provision of information on authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and application deadlines, and assistance in the development of program proposals and the completion of program applications. Such training shall be furnished at conferences, seminars, and workshops to be conducted at not less than 10 sites throughout the United States to ensure that all areas of the United States with large concentrations of eligible participants are served.

(4) Special rule

The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

(e) Documentation of status as a low-income individual

(1) Except in the case of an independent student, as defined in section 1087vv(d) of this title, documentation of an individual's status pursuant to subsection (h)(4) shall be made by providing the Secretary with—

(A) a signed statement from the individual's parent or legal guardian;
(B) verification from another governmental source;
(C) a signed financial aid application; or
(D) a signed United States or Puerto Rico income tax return.

(2) In the case of an independent student, as defined in section 1087vv(d) of this title, documentation of an individual's status pursuant to subsection (h)(4) shall be made by providing the Secretary with—

(A) a signed statement from the individual;
(B) verification from another governmental source;
(C) a signed financial aid application; or
(D) a signed United States or Puerto Rico income tax return.

(3) Notwithstanding this subsection and subsection (h)(4), individuals who are foster care youth (including youth in foster care and youth who have left foster care after reaching age 13), or homeless children and youths as defined in section 11434a of title 42, shall be eligible to participate in programs under sections 1070a–12, 1070a–13, 1070a–14, and 1070a–16 of this title.

(f) Outcome criteria

(1) Use for prior experience determination

For competitions for grants under this division that begin on or after January 1, 2009, the Secretary shall determine an eligible entity's prior experience of high quality service delivery, as required under subsection (c)(2), based on the outcome criteria described in paragraphs (2) and (3).

(2) Disaggregation of relevant data

The outcome criteria under this subsection shall be disaggregated by low-income students, first generation college students, and individuals with disabilities, in the schools and institutions of higher education served by the program to be evaluated.

(3) Contents of outcome criteria

The outcome criteria under this subsection shall measure, annually and for longer periods, the quality and effectiveness of programs authorized under this division and shall include the following:

(A) For programs authorized under section 1070a–12 of this title, the extent to which the eligible entity met or exceeded the entity's objectives established in the entity's application for such program regarding—

(i) the delivery of service to a total number of students served by the program;
(ii) the continued secondary school enrollment of such students;
(iii) the graduation of such students from secondary school with a regular secondary school diploma in the standard number of years;
(iv) the completion by such students of a rigorous secondary school program of study that will make such students eligible for programs such as the Academic Competitiveness Grants Program;
(v) the enrollment of such students in an institution of higher education; and
(vi) to the extent practicable, the postsecondary education completion of such students.

(B) For programs authorized under section 1070a–13 of this title, the extent to which the eligible entity met or exceeded the entity's objectives for such program regarding—

(i) the delivery of service to a total number of students served by the program, as agreed

upon by the entity and the Secretary for the period;

(ii) such students' school performance, as measured by the grade point average, or its equivalent;

(iii) such students' academic performance, as measured by standardized tests, including tests required by the students' State;

(iv) the retention in, and graduation from, secondary school of such students;

(v) the completion by such students of a rigorous secondary school program of study that will make such students eligible for programs such as the Academic Competitiveness Grants Program;

(vi) the enrollment of such students in an institution of higher education; and

(vii) to the extent practicable, the postsecondary education completion of such students.

(C) For programs authorized under section 1070a–14 of this title—

(i) the extent to which the eligible entity met or exceeded the entity's objectives regarding the retention in postsecondary education of the students served by the program;

(ii)(I) in the case of an entity that is an institution of higher education offering a baccalaureate degree, the extent to which the entity met or exceeded the entity's objectives regarding the percentage of such students' completion of the degree programs in which such students were enrolled; or

(II) in the case of an entity that is an institution of higher education that does not offer a baccalaureate degree, the extent to which such students met or exceeded the entity's objectives regarding—

(aa) the completion of a degree or certificate by such students; and

(bb) the transfer of such students to institutions of higher education that offer baccalaureate degrees;

(iii) the extent to which the entity met or exceeded the entity's objectives regarding the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period; and

(iv) the extent to which the entity met or exceeded the entity's objectives regarding the students served under the program who remain in good academic standing.

(D) For programs authorized under section 1070a–15 of this title, the extent to which the entity met or exceeded the entity's objectives for such program regarding—

(i) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period;

(ii) the provision of appropriate scholarly and research activities for the students served by the program;

(iii) the acceptance and enrollment of such students in graduate programs; and

(iv) the continued enrollment of such students in graduate study and the attainment of doctoral degrees by former program participants.

(E) For programs authorized under section 1070a–16 of this title, the extent to which the entity met or exceeded the entity's objectives for such program regarding—

(i) the enrollment of students without a secondary school diploma or its recognized equivalent, who were served by the program, in programs leading to such diploma or equivalent;

(ii) the enrollment of secondary school graduates who were served by the program in programs of postsecondary education;

(iii) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period; and

(iv) the provision of assistance to students served by the program in completing financial aid applications and college admission applications.

(4) Measurement of progress

In order to determine the extent to which each outcome criterion described in paragraph (2) or (3) is met or exceeded, the Secretary shall compare the agreed upon target for the criterion, as established in the eligible entity's application approved by the Secretary, with the results for the criterion, measured as of the last day of the applicable time period for the determination for the outcome criterion.

(g) Authorization of appropriations

For the purpose of making grants and contracts under this division, there are authorized to be appropriated $900,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years. Of the amount appropriated under this division, the Secretary may use no more than ½ of 1 percent of such amount to obtain additional qualified readers and additional staff to review applications, to increase the level of oversight monitoring, to support impact studies, program assessments and reviews, and to provide technical assistance to potential applicants and current grantees. In expending these funds, the Secretary shall give priority to the additional administrative requirements provided in the Higher Education Amendments of 1992, to outreach activities, and to obtaining additional readers.

(h) Definitions

For the purpose of this division:

(1) Different campus

The term "different campus" means a site of an institution of higher education that—

(A) is geographically apart from the main campus of the institution;

(B) is permanent in nature; and

(C) offers courses in educational programs leading to a degree, certificate, or other recognized educational credential.

(2) Different population

The term "different population" means a group of individuals that an eligible entity desires to serve through an application for a grant under this division, and that—

(A) is separate and distinct from any other population that the entity has applied for a grant under this division to serve; or

(B) while sharing some of the same needs as another population that the eligible entity has applied for a grant under this division to serve, has distinct needs for specialized services.

(3) First generation college student

The term "first generation college student" means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or

(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

(4) Low-income individual

The term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(5) Veteran eligibility

No veteran shall be deemed ineligible to participate in any program under this division by reason of such individual's age who—

(A) served on active duty for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable;

(B) served on active duty and was discharged or released therefrom because of a service connected disability;

(C) was a member of a reserve component of the Armed Forces called to active duty for a period of more than 30 days; or

(D) was a member of a reserve component of the Armed Forces who served on active duty in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10) on or after September 11, 2001.

(6) Waiver

The Secretary may waive the service requirements in subparagraph (A), (B), or (C) of paragraph (5) if the Secretary determines the application of the service requirements to a veteran will defeat the purpose of a program under this division.

(Pub. L. 89–329, title IV, §402A, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 482; amended Pub. L. 103–208, §2(b)(6)–(9), Dec. 20, 1993, 107 Stat. 2458; Pub. L. 105–244, title I, §102(b)(1), title IV, §402(a), Oct. 7, 1998, 112 Stat. 1622, 1652; Pub. L. 110–315, title IV, §403(a), Aug. 14, 2008, 122 Stat. 3191; Pub. L. 111–39, title IV, §401(a)(4), July 1, 2009, 123 Stat. 1938.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (c)(8)(A)(i), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Higher Education Amendments of 1992, referred to in subsec. (g), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

REFERENCES TO SUBPART 2, 3, OR 4 OF THIS PART DEEMED TO REFER TO SUBPART 3, 4, OR 2 OF THIS PART

Section 402(b) of Pub. L. 102–325 provided that: "Reference in any provision of law (other than the Act [20 U.S.C. 1001 et seq.]) to subpart 2, 3, or 4 of part A of title IV of the Act shall, after the date of enactment of this Act [July 23, 1992], be deemed to refer to subpart 3 [20 U.S.C. 1070b et seq.], 4 [20 U.S.C. 1070c et seq.], or 2 [20 U.S.C. 1070a–11 et seq.] of such part, respectively."

CODIFICATION

In subsec. (b)(1), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111–39, §401(a)(4)(A), substituted "organizations, including" for "organizations including".

Subsec. (c)(8)(C)(iv)(I). Pub. L. 111–39, §401(a)(4)(B), inserted "to be" after "determined".

2008—Subsec. (b)(1). Pub. L. 110–315, §403(a)(1)(A), inserted "including community-based organizations with experience in serving disadvantaged youth" after "private agencies and organizations" and substituted ", as appropriate to the purposes of the program" for "in exceptional circumstances".

Subsec. (b)(2). Pub. L. 110–315, §403(a)(1)(B)(i), substituted "5 years" for "4 years" in introductory provisions.

Subsec. (b)(2)(A). Pub. L. 110–315, §403(a)(1)(B)(ii), amended subpar. (A) generally. Prior to amendment subpar. (A) read as follows: "the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year;".

Subsec. (b)(3). Pub. L. 110–315, §403(a)(1)(C), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "Unless the institution or agency requests a smaller amount, individual grants under this division shall be no less than—

"(A) $170,000 for programs authorized by sections 1070a–14 and 1070a–17 of this title;

"(B) $180,000 for programs authorized by sections 1070a–12 and 1070a–16 of this title; and

"(C) $190,000 for programs authorized by sections 1070a–13 and 1070a–15 of this title."

Subsec. (c)(2). Pub. L. 110–315, §403(a)(2)(A), inserted par. heading, designated former par. heading as subpar. (A) heading and existing provisions as subpar. (A), substituted "high quality service delivery, as determined under subsection (f)," for "service delivery", and added subpar. (B).

Subsec. (c)(3)(B). Pub. L. 110–315, §403(a)(2)(B), substituted "shall not" for "is not required to".

Subsec. (c)(5). Pub. L. 110–315, §403(a)(2)(C), substituted "different campuses" for "campuses".

Subsec. (c)(6). Pub. L. 110–315, §403(a)(2)(D), inserted at end "The Secretary shall, as appropriate, require each applicant for funds under the programs authorized by this division to identify and make available services under such program, including mentoring, tutoring, and other services provided by such program, to foster care youth (including youth in foster care and youth who have left foster care after reaching age 13) or to homeless children and youths as defined in section 11434a of title 42."

Subsec. (c)(8). Pub. L. 110–315, §403(a)(2)(E), added par. (8).

Subsec. (e)(1), (2). Pub. L. 110–315, §403(a)(3)(A), substituted "subsection (h)(4)" for "subsection (g)(2)" in introductory provisions.

Subsec. (e)(3). Pub. L. 110–315, §403(a)(3)(B), added par. (3).

Subsec. (f). Pub. L. 110–315, §403(a)(5), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 110–315, §403(a)(6), substituted "$900,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years" for "$700,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years" and struck out last sentence which read as follows: "The Secretary shall report to Congress by October 1, 1994, on the use of these funds."

Pub. L. 110–315, §403(a)(4), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 110–315, §403(a)(7)(A), (B), added pars. (1) and (2) and redesignated former pars. (1) to (4) as (3) to (6), respectively.

Pub. L. 110–315, §403(a)(4), redesignated subsec. (g) as (h).

Subsec. (h)(5)(A). Pub. L. 110–315, §403(a)(7)(C)(i), struck out ", any part of which occurred after January 31, 1955," after "more than 180 days" and "or" after semicolon.

Subsec. (h)(5)(B). Pub. L. 110–315, §403(a)(7)(C)(ii), struck out "after January 31, 1955," after "active duty" and substituted a semicolon for period at end.

Subsec. (h)(5)(C), (D). Pub. L. 110–315, §403(a)(7)(C)(iii), added subpars. (C) and (D).

Subsec. (h)(6). Pub. L. 110–315, §403(a)(7)(D), substituted "subparagraph (A), (B), or (C) of paragraph (5)" for "subparagraph (A) or (B) of paragraph (3)".

1998—Subsec. (b)(2)(C). Pub. L. 105–244, §402(a)(1), added subpar. (C).

Subsec. (b)(3). Pub. L. 105–244, §402(a)(2), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: "In any year in which the appropriations authorized under this division exceed the prior year appropriation as adjusted for inflation, the Secretary shall use 80 percent of the amount appropriated above the current services level to bring each award up to the minimum grant level or the amount requested by the institution or agency, whichever is less. The minimum grant level (A) for programs authorized under section 1070a–14 or 1070a–17 of this title, shall not be less than $170,000 for fiscal year 1993; (B) for programs authorized under section 1070a–12 or 1070a–16 of this title shall not be less than $180,000 for fiscal year 1994; and (C) for programs authorized under section 1070a–13 or 1070a–15 of this title shall not be less than $190,000 for fiscal year 1995."

Subsec. (c). Pub. L. 105–244, §402(a)(3), amended subsec. (c) generally, revising and restating former pars. (1) to (6), relating to procedures for awarding grants and contracts, as pars. (1) to (7).

Subsec. (c)(2). Pub. L. 105–244, §102(b)(1), substituted "section 1011g" for "section 1145d–1".

Subsec. (f). Pub. L. 105–244, §402(a)(4), substituted "$700,000,000 for fiscal year 1999" for "$650,000,000 for fiscal year 1993".

Subsec. (g)(4). Pub. L. 105–244, §402(a)(5), added par. (4).

1993—Subsec. (b)(2). Pub. L. 103–208, §2(b)(6), added par. (2) and struck out former par. (2) which read as follows: "Grants or contracts made under this division shall be awarded for a period of 4 years, except that the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year."

Subsec. (c)(1). Pub. L. 103–208, §2(b)(7), inserted before period at end of second sentence ", except that in the case of the programs authorized in sections 1070a–15 and 1070a–17 of this title, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this division".

Subsec. (c)(2)(A). Pub. L. 103–208, §2(b)(8), inserted "with respect to grants made under section 1070a–17 of this title, and" after "Except".

Subsec. (e). Pub. L. 103–208, §2(b)(9), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "Documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made—

"(1) in the case of an individual who is eighteen years of age or younger or a dependent student by providing the Secretary with a signed statement from the parent or legal guardian, verification from another governmental source, a signed financial aid application, or a signed United States or Puerto Rican income

tax return; and

"(2) in the case of an individual who is age 18 or older or who is an independent student, by providing the Secretary with a signed statement from the individual, verification from another governmental source, a signed financial aid form, or a signed United States or Puerto Rican income tax return."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(b)(6), (8), (9) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, and amendment by section 2(b)(7) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(a), (b)(2) of Pub. L. 103–208 set out as a note under section 1051 of this title.

ADVANCED PLACEMENT FEE PAYMENT PROGRAM

Pub. L. 105–244, title VIII, §810, Oct. 7, 1998, 112 Stat. 1808, which authorized grants to States to enable States to reimburse low-income individuals to cover part or all of the cost of advanced placement test fees, required dissemination of information regarding availability of payments, set forth requirements for approval of applications and funding rules, authorized regulations, required annual report, defined terms, and authorized appropriations, was repealed by Pub. L. 107–110, title X, §1011(2), Jan. 8, 2002, 115 Stat. 1986.

Similar provisions were contained in Pub. L. 102–325, title XV, §1545, July 23, 1992, 106 Stat. 837, which was repealed by Pub. L. 107–110, title X, §1011(1), Jan. 8, 2002, 115 Stat. 1986.

§1070a–12. Talent search

(a) Program authority

The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of, and facilitate the application for, student financial assistance available to persons who pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level to enter or reenter, and complete such programs.

(b) Required services

Any project assisted under this section shall provide—

(1) connections to high quality academic tutoring services, to enable students to complete secondary or postsecondary courses;

(2) advice and assistance in secondary course selection and, if applicable, initial postsecondary course selection;

(3) assistance in preparing for college entrance examinations and completing college admission applications;

(4)(A) information on the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 1090(a) of this title;

(5) guidance on and assistance in—

(A) secondary school reentry;

(B) alternative education programs for secondary school dropouts that lead to the receipt of a

regular secondary school diploma;

(C) entry into general educational development (GED) programs; or

(D) postsecondary education; and

(6) connections to education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents, including financial planning for postsecondary education.

(c) Permissible services

Any project assisted under this section may provide services such as—

(1) academic tutoring, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(2) personal and career counseling or activities;

(3) information and activities designed to acquaint youth with the range of career options available to the youth;

(4) exposure to the campuses of institutions of higher education, as well as cultural events, academic programs, and other sites or activities not usually available to disadvantaged youth;

(5) workshops and counseling for families of students served;

(6) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons; and

(7) programs and activities as described in subsection (b) or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 11434a of title 42), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(d) Requirements for approval of applications

In approving applications for projects under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 1070a–16 of this title;

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 1070a–16 of this title; and

(4) require an assurance that the project will be located in a setting accessible to the persons proposed to be served by the project.

(Pub. L. 89–329, title IV, §402B, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 486; amended Pub. L. 105–244, title IV, §402(b), Oct. 7, 1998, 112 Stat. 1654; Pub. L. 110–315, title IV, §403(b), Aug. 14, 2008, 122 Stat. 3198.)

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110–315, §403(b)(1)(A), inserted ", and facilitate the application for," after "the availability of".

Subsec. (a)(3). Pub. L. 110–315, §403(b)(1)(B), substituted "to enter or reenter, and complete" for ", but who have the ability to complete such programs, to reenter".

Subsecs. (b), (c). Pub. L. 110–315, §403(b)(3), added subsecs. (b) and (c) and struck out former subsec. (b) which related to permissible services. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 110–315, §403(b)(2), (4), redesignated subsec. (c) as (d) and substituted "projects under this section" for "talent search projects under this division" in introductory provisions.

1998—Subsec. (b)(4). Pub. L. 105–244, §402(b)(1), added par. (4) and struck out former par. (4) which read as follows: "guidance on secondary school reentry or entry to general educational development (GED) programs or other alternative education programs for secondary school dropouts;".

Subsec. (b)(5). Pub. L. 105–244, §402(b)(2), inserted before semicolon ", or activities designed to acquaint individuals from disadvantaged backgrounds with careers in which the individuals are particularly underrepresented".

Subsec. (b)(8). Pub. L. 105–244, §402(b)(3), substituted "families" for "parents".

Subsec. (b)(9). Pub. L. 105–244, §402(b)(4), inserted "or counselors" after "teachers".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1070a–13. Upward bound

(a) Program authority

The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond secondary school.

(b) Required services

Any project assisted under this section shall provide—

(1) academic tutoring to enable students to complete secondary or postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(2) advice and assistance in secondary and postsecondary course selection;

(3) assistance in preparing for college entrance examinations and completing college admission applications;

(4)(A) information on the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 1090(a) of this title;

(5) guidance on and assistance in—

(A) secondary school reentry;

(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

(C) entry into general educational development (GED) programs; or

(D) postsecondary education; and

(6) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents, including financial planning for postsecondary education.

(c) Additional required services for multiple-year grant recipients

Any project assisted under this section which has received funding for two or more years shall include, as part of the core curriculum in the next and succeeding years, instruction in mathematics through precalculus, laboratory science, foreign language, composition, and literature.

(d) Permissible services

Any project assisted under this section may provide such services as—

(1) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(2) information, activities, and instruction designed to acquaint youth participating in the project with the range of career options available to the youth;

(3) on-campus residential programs;

(4) mentoring programs involving elementary school or secondary school teachers or

counselors, faculty members at institutions of higher education, students, or any combination of such persons;

(5) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

(6) special services, including mathematics and science preparation, to enable veterans to make the transition to postsecondary education; and

(7) programs and activities as described in subsection (b), subsection (c), or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 11434a of title 42), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(e) Requirements for approval of applications

In approving applications for projects under this section for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or students who have a high risk for academic failure;

(3) require that there be a determination by the institution, with respect to each participant in such project that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section; and

(5) require an assurance that no student will be denied participation in a project assisted under this section because the student will enter the project after the 9th grade.

(f) Maximum stipends

Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during the summer school recess, for a period not to exceed three months, except that youth participating in a work-study position under subsection (d)(5) of this section may be paid a stipend of $300 per month during the summer school recess, for a period not to exceed three months. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year.

(g) Additional funds

(1) Authorization and appropriation

There are authorized to be appropriated, and there are appropriated to the Secretary, from funds not otherwise appropriated, $57,000,000 for each of the fiscal years 2008 through 2011 to carry out paragraph (2), except that any amounts that remain unexpended for such purpose for each of such fiscal years may be available for technical assistance and administration costs for the Upward Bound program. The authority to award grants under this subsection shall expire at the end of fiscal year 2011.

(2) Use of funds

The amounts made available by paragraph (1) shall be available to provide assistance to all Upward Bound projects that did not receive assistance in fiscal year 2007 and that have a grant score above 70. Such assistance shall be made available in the form of 4-year grants.

(h) Absolute priority prohibited in Upward Bound Program

Upon enactment of this subsection and except as otherwise expressly provided by amendment to

this section, the Secretary shall not continue, implement, or enforce the absolute priority for the Upward Bound Program published by the Department of Education in the Federal Register on September 22, 2006 (71 Fed. Reg. 55447 et seq.). This subsection shall not be applied retroactively. In implementing this subsection, the Department shall allow the programs and participants chosen in the grant cycle to which the priority applies to continue their grants and participation without a further recompetition. The entities shall not be required to apply the absolute priority conditions or restrictions to future participants.

(Pub. L. 89–329, title IV, §402C, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 487; amended Pub. L. 103–208, §2(b)(10), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, §402(c), Oct. 7, 1998, 112 Stat. 1654; Pub. L. 110–84, title I, §103, Sept. 27, 2007, 121 Stat. 786; Pub. L. 110–315, title IV, §403(c), Aug. 14, 2008, 122 Stat. 3199.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–315, §403(c)(1), added subsec. (b) and struck out former subsec. (b) which related to permissible services.

Subsec. (c). Pub. L. 110–315, §403(c)(2), substituted "Additional required services for multiple-year grant recipients" for "Required services" in heading and "project assisted under this section" for "upward bound project assisted under this division" in text.

Subsec. (d). Pub. L. 110–315, §403(c)(4), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 110–315, §403(c)(3), (5)(A), redesignated subsec. (d) as (e) and substituted "projects under this section" for "upward bound projects under this division" in introductory provisions. Former subsec. (e) redesignated (f).

Subsec. (e)(2). Pub. L. 110–315, §403(c)(5)(B), substituted "low-income individuals, first generation college students, or students who have a high risk for academic failure;" for "either low-income individuals or first generation college students;".

Subsec. (e)(5). Pub. L. 110–315, §403(c)(5)(C)–(E), added par. (5).

Subsec. (f). Pub. L. 110–315, §403(c)(3), (6), redesignated subsec. (e) as (f) and substituted "during the summer school recess, for a period not to exceed three months" for "during June, July, and August" in two places, and "subsection (d)(5)" for "subsection (b)(10)". Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 110–315, §403(c)(3), redesignated subsec. (f) as (g).

Subsec. (h). Pub. L. 110–315, §403(c)(7), added subsec. (h).

2007—Subsec. (f). Pub. L. 110–84 added subsec. (f).

1998—Subsec. (b)(2). Pub. L. 105–244, §402(c)(1)(A), substituted "counseling and workshops" for "personal counseling".

Subsec. (b)(9). Pub. L. 105–244, §402(c)(1)(B), inserted "or counselors" after "teachers" and struck out "and" after semicolon.

Subsec. (b)(10), (11). Pub. L. 105–244, §402(c)(1)(D), added pars. (10) and (11). Former par. (10) redesignated (12).

Subsec. (b)(12). Pub. L. 105–244, §402(c)(1)(E), substituted "(11)" for "(9)".

Pub. L. 105–244, §402(c)(1)(C), redesignated par. (10) as (12).

Subsec. (e). Pub. L. 105–244, §402(c)(2), substituted "except that youth participating in a work-study position under subsection (b)(10) of this section may be paid a stipend of $300 per month during June, July, and August. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year." for "and not in excess of $40 per month during the remaining period of the year."

1993—Subsec. (c). Pub. L. 103–208 substituted "foreign" for "and foreign".

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992,

Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1070a–14. Student support services

(a) Program authority

The Secretary shall carry out a program to be known as student support services which shall be designed—

(1) to increase college retention and graduation rates for eligible students;

(2) to increase the transfer rates of eligible students from 2-year to 4-year institutions;

(3) to foster an institutional climate supportive of the success of students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 11434a of title 42), students who are in foster care or are aging out of the foster care system, or other disconnected students; and

(4) to improve the financial literacy and economic literacy of students, including—

(A) basic personal income, household money management, and financial planning skills; and

(B) basic economic decisionmaking skills.

(b) Required services

A project assisted under this section shall provide—

(1) academic tutoring, directly or through other services provided by the institution, to enable students to complete postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(2) advice and assistance in postsecondary course selection;

(3)(A) information on both the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 1090(a) of this title;

(4) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;

(5) activities designed to assist students participating in the project in applying for admission to, and obtaining financial assistance for enrollment in, graduate and professional programs; and

(6) activities designed to assist students enrolled in two-year institutions of higher education in applying for admission to, and obtaining financial assistance for enrollment in, a four-year program of postsecondary education.

(c) Permissible services

A project assisted under this section may provide services such as—

(1) individualized counseling for personal, career, and academic matters provided by assigned counselors;

(2) information, activities, and instruction designed to acquaint students participating in the project with the range of career options available to the students;

(3) exposure to cultural events and academic programs not usually available to disadvantaged students;

(4) mentoring programs involving faculty or upper class students, or a combination thereof;

(5) securing temporary housing during breaks in the academic year for—

(A) students who are homeless children and youths (as such term is defined in section 11434a of title 42) or were formerly homeless children and youths; and

(B) students who are in foster care or are aging out of the foster care system; and

(6) programs and activities as described in subsection (b) or paragraphs (1) through (4) of this

subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 11434a of title 42), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(d) Special rule

(1) Use for student aid

A recipient of a grant that undertakes any of the permissible services identified in subsection (c) may, in addition, use such funds to provide grant aid to students. A grant provided under this paragraph shall not exceed the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student is eligible, or be less than the minimum Federal Pell Grant amount described in section 1070a(b)(4) of this title, for the current academic year. In making grants to students under this subsection, an institution shall ensure that adequate consultation takes place between the student support service program office and the institution's financial aid office.

(2) Eligible students

For purposes of receiving grant aid under this subsection, eligible students shall be current participants in the student support services program offered by the institution and be—

(A) students who are in their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1 of part A of this subchapter; or

(B) students who have completed their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1 of part A of this subchapter if the institution demonstrates to the satisfaction of the Secretary that—

(i) these students are at high risk of dropping out; and

(ii) it will first meet the needs of all its eligible first- and second-year students for services under this paragraph.

(3) Determination of need

A grant provided to a student under paragraph (1) shall not be considered in determining that student's need for grant or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, except that in no case shall the total amount of student financial assistance awarded to a student under this subchapter exceed that student's cost of attendance, as defined in section 1087ll of this title.

(4) Matching required

A recipient of a grant who uses such funds for the purpose described in paragraph (1) shall match the funds used for such purpose, in cash, from non-Federal funds, in an amount that is not less than 33 percent of the total amount of funds used for that purpose. This paragraph shall not apply to any grant recipient that is an institution of higher education eligible to receive funds under part A or B of subchapter III or subchapter V of this chapter.

(5) Reservation

In no event may a recipient use more than 20 percent of the funds received under this section for grant aid.

(6) Supplement, not supplant

Funds received by a grant recipient that are used under this subsection shall be used to supplement, and not supplant, non-Federal funds expended for student support services programs.

(e) Requirements for approval of applications

In approving applications for projects under this section for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be individuals with disabilities; or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or individuals with disabilities;

(3) require an assurance that not less than one-third of the individuals with disabilities participating in the project be low-income individuals;

(4) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(5) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

(6) consider, in addition to such other criteria as the Secretary may prescribe, the institution's effort, and where applicable past history, in—

(A) providing sufficient financial assistance to meet the full financial need of each student in the project; and

(B) maintaining the loan burden of each such student at a manageable level.

(Pub. L. 89–329, title IV, §402D, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 488; amended Pub. L. 103–208, §2(b)(11), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, §402(d), Oct. 7, 1998, 112 Stat. 1655; Pub. L. 106–554, §1(a)(1) [title III, §317(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–48; Pub. L. 110–315, title IV, §403(d), Aug. 14, 2008, 122 Stat. 3201; Pub. L. 111–152, title II, §2101(b)(2), Mar. 30, 2010, 124 Stat. 1073.)

AMENDMENTS

2010—Subsec. (d)(1). Pub. L. 111–152 substituted "exceed the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student is eligible, or be less than the minimum Federal Pell Grant amount described in section 1070a(b)(4) of this title, for" for "exceed the maximum appropriated Pell Grant or, be less than the minimum appropriated Pell Grant, for".

2008—Subsec. (a)(3), (4). Pub. L. 110–315, §403(d)(1), added pars. (3) and (4) and struck out former par. (3) which read as follows: "to foster an institutional climate supportive of the success of low-income and first generation college students and individuals with disabilities."

Subsec. (b). Pub. L. 110–315, §403(d)(3), added subsec. (b) and struck out former subsec. (b) which related to permissible services.

Subsecs. (c), (d). Pub. L. 110–315, §403(d)(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 110–315, §403(d)(4), substituted "subsection (c)" for "subsection (b)".

Subsec. (e). Pub. L. 110–315, §403(d)(2), (5), redesignated subsec. (d) as (e) and substituted "projects under this section" for "student support services projects under this division" in introductory provisions.

2000—Subsecs. (c), (d). Pub. L. 106–554 added subsec. (c) and redesignated former subsec. (c) as (d).

1998—Subsec. (c)(6). Pub. L. 105–244 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will be offered sufficient financial assistance to meet that student's full financial need."

1993—Subsec. (c)(2). Pub. L. 103–208 struck out "either" after "application".

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–152 effective July 1, 2010, see section 2101(c) of Pub. L. 111–152, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(1) [title III, §317(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–49, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to student support services grants awarded on or after the date of enactment of this Act [Dec. 21, 2000]."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244,

see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1070a–15. Postbaccalaureate achievement program authority

(a) Program authority

The Secretary shall carry out a program to be known as the "Ronald E. McNair Postbaccalaureate Achievement Program" that shall be designed to provide disadvantaged college students with effective preparation for doctoral study.

(b) Required services

A project assisted under this section shall provide—

(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

(2) summer internships;

(3) seminars and other educational activities designed to prepare students for doctoral study;

(4) tutoring;

(5) academic counseling; and

(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

(c) Permissible services

A project assisted under this section may provide services such as—

(1) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;

(2) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

(3) exposure to cultural events and academic programs not usually available to disadvantaged students.

(d) Requirements

In approving applications for projects assisted under this section for any fiscal year, the Secretary shall require—

(1) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education, including—

(A) Alaska Natives, as defined in section 7546 of this title;

(B) Native Hawaiians, as defined in section 7517 of this title; and

(C) Native American Pacific Islanders, as defined in section 1059g of this title;

(3) an assurance that participants be enrolled in a degree program at an eligible institution having an agreement with the Secretary in accordance with the provisions of section 1094 of this title; and

(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

(e) Award considerations

In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this section—

(1) the quality of research and other scholarly activities in which students will be involved;

(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this section.

(f) Maximum stipends

Students participating in research under a project under this section may receive an award that—

(1) shall include a stipend not to exceed $2,800 per annum; and

(2) may include, in addition, the costs of summer tuition, summer room and board, and transportation to summer programs.

(g) Funding

From amounts appropriated pursuant to the authority of section 1070a–11(g) of this title, the Secretary shall, to the extent practicable, allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 2009 through 2014.

(Pub. L. 89–329, title IV, §402E, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 489; amended Pub. L. 105–244, title IV, §402(e), Oct. 7, 1998, 112 Stat. 1655; Pub. L. 110–315, title IV, §403(e), Aug. 14, 2008, 122 Stat. 3203; Pub. L. 111–39, title IV, §401(a)(5), July 1, 2009, 123 Stat. 1938; Pub. L. 114–95, title IX, §9215(oo)(7), Dec. 10, 2015, 129 Stat. 2179.)

AMENDMENTS

2015—Subsec. (d)(2)(A). Pub. L. 114–95, §9215(oo)(7)(A), made technical amendment to reference in original act which appears in text as reference to section 7546 of this title.

Subsec. (d)(2)(B). Pub. L. 114–95, §9215(oo)(7)(B), made technical amendment to reference in original act which appears in text as reference to section 7517 of this title.

2009—Subsec. (d)(2)(C). Pub. L. 111–39 struck out period before semicolon at end.

2008—Subsec. (b). Pub. L. 110–315, §403(e)(1)(A), (B), inserted "Required" before "services" in heading and, in introductory provisions, substituted "A project assisted under this section shall provide—" for "A postbaccalaureate achievement project assisted under this section may provide services such as—".

Subsec. (b)(5) to (8). Pub. L. 110–315, §403(e)(1)(C)–(E), inserted "and" after the semicolon in par. (5), substituted a period for the semicolon in par. (6), and struck out pars. (7) and (8) which read as follows:

"(7) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

"(8) exposure to cultural events and academic programs not usually available to disadvantaged students."

Subsec. (c). Pub. L. 110–315, §403(e)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 110–315, §403(e)(2), (4)(A), redesignated subsec. (c) as (d) and struck out "postbaccalaureate achievement" after "applications for" in introductory provisions. Former subsec. (d) redesignated (e).

Subsec. (d)(2). Pub. L. 110–315, §403(e)(4)(B), inserted ", including—" and added subpars. (A) to (C) before semicolon.

Subsec. (e). Pub. L. 110–315, §403(e)(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 110–315, §403(e)(2), (5), redesignated subsec. (e) as (f) and substituted "project under this section" for "postbaccalaureate achievement project" in introductory provisions. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 110–315, §403(e)(2), (6), redesignated subsec. (f) as (g) and substituted "section 1070a–11(g)" for "section 1070a–11(f)" and "2009 through 2014" for "1993 through 1997".

1998—Subsec. (e)(1). Pub. L. 105–244 substituted "$2,800" for "$2,400".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug.

14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1070a–16. Educational opportunity centers

(a) Program authority; services provided

The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education;

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers; and

(3) to improve the financial literacy and economic literacy of students, including—

(A) basic personal income, household money management, and financial planning skills; and

(B) basic economic decisionmaking skills.

(b) Permissible services

An educational opportunity center assisted under this section may provide services such as—

(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

(2) academic advice and assistance in course selection;

(3) assistance in completing college admission and financial aid applications;

(4) assistance in preparing for college entrance examinations;

(5) education or counseling services designed to improve the financial literacy and economic literacy of students;

(6) guidance on secondary school reentry or entry to a general educational development (GED) program or other alternative education programs for secondary school dropouts;

(7) individualized personal, career, and academic counseling;

(8) tutorial services;

(9) career workshops and counseling;

(10) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(11) programs and activities as described in paragraphs (1) through (10) that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 11434a of title 42), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(c) Requirements for approval of applications

In approving applications for educational opportunity centers under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 1070a–12 of this title; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 1070a–12 of this title.

(Pub. L. 89–329, title IV, §402F, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 490; amended Pub. L. 110–315, title IV, §403(f), Aug. 14, 2008, 122 Stat. 3203.)

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110–315, §403(f)(1), added par. (3).

Subsec. (b)(5), (6). Pub. L. 110–315, §403(f)(2)(A), (B), added par. (5) and redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (b)(7). Pub. L. 110–315, §403(f)(2)(C), added par. (7) and struck out former par. (7) which read as follows: "personal counseling;".

Pub. L. 110–315, §403(f)(2)(A), redesignated former par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (b)(8) to (10). Pub. L. 110–315, §403(f)(2)(A), redesignated pars. (7) to (9) as (8) to (10), respectively. Former par. (10) redesignated (11).

Subsec. (b)(11). Pub. L. 110–315, §403(f)(2)(D), added par. (11) and struck out former par. (11) which read as follows: "programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency."

Pub. L. 110–315, §403(f)(2)(A), redesignated par. (10) as (11).

§1070a–17. Staff development activities

(a) Secretary's authority

For the purpose of improving the operation of the programs and projects authorized by this division, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, participating in, or preparing for employment in, such programs and projects.

(b) Contents of training programs

Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Such training shall be offered annually for new directors of projects funded under this division as well as annually on the following topics and other topics chosen by the Secretary:

(1) Legislative and regulatory requirements for the operation of programs funded under this division.

(2) Assisting students in receiving adequate financial aid from programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42 and other programs.

(3) The design and operation of model programs for projects funded under this division.

(4) The use of appropriate educational technology in the operation of projects assisted under this division.

(5) Strategies for recruiting and serving hard to reach populations, including students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 11434a of title 42), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(c) Consultation

Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

(Pub. L. 89–329, title IV, §402G, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 491; amended Pub. L. 105–244, title IV, §402(f), Oct. 7, 1998, 112 Stat. 1655; Pub. L. 110–315, title IV, §403(g), Aug. 14, 2008, 122 Stat. 3204.)

AMENDMENTS

2008—Subsec. (b)(5). Pub. L. 110–315 added par. (5).

1998—Subsec. (a). Pub. L. 105–244, §402(f)(1), inserted "participating in," after "leadership personnel employed in,".

Subsec. (b)(4). Pub. L. 105–244, §402(f)(2), added par. (4).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1070a–18. Reports, evaluations, and grants for project improvement and dissemination

(a) Reports to the authorizing committees

(1) In general

The Secretary shall submit annually, to the authorizing committees, a report that documents the performance of all programs funded under this division. Such report shall—

(A) be submitted not later than 12 months after the eligible entities receiving funds under this division are required to report their performance to the Secretary;

(B) focus on the programs' performance on the relevant outcome criteria determined under section 1070a–11(f)(4) of this title;

(C) aggregate individual project performance data on the outcome criteria in order to provide national performance data for each program;

(D) include, when appropriate, descriptive data, multi-year data, and multi-cohort data; and

(E) include comparable data on the performance nationally of low-income students, first-generation students, and students with disabilities.

(2) Information

The Secretary shall provide, with each report submitted under paragraph (1), information on the impact of the secondary review process described in section 1070a–11(c)(8)(C)(iv) of this title, including the number and type of secondary reviews, the disposition of the secondary reviews, the effect on timing of awards, and any other information the Secretary determines is necessary.

(b) Evaluations

(1) In general

(A) Authorization of grants and contracts

For the purpose of improving the effectiveness of the programs and projects assisted under this division, the Secretary shall make grants to, or enter into contracts with, institutions of higher education and other public and private institutions and organizations to rigorously evaluate the effectiveness of the programs and projects assisted under this division, including a rigorous evaluation of the programs and projects assisted under section 1070a–13 of this title. The evaluation of the programs and projects assisted under section 1070a–13 of this title shall be implemented not later than June 30, 2010.

(B) Content of upward bound evaluation

The evaluation of the programs and projects assisted under section 1070a–13 of this title that is described in subparagraph (A) shall examine the characteristics of the students who benefit most from the Upward Bound program under section 1070a–13 of this title and the characteristics of the programs and projects that most benefit students.

(C) Implementation

Each evaluation described in this paragraph shall be implemented in accordance with the requirements of this section.

(2) Practices

(A) In general

The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are effective in—

(i) enhancing the access of low-income individuals and first-generation college students to postsecondary education;

(ii) the preparation of such individuals and students for postsecondary education; and

(iii) fostering the success of the individuals and students in postsecondary education.

(B) Primary purpose

Any evaluation conducted under this division shall have as the evaluation's primary purpose the identification of particular practices that further the achievement of the outcome criteria determined under section 1070a–11(f)(4) of this title.

(C) Dissemination and use of evaluation findings

The Secretary shall disseminate to eligible entities and make available to the public the practices identified under subparagraph (B). The practices may be used by eligible entities that receive assistance under this division after the dissemination.

(3) Special rule related to evaluation participation

The Secretary shall not require an eligible entity, as a condition for receiving, or that receives, assistance under any program or project under this division to participate in an evaluation under this section that—

(A) requires the eligible entity to recruit additional students beyond those the program or project would normally recruit; or

(B) results in the denial of services for an eligible student under the program or project.

(4) Consideration

When designing an evaluation under this subsection, the Secretary shall continue to consider—

(A) the burden placed on the program participants or the eligible entity; and

(B) whether the evaluation meets generally accepted standards of institutional review boards.

(c) Grants

The Secretary may award grants to institutions of higher education or other private and public institutions and organizations, that are carrying out a program or project assisted under this division prior to October 7, 1998, to enable the institutions and organizations to expand and leverage the success of such programs or projects by working in partnership with other institutions, community-based organizations, or combinations of such institutions and organizations, that are not receiving assistance under this division and are serving low-income students and first generation college students, in order to—

(1) disseminate and replicate best practices of programs or projects assisted under this division; and

(2) provide technical assistance regarding programs and projects assisted under this division.

(d) Results

In order to improve overall program or project effectiveness, the results of evaluations and grants described in this section shall be disseminated by the Secretary to similar programs or projects assisted under this subpart, as well as other individuals concerned with postsecondary access for and retention of low-income individuals and first-generation college students.

(Pub. L. 89–329, title IV, §402H, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 491; amended Pub. L. 105–244, title IV, §402(g), Oct. 7, 1998, 112 Stat. 1655; Pub. L. 110–315, title IV, §403(h), Aug. 14, 2008, 122 Stat. 3204.)

AMENDMENTS

2008—Pub. L. 110–315, §403(h)(1), substituted "Reports, evaluations, and grants for project improvement and dissemination" for "Evaluations and grants for project improvement and dissemination partnership projects" in section catchline.

Subsec. (a). Pub. L. 110–315, §403(h)(3), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 110–315, §403(h)(2), (4), redesignated subsec. (a) as (b), added pars. (1) to (4), and struck out former pars. (1) and (2) which read as follows:

"(1) IN GENERAL.—For the purpose of improving the effectiveness of the programs and projects assisted under this division, the Secretary may make grants to or enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the programs and projects assisted under this division.

"(2) PRACTICES.—The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are particularly effective in enhancing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of the individuals and students for postsecondary education, and the success of the individuals and students in postsecondary education. Such evaluations shall also investigate the effectiveness of alternative and innovative methods within Federal TRIO programs of increasing access to, and retention of, students in postsecondary education."

Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 110–315, §403(h)(2), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

1998—Pub. L. 105–244 amended section generally, revising and restating former subsecs. (a) to (c) relating to evaluation for project improvement.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Division 2—Gaining Early Awareness and Readiness for Undergraduate Programs

CODIFICATION

Chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965, comprising this division, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 492, and amended by Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105. Chapter 2 is shown herein, however, as having been added by Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1656, without reference to those intervening amendments because of the extensive revision of chapter 2 by Pub. L. 105–244.

§1070a–21. Early intervention and college awareness program authorized

(a) Program authorized

The Secretary is authorized, in accordance with the requirements of this division, to establish a program that encourages eligible entities to provide support, and maintain a commitment, to eligible low-income students, including students with disabilities, to assist the students in obtaining a secondary school diploma (or its recognized equivalent) and to prepare for and succeed in postsecondary education, by providing—

(1) financial assistance, academic support, additional counseling, mentoring, outreach, and supportive services to secondary school students, including students with disabilities, to reduce—

(A) the risk of such students dropping out of school; or

(B) the need for remedial education for such students at the postsecondary level; and

(2) information to students and their families about the advantages of obtaining a postsecondary education and, college financing options for the students and their families.

(b) Awards

(1) In general

From funds appropriated under section 1070a–28 of this title for each fiscal year, the Secretary shall make awards to eligible entities described in paragraphs (1) and (2) of subsection (c) of this

section to enable the entities to carry out the program authorized under subsection (a) of this section.

(2) Award period

The Secretary may award a grant under this division to an eligible entity described in paragraphs (1) and (2) of subsection (c) for—

(A) six years; or

(B) in the case of an eligible entity that applies for a grant under this division for seven years to enable the eligible entity to provide services to a student through the student's first year of attendance at an institution of higher education, seven years.

(3) Priority

In making awards to eligible entities described in subsection (c)(1), the Secretary shall—

(A) give priority to eligible entities that—

(i) on the day before August 14, 2008, carried out successful educational opportunity programs under this division (as this division was in effect on such day); and

(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies; and

(B) ensure that students served under this division on the day before August 14, 2008, continue to receive assistance through the completion of secondary school.

(c) "Eligible entity" defined

For the purposes of this division, the term "eligible entity" means—

(1) a State; or

(2) a partnership—

(A) consisting of—

(i) one or more local educational agencies; and

(ii) one or more degree granting institutions of higher education; and

(B) which may include not less than two other community organizations or entities, such as businesses, professional organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.

(Pub. L. 89–329, title IV, §404A, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1656; amended Pub. L. 110–315, title IV, §404(a), Aug. 14, 2008, 122 Stat. 3206.)

PRIOR PROVISIONS

A prior section 1070a–21, Pub. L. 89–329, title IV, §404A, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, §2(b)(12), Dec. 20, 1993, 107 Stat. 2459, authorized establishment of early intervention program, prior to the general amendment of this division by Pub. L. 105–244.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §404(a)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The Secretary is authorized, in accordance with the requirements of this division, to establish a program that—

"(1) encourages eligible entities to provide or maintain a guarantee to eligible low-income students who obtain a secondary school diploma (or its recognized equivalent), of the financial assistance necessary to permit the students to attend an institution of higher education; and

"(2) supports eligible entities in providing—

"(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary school, middle school, and secondary school students who are at risk of dropping out of school; and

"(B) information to students and their parents about the advantages of obtaining a postsecondary education and the college financing options for the students and their parents."

Subsec. (b)(2), (3). Pub. L. 110–315, §404(a)(2), added pars. (2) and (3) and struck out former par. (2)

which related to priority in making awards to eligible entities.

Subsec. (c)(2). Pub. L. 110–315, §404(a)(3), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "a partnership consisting of—

"(A) one or more local educational agencies acting on behalf of—

"(i) one or more elementary schools or secondary schools; and

"(ii) the secondary schools that students from the schools described in clause (i) would normally attend;

"(B) one or more degree granting institutions of higher education; and

"(C) at least two community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4 of this part, or other public or private agencies or organizations."

EFFECTIVE DATE

Division effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

EVALUATION OF TUITION GUARANTY PROGRAMS

Pub. L. 102–325, title XIV, §1407, July 23, 1992, 106 Stat. 819, directed Secretary of Education to conduct study of effectiveness of programs for disadvantaged children that promise the child financial resources needed to pursue postsecondary education in exchange for child's commitment to achieve satisfactory elementary and secondary education, and to submit reports regarding study by June 30, 1996, and by Jan. 1, 1997, to committees of Congress, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

§1070a–22. Requirements

(a) Funding rules

In awarding grants from the amount appropriated under section 1070a–28 of this title for a fiscal year, the Secretary shall make available—

(1) to eligible entities described in section 1070a–21(c)(1) of this title, not less than 33 percent of such amount;

(2) to eligible entities described in section 1070a–21(c)(2) of this title, not less than 33 percent of such amount; and

(3) to eligible entities described in paragraph (1) or (2) of section 1070a–21(c) of this title, the remainder of such amount taking into consideration the number, quality, and promise of the applications for the grants, and, to the extent practicable—

(A) the geographic distribution of such grant awards; and

(B) the distribution of such grant awards between urban and rural applicants.

(b) Coordination

Each eligible entity shall ensure that the activities assisted under this division are, to the extent practicable, coordinated with, and complement and enhance—

(1) services under this division provided by other eligible entities serving the same school district or State; and

(2) related services under other Federal or non-Federal programs.

(c) Designation of fiscal agent

An eligible entity described in section 1070a–21(c)(2) of this title shall designate an institution of higher education or a local educational agency as the fiscal agent for the eligible entity.

(d) Cohort approach

(1) In general

The Secretary shall require that eligible entities described in section 1070a–21(c)(2) of this title—

(A) provide services under this division to at least one grade level of students, beginning not

later than 7th grade, in a participating school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] (or, if an eligible entity determines that it would promote the effectiveness of a program, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 1437a(b)(1) of title 42);

(B) ensure that the services are provided through the 12th grade to students in the participating grade level and provide the option of continued services through the student's first year of attendance at an institution of higher education to the extent the provision of such services was described in the eligible entity's application for assistance under this division; and

(C) provide services under this division to students who have received services under a previous GEAR UP grant award but have not yet completed the 12th grade.

(2) Coordination requirement

In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

(e) Supplement, not supplant

Grant funds awarded under this division shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this division.

(Pub. L. 89–329, title IV, §404B, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1657; amended Pub. L. 106–78, title VII, §752(b)(8), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 110–315, title IV, §404(b), Aug. 14, 2008, 122 Stat. 3207.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (d)(1)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1070a–22, Pub. L. 89–329, title IV, §404B, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, §2(b)(13), (14), Dec. 20, 1993, 107 Stat. 2459, related to State eligibility and State plan, prior to the general amendment of this division by Pub. L. 105–244.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §404(b)(1), added subsec. (a) and struck out former subsec. (a) which related to funding rules.

Subsecs. (b), (c). Pub. L. 110–315, §404(b)(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b). Text read as follows: "Each eligible entity described in section 1070a–21(c)(1) of this title, and each eligible entity described in section 1070a–21(c)(2) of this title that conducts a scholarship component under section 1070a–25 of this title, shall use not less than 25 percent and not more than 50 percent of grant funds received under this division for the early intervention component of an eligible entity's program under this division, except that the Secretary may waive the 50 percent limitation if the eligible entity demonstrates that the eligible entity has another means of providing the students with financial assistance that is described in the plan submitted under section 1070a–23 of this title."

Subsec. (d). Pub. L. 110–315, §404(b)(3), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(1)(B), (C). Pub. L. 110–315, §404(b)(4), inserted "and provide the option of continued services through the student's first year of attendance at an institution of higher education to the extent the provision of such services was described in the eligible entity's application for assistance under this division" after "grade level" in par. (B) and added par. (C).

Subsec. (e). Pub. L. 110–315, §404(b)(2), (5), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "An eligible entity described in section 1070a–21(c)(2) of this title shall

have a full-time program coordinator or a part-time program coordinator, whose primary responsibility is a project under section 1070a–23 of this title."

Subsec. (f). Pub. L. 110–315, §404(b)(2), struck out subsec. (f). Text read as follows: "An eligible entity described in 1070a–21(c)(2) of this title shall ensure that the activities assisted under this division will not displace an employee or eliminate a position at a school assisted under this division, including a partial displacement such as a reduction in hours, wages or employment benefits."

Subsec. (g). Pub. L. 110–315, §404(b)(3), redesignated subsec. (g) as (d).

1999—Subsec. (g)(1)(A). Pub. L. 106–78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act".

§1070a–23. Applications

(a) Application required for eligibility

(1) In general

In order for an eligible entity to qualify for a grant under this division, the eligible entity shall submit to the Secretary an application for carrying out the program under this division.

(2) Contents

Each application submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may reasonably require. Each such application shall, at a minimum—

(A) describe the activities for which assistance under this division is sought, including how the eligible entity will carry out the required activities described in section 1070a–24(a) of this title;

(B) describe, in the case of an eligible entity described in section 1070a–21(c)(2) of this title that chooses to provide scholarships, or an eligible entity described in section 1070a–21(c)(1) of this title, how the eligible entity will meet the requirements of section 1070a–25 of this title;

(C) describe, in the case of an eligible entity described in section 1070a–21(c)(2) of this title that requests a reduced match percentage under subsection (b)(2), how such reduction will assist the entity to provide the scholarships described in subsection (b)(2)(A)(ii);

(D) provide assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 1070a–24 of this title;

(E) provide assurances that activities assisted under this division will not displace an employee or eliminate a position at a school assisted under this division, including a partial displacement such as a reduction in hours, wages, or employment benefits;

(F) describe, in the case of an eligible entity described in section 1070a–21(c)(1) of this title that chooses to use a cohort approach, or an eligible entity described in section 1070a–21(c)(2) of this title, how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 1070a–22(d) of this title, and how the eligible entity will serve the cohorts through grade 12, including—

(i) how vacancies in the program under this division will be filled; and

(ii) how the eligible entity will serve students attending different secondary schools;

(G) describe how the eligible entity will coordinate programs under this division with other existing Federal, State, or local programs to avoid duplication and maximize the number of students served;

(H) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this division;

(I) provide information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit; and

(J) describe the sources of matching funds that will enable the eligible entity to meet the matching requirement described in subsection (b).

(b) Matching requirement

(1) In general

The Secretary shall not approve an application submitted under subsection (a) unless such application—

(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than 50 percent of the cost of the program, which matching funds may be provided in cash or in kind and may be accrued over the full duration of the grant award period, except that the eligible entity shall make substantial progress towards meeting the matching requirement in each year of the grant award period;

(B) specifies the methods by which matching funds will be paid; and

(C) includes provisions designed to ensure that funds provided under this division shall supplement and not supplant funds expended for existing programs.

(2) Special rule

Notwithstanding the matching requirement described in paragraph (1)(A), the Secretary may by regulation modify the percentage requirement described in paragraph (1)(A) for eligible entities described in section 1070a–21(c)(2) of this title. The Secretary may approve an eligible entity's request for a reduced match percentage—

(A) at the time of application—

(i) if the eligible entity demonstrates significant economic hardship that precludes the eligible entity from meeting the matching requirement; or

(ii) if the eligible entity is described in section 1070a–21(c)(2) of this title and requests that contributions to the eligible entity's scholarship fund established under section 1070a–25 of this title be matched on a two to one basis; or

(B) in response to a petition by an eligible entity subsequent to a grant award under this section if the eligible entity demonstrates that the matching funds described in its application are no longer available and the eligible entity has exhausted all revenues for replacing such matching funds.

(c) Methods for complying with matching requirement

An eligible entity may count toward the matching requirement described in subsection (b)(1)(A)—

(1) the amount of the financial assistance obligated to students from State, local, institutional, or private funds under this division, including pre-existing non-Federal financial assistance programs, including—

(A) the amount contributed to a student scholarship fund established under section 1070a–25 of this title; and

(B) the amount of the costs of administering the scholarship program under section 1070a–25 of this title;

(2) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under this division;

(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations; and

(4) other resources recognized by the Secretary, including equipment and supplies, cash contributions from non-Federal sources, transportation expenses, in-kind or discounted program services, indirect costs, and facility usage.

(d) Peer review panels

The Secretary shall convene peer review panels to assist in making determinations regarding the awarding of grants under this division.

(Pub. L. 89–329, title IV, §404C, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1658; amended Pub. L. 110–315, title IV, §404(c), Aug. 14, 2008, 122 Stat. 3208.)

PRIOR PROVISIONS

A prior section 1070a–23, Pub. L. 89–329, title IV, §404C, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 493; amended Pub. L. 103–208, §2(b)(15)–(17), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 104–193, title I, §110(h)(1), Aug. 22, 1996, 110 Stat. 2172, related to early intervention, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–24 of this title.

AMENDMENTS

2008—Pub. L. 110–315, §404(c)(1), substituted "Applications" for "Eligible entity plans" in section catchline.

Subsec. (a). Pub. L. 110–315, §404(c)(2)(A), substituted "Application" for "Plan" in heading.

Subsec. (a)(1). Pub. L. 110–315, §404(c)(2)(B), substituted "an application" for "a plan" and struck out at end "Such plan shall provide for the conduct of a scholarship component if required or undertaken pursuant to section 1070a–25 of this title and an early intervention component required pursuant to section 1070a–24 of this title."

Subsec. (a)(2). Pub. L. 110–315, §404(c)(2)(C), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Each plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation. Each such plan shall—

"(A) describe the activities for which assistance under this division is sought; and

"(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this division."

Subsec. (b)(1). Pub. L. 110–315, §404(c)(3)(A), substituted "an application" for "a plan" and "such application" for "such plan" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 110–315, §404(c)(3)(B), which directed insertion of "and may be accrued over the full duration of the grant award period, except that the eligible entity shall make substantial progress towards meeting the matching requirement in each year of the grant award period" after "in cash or in-kind", was executed by making the insertion after "in cash or in kind" to reflect the probable intent of Congress.

Subsec. (b)(2). Pub. L. 110–315, §404(c)(3)(C), inserted at end "The Secretary may approve an eligible entity's request for a reduced match percentage—" and subpars. (A) and (B).

Subsec. (c)(1). Pub. L. 110–315, §404(c)(4)(A), substituted "obligated to students from State, local, institutional, or private funds under this division, including pre-existing non-Federal financial assistance programs, including—" and subpars. (A) and (B) for "paid to students from State, local, institutional, or private funds under this division;".

Subsec. (c)(4). Pub. L. 110–315, §404(c)(4)(B)–(D), added par. (4).

§1070a–24. Activities

(a) Required activities

Each eligible entity receiving a grant under this division shall provide comprehensive mentoring, outreach, and supportive services to students participating in the programs under this division. Such activities shall include the following:

(1) Providing information regarding financial aid for postsecondary education to participating students in the cohort described in section 1070a–22(d)(1)(A) of this title or to priority students described in subsection (d).

(2) Encouraging student enrollment in rigorous and challenging curricula and coursework, in order to reduce the need for remedial coursework at the postsecondary level.

(3) Improving the number of participating students who—

(A) obtain a secondary school diploma; and

(B) complete applications for and enroll in a program of postsecondary education.

(4) In the case of an eligible entity described in section 1070a–21(c)(1) of this title, providing for the scholarships described in section 1070a–25 of this title.

(b) Permissible activities for States and partnerships

An eligible entity that receives a grant under this division may use grant funds to carry out one or

more of the following activities:

(1) Providing tutors and mentors, who may include adults or former participants of a program under this division, for eligible students.

(2) Conducting outreach activities to recruit priority students described in subsection (d) to participate in program activities.

(3) Providing supportive services to eligible students.

(4) Supporting the development or implementation of rigorous academic curricula, which may include college preparatory, Advanced Placement, or International Baccalaureate programs, and providing participating students access to rigorous core academic courses that reflect challenging State academic standards.

(5) Supporting dual or concurrent enrollment programs between the secondary school and institution of higher education partners of an eligible entity described in section 1070a–21(c)(2) of this title, and other activities that support participating students in—

(A) meeting challenging State academic standards;

(B) successfully applying for postsecondary education;

(C) successfully applying for student financial aid; and

(D) developing graduation and career plans.

(6) Providing special programs or tutoring in science, technology, engineering, or mathematics.

(7) In the case of an eligible entity described in section 1070a–21(c)(2) of this title, providing support for scholarships described in section 1070a–25 of this title.

(8) Introducing eligible students to institutions of higher education, through trips and school-based sessions.

(9) Providing an intensive extended school day, school year, or summer program that offers—

(A) additional academic classes; or

(B) assistance with college admission applications.

(10) Providing other activities designed to ensure secondary school completion and postsecondary education enrollment of at-risk children, such as—

(A) the identification of at-risk children;

(B) after-school and summer tutoring;

(C) assistance to at-risk children in obtaining summer jobs;

(D) academic counseling;

(E) financial literacy and economic literacy education or counseling;

(F) volunteer and parent involvement;

(G) encouraging former or current participants of a program under this division to serve as peer counselors;

(H) skills assessments;

(I) personal and family counseling, and home visits;

(J) staff development; and

(K) programs and activities described in this subsection that are specially designed for students who are limited English proficient.

(11) Enabling eligible students to enroll in Advanced Placement or International Baccalaureate courses, or college entrance examination preparation courses.

(12) Providing services to eligible students in the participating cohort described in section 1070a–22(d)(1)(A) of this title, through the first year of attendance at an institution of higher education.

(13) Fostering and improving parent and family involvement in elementary and secondary education by promoting the advantages of a college education, and emphasizing academic admission requirements and the need to take college preparation courses, through parent engagement and leadership activities.

(14) Disseminating information that promotes the importance of higher education, explains

college preparation and admission requirements, and raises awareness of the resources and services provided by the eligible entities to eligible students, their families, and communities.

(15) In the event that matching funds described in the application are no longer available, engaging entities described in section 1070a–21(c)(2) of this title in a collaborative manner to provide matching resources and participate in other activities authorized under this section.

(c) Additional permissible activities for States

In addition to the required activities described in subsection (a) and the permissible activities described in subsection (b), an eligible entity described in section 1070a–21(c)(1) of this title receiving funds under this division may use grant funds to carry out one or more of the following activities:

(1) Providing technical assistance to—

(A) secondary schools that are located within the State; or

(B) partnerships described in section 1070a–21(c)(2) of this title that are located within the State.

(2) Providing professional development opportunities to individuals working with eligible cohorts of students described in section 1070a–22(d)(1)(A) of this title.

(3) Providing administrative support to help build the capacity of eligible entities described in section 1070a–21(c)(2) of this title to compete for and manage grants awarded under this division.

(4) Providing strategies and activities that align efforts in the State to prepare eligible students to attend and succeed in postsecondary education, which may include the development of graduation and career plans.

(5) Disseminating information on the use of scientifically valid research and best practices to improve services for eligible students.

(6)(A) Disseminating information on effective coursework and support services that assist students in obtaining the goals described in subparagraph (B)(ii).

(B) Identifying and disseminating information on best practices with respect to—

(i) increasing parental involvement; and

(ii) preparing students, including students with disabilities and students who are limited English proficient, to succeed academically in, and prepare financially for, postsecondary education.

(7) Working to align State academic standards and curricula with the expectations of postsecondary institutions and employers.

(8) Developing alternatives to traditional secondary school that give students a head start on attaining a recognized postsecondary credential (including an industry-recognized certificate, an apprenticeship, or an associate's or a bachelor's degree), including school designs that give students early exposure to college-level courses and experiences and allow students to earn transferable college credits or an associate's degree at the same time as a secondary school diploma.

(9) Creating community college programs for drop-outs that are personalized drop-out recovery programs that allow drop-outs to complete a regular secondary school diploma and begin college-level work.

(d) Priority students

For eligible entities not using a cohort approach, the eligible entity shall treat as a priority student any student in secondary school who is—

(1) eligible to be counted under section 6333(c) of this title;

(2) eligible for assistance under a State program funded under part A or E of title IV of the Social Security Act (42 U.S.C. 601 et seq., 670 et seq.);

(3) eligible for assistance under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.); or

(4) otherwise considered by the eligible entity to be a disconnected student.

(e) Allowable providers

In the case of eligible entities described in section 1070a–21(c)(1) of this title, the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4, and other organizations the State determines appropriate.

(Pub. L. 89–329, title IV, §404D, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1659; amended Pub. L. 106–78, title VII, §752(b)(8), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 110–315, title IV, §404(d), Aug. 14, 2008, 122 Stat. 3210.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A and E of title IV of the Act are classified generally to parts A (§601 et seq.) and E (§670 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (d)(3), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482. Subtitle B of title VII of the Act is classified generally to part B (§11431 et seq.) of subchapter VI of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1070a–24, Pub. L. 89–329, title IV, §404D, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, §2(b)(18), (19), Dec. 20, 1993, 107 Stat. 2459, related to scholarship component, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–25 of this title.

AMENDMENTS

2008—Pub. L. 110–315 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) providing for services, use of funds, priority students, and allowable providers relating to early intervention.

1999—Subsec. (c)(2). Pub. L. 106–78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act".

§1070a–25. Scholarship component

(a) In general

(1) States

In order to receive a grant under this division, an eligible entity described in section 1070a–21(c)(1) of this title shall establish or maintain a financial assistance program that awards scholarships to students in accordance with the requirements of this section. The Secretary shall encourage the eligible entity to ensure that a scholarship provided pursuant to this section is available to an eligible student for use at any institution of higher education.

(2) Partnerships

An eligible entity described in section 1070a–21(c)(2) of this title may award scholarships to eligible students in accordance with the requirements of this section.

(b) Limitation

(1) In general

Subject to paragraph (2), each eligible entity described in section 1070a–21(c)(1) of this title that receives a grant under this division shall use not less than 25 percent and not more than 50 percent of the grant funds for activities described in section 1070a–24 of this title (except for the activity described in subsection (a)(4) of such section), with the remainder of such funds to be used for a scholarship program under this section in accordance with such subsection.

(2) Exception

Notwithstanding paragraph (1), the Secretary may allow an eligible entity to use more than 50 percent of grant funds received under this division for such activities, if the eligible entity demonstrates that the eligible entity has another means of providing the students with the financial assistance described in this section and describes such means in the application submitted under section 1070a–23 of this title.

(c) Notification of eligibility

Each eligible entity providing scholarships under this section shall provide information on the eligibility requirements for the scholarships to all participating students upon the students' entry into the programs assisted under this division.

(d) Grant amounts

The maximum amount of a scholarship that an eligible student shall be eligible to receive under this section shall be established by the eligible entity. The minimum amount of the scholarship for each fiscal year shall not be less than the minimum Federal Pell Grant award under section 1070a of this title for such award year.

(e) Portability of assistance

(1) In general

Each eligible entity described in section 1070a–21(c)(1) of this title that receives a grant under this division shall hold in reserve, for the students served by such grant as described in section 1070a–22(d)(1)(A) or 1070a–24(d) of this title, an amount that is not less than the minimum scholarship amount described in subsection (d), multiplied by the number of students the eligible entity estimates will meet the requirements of paragraph (2).

(2) Requirement for portability

Funds held in reserve under paragraph (1) shall be made available to an eligible student when the eligible student has—

(A) completed a secondary school diploma, its recognized equivalent, or another recognized alternative standard for individuals with disabilities; and

(B) enrolled in an institution of higher education.

(3) Qualified educational expenses

Funds available to an eligible student under this subsection may be used for—

(A) tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the eligible student at an institution of higher education; and

(B) in the case of an eligible student with special needs, expenses for special needs services that are incurred in connection with such enrollment or attendance.

(4) Return of funds

(A) Redistribution

(i) In general

Funds held in reserve under paragraph (1) that are not used by an eligible student within six years of the student's scheduled completion of secondary school may be redistributed by the eligible entity to other eligible students.

(ii) Return of excess to the Secretary

If, after meeting the requirements of paragraph (1) and, if applicable, redistributing excess funds in accordance with clause (i) of this subparagraph, an eligible entity has funds held in reserve under paragraph (1) that remain available, the eligible entity shall return such remaining reserved funds to the Secretary for distribution to other grantees under this division in accordance with the funding rules described in section 1070a–22(a) of this title.

(B) Nonparticipating entity

Notwithstanding subparagraph (A), in the case of an eligible entity that does not receive assistance under this subpart for six fiscal years, the eligible entity shall return any funds held in reserve under paragraph (1) that are not awarded or obligated to eligible students to the Secretary for distribution to other grantees under this division.

(f) Relation to other assistance

Scholarships provided under this section shall not be considered for the purpose of awarding Federal grant assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, except that in no case shall the total amount of student financial assistance awarded to a student under this subchapter and part C of subchapter I of chapter 34 of title 42 exceed such student's total cost of attendance.

(g) Eligible students

A student eligible for assistance under this section is a student who—

(1) is less than 22 years old at time of first scholarship award under this section;

(2) receives a secondary school diploma or its recognized equivalent on or after January 1, 1993;

(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries, except that, at the State's option, an eligible entity may offer scholarship program portability for recipients who attend institutions of higher education outside such State; and

(4) who participated in the activities required under section 1070a–24(a) of this title.

(Pub. L. 89–329, title IV, §404E, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1661; amended Pub. L. 110–315, title IV, §404(e), Aug. 14, 2008, 122 Stat. 3213.)

PRIOR PROVISIONS

A prior section 1070a–25, Pub. L. 89–329, title IV, §404E, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, §2(b)(20), Dec. 20, 1993, 107 Stat. 2459, related to distribution of funds, prior to the general amendment of this division by Pub. L. 105–244.

AMENDMENTS

2008—Subsecs. (b), (c). Pub. L. 110–315, §404(e)(3), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (f), respectively.

Subsec. (d). Pub. L. 110–315, §404(e)(4), substituted "the minimum Federal Pell Grant award under section 1070a of this title for such award year" for "the lesser of—

"(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

"(2) the maximum Federal Pell Grant funded under section 1070a of this title for such fiscal year".

Pub. L. 110–315, §404(e)(2), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (g).

Subsec. (e). Pub. L. 110–315, §404(e)(1), (5), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "The Secretary shall ensure that each eligible entity places a priority on awarding scholarships to students who will receive a Federal Pell Grant for the academic year for which the scholarship is awarded under this section."

Subsec. (f). Pub. L. 110–315, §404(e)(1), (2), redesignated subsec. (c) as (f) and struck out former subsec. (f). Text read as follows: "An eligible entity may consider students who have successfully participated in programs funded under division 1 of this subpart to have met the requirements of subsection (d)(4) of this section."

Subsec. (g). Pub. L. 110–315, §404(e)(2), redesignated subsec. (d) as (g).

Subsec. (g)(4). Pub. L. 110–315, §404(e)(6), substituted "activities required under section 1070a–24(a) of this title" for "early intervention component required under section 1070a–24 of this title".

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §404(i), as added by Pub. L. 111–39, title IV, §401(c), July 1, 2009, 123 Stat. 1940, provided that:

"(1) IN GENERAL.—The amendments made by subsection (e) [amending this section] shall apply to grants made under chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C.

1070a–21 et seq.) on or after the date of enactment of this Act [Aug. 14, 2008], except that a recipient of a grant under such chapter that is made prior to such date may elect to apply the requirements contained in the amendments made by subsection (e) to that grant if the grant recipient informs the Secretary of the election.

"(2) SPECIAL RULE.—A grant recipient may make the election described in paragraph (1) only if the election does not decrease the amount of the scholarship promised to an individual student under the grant."

§1070a–26. 21st Century Scholar Certificates

(a) In general

An eligible entity that receives a grant under this division shall provide certificates, to be known as 21st Century Scholar Certificates, to all students served by the eligible entity who are participating in a program under this division.

(b) Information required

A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college and the estimated amount of any scholarship provided under section 1070a–25 of this title, if applicable, that a student may be eligible to receive.

(Pub. L. 89–329, title IV, §404F, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1662; amended Pub. L. 106–78, title VII, §752(b)(8), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 110–315, title IV, §404(f), Aug. 14, 2008, 122 Stat. 3214.)

PRIOR PROVISIONS

A prior section 1070a–26, Pub. L. 89–329, title IV, §404F, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, §2(b)(21), (22), Dec. 20, 1993, 107 Stat. 2459, related to evaluation and report, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–27 of this title.

AMENDMENTS

2008—Pub. L. 110–315 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b), which related to the provision of 21st Century Scholar Certificates and required that such Certificates be personalized for each student.

1999—Subsec. (a)(2). Pub. L. 106–78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act".

§1070a–27. Evaluation and report

(a) Evaluation

Each eligible entity receiving a grant under this division shall biennially evaluate the activities assisted under this division in accordance with the standards described in subsection (b) of this section and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the activities and shall be consistent with the standards developed by the Secretary pursuant to subsection (b) of this section.

(b) Evaluation standards

The Secretary shall prescribe standards for the evaluation described in subsection (a) of this section. Such standards shall—

(1) provide for input from eligible entities and service providers; and

(2) ensure that data protocols and procedures are consistent and uniform.

(c) Federal evaluation

In order to evaluate and improve the impact of the activities assisted under this division, the Secretary shall, from not more than 0.75 percent of the funds appropriated under section 1070a–28 of this title for a fiscal year, award one or more grants, contracts, or cooperative agreements to or with

public and private institutions and organizations, to enable the institutions and organizations to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation. Such evaluation shall include a separate analysis of—

(1) the implementation of the scholarship component described in section 1070a–25 of this title; and

(2) the use of methods for complying with matching requirements described in paragraphs (1) and (2) of section 1070a–23(c) of this title.

(d) Report

The Secretary shall biennially report to Congress regarding the activities assisted under this division and the evaluations conducted pursuant to this section.

(Pub. L. 89–329, title IV, §404G, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1662; amended Pub. L. 110–315, title IV, §404(g), Aug. 14, 2008, 122 Stat. 3215.)

PRIOR PROVISIONS

A prior section 1070a–27, Pub. L. 89–329, title IV, §404G, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, §2(b)(23), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 103–382, title III, §354, Oct. 20, 1994, 108 Stat. 3967, authorized appropriations for grants under this division, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–28 of this title.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–315 inserted at end "Such evaluation shall include a separate analysis of—" and pars. (1) and (2).

§1070a–28. Authorization of appropriations

There are authorized to be appropriated to carry out this division $400,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(Pub. L. 89–329, title IV, §404H, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1663; amended Pub. L. 110–315, title IV, §404(h), Aug. 14, 2008, 122 Stat. 3215.)

AMENDMENTS

2008—Pub. L. 110–315 substituted "$400,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years" for "$200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years".

Division 3—[Repealed]

CODIFICATION

Chapter 3 of subpart 2 of part A of title IV of the Higher Education Act of 1965, which comprised this division, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 497. Chapter 3, which related to academic achievement incentive scholarships, was set out as having been added by Pub. L. 105–244, title IV, §404, Oct. 7, 1998, 112 Stat. 1663, without reference to Pub. L. 102–325 because of the extensive revision of chapter 3 by Pub. L. 105–244.

§§1070a–31 to 1070a–35. Repealed. Pub. L. 110–315, title IV, §405, Aug. 14, 2008, 122 Stat. 3215

Section 1070a–31, Pub. L. 89–329, title IV, §406A, as added Pub. L. 105–244, title IV, §404, Oct. 7, 1998, 112 Stat. 1663, authorized scholarships to students who graduate from secondary school after May 1, 2000.

A prior section 1070a–31, Pub. L. 89–329, title IV, §406A, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 497, authorized award of Presidential Access Scholarships, prior to the general

amendment of this division by Pub. L. 105–244.

Section 1070a–32, Pub. L. 89–329, title IV, §406B, as added Pub. L. 105–244, title IV, §404, Oct. 7, 1998, 112 Stat. 1663, related to scholarship program requirements.

A prior section 1070a–32, Pub. L. 89–329, title IV, §406B, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 497, related to scholarship program requirements, prior to the general amendment of this division by Pub. L. 105–244.

Section 1070a–33, Pub. L. 89–329, title IV, §406C, as added Pub. L. 105–244, title IV, §404, Oct. 7, 1998, 112 Stat. 1664, related to eligibility of scholars.

A prior section 1070a–33, Pub. L. 89–329, title IV, §406C, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 497, related to eligibility of scholars, prior to the general amendment of this division by Pub. L. 105–244.

Section 1070a–34, Pub. L. 89–329, title IV, §406D, as added Pub. L. 105–244, title IV, §404, Oct. 7, 1998, 112 Stat. 1664, related to student requirements.

A prior section 1070a–34, Pub. L. 89–329, title IV, §406D, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 498, related to eligible early intervention programs, prior to the general amendment of this division by Pub. L. 105–244.

Section 1070a–35, Pub. L. 89–329, title IV, §407E [406E], as added Pub. L. 105–244, title IV, §404, Oct. 7, 1998, 112 Stat. 1664, authorized appropriations for fiscal year 1999 and the 4 succeeding fiscal years.

A prior section 1070a–35, Pub. L. 89–329, title IV, §406E, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 498, related to student eligibility, prior to the general amendment of this division by Pub. L. 105–244.

Prior sections 1070a–36 and 1070a–37 were omitted in the general amendment of this division by Pub. L. 105–244.

Section 1070a–36, Pub. L. 89–329, title IV, §406F, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 499, related to early intervention scholarship agreement.

Section 1070a–37, Pub. L. 89–329, title IV, §406G, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 499, authorized appropriations to carry out this division.

Division 4—Model Program Community Partnership and Counseling Grants

§§1070a–41 to 1070a–43. Repealed. Pub. L. 105–244, title IV, §405, Oct. 7, 1998, 112 Stat. 1664

Section 1070a–41, Pub. L. 89–329, title IV, §408A, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 500, authorized grants to develop model programs.

Section 1070a–42, Pub. L. 89–329, title IV, §408B, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 500, related to collection and dissemination of information about programs.

Section 1070a–43, Pub. L. 89–329, title IV, §408C, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 501, authorized appropriations to carry out this division.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

Division 5—Public Information

§§1070a–51 to 1070a–53. Repealed. Pub. L. 105–244, title IV, §405, Oct. 7, 1998, 112 Stat. 1664

Section 1070a–51, Pub. L. 89–329, title IV, §409A, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 501; amended Pub. L. 103–208, §2(b)(24), Dec. 20, 1993, 107 Stat. 2459, authorized contract

to establish and maintain database and information line.

Section 1070a–52, Pub. L. 89–329, title IV, §409B, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 501, related to early awareness information program.

Section 1070a–53, Pub. L. 89–329, title IV, §409C, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 502, authorized appropriations to carry out this division.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

Division 6—National Student Savings Demonstration Program

§1070a–61. Repealed. Pub. L. 105–244, title IV, §405, Oct. 7, 1998, 112 Stat. 1664

Section, Pub. L. 89–329, title IV, §410A, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 502, related to national student savings demonstration program.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

Division 7—Preeligibility Form

§1070a–71. Repealed. Pub. L. 105–244, title IV, §405, Oct. 7, 1998, 112 Stat. 1664

Section, Pub. L. 89–329, title IV, §410B, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 503, related to information on eligibility for assistance.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

Division 8—Technical Assistance for Teachers and Counselors

§1070a–81. Repealed. Pub. L. 105–244, title IV, §405, Oct. 7, 1998, 112 Stat. 1664

Section, Pub. L. 89–329, title IV, §410C, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 504, related to technical assistance grants.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

SUBPART 3—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

CODIFICATION

Pub. L. 102–325, title IV, §§402(a)(2), 403(a), July 23, 1992, 106 Stat. 482, 505, redesignated subpart 2 as 3 and inserted "Federal" before "Supplemental" in heading and redesignated former subpart 3 as 4.

§1070b. Purpose; appropriations authorized

(a) Purpose of subpart

It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part E of this subchapter.

(b) Authorization of appropriations

(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 1070b–2(a) of this title, for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which such sums were appropriated.

(Pub. L. 89–329, title IV, §413A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1328; amended Pub. L. 102–325, title IV, §403(b), July 23, 1992, 106 Stat. 505; Pub. L. 105–244, title IV, §406(a), Oct. 7, 1998, 112 Stat. 1664.; Pub. L. 110–315, title IV, §406(a), Aug. 14, 2008, 122 Stat. 3215.)

PRIOR PROVISIONS

A prior section 1070b, Pub. L. 89–329, title IV, §413A, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 251; amended Pub. L. 94–482, title I, §122(a), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–49, §5(a)(3), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §403(a), (b), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1404, 1405, 1503, related to program of supplemental educational opportunity grants purpose, authorization of appropriations, and initial year payment provisions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–315 substituted "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years" for "$675,000,000 for fiscal year 1999 and such sums as may be necessary for the 4 succeeding fiscal years".

1998—Subsec. (b)(1). Pub. L. 105–244 substituted "1999" for "1993".

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally, substituting present provisions for provisions authorizing appropriation of $490,000,000 for fiscal year 1987 and such sums as necessary for 4 succeeding fiscal years.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1070b–1. Amount and duration of grants

(a) Amount of grant

(1) Except as provided in paragraph (3), from the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part E of this subchapter,

to be needed by that student to enable the student to pursue a course of study at the institution or in a program of study abroad that is approved for credit by the institution at which the student is enrolled, or (B) $4,000.

(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution.

(b) Period for receipt of grants; continuing eligibility

(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 1091 of this title, except as provided in section 1070b–2(c) of this title.

(c) Distribution of grant during academic year

Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

(Pub. L. 89–329, title IV, §413B, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1328; amended Pub. L. 102–325, title IV, §403(c), July 23, 1992, 106 Stat. 505.)

PRIOR PROVISIONS

A prior section 1070b–1, Pub. L. 89–329, title IV, §413B, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 252; amended Pub. L. 96–374, title IV, §403(c), Oct. 3, 1980, 94 Stat. 1405, related to amount and duration of supplemental educational opportunity grants, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–325, §403(c)(1), substituted "Except as provided in paragraph (3), from" for "From" in introductory provisions and inserted "or in a program of study abroad that is approved for credit by the institution at which the student is enrolled" after "course of study at the institution" in subpar. (A).

Subsec. (a)(3). Pub. L. 102–325, §403(c)(2), added par. (3).

§1070b–2. Agreements with institutions; selection of recipients

(a) Institutional eligibility

Assistance may be made available under this subpart only to an institution which—

(1) has, in accordance with section 1094 of this title, an agreement with the Secretary applicable to this subpart;

(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

(A) institutional grants and scholarships;

(B) tuition or fee waivers;

(C) State scholarships; and

(D) foundation or other charitable organization funds.

(b) Eligibility for selection

Awards may be made under this subpart only to a student who—

(1) is an eligible student under section 1091 of this title; and

(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

(c) Selection of individuals and determination of amount of awards

(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 1094 of this title, and within the amount allocated to the institution for that purpose for that year under section 1070b–3 of this title, select individuals who are to be awarded such grants and determine, in accordance with section 1070b–1 of this title, the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 1094 of this title, assure that the selection procedures—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 1091 of this title.

(B) For the purpose of subparagraph (A), the term "students with exceptional need" means students with the lowest expected family contributions at the institution.

(d) Use of funds for less-than-full-time students

If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution on less than a full-time basis, then a reasonable proportion of the allocation shall be made available to such students.

(e) Use and transfer of funds for administrative expenses

An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 1096 of this title.

(Pub. L. 89–329, title IV, §413C, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1329; amended Pub. L. 102–325, title IV, §403(d)–(f), July 23, 1992, 106 Stat. 506; Pub. L. 103–208, §2(b)(25), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, §406(b), Oct. 7, 1998, 112 Stat. 1665.)

PRIOR PROVISIONS

A prior section 1070b–2, Pub. L. 89–329, title IV, §413C, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 253; amended Pub. L. 94–482, title I, §122(b), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–374, title IV, §403(d), Oct. 3, 1980, 94 Stat. 1405, related to selection of recipients of supplemental educational opportunity grants and agreements with institutions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–244 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time and if the total financial need of all such students attending the institution exceeds 5 percent of the total financial need of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students."

1993—Subsec. (d). Pub. L. 103–208 substituted "and" for ", a reasonable proportion of the institution's allocation shall be made available to such students, except that" and "5 percent of the total financial need" for "5 percent of the need".

1992—Subsec. (a)(2). Pub. L. 102–325, §403(d), amended par. (2) generally. Prior to amendment, par. (2)

read as follows: "agrees that the Federal share of awards under this subpart will not exceed—

"(A) 95 percent of such awards in fiscal year 1989,

"(B) 90 percent of such awards in fiscal year 1990, and

"(C) 85 percent of such awards in fiscal year 1991,

except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and".

Subsec. (d). Pub. L. 102–325, §403(e), inserted "who are independent students or" after "demonstrated by students" and inserted before period at end ", except that if the total financial need of all such students attending the institution exceeds 5 percent of the need of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students".

Subsec. (e). Pub. L. 102–325, §403(f), struck out before period at end ", and may transfer such funds in accordance with the provisions of section 1095 of this title".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after July 1, 1994, see section 5(b)(6) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes in subsec. (a)(2) of this section, relating to Federal share for supplemental educational opportunity grant program, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 410 of Pub. L. 102–325, set out as a note under section 1070a of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Pub. L. 99–498, title IV, §401(b)(5), Oct. 17, 1986, 100 Stat. 1353, provided that: "Section 413C(c)(2) of the Act [20 U.S.C. 1070b–2(c)(2)] as amended by this section shall apply to the awarding of grants under subpart 2 of part A of title IV of the Act [this subpart] for periods of enrollment beginning on or after July 1, 1987."

§1070b–3. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1070b(b) of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction,

divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate from or transfer to a 4-year institution of higher education.

(b) Allocation of excess based on fair share

(1) From the remainder of the amount appropriated pursuant to section 1070b(b) of this title for each year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (c) of this section), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1070b(b) of this title of the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section.

(c) Determination of institution's need

(1) The amount of an institution's need is equal to—

(A) the sum of the need of the institution's eligible undergraduate students; minus

(B) the sum of grant aid received by students under subparts 1 and 3 [1] of this part.

(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and

independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 75 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3)(A) For purposes of paragraph (2), the term "average cost of attendance" means the average of the attendance costs for undergraduate students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $600.

(d) Reallocation of excess allocations

(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(e) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(Pub. L. 89–329, title IV, §413D, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1330; amended Pub. L. 100–50, §4, June 3, 1987, 101 Stat. 340; Pub. L. 102–325, title IV, §403(g), (h), July 23, 1992, 106 Stat. 506; Pub. L. 103–208, §2(b)(26), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, §406(c)(1), (2), Oct. 7, 1998, 112 Stat. 1665; Pub. L. 110–315, title IV, §406(b), (c), Aug. 14, 2008, 122 Stat. 3215.)

REFERENCES IN TEXT

Subpart 3 of this part, referred to in subsec. (c)(1)(B), was redesignated subpart 4 by Pub. L. 102–325, title IV, §402(a)(2), July 23, 1992, 106 Stat. 482, and former subpart 2 [this subpart] was redesignated as subpart 3.

PRIOR PROVISIONS

A prior section 1070b–3, Pub. L. 89–329, title IV, §413D, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 254; amended Pub. L. 96–374, title IV, §403(e), (f), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1405, 1406, 1503, related to apportionment and allocation of funds for supplemental educational opportunity grants, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–315, §406(c), substituted "such institution received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)" for "such institution received and used under this subpart for fiscal year 1985".

Subsec. (c)(3)(D). Pub. L. 110–315, §406(b), substituted "$600" for "$450".

1998—Subsec. (a)(1). Pub. L. 105–244, §406(c)(1)(A), which directed substitution of "received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)" for "received and used under this part for fiscal year 1985", could not be executed because the phrase "received and used under this part for fiscal year 1985" did not appear in text.

Subsec. (a)(2)(A), (B). Pub. L. 105–244, §406(c)(1)(B)(i), substituted "1999" for "1985" in introductory provisions.

Subsec. (a)(2)(C)(i). Pub. L. 105–244, §406(c)(1)(B)(ii), substituted "2000" for "1986".

Subsec. (b). Pub. L. 105–244, §406(c)(2)(A), (D), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Text read as follows: "From one-quarter of the remainder of the amount appropriated pursuant to section 1070b(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) of this section bears to the amount all such institutions receive under such subsection (a) of this section."

Subsec. (c). Pub. L. 105–244, §406(c)(2)(D), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 105–244, §406(c)(2)(B), substituted "the remainder" for "three-quarters of the remainder".

Subsec. (c)(2)(A)(i). Pub. L. 105–244, §406(c)(2)(C), substituted "subsection (c)" for "subsection (d)".

Subsecs. (d) to (f). Pub. L. 105–244, §406(c)(2)(D), redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d) redesignated (c).

1993—Subsec. (d)(3)(C). Pub. L. 103–208 substituted "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college" for "three-fourths in the Pell Grant family size offset".

1992—Subsec. (a)(4). Pub. L. 102–325, §403(g), added par. (4).

Subsec. (e). Pub. L. 102–325, §403(h), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (d)(2)(D). Pub. L. 100–50, §4(a)(1), added subpar. (D) and struck out former subpar. (D) which read as follows: "multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;".

Subsec. (d)(2)(F). Pub. L. 100–50, §4(a)(2), added subpar. (F) and struck out former subpar. (F) which read as follows: "multiply the number of eligible independent students in each income category by the lesser of—

"(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;".

Subsec. (d)(3)(A). Pub. L. 100–50, §4(b)(1), struck out "and for graduate and professional students" after "undergraduate students".

Subsec. (d)(3)(B). Pub. L. 100–50, §4(b)(2), struck out "and graduate and professional" after "average undergraduate" and struck out "and graduate" after "from undergraduate".

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, §406(c)(3), Oct. 7, 1998, 112 Stat. 1665, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to allocations of amounts appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 [20 U.S.C. 1070b(b)] for fiscal year 2000 or any succeeding fiscal year."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section 401(b)(6) of Pub. L. 99–498, as added by Pub. L. 100–50, §22(a)(2), June 3, 1987, 101 Stat. 361, provided that: "The changes made in section 413D of the Act [this section] shall apply with respect to the allocation of funds for the academic year 1988–1989 and succeeding academic years."

[1] *See References in Text note below.*

§1070b–4. Carryover and carryback authority

(a) Carryover authority

Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out the program under this subpart.

(b) Carryback authority

(1) In general

Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, be used by the institution for expenditure for the fiscal year preceding the fiscal year for which the sums were appropriated.

(2) Use of carried-back funds

An eligible institution may make grants to students after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year's appropriations.

(Pub. L. 89–329, title IV, §413E, as added Pub. L. 105–244, title IV, §406(d), Oct. 7, 1998, 112 Stat. 1665.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

SUBPART 4—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

CODIFICATION

Pub. L. 105–244, title IV, §407(a)(1), Oct. 7, 1998, 112 Stat. 1666, amended heading generally.

Pub. L. 102–325, title IV, §402(a)(1), (2), July 23, 1992, 106 Stat. 482, redesignated former subpart 3 as 4 and repealed former subpart 4, comprising sections 1070d to 1070d–1d, which authorized special programs for students from disadvantaged backgrounds.

§1070c. Purpose; appropriations authorized

(a) Purpose of subpart

It is the purpose of this subpart to make incentive grants available to States to assist States in—

(1) providing grants to—

(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

(B) eligible students for campus-based community service work-study; and

(2) carrying out the activities described in section 1070c–3a of this title.

(b) Authorization of appropriations; availability

(1) In general

There are authorized to be appropriated to carry out this subpart $200,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(2) Reservation

For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess amount shall be available to carry out section 1070c–3a of this title.

(3) Availability

Sums appropriated pursuant to the authority of paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

(Pub. L. 89–329, title IV, §415A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1332; amended Pub. L. 102–325, title IV, §404(a), July 23, 1992, 106 Stat. 506; Pub. L. 105–244, title IV, §407(b), (c)(1), Oct. 7, 1998, 112 Stat. 1666, 1667; Pub. L. 106–554, §1(a)(1) [title III, §316(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–47; Pub. L. 110–315, title IV, §407(a), Aug. 14, 2008, 122 Stat. 3215.)

PRIOR PROVISIONS

A prior section 1070c, Pub. L. 89–329, title IV, §415A, as added Pub. L. 92–318, title I §131(b)(1), June 23, 1972, 86 Stat. 255; amended Pub. L. 94–482, title I, §123(a), (c)(1), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 95–43, §1(b)(3), June 15, 1977, 91 Stat. 218; Pub. L. 96–49, §5(a)(4), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §404(a), Oct. 3, 1980, 94 Stat. 1406, related to purpose and authorization of appropriations for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(1), (2). Pub. L. 110–315 added pars. (1) and (2) and struck out former pars. (1) and (2) which related to appropriations and reservation of funding for section 1070c–3a of this title for fiscal year 1999 and the 4 succeeding fiscal years.

2000—Subsec. (a)(2). Pub. L. 106–554, which directed amendment of section 415 of the Higher Education Act of 1965 in section 415A(a)(2) by substituting "section 1070c–3a of this title" for "section 1070c–4 of this title", was executed by making the substitution in subsec. (a)(2) of this section, which is section 415A of the Higher Education Act of 1965, to reflect the probable intent of Congress.

1998—Subsec. (a). Pub. L. 105–244, §407(c)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "It is the purpose of this subpart to make incentive grants available to States to assist States in providing grants to—

"(1) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

"(2) eligible students for campus-based community service work-study."

Subsec. (b)(1). Pub. L. 105–244, §407(b)(1), substituted "1999" for "1993".

Subsec. (b)(2), (3). Pub. L. 105–244, §407(b)(2), (3), added par. (2) and redesignated former par. (2) as (3).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows:

"(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education and grants to eligible students for campus-based community service work learning study.

"(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—(1) There are authorized to be appropriated $85,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1070c–1. Allotment among States

(a) Allotment based on number of eligible students in attendance

(1) From the sums appropriated pursuant to section 1070c(b)(1) of this title and not reserved under section 1070c(b)(2) of this title for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

(b) Reallotment

The amount of any State's allotment under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such fiscal year for the leveraging educational assistance partnership program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 1070c(b)(1) of this title shall be deemed part of its allotment under subsection (a) of this section for such year.

(c) Allotments subject to continuing compliance

The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 1070c–2(b) of this title.

(Pub. L. 89–329, title IV, §415B, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1333; amended Pub. L. 105–244, title IV, §407(a)(2)(A), (c)(2), Oct. 7, 1998, 112 Stat. 1666, 1667.)

PRIOR PROVISIONS

A prior section 1070c–1, Pub. L. 89–329, title IV, §415B, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94–482, title I, §123(c)(2), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–374, title IV, §404(b), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1407, 1503, related to allotment among States of amounts for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, §407(c)(2), inserted "and not reserved under section 1070c(b)(2) of

this title" after "1070c(b)(1) of this title".

Subsec. (b). Pub. L. 105–244, §407(a)(2)(A), substituted "leveraging educational assistance partnership" for "State student grant incentive".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1070c–2. Applications for leveraging educational assistance partnership programs

(a) Submission and contents of applications

A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) Payment of Federal share of grants made by qualified program

From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not to exceed the lesser of $12,500 or the student's cost of attendance per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

(3) provides that—

(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

(C) grants for such jobs be made in accordance with the provisions of section 2753(b)(1) of title 42;

(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary, except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State;

(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(7) provides that if the State's allocation under this subpart is based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the State's allocation shall be made available to such students;

(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart;

(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through State funds for the program under this subpart; and

(11) provides notification to eligible students that such grants are—

(A) Leveraging Educational Assistance Partnership Grants; and

(B) funded by the Federal Government, the State, and, where applicable, other contributing partners.

(c) Reservation and disbursement of allotments and reallotments

Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(Pub. L. 89–329, title IV, §415C, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1333; amended Pub. L. 102–325, title IV, §404(b)–(d), July 23, 1992, 106 Stat. 507; Pub. L. 103–208, §2(b)(27), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, §407(a)(2)(B), Oct. 7, 1998, 112 Stat. 1666; Pub. L. 110–315, title IV, §407(b), Aug. 14, 2008, 122 Stat. 3215.)

PRIOR PROVISIONS

A prior section 1070c–2, Pub. L. 89–329, title IV, §415C, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94–482, title I, §123(b), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 95–43, §1(a)(6), June 15, 1977, 91 Stat. 213; Pub. L. 95–566, §3, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, §404(c), title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1407, 1503, related to payment of grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110–315, §407(b)(1), substituted "not to exceed the lesser of $12,500 or the student's cost of attendance per academic year" for "not in excess of $5,000 per academic year".

Subsec. (b)(9). Pub. L. 110–315, §407(b)(2), struck out "and" after semicolon.

Subsec. (b)(10). Pub. L. 110–315, §407(b)(3), struck out "a direct appropriation of" before "State funds" and substituted "; and" for period at end.

Subsec. (b)(11). Pub. L. 110–315, §407(b)(4), added par. (11).

1998—Pub. L. 105–244 substituted "leveraging educational assistance partnership" for "State student incentive grant" in section catchline.

1993—Subsec. (b)(7). Pub. L. 103–208 substituted a semicolon for period at end.

1992—Subsec. (b)(2). Pub. L. 102–325, §404(b), substituted "$5,000" for "$2,500".

Subsec. (b)(4). Pub. L. 102–325, §404(c), inserted before semicolon at end ", except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is

payable to an entity other than such State".

Subsec. (b)(7). Pub. L. 102–325, §404(d), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "provides that, if the institution's allocation under this subpart is based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students;".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1070c–3. Administration of State programs; judicial review

(a) Disapproval of applications; suspension of eligibility

(1) The Secretary shall not finally disapprove any application for a State program submitted under section 1070c–2 of this title, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b) Review of decisions

(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, section 1254.

(Pub. L. 89–329, title IV, §415D, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1335.)

PRIOR PROVISIONS

A prior section 1070c–3, Pub. L. 89–329, title IV, §415D, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 257; amended Pub. L. 96–374, title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503, related to administration of State programs and judicial review, prior to the general revision of this part by Pub. L. 99–498.

§1070c–3a. Grants for access and persistence

(a) Purpose

It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties, including community-based organizations, in order to—

(A) carry out activities under this section; and

(B) provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend an institution of higher education;

(2) provide need-based grants for access and persistence to eligible low-income students;

(3) provide early notification to low-income students of the students' eligibility for financial aid; and

(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

(b) Allotments to States

(1) In general

(A) Authorization

From sums reserved under section 1070c(b)(2) of this title for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share, as described in paragraph (2), of the cost of carrying out the activities under subsection (d).

(B) Determination of allotment

In making allotments under subparagraph (A), the Secretary shall consider the following:

(i) Continuation of award

Except as provided in clause (ii), if a State continues to meet the specifications established in such State's application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

(ii) Special continuation and transition rule

If a State that applied for and received an allotment under this section for fiscal year 2010 pursuant to subsection (j) meets the specifications established in the State's application under subsection (c) for fiscal year 2011, then the Secretary shall make an allotment to such State for fiscal year 2011 that is not less than the allotment made pursuant to subsection (j) to such State for fiscal year 2010 under this section (as this section was in effect on the day before August 14, 2008).

(iii) Priority

The Secretary shall give priority in making allotments to States that meet the requirements described in paragraph (2)(B)(ii).

(2) Federal share

(A) In general

The Federal share of the cost of carrying out the activities under subsection (d) for any fiscal year shall not exceed 66.66 percent.

(B) Different percentages

The Federal share under this section shall be determined in accordance with the following:

(i) The Federal share of the cost of carrying out the activities under subsection (d) shall be 57 percent if a State applies for an allotment under this section in partnership with any number of degree-granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, and—

(I) philanthropic organizations that are located in, or that provide funding in, the State; or

(II) private corporations that are located in, or that do business in, the State.

(ii) The Federal share of the cost of carrying out the activities under subsection (d) shall be 66.66 percent if a State applies for an allotment under this section in partnership with any number of degree-granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State, and—

(I) philanthropic organizations that are located in, or that provide funding in, the State; or

(II) private corporations that are located in, or that do business in, the State.

(C) Non-Federal share

(i) In general

The non-Federal share under this section may be provided in cash or in kind, fairly evaluated.

(ii) In-kind contribution

For the purpose of calculating the non-Federal share under this subparagraph, an in-kind contribution is a non-cash contribution that—

(I) has monetary value, such as the provision of—

(aa) room and board; or

(bb) transportation passes; and

(II) helps a student meet the cost of attendance at an institution of higher education.

(iii) Effect on need analysis

For the purpose of calculating a student's need in accordance with part E, an in-kind contribution described in clause (ii) shall not be considered an asset or income of the student or the student's parent.

(c) Application for allotment

(1) In general

(A) Submission

A State that desires to receive an allotment under this section on behalf of a partnership described in paragraph (3) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) Content

An application submitted under subparagraph (A) shall include the following:

(i) A description of the State's plan for using the allotted funds.

(ii) An assurance that the State will provide matching funds, in cash or in kind, from State, institutional, philanthropic, or private funds, of not less than 33.33 percent of the cost of carrying out the activities under subsection (d). The State shall specify the methods by which matching funds will be paid. A State that uses non-Federal funds to create or expand

partnerships with entities described in subsection (a)(1), in which such entities match State funds for student scholarships, may apply such matching funds from such entities toward fulfilling the State's matching obligation under this clause.

(iii) An assurance that the State will use funds provided under this section to supplement, and not supplant, Federal and State funds available for carrying out the activities under this subchapter and part C of subchapter I of chapter 34 of title 42.

(iv) An assurance that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

(v) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of how the State will compile information on degree completion of students receiving grants under this section.

(vi) A description of the steps the State will take to ensure that students who receive grants under this section persist to degree completion.

(vii) An assurance that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 1087ss(c) of this title, to identify eligible low-income students and award State grant aid to such students.

(viii) An assurance that the State will provide notification to eligible low-income students that grants under this section are—

(I) Leveraging Educational Assistance Partnership Grants; and

(II) funded by the Federal Government and the State, and, where applicable, other contributing partners.

(2) State agency

The State agency that submits an application for a State under section 1070c–2(a) of this title shall be the same State agency that submits an application under paragraph (1) for such State.

(3) Partnership

In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

(A) not less than one public and one private degree-granting institution of higher education that are located in the State, if applicable;

(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

(C) not less than one—

(i) philanthropic organization located in, or that provides funding in, the State; or

(ii) private corporation located in, or that does business in, the State.

(4) Roles of partners

(A) State agency

A State agency that is in a partnership receiving an allotment under this section—

(i) shall—

(I) serve as the primary administrative unit for the partnership;

(II) provide or coordinate non-Federal share funds, and coordinate activities among partners;

(III) encourage each institution of higher education in the State to participate in the partnership;

(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

(ii) may provide early information and intervention, mentoring, or outreach programs.

(B) Degree-granting institutions of higher education

A degree-granting institution of higher education that is in a partnership receiving an allotment under this section—

(i) shall—

(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

(II) provide support services to students who receive grants for access and persistence under this section and are enrolled at such institution; and

(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

(C) Programs

An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

(D) Philanthropic organization or private corporation

A philanthropic organization or private corporation that is in a partnership receiving an allotment under this section shall provide funds for grants for access and persistence for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

(d) Authorized activities

(1) In general

(A) Establishment of partnership

Each State receiving an allotment under this section shall use the funds to establish a partnership to award grants for access and persistence to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

(B) Amount of grants

The amount of a grant for access and persistence awarded by a State to a student under this section shall be not less than—

(i) the average undergraduate tuition and mandatory fees at the public institutions of higher education in the State where the student resides that are of the same type of institution as the institution of higher education the student attends; minus

(ii) other Federal and State aid the student receives.

(C) Special rules

(i) Partnership institutions

A State receiving an allotment under this section may restrict the use of grants for access and persistence under this section by awarding the grants only to students attending institutions of higher education that are participating in the partnership.

(ii) Out-of-State institutions

If a State provides grants through another program under this subpart to students attending institutions of higher education located in another State, grants awarded under this section may be used at institutions of higher education located in another State.

(2) Early notification

(A) In general

Each State receiving an allotment under this section shall annually notify low-income

students in grades seven through 12 in the State, and their families, of their potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

(B) Content of notice

The notice under subparagraph (A)—

(i) shall include—

(I) information about early information and intervention, mentoring, or outreach programs available to the student;

(II) information that a student's eligibility for a grant for access and persistence is enhanced through participation in an early information and intervention, mentoring, or outreach program;

(III) an explanation that student and family eligibility for, and participation in, other Federal means-tested programs may indicate eligibility for a grant for access and persistence and other student aid programs;

(IV) a nonbinding estimate of the total amount of financial aid that a low-income student with a similar income level may expect to receive, including an estimate of the amount of a grant for access and persistence and an estimate of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

(V) an explanation that in order to be eligible for a grant for access and persistence, at a minimum, a student shall—

(aa) meet the requirement under paragraph (3);

(bb) graduate from secondary school; and

(cc) enroll at an institution of higher education—

(AA) that is a partner in the partnership; or

(BB) with respect to which attendance is permitted under subsection (d)(1)(C)(ii);

(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of a grant for access and persistence under this section; and

(VII) instructions on how to apply for a grant for access and persistence and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 1090(a) of this title to be eligible for such grant and assistance from other Federal and State financial aid programs; and

(ii) may include a disclaimer that grant awards for access and persistence are contingent on—

(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership or qualifies under subsection (d)(1)(C)(ii);

(II) annual Federal and State spending for higher education; and

(III) other aid received by the student at the time of the student's enrollment at such institution of higher education.

(3) Eligibility

In determining which students are eligible to receive grants for access and persistence, the State shall ensure that each such student complies with the following subparagraph (A) or (B):

(A) Meets not less than two of the following criteria, with priority given to students meeting all of the following criteria:

(i) Has an expected family contribution equal to zero, as determined under part E, or a comparable alternative based upon the State's approved criteria in section 1070c–2(b)(4) of this title.

(ii) Qualifies for the State's maximum undergraduate award, as authorized under section 1070c–2(b) of this title.

(iii) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

(B) Is receiving, or has received, a grant for access and persistence under this section, in accordance with paragraph (5).

(4) Grant award

Once a student, including those students who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related State form, and is determined eligible by the State under paragraph (3), the State shall—

(A) issue the student a preliminary award certificate for a grant for access and persistence with estimated award amounts; and

(B) inform the student that payment of the grant for access and persistence award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

(5) Duration of award

An eligible student who receives a grant for access and persistence under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, including pursuant to section 1091(c) of this title, and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to degree completion.

(e) Administrative cost allowance

A State that receives an allotment under this section may reserve not more than two percent of the funds made available annually through the allotment for State administrative functions required to carry out this section.

(f) Statutory and regulatory relief for institutions of higher education

The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

(g) Applicability rule

The provisions of this subpart that are not inconsistent with this section shall apply to the program authorized by this section.

(h) Maintenance of effort requirement

Each State receiving an allotment under this section for a fiscal year shall provide the Secretary with an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

(i) Special rule

Notwithstanding subsection (h), for purposes of determining a State's share of the cost of the authorized activities described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed the State's total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

(j) Continuation and transition

For the two-year period that begins on August 14, 2008, the Secretary shall continue to award grants under section 1070c–3a of this title as such section existed on the day before August 14, 2008,

to States that choose to apply for grants under such predecessor section.

(k) Reports

Not later than three years after August 14, 2008, and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the authorizing committees.

(Pub. L. 89–329, title IV, §415E, as added Pub. L. 105–244, title IV, §407(c)(2), Oct. 7, 1998, 112 Stat. 1666; amended Pub. L. 106–554, §1(a)(1) [title III, §316(2), (3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–47; Pub. L. 110–315, title IV, §407(c), Aug. 14, 2008, 122 Stat. 3216; Pub. L. 111–39, title IV, §401(a)(6), July 1, 2009, 123 Stat. 1938.)

PRIOR PROVISIONS

A prior section 415E of Pub. L. 89–329 was renumbered section 415F and is classified to section 1070c–4 of this title.

Another prior section 415E of Pub. L. 89–329 was classified to section 1070c–4 of this title prior to repeal by Pub. L. 96–374.

AMENDMENTS

2009—Subsec. (b)(1)(B). Pub. L. 111–39 substituted "Except as provided in clause (ii), if a" for "If a" in cl. (i), added cl. (ii), and redesignated former cl. (ii) as (iii).

2008—Pub. L. 110–315 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (g) relating to a special leveraging educational assistance partnership program.

2000—Subsec. (c). Pub. L. 106–554, §1(a)(1) [title III, §316(2)], which directed amendment of section 415 of the Higher Education Act of 1965 in section 415E by adding subsec. (c) and striking out former subsec. (c), was executed to this section, which is section 415E of the Higher Education Act of 1965, to reflect the probable intent of Congress. Prior to amendment, subsec. (c) listed the activities for which States receiving a grant under this section were authorized to use the grant funds.

Subsecs. (f), (g). Pub. L. 106–554, §1(a)(1) [title III, §316(3)], which directed amendment of section 415 of the Higher Education Act of 1965 in section 415E by adding subsecs. (f) and (g), was executed by adding subsecs. (f) and (g) to this section, which is section 415E of the Higher Education Act of 1965, to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1070c–4. "Community service" defined

For the purpose of this subpart, the term "community service" means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

(Pub. L. 89–329, title IV, §415F, formerly §415E, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1336; amended Pub. L. 100–50, §5, June 3, 1987, 101 Stat. 340; renumbered §415F, Pub. L. 105–244, title IV, §407(c)(1), Oct. 7, 1998, 112 Stat. 1666.)

PRIOR PROVISIONS

A prior section 1070c–4, Pub. L. 89–329, title IV, §415E, as added Pub. L. 94–482, title I, §123(c)(3), Oct. 12, 1976, 90 Stat. 2094; amended Pub. L. 95–43, §1(a)(7), June 15, 1977, 91 Stat. 213, related to a program of bonus allotments, prior to repeal by Pub. L. 96–374, title IV, §404(d), Oct. 3, 1980, 94 Stat. 1407, eff. Oct. 1, 1980.

AMENDMENTS

1987—Par. (1). Pub. L. 100–50 substituted "literacy" for "literary".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§§1070d to 1070d–1d. Repealed. Pub. L. 102–325, title IV, §402(a)(1), July 23, 1992, 106 Stat. 482

Section 1070d, Pub. L. 89–329, title IV, §417A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1336, related to program authority and authorization of appropriations.

A prior section 1070d, Pub. L. 89–329, title IV, §417A, as added Pub. L. 96–374, title IV, §405, Oct. 3, 1980, 94 Stat. 1407, authorized a program of grants and contracts to assist students from disadvantaged backgrounds, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d, Pub. L. 89–329, title IV, §417A, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 258; amended Pub. L. 94–482, title I, §124(a), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–49, §5(a)(5), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized the Secretary of Education to carry out special programs for students from disadvantaged backgrounds and authorized appropriations for such programs, prior to the general revision of this subpart by Pub. L. 96–374.

Section 1070d–1, Pub. L. 89–329, title IV, §417B, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1337, authorized a talent search program.

A prior section 1070d–1, Pub. L. 89–329, title IV, §417B, as added Pub. L. 96–374, title IV, §405, Oct. 3, 1980, 94 Stat. 1408, authorized a talent search program, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d–1, Pub. L. 89–329, title IV, §417B, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 258; amended Pub. L. 93–380, title VIII, §833(a), Aug. 21, 1974, 88 Stat. 603; Pub. L. 94–482, title I, §124(b), (c), Oct. 12, 1976, 90 Stat. 2094, 2095; Pub. L. 95–566, §4, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, specified the authorized activities of the Secretary of Education in carrying out special programs for students from disadvantaged backgrounds, prior to the general revision of this subpart by Pub. L. 96–374.

Section 1070d–1a, Pub. L. 89–329, title IV, §417C, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1338, authorized an upward bound program.

A prior section 1070d–1a, Pub. L. 89–329, title IV, §417C, as added Pub. L. 96–374, title IV, §405, Oct. 3, 1980, 94 Stat. 1409, authorized an upward bound program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1b, Pub. L. 89–329, title IV, §417D, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1339; amended Pub. L. 100–50, §6, June 3, 1987, 101 Stat. 340; Pub. L. 100–418, title VI, §6271, Aug. 23, 1988, 102 Stat. 1523, related to student support services program.

A prior section 1070d–1b, Pub. L. 89–329, title IV, §417D, as added Pub. L. 96–374, title IV, §405, Oct. 3, 1980, 94 Stat. 1410, authorized a special services for disadvantaged students program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1c, Pub. L. 89–329, title IV, §417E, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1340, authorized an educational opportunity centers program.

A prior section 1070d–1c, Pub. L. 89–329, title IV, §417E, as added Pub. L. 96–374, title IV, §405, Oct. 3, 1980, 94 Stat. 1410, authorized an educational opportunity centers program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1d, Pub. L. 89–329, title IV, §417F, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1341, related to staff development activities.

A prior section 1070d–1d, Pub. L. 89–329, title IV, §417F, as added Pub. L. 96–374, title IV, §405, Oct. 3,

1980, 94 Stat. 1411, authorized grants for staff training, prior to the general revision of this part by Pub. L. 99–498.

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

§1070d–2. Maintenance and expansion of existing programs

(a) Program authority

The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

(b) Services provided by high school equivalency program

The services authorized by this subpart for the high school equivalency program include—

(1) recruitment services to reach persons—

(A)(i) who are 16 years of age and over; or

(ii) who are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school;

(B)(i) who themselves, or whose immediate family, have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork; or

(ii) who are eligible to participate, or have participated within the preceding 2 years, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] or section 3222 of title 29; and

(C) who lack a high school diploma or its equivalent;

(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

(3) supportive services which include the following:

(A) personal, vocational, and academic counseling;

(B) placement services designed to place students in a university, college, or junior college program (including preparation for college entrance examinations), or in military service or career positions; and

(C) health services;

(4) information concerning, and assistance in obtaining, available student financial aid;

(5) stipends for high school equivalency program participants;

(6) housing for those enrolled in residential programs;

(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth;

(8) other essential supportive services (such as transportation and child care), as needed to ensure the success of eligible students; and

(9) other activities to improve persistence and retention in postsecondary education.

(c) Services provided by college assistance migrant program

(1) Services authorized by this subpart for the college assistance migrant program include—

(A) outreach and recruitment services to reach persons who themselves or whose immediate family have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated or are eligible to participate, in programs under part C of title I

of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] or section 3222 of title 29, and who meet the minimum qualifications for attendance at a college or university;

(B) supportive and instructional services to improve placement, persistence, and retention in postsecondary education, which include:

(i) personal, academic, career, and economic education or personal finance counseling as an ongoing part of the program;

(ii) tutoring and academic skill building instruction and assistance;

(iii) assistance with special admissions;

(iv) health services; and

(v) other services as necessary to assist students in completing program requirements;

(C) assistance in obtaining student financial aid which includes, but is not limited to:

(i) stipends;

(ii) scholarships;

(iii) student travel;

(iv) career oriented work study;

(v) books and supplies;

(vi) tuition and fees;

(vii) room and board; and

(viii) other assistance necessary to assist students in completing their first year of college;

(D) housing support for students living in institutional facilities and commuting students;

(E) exposure to cultural events, academic programs, and other activities not usually available to migrant youth;

(F) internships; and

(G) other essential supportive services (such as transportation and child care) as necessary to ensure the success of eligible students.

(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college;

(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid, and coordinating such services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and

(C) for students attending two-year institutions of higher education, encouraging the students to transfer to four-year institutions of higher education, where appropriate, and monitoring the rate of transfer of such students.

(d) Management plan required

Each project application shall include a management plan which contains assurances that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

(1) staff in-service training;

(2) training and technical assistance;

(3) staff travel;

(4) student travel;

(5) interagency coordination; and

(6) an evaluation plan.

(e) Five-year grant period; consideration of prior experience

Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs in accordance with section 1070a–11(c)(2) of this title.

(f) Minimum allocations

The Secretary shall not allocate an amount less than—

(1) $180,000 for each project under the high school equivalency program, and

(2) $180,000 for each project under the college assistance migrant program.

(g) Reservation and allocation of funds

From the amounts made available under subsection (i), the Secretary—

(1) may reserve not more than a total of ½ of one percent for outreach activities, technical assistance, and professional development programs relating to the programs under subsection (a);

(2) for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than $40,000,000, shall, in awarding grants from the remainder of such amounts—

(A) make available not less than 45 percent of such remainder for the high school equivalency programs and not less than 45 percent of such remainder for the college assistance migrant programs;

(B) award the rest of such remainder for high school equivalency programs or college assistance migrant programs based on the number, quality, and promise of the applications; and

(C) consider the need to provide an equitable geographic distribution of such grants; and

(3) for any fiscal year for which the amount appropriated to carry out this section is less than $40,000,000, shall, in awarding grants from the remainder of such amounts make available the same percentage of funds to the high school equivalency program and to the college assistance migrant program as was made available for each such program for the fiscal year preceding the fiscal year for which the grant was made.

(h) Data collection

The Secretary shall—

(1) annually collect data on persons receiving services authorized under this subpart regarding such persons' rates of secondary school graduation, entrance into postsecondary education, and completion of postsecondary education, as applicable;

(2) not less often than once every two years, prepare and submit to the authorizing committees a report based on the most recently available data under paragraph (1); and

(3) make such report available to the public.

(i) Authorization of appropriations

For the purpose of making grants and contracts under this section, there are authorized to be appropriated $75,000,000 for fiscal year 2009 and such sums as may be necessary for the each of the five succeeding fiscal years.

(Pub. L. 89–329, title IV, §418A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1341; amended Pub. L. 100–50, §7, June 3, 1987, 101 Stat. 340; Pub. L. 102–325, title IV, §405, July 23, 1992, 106 Stat. 507; Pub. L. 103–382, title III, §391(e)(1), (2), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 105–244, title IV, §408, Oct. 7, 1998, 112 Stat. 1667; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(15)(A), (f)(12)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–421, 2681–431; Pub. L. 110–315, title IV, §408, Aug. 14, 2008, 122 Stat. 3223; Pub. L. 113–128, title V, §512(n)(1), July 22, 2014, 128 Stat. 1710.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (b)(1)(B)(ii) and (c)(1)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Part C of title I of the Act is classified generally to part

C (§6391 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1070d–2, Pub. L. 89–329, title IV, §418A, as added Pub. L. 96–374, title IV, §406, Oct. 3, 1980, 94 Stat. 1411, related to secondary and postsecondary high school equivalency programs and college assistance migrant programs, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d–2, Pub. L. 89–329, title IV, §418A, as added Pub. L. 94–482, title I, §125, Oct. 12, 1976, 90 Stat. 2096; amended Pub. L. 96–49, §5(a)(6), Aug. 13, 1979, 93 Stat. 352, provided for the Educational Information Centers program, prior to repeal by Pub. L. 96–374, title I, §101(b), Oct. 3, 1980, 94 Stat. 1383. See section 1070d–1c of this title.

A prior section 1070d–3, Pub. L. 89–329, title IV, §418B, as added Pub. L. 94–482, title I, §125, Oct. 12, 1976, 90 Stat. 2097, related to administration by States of Educational Information Centers program, prior to repeal by Pub. L. 96–374, title I, §101(b), Oct. 3, 1980, 94 Stat. 1383, eff. Oct. 1, 1980.

AMENDMENTS

2014—Subsecs. (b)(1)(B)(ii), (c)(1)(A). Pub. L. 113–128 substituted "section 3222 of title 29" for "section 2912 of title 29".

2008—Subsec. (b)(1)(B)(i). Pub. L. 110–315, §408(1)(A), substituted "immediate family" for "parents".

Subsec. (b)(3)(B). Pub. L. 110–315, §408(1)(B), inserted "(including preparation for college entrance examinations)" after "junior college program".

Subsec. (b)(5). Pub. L. 110–315, §408(1)(C), struck out "weekly" before "stipends".

Subsec. (b)(7). Pub. L. 110–315, §408(1)(D), struck out "and" after semicolon.

Subsec. (b)(8). Pub. L. 110–315, §408(1)(E), inserted "(such as transportation and child care)" after "services" and substituted "; and" for period at end.

Subsec. (b)(9). Pub. L. 110–315, §408(1)(F), added par. (9).

Subsec. (c)(1)(A). Pub. L. 110–315, §408(2)(A)(i), substituted "immediate family" for "parents" and struck out "(or such part's predecessor authority)" before "or section 2912".

Subsec. (c)(1)(B). Pub. L. 110–315, §408(2)(A)(ii)(I), inserted "to improve placement, persistence, and retention in postsecondary education," after "services" in introductory provisions.

Subsec. (c)(1)(B)(i). Pub. L. 110–315, §408(2)(A)(ii)(II), substituted "career, and economic education or personal finance" for "and career".

Subsec. (c)(1)(E) to (G). Pub. L. 110–315, §408(2)(A)(iii)–(vi), struck out "and" at end of subpar. (E), added subpar. (F), redesignated former subpar. (F) as (G) and, in par. (G), substituted "essential supportive services (such as transportation and child care)" for "support services".

Subsec. (c)(2)(A). Pub. L. 110–315, §408(2)(B)(i), struck out "and" after semicolon.

Subsec. (c)(2)(B). Pub. L. 110–315, §408(2)(B)(ii), substituted ", and coordinating such services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and" for period at end.

Subsec. (c)(2)(C). Pub. L. 110–315, §408(2)(B)(iii), added subpar. (C).

Subsec. (e). Pub. L. 110–315, §408(3), substituted "section 1070a–11(c)(2)" for "section 1070a–11(c)(1)".

Subsec. (f)(1), (2). Pub. L. 110–315, §408(4), substituted "$180,000" for "$150,000".

Subsecs. (g) to (i). Pub. L. 110–315, §408(6)–(8), added subsecs. (g) to (i) and struck out former subsecs. (h) and (i), which related to data collection and to authorization of appropriations.

Pub. L. 110–315, §408(5), redesignated subsecs. (g) and (h) as (h) and (i), respectively.

1998—Subsecs. (b)(1)(B)(ii), (c)(1)(A). Pub. L. 105–277, §101(f) [title VIII, §405(f)(12)(A)], struck out "section 1672 of title 29 or" before "section 2912 of title 29".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(15)(A)], substituted "section 1672 of title 29 or section 2912 of title 29" for "section 1672 of title 29".

Subsec. (d). Pub. L. 105–244, §408(a), inserted "that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and" after "contains assurances" in introductory provisions.

Subsec. (e). Pub. L. 105–244, §408(d), substituted "in accordance with section 1070a–11(c)(1) of this title" for "authorized by subpart 4 of this part in accordance with section 1070d(b)(2) of this title."

Subsec. (g). Pub. L. 105–244, §408(c)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 105–244, §408(b), substituted "1999" for "1993" in pars. (1) and (2).

Subsec. (h). Pub. L. 105–244, §408(c)(1), redesignated subsec. (g) as (h).

1994—Subsec. (b)(1)(B)(ii). Pub. L. 103–382, §391(e)(1), substituted "part C" for "subpart 1 of part D of chapter 1".

Subsec. (c)(1)(A). Pub. L. 103–382, §391(e)(2), substituted "part C" for "subpart 1 of part D of chapter 1" and inserted "(or such part's predecessor authority)" after "1965".

1992—Subsec. (b)(1). Pub. L. 102–325, §405(a)(1)(A), added par. (1) and struck out former par. (1) which read as follows: "recruitment services to reach persons who are 17 years of age and over, who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who lack a high school diploma or its equivalent;".

Subsec. (b)(4). Pub. L. 102–325, §405(a)(1)(B), inserted comma after "concerning" and after "obtaining".

Subsec. (c). Pub. L. 102–325, §405(a)(2), (b), designated existing provisions as par. (1), redesignated former par. (1) as subpar. (A) and amended it generally, redesignated par. (2) and its subpars. (A) to (E) as subpar. (B) and cls. (i) to (v), respectively, redesignated par. (3) and its subpars. (A) to (H) as subpar. (C) and cls. (i) to (viii), respectively, redesignated pars. (4) to (6) as subpars. (D) to (F), respectively, and added par. (2). Prior to amendment, par. (1) read as follows: "outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who meet the minimum qualifications for attendance at a college or university;".

Subsec. (e). Pub. L. 102–325, §405(c), substituted "Five-year" for "Three-year" in heading and "5-year" for "3-year" in text.

Subsec. (g). Pub. L. 102–325, §405(d), amended subsec. (g) generally, substituting present provisions for former provisions which authorized appropriations for fiscal years 1987 through 1991.

1987—Subsec. (g). Pub. L. 100–50 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "There is authorized to be appropriated for this part $9,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years."

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 101(f) [title VIII, §405(d)(15)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(12)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

§1070d–31. Statement of purpose

It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(Pub. L. 89–329, title IV, §419A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1343.)

PRIOR PROVISIONS

A prior section 1070d–31, Pub. L. 89–329, title IV, §419A, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99–145, title XVI, §1627(a), Nov. 8, 1985, 99 Stat. 779, provided statement of purpose for Robert C. Byrd Honors Scholarship Program, prior to the general revision

of this part by Pub. L. 99–498.

§1070d–32. Repealed. Pub. L. 102–325, title IV, §406(a), July 23, 1992, 106 Stat. 508

Section, Pub. L. 89–329, title IV, §419B, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1343, defined terms used in this subpart.

A prior section 1070d–32, Pub. L. 89–329, title IV, §419B, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2900, defined terms used in this subpart, prior to the general revision of this part by Pub. L. 99–498.

§1070d–33. Scholarships authorized

(a) Program authority

The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) Period of award

Scholarships under this section shall be awarded for a period of not less than 1 or more than 4 years during the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42. The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d–34(b) of this title that are attributable to such excess; and

(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.

(c) Use at any institution permitted

A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) Byrd Scholars

Individuals awarded scholarships under this subpart shall be known as "Byrd Scholars".

(Pub. L. 89–329, title IV, §419C, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, §406(b), July 23, 1992, 106 Stat. 508; Pub. L. 103–208, §2(b)(28), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 111–39, title IV, §401(a)(7), July 1, 2009, 123 Stat. 1939.)

PRIOR PROVISIONS

A prior section 1070d–33, Pub. L. 89–329, title IV, §419C, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99–145, title XVI, §1627(b), Nov. 8, 1985, 99 Stat. 779, authorized the award of scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111–39 inserted "and" after semicolon at end.

1993—Subsec. (b). Pub. L. 103–208 substituted "for a period of not less than 1 or more than 4 years during the first 4 years of study" for "for a period of not more than 4 years for the first 4 years of study" and inserted at end "The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

"(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of

scholarships available to that State under section 1070d–34(b) of this title that are attributable to such excess;

"(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years."

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(b)(2) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1070d–34. Allocation among States

(a) Allocation formula

From the sums appropriated pursuant to the authority of section 1070d–41 of this title for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 1070d–35 of this title an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b) of this section.

(b) Number of scholarships available

The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) Use of census data

For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(d) Consolidation by Insular Areas prohibited

Notwithstanding section 1469a of title 48, funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government.

(e) FAS eligibility

(1) Fiscal years 2000 through 2004

Notwithstanding any other provision of this subpart, in the case of students from the Freely Associated States who may be selected to receive a scholarship under this subpart for the first time for any of the fiscal years 2000 through 2004—

(A) there shall be 10 scholarships in the aggregate awarded to such students for each of the fiscal years 2000 through 2004; and

(B) the Pacific Regional Educational Laboratory shall administer the program under this subpart in the case of scholarships for students in the Freely Associated States.

(2) Termination of eligibility

A student from the Freely Associated States shall not be eligible to receive a scholarship under this subpart after September 30, 2004.

(Pub. L. 89–329, title IV, §419D, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat.

1344; amended Pub. L. 102–325, title IV, §406(c), July 23, 1992, 106 Stat. 509; Pub. L. 103–208, §2(b)(29), Dec. 20, 1993, 107 Stat. 2460; Pub. L. 105–244, title IV, §409(a), Oct. 7, 1998, 112 Stat. 1668; Pub. L. 111–39, title IV, §401(a)(8), July 1, 2009, 123 Stat. 1939.)

PRIOR PROVISIONS

A prior section 1070d–34, Pub. L. 89–329, title IV, §419D, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2901, related to allocation among States of amounts for Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–39 made technical amendment to reference in original act which appears in text as reference to section 1469a of title 48.

1998—Subsec. (e). Pub. L. 105–244 added subsec. (e).

1993—Subsec. (d). Pub. L. 103–208 added subsec. (d).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: "From the sums appropriated pursuant to section 1070d–41 of this title for any fiscal year, the Secretary shall allocate to each State having an agreement under section 1070d–35 of this title—

"(1) $1,500 multiplied by the number of individuals in the State eligible for scholarships pursuant to section 1070d–37(b) of this title, plus

"(2) $10,000, plus 5 percent of the amount to which a State is eligible under paragraph (1) of this section."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Oct. 1, 1993, see section 5(b)(1) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1070d–35. Agreements

The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500.

(Pub. L. 89–329, title IV, §419E, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, §406(g)(2), (3), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–35, Pub. L. 89–329, title IV, §419E, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2901; amended Pub. L. 99–145, title XVI, §1627(c), Nov. 8, 1985, 99 Stat. 779, related

to agreements with States for participation in the Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Par. (3). Pub. L. 102–325, §406(g)(2)(A), inserted "and" after semicolon.

Par. (4). Pub. L. 102–325, §406(g)(2)(B), substituted "$1,500." for "$1,500 at an awards ceremony in accordance with section 1070d–39 of this title; and".

Par. (5). Pub. L. 102–325, §406(g)(3), which directed that par. (5) be struck out without specifying the section to which the amendment applied, was executed by striking out par. (5) of this section to reflect the probable intent of Congress. Prior to amendment, par. (5) read as follows: "the State educational agency will use the amount of the allocation described in paragraph (2) of section 1070d–34 of this title for administrative expenses, including the conduct of the awards ceremony required by section 1070d–39 of this title."

§1070d–36. Eligibility of scholars

(a) High school graduation or equivalent and admission to institution required

Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school (or a home school, whether treated as a home school or a private school under State law) or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) Selection based on promise of academic achievement

Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(Pub. L. 89–329, title IV, §419F, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 110–315, title IV, §409(a), Aug. 14, 2008, 122 Stat. 3225.)

PRIOR PROVISIONS

A prior section 1070d–36, Pub. L. 89–329, title IV, §419F, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2901, related to eligibility of students for scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315 inserted "(or a home school, whether treated as a home school or a private school under State law)" after "public or private secondary school".

§1070d–37. Selection of scholars

(a) Establishment of criteria

The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) Adoption of procedures

The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the Federated States of Micronesia, the Republic of the Marshall Islands, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) Consultation requirement

In carrying out its responsibilities under subsections (a) and (b) of this section, the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) Timing of selection

The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

(Pub. L. 89–329, title IV, §419G, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, §406(d), July 23, 1992, 106 Stat. 509; Pub. L. 103–208, §2(b)(30), Dec. 20, 1993, 107 Stat. 2460.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in subsec. (b), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1070d–37, Pub. L. 89–329, title IV, §419G, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2901, related to selection of merit scholars under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 substituted "the Federated States of Micronesia, the Republic of the Marshall Islands," for "the District of Columbia, the Commonwealth of Puerto Rico,".

1992—Subsec. (b). Pub. L. 102–325, §406(d)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The State educational agency shall adopt selection procedures which are designed to assure that 10 individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed 10 individuals will be selected in such District or Commonwealth)."

Subsec. (d). Pub. L. 102–325, §406(d)(2), added subsec. (d).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1070d–38. Stipends and scholarship conditions

(a) Amount of award

Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance.

(b) Use of award

The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

(Pub. L. 89–329, title IV, §419H, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, §406(e), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–38, Pub. L. 89–329, title IV, §419H, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2902, related to stipends and scholarship conditions for students receiving scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 inserted before period at end ", except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance".

§1070d–39. Repealed. Pub. L. 102–325, title IV, §406(g)(1), July 23, 1992, 106

Section, Pub. L. 89–329, title IV, §419I, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1345, related to awards ceremony.

A prior section 1070d–39, Pub. L. 89–329, title IV, §419I, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2902, related to ceremony for awarding scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§1070d–40. Construction of needs provisions

Except as provided in section 1087kk of this title, nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this chapter and part C of subchapter I of chapter 34 of title 42 or any other provision of Federal law relating to educational assistance.

(Pub. L. 89–329, title IV, §419J, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, §406(f), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–40, Pub. L. 89–329, title IV, §419J, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2902, provided that receipt of scholarship under Robert C. Byrd Honors Scholarship Program not be counted for needs test for education grant or loan, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 substituted "Except as provided in section 1087kk of this title, nothing" for "Nothing".

§1070d–41. Authorization of appropriations

There are authorized to be appropriated for this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title IV, §419K, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1346; amended Pub. L. 102–325, title IV, §406(h), July 23, 1992, 106 Stat. 509; Pub. L. 105–244, title IV, §409(b), Oct. 7, 1998, 112 Stat. 1668; Pub. L. 110–315, title IV, §409(b), Aug. 14, 2008, 122 Stat. 3225.)

PRIOR PROVISIONS

A prior section 1070d–41, Pub. L. 89–329, title IV, §419K, as added Pub. L. 98–558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2902, authorized appropriations for fiscal years 1986 to 1988 to carry out Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Pub. L. 110–315 substituted "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years" for "$45,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years".

1998—Pub. L. 105–244 substituted "$45,000,000 for fiscal year 1999" for "$10,000,000 for fiscal year 1993".

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated for this subpart $8,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

SUBPART 7—CHILD CARE ACCESS MEANS PARENTS IN SCHOOL

PRIOR PROVISIONS

A prior subpart 7, consisted of sections 1070e and 1070e–1 and related to assistance to institutions of higher education, prior to the repeal of sections 1070e and 1070e–1 by Pub. L. 102–325, title IV, §§407, 408, July 23, 1992, 106 Stat. 510.

§1070e. Child care access means parents in school

(a) Purpose

The purpose of this section is to support the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

(b) Program authorized

(1) Authority

The Secretary may award grants to institutions of higher education to assist the institutions in providing campus-based child care services to low-income students.

(2) Amount of grants

(A) In general

The amount of a grant awarded to an institution of higher education under this section for a fiscal year shall not exceed 1 percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year.

(B) Minimum

(i) In general

Except as provided in clause (ii), a grant under this section shall be awarded in an amount that is not less than $10,000.

(ii) Increase trigger

For any fiscal year for which the amount appropriated under the authority of subsection (g) is equal to or greater than $20,000,000, a grant under this section shall be awarded in an amount that is not less than $30,000.

(3) Duration; renewal; and payments

(A) Duration

The Secretary shall award a grant under this section for a period of 4 years.

(B) Payments

Subject to subsection (e)(2) of this section, the Secretary shall make annual grant payments under this section.

(4) Eligible institutions

An institution of higher education shall be eligible to receive a grant under this section for a fiscal year if the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year equals or exceeds $350,000, except that for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than $20,000,000, this sentence shall be applied by substituting "$250,000" for "$350,000".

(5) Use of funds

Grant funds under this section shall be used by an institution of higher education to support or establish a campus-based child care program primarily serving the needs of low-income students

enrolled at the institution of higher education. Grant funds under this section may be used to provide before and after school services to the extent necessary to enable low-income students enrolled at the institution of higher education to pursue postsecondary education.

(6) Construction

Nothing in this section shall be construed to prohibit an institution of higher education that receives grant funds under this section from serving the child care needs of the community served by the institution.

(7) Definition of low-income student

For the purpose of this section, the term "low-income student" means a student—

(A) who is eligible to receive a Federal Pell Grant for the award year for which the determination is made; or

(B) who would otherwise be eligible to receive a Federal Pell Grant for the award year for which the determination is made, except that the student fails to meet the requirements of—

(i) section 1070a(c)(1) of this title because the student is enrolled in a graduate or first professional course of study; or

(ii) section 1091(a)(5) of this title because the student is in the United States for a temporary purpose.

(8) Publicity

The Secretary shall publicize the availability of grants under this section in appropriate periodicals, in addition to publication in the Federal Register, and shall inform appropriate educational organizations of such availability.

(c) Applications

An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall—

(1) demonstrate that the institution is an eligible institution described in subsection (b)(4) of this section;

(2) specify the amount of funds requested;

(3) demonstrate the need of low-income students at the institution for campus-based child care services by including in the application—

(A) information regarding student demographics;

(B) an assessment of child care capacity on or near campus;

(C) information regarding the existence of waiting lists for existing child care;

(D) information regarding additional needs created by concentrations of poverty or by geographic isolation; and

(E) other relevant data;

(4) contain a description of the activities to be assisted, including whether the grant funds will support an existing child care program or a new child care program;

(5) identify the resources, including technical expertise and financial support, the institution will draw upon to support the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

(6) contain an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services;

(7) describe the extent to which the child care program will coordinate with the institution's early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the child care program assisted under this section;

(8) in the case of an institution seeking assistance for a new child care program—

(A) provide a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services;

(B) specify any measures the institution will take to assist low-income students with child care during the period before the institution provides child care services; and

(C) include a plan for identifying resources needed for the child care services, including space in which to provide child care services, and technical assistance if necessary;

(9) contain an assurance that any child care facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

(10) contain a plan for any child care facility assisted under this section to become accredited within 3 years of the date the institution first receives assistance under this section.

(d) Priority

The Secretary shall give priority in awarding grants under this section to institutions of higher education that submit applications describing programs that—

(1) leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under this section; and

(2) utilize a sliding fee scale for child care services provided under this section in order to support a high number of low-income parents pursuing postsecondary education at the institution.

(e) Reporting requirements; continuing eligibility

(1) Reporting requirements

(A) Reports

Each institution of higher education receiving a grant under this section shall report to the Secretary annually.

(B) Contents

The report shall include—

(i) data on the population served under this section;

(ii) information on campus and community resources and funding used to help low-income students access child care services;

(iii) information on progress made toward accreditation of any child care facility; and

(iv) information on the impact of the grant on the quality, availability, and affordability of campus-based child care services.

(2) Continuing eligibility

The Secretary shall make continuation awards under this section to an institution of higher education only if the Secretary determines, on the basis of the reports submitted under paragraph (1), that the institution is making a good faith effort to ensure that low-income students at the institution have access to affordable, quality child care services.

(f) Construction

No funds provided under this section shall be used for construction, except for minor renovation or repair to meet applicable State or local health or safety requirements.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title IV, §419N, as added Pub. L. 105–244, title IV, §410, Oct. 7, 1998, 112 Stat. 1668; amended Pub. L. 110–315, title IV, §410, Aug. 14, 2008, 122 Stat. 3225.)

PRIOR PROVISIONS

A prior section 1070e, Pub. L. 89–329, title IV, §420, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1346, related to payments to institutions of higher education, prior to repeal by Pub. L. 102–325, title IV, §407, July 23, 1992, 106 Stat. 510.

Another prior section 1070e, Pub. L. 89–329, title IV, §420, formerly §419, as added Pub. L. 92–318, title X, §1001(a), June 23, 1972, 86 Stat. 375; amended Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503; renumbered Pub. L. 98–558, title VIII, §801(b)(1), Oct. 30, 1984, 98 Stat. 2902, related to payments to institutions of higher education, prior to the general amendment of this part by Pub. L. 99–498.

A prior section 1070e–1, Pub. L. 89–329, title IV, §420A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1348; amended Pub. L. 100–50, §8, June 3, 1987, 101 Stat. 341; Pub. L. 102–54, §13(g)(2), June 13, 1991, 105 Stat. 275; Pub. L. 102–83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, related to veterans education outreach program, prior to repeal by Pub. L. 102–325, title IV, §408, July 23, 1992, 106 Stat. 510.

Another prior section 1070e–1, Pub. L. 89–329, title IV, §420A, formerly §420, as added Pub. L. 92–318, title X, §1001(a), June 23, 1972, 86 Stat. 378; amended Pub. L. 93–380, title VIII, §834(a), Aug. 21, 1974, 88 Stat. 604; Pub. L. 94–482, title I, §126(a)–(c), Oct. 12, 1976, 90 Stat. 2098; Pub. L. 95–336, §6(a), Aug. 4, 1978, 92 Stat. 453; Pub. L. 96–49, §5(a)(7), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §407, Oct. 3, 1980, 94 Stat. 1412; Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; renumbered §420A, Pub. L. 98–558, title VIII, §801(b)(2), Oct. 30, 1984, 98 Stat. 2902, related to veterans' cost-of-instruction payments to institutions of higher education, prior to the general amendment of this part by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(2)(B). Pub. L. 110–315, §410(a), designated existing provisions as cl. (i), inserted heading, substituted "Except as provided in clause (ii), a grant" for "A grant", and added cl. (ii).

Subsec. (b)(4). Pub. L. 110–315, §410(b), inserted ", except that for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than $20,000,000, this sentence shall be applied by substituting '$250,000' for '$350,000' " before period at end.

Subsec. (b)(7). Pub. L. 110–315, §410(c), amended par. (7) generally. Prior to amendment, text read as follows: "For the purpose of this section, the term 'low-income student' means a student who is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made."

Subsec. (b)(8). Pub. L. 110–315, §410(d), added par. (8).

Subsec. (e)(1)(A). Pub. L. 110–315, §410(e)(1), substituted "annually" for "18 months, and 36 months, after receiving the first grant payment under this section".

Subsec. (e)(2). Pub. L. 110–315, §410(e)(2), substituted "continuation awards" for "the third annual grant payment" and "the reports" for "the 18-month report".

Subsec. (g). Pub. L. 110–315, §410(f), substituted "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years" for "$45,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years".

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

SUBPART 8—[REPEALED]

CODIFICATION

Subpart 8 of part A of title IV of the Higher Education Act of 1965, which comprised this subpart, was originally added to Pub. L. 89–329, title IV, by Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1352, and amended by Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 102–325, July 23, 1992, 106 Stat. 448. Subpart 8, which related to learning anytime anywhere partnerships, was set out as having been added by Pub. L. 105–244, title IV, §411, Oct. 7, 1998, 112 Stat. 1671, without reference to those intervening amendments because of the extensive revision of subpart 8 by Pub. L. 105–244.

§§1070f to 1070f–6. Repealed. Pub. L. 110–315, title IV, §411, Aug. 14, 2008, 122 Stat. 3226

Section 1070f, Pub. L. 89–329, title IV, §420D, as added Pub. L. 105–244, title IV, §411, Oct. 7, 1998, 112 Stat. 1671, set out congressional findings.

A prior section 1070f, Pub. L. 89–329, title IV, §420B, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1352; amended Pub. L. 100–50, §9, June 3, 1987, 101 Stat. 341; Pub. L. 102–325, title IV, §409, July 23, 1992, 106 Stat. 510, related to special child care services for disadvantaged college students, prior to the general amendment of this subpart by Pub. L. 105–244.

Section 1070f–1, Pub. L. 89–329, title IV, §420E, as added Pub. L. 105–244, title IV, §411, Oct. 7, 1998, 112 Stat. 1672, related to the purpose of this subpart and the program authorized.

Section 1070f–2, Pub. L. 89–329, title IV, §420F, as added Pub. L. 105–244, title IV, §411, Oct. 7, 1998, 112 Stat. 1672, related to grant application.

Section 1070f–3, Pub. L. 89–329, title IV, §420G, as added Pub. L. 105–244, title IV, §411, Oct. 7, 1998, 112 Stat. 1672, set out authorized activities for funding.

Section 1070f–4, Pub. L. 89–329, title IV, §420H, as added Pub. L. 105–244, title IV, §411, Oct. 7, 1998, 112 Stat. 1673, provided for a matching requirement limiting Federal funds to not more than 50 percent of the cost of a project.

Section 1070f–5, Pub. L. 89–329, title IV, §420I, as added Pub. L. 105–244, title IV, §411, Oct. 7, 1998, 112 Stat. 1673, required that the Secretary use a peer review process to review applications and make recommendations for funding.

Section 1070f–6, Pub. L. 89–329, title IV, §420J, as added Pub. L. 105–244, title IV, §411, Oct. 7, 1998, 112 Stat. 1673, authorized appropriations for fiscal year 1999 and each of the 4 succeeding fiscal years.

SUBPART 9—TEACH GRANTS

§1070g. Definitions

For the purposes of this subpart:

(1) Eligible institution

The term "eligible institution" means an institution of higher education, as defined in section 1002 of this title, that the Secretary determines—

(A) provides high quality teacher preparation and professional development services, including extensive clinical experience as a part of pre-service preparation;

(B) is financially responsible;

(C) provides pedagogical course work, or assistance in the provision of such coursework, including the monitoring of student performance, and formal instruction related to the theory and practices of teaching; and

(D) provides supervision and support services to teachers, or assistance in the provision of such services, including mentoring focused on developing effective teaching skills and strategies.

(2) Post-baccalaureate

The term "post-baccalaureate" means a program of instruction for individuals who have completed a baccalaureate degree, that does not lead to a graduate degree, and that consists of courses required by a State in order for a teacher candidate to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State, except that such term shall not include any program of instruction offered by an eligible institution that offers a baccalaureate degree in education.

(3) Teacher candidate

The term "teacher candidate" means a student or teacher described in subparagraph (A) or (B) of section 1070g–2(a)(2) of this title.

(Pub. L. 89–329, title IV, §420L, as added Pub. L. 110–84, title I, §104, Sept. 27, 2007, 121 Stat. 786; amended Pub. L. 110–153, §3(1), Dec. 21, 2007, 121 Stat. 1824.)

AMENDMENTS

2007—Par. (1)(B). Pub. L. 110–153 substituted "responsible" for "sound".

EFFECTIVE DATE

Subpart effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as an Effective Date of 2007 Amendment note under section 1070a of this title.

§1070g–1. Program established

(a) Program authority

(1) Payments required

The Secretary shall pay to each eligible institution such sums as may be necessary to pay to each teacher candidate who files an application and agreement in accordance with section 1070g–2 of this title, and who qualifies under paragraph (2) of section 1070g–2(a) of this title, a TEACH Grant in the amount of $4,000 for each year during which that teacher candidate is in attendance at the institution.

(2) References

Grants made under paragraph (1) shall be known as "Teacher Education Assistance for College and Higher Education Grants" or "TEACH Grants".

(b) Payment methodology

(1) Prepayment

Not less than 85 percent of any funds provided to an eligible institution under subsection (a) shall be advanced to the eligible institution prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay teacher candidates until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) Direct payment

Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to teacher candidates, in advance of the beginning of the academic term, an amount for which teacher candidates are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Distribution of grants to teacher candidates

Payments under this subpart shall be made, in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this subpart. Any disbursement allowed to be made by crediting the teacher candidate's account shall be limited to tuition and fees and, in the case of institutionally-owned housing, room and board. The teacher candidate may elect to have the institution provide other such goods and services by crediting the teacher candidate's account.

(c) Reductions in amount

(1) Part-time students

In any case where a teacher candidate attends an eligible institution on less than a full-time basis (including a teacher candidate who attends an eligible institution on less than a half-time basis) during any year, the amount of a grant under this subpart for which that teacher candidate is eligible shall be reduced in proportion to the degree to which that teacher candidate is not attending on a full-time basis, in accordance with a schedule of reductions established by the

Secretary for the purposes of this subpart, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 1089 of this title.

(2) No exceeding cost

The amount of a grant awarded under this subpart, in combination with Federal assistance and other assistance the student may receive, shall not exceed the cost of attendance (as defined in section 1087ll of this title) at the eligible institution at which that teacher candidate is in attendance.

(d) Period of eligibility for grants

(1) Undergraduate and post-baccalaureate students

The period during which an undergraduate or post-baccalaureate student may receive grants under this subpart shall be the period required for the completion of the first undergraduate baccalaureate or post-baccalaureate course of study being pursued by the teacher candidate at the eligible institution at which the teacher candidate is in attendance, except that—

(A) any period during which the teacher candidate is enrolled in a noncredit or remedial course of study as described in paragraph (3) shall not be counted for the purpose of this paragraph; and

(B) the total amount that a teacher candidate may receive under this subpart for undergraduate or post-baccalaureate study shall not exceed $16,000.

(2) Graduate students

The period during which a graduate student may receive grants under this subpart shall be the period required for the completion of a master's degree course of study pursued by the teacher candidate at the eligible institution at which the teacher candidate is in attendance, except that the total amount that a teacher candidate may receive under this subpart for graduate study shall not exceed $8,000.

(3) Remedial course; study abroad

Nothing in this section shall be construed to exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language acquisition) which are determined by the eligible institution to be necessary to help the teacher candidate be prepared for the pursuit of a first undergraduate baccalaureate or post-baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the teacher candidate to utilize already existing knowledge, training, or skills. Nothing in this section shall be construed to exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the teacher candidate is enrolled.

(Pub. L. 89–329, title IV, §420M, as added Pub. L. 110–84, title I, §104, Sept. 27, 2007, 121 Stat. 787; amended Pub. L. 110–153, §3(2), Dec. 21, 2007, 121 Stat. 1824.)

AMENDMENTS

2007—Subsecs. (a)(1), (c)(1). Pub. L. 110–153, §3(2)(A), substituted "year" for "academic year".

Subsec. (c)(2). Pub. L. 110–153, §3(2)(B), substituted "other assistance the student may receive" for "other student assistance" and struck out at end "If, with respect to any teacher candidate for any academic year, it is determined that the amount of a TEACH Grant exceeds the cost of attendance for that year, the amount of the TEACH Grant shall be reduced until such grant does not exceed the cost of attendance at the eligible institution."

§1070g–2. Applications; eligibility

(a) Applications; demonstration of eligibility

(1) Filing required

The Secretary shall periodically set dates by which teacher candidates shall file applications for

grants under this subpart. Each teacher candidate desiring a grant under this subpart for any year shall file an application containing such information and assurances as the Secretary may determine necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(2) Demonstration of TEACH Grant eligibility

Each application submitted under paragraph (1) shall contain such information as is necessary to demonstrate that—

(A) if the applicant is an enrolled student—

(i) the student is an eligible student for purposes of section 1091 of this title;

(ii) the student—

(I) has a grade point average that is determined, under standards prescribed by the Secretary, to be comparable to a 3.25 average on a zero to 4.0 scale, except that, if the student is in the first year of a program of undergraduate education, such grade point average shall be determined on the basis of the student's cumulative secondary school grade point average; or

(II) displayed high academic aptitude by receiving a score above the 75th percentile on at least one of the batteries in an undergraduate, post-baccalaureate, or graduate school admissions test; and

(iii) the student is completing coursework and other requirements necessary to begin a career in teaching, or plans to complete such coursework and requirements prior to graduating; or

(B) if the applicant is a current or prospective teacher applying for a grant to obtain a graduate degree—

(i) the applicant is a teacher or a retiree from another occupation with expertise in a field in which there is a shortage of teachers, such as mathematics, science, special education, English language acquisition, or another high-need subject; or

(ii) the applicant is or was a teacher who is using high-quality alternative certification routes, such as Teach for America, to get certified.

(b) Agreements to serve

Each application under subsection (a) shall contain or be accompanied by an agreement by the applicant that—

(1) the applicant will—

(A) serve as a full-time teacher for a total of not less than 4 academic years within 8 years after completing the course of study for which the applicant received a TEACH Grant under this subpart;

(B) teach in a school described in section 1087ee(a)(2)(A) of this title;

(C) teach in any of the following fields—

(i) mathematics;

(ii) science;

(iii) a foreign language;

(iv) bilingual education;

(v) special education;

(vi) as a reading specialist; or

(vii) another field documented as high-need by the Federal Government, State government, or local educational agency, and approved by the Secretary;

(D) submit evidence of such employment in the form of a certification by the chief administrative officer of the school upon completion of each year of such service; and

(E) comply with the requirements for being a highly qualified teacher as defined in section 9101 [1] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801];

(2) in the event that the applicant is determined to have failed or refused to carry out such service obligation, the sum of the amounts of any TEACH Grants received by such applicant will be treated as a loan and collected from the applicant in accordance with subsection (c) and the regulations thereunder; and

(3) contains, or is accompanied by, a plain-language disclosure form developed by the Secretary that clearly describes the nature of the TEACH Grant award, the service obligation, and the loan repayment requirements that are the consequence of the failure to complete the service obligation.

(c) Repayment for failure to complete service

In the event that any recipient of a grant under this subpart fails or refuses to comply with the service obligation in the agreement under subsection (b), the sum of the amounts of any TEACH Grants received by such recipient shall, upon a determination of such a failure or refusal in such service obligation, be treated as a Federal Direct Unsubsidized Stafford Loan under part C, and shall be subject to repayment, together with interest thereon accruing from the date of the grant award, in accordance with terms and conditions specified by the Secretary in regulations under this subpart.

(d) Additional administrative provisions

(1) Change of high-need designation

If a recipient of an initial grant under this subpart has acquired an academic degree, or expertise, in a field that was, at the time of the recipient's application for that grant, designated as high need in accordance with subsection (b)(1)(C)(vii), but is no longer so designated, the grant recipient may fulfill the service obligation described in subsection (b)(1) by teaching in that field.

(2) Extenuating circumstances

The Secretary shall establish, by regulation, categories of extenuating circumstances under which a recipient of a grant under this subpart who is unable to fulfill all or part of the recipient's service obligation may be excused from fulfilling that portion of the service obligation.

(Pub. L. 89–329, title IV, §420N, as added Pub. L. 110–84, title I, §104, Sept. 27, 2007, 121 Stat. 788; amended Pub. L. 110–315, title IV, §412(a)(1), Aug. 14, 2008, 122 Stat. 3226.)

REFERENCES IN TEXT

Section 9101 of the Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(1)(E), was amended by Pub. L. 114–95 and, as so amended, is now section 8101 of the Act and no longer defines "highly qualified". A reference in this section to the term "highly qualified" as defined in section 9101 of the Act is to be treated as a reference to such term under such section 9101 as in effect on the day before the date of enactment of Pub. L. 114–95. See section 9214(a)(1) of Pub. L. 114–95, set out as a Use of the Term "Highly Qualified" in Other Laws note below.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110–315, §412(a)(1)(A), added par. (3).
Subsec. (d). Pub. L. 110–315, §412(a)(1)(B), added subsec. (d).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §412(b), Aug. 14, 2008, 122 Stat. 3227, provided that: "The amendments made by subsection (a)(1) [amending this section] shall take effect on July 1, 2010."

USE OF THE TERM "HIGHLY QUALIFIED" IN OTHER LAWS

Pub. L. 114–95, title IX, §9214(a), Dec. 10, 2015, 129 Stat. 2160, provided that: "Beginning on the date of enactment of this Act [Dec. 10, 2015]—

"(1) any reference in sections 420N, 428J, 428K, and 460 of the Higher Education Act of 1965 (20 U.S.C. 1070g–2, 1078–10, 1078–11, and 1087j) to the term 'highly qualified' as defined in section 9101 of the Elementary and Secondary Education Act of 1965 [now section 8101, 20 U.S.C. 7801] shall be treated as a reference to such term under such section 9101 as in effect on the day before the date of enactment of this Act [Dec. 10, 2015]; and

"(2) any reference in section 6112 of the America COMPETES Act (20 U.S.C. 9812), section 553 of the America COMPETES Reauthorization Act of 2010 (20 U.S.C. 9903), and section 9 of the National

Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n), to 'highly qualified', as defined in section 9101 of the Elementary and Secondary Education Act of 1965 [now section 8101, 20 U.S.C. 7801], with respect to a teacher, means that the teacher meets applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification."

[1] *See References in Text note below.*

§1070g–3. Program period and funding

Beginning on July 1, 2008, there shall be available to the Secretary to carry out this subpart, from funds not otherwise appropriated, such sums as may be necessary to provide TEACH Grants in accordance with this subpart to each eligible applicant.

(Pub. L. 89–329, title IV, §420O, as added Pub. L. 110–84, title I, §104, Sept. 27, 2007, 121 Stat. 790.)

§1070g–4. Program report

Not later than two years after August 14, 2008, and every two years thereafter, the Secretary shall prepare and submit to the authorizing committees a report on TEACH grants with respect to the schools and students served by recipients of such grants. Such report shall take into consideration information related to—

(1) the number of TEACH grant recipients;

(2) the degrees obtained by such recipients;

(3) the location, including the school, local educational agency, and State, where the recipients completed the service agreed to under section 1070g–2(b) of this title and the subject taught;

(4) the duration of such service; and

(5) any other data necessary to conduct such evaluation.

(Pub. L. 89–329, title IV, §420P, as added Pub. L. 110–315, title IV, §412(a)(2), Aug. 14, 2008, 122 Stat. 3227.)

SUBPART 10—SCHOLARSHIPS FOR VETERAN'S DEPENDENTS

§1070h. Scholarships for veteran's dependents

(a) Definition of eligible veteran's dependent

The term "eligible veteran's dependent" means a dependent or an independent student—

(1) whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and

(2) who, at the time of the parent or guardian's death, was—

(A) less than 24 years of age; or

(B) enrolled at an institution of higher education on a part-time or full-time basis.

(b) Grants

(1) In general

The Secretary shall award a grant to each eligible veteran's dependent to assist in paying the eligible veteran's dependent's cost of attendance at an institution of higher education.

(2) Designation

Grants made under this section shall be known as "Iraq and Afghanistan Service Grants".

(c) Prevention of double benefits

No eligible veteran's dependent may receive a grant under both this section and section 1070a of this title.

(d) Terms and conditions

The Secretary shall award grants under this section in the same manner, and with the same terms and conditions, including the length of the period of eligibility, as the Secretary awards Federal Pell Grants under section 1070a of this title, except that—

(1) the award rules and determination of need applicable to the calculation of Federal Pell Grants, shall not apply to grants made under this section;

(2) the provisions of subsection (a)(3), subsection (b)(1), the matter following subsection (b)(2)(A)(v),[1] subsection (b)(3), and subsection (f), of section 1070a of this title shall not apply; and

(3) a grant made under this section to an eligible veteran's dependent for any award year shall equal the maximum Federal Pell Grant available for that award year, except that such a grant under this section—

(A) shall not exceed the cost of attendance of the eligible veteran's dependent for that award year; and

(B) shall be adjusted to reflect the attendance by the eligible veteran's dependent on a less than full-time basis in the same manner as such adjustments are made under section 1070a of this title.

(e) Estimated financial assistance

For purposes of determinations of need under part E, a grant awarded under this section shall not be treated as estimated financial assistance as described in sections 1087kk(3) and 1087vv(j) of this title.

(f) Authorization and appropriations of funds

There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Secretary to carry out this section, such sums as may be necessary for fiscal year 2010 and each succeeding fiscal year.

(Pub. L. 89–329, title IV, §420R, as added Pub. L. 111–39, title IV, §401(a)(9), July 1, 2009, 123 Stat. 1939.)

REFERENCES IN TEXT

Section 1070a(b)(2)(A) of this title, referred to in subsec. (d)(2), as originally enacted, contained cls. (i) to (vi) followed by concluding provisions. Section 1070a(b)(2)(A) of this title was amended generally by section 2101(a)(1) of Pub. L. 111–152 and, as so amended, no longer contains either a cl. (v) or concluding provisions.

EFFECTIVE DATE

Pub. L. 111–39, title IV, §401(b), July 1, 2009, 123 Stat. 1940, provided that: "The amendment made by subsection (a)(9) [enacting this subpart] shall take effect on July 1, 2010."

[1] *See References in Text note below.*

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

CODIFICATION

Part B of title IV of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title IV, Nov. 8, 1965, 79 Stat. 1236, and amended by Pub. L. 89–698, Oct. 29, 1966, 80 Stat. 1066; Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 89–794, Nov. 8, 1966, 80 Stat. 1451; Pub. L. 90–460, Aug. 3, 1968, 82 Stat. 634; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–206, Mar. 10, 1970, 84 Stat. 49; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–269, Apr. 18, 1974, 88 Stat. 87;

Pub. L. 93–604, Jan. 2, 1975, 88 Stat. 1959; Pub. L. 94–273, Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–328, June 30, 1976, 90 Stat. 727; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2549; Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3641; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–115, Dec. 29, 1981, 95 Stat. 1595; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82; Pub. L. 99–320, May 23, 1986, 100 Stat. 491. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1353, without reference to such intervening amendments because of the extensive revision of part B by Pub. L. 99–498.

§1071. Statement of purpose; nondiscrimination; and appropriations authorized

(a) Purpose; discrimination prohibited

(1) Purpose

The purpose of this part is to enable the Secretary—

(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 1085 of this title),

(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 1078(b) of this title,

(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

(D) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 1078(a)(1)(B) of this title.

(2) Discrimination by creditors prohibited

No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

(b) Authorization of appropriations

For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 1081 of this title) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 1078 of this title with respect to interest on student loans and for payments under section 1087 of this title, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 1072 of this title for the reserve funds of State and nonprofit private student loan insurance programs,

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 1072(a) and (b) of this title, and (B) such sums as may be necessary for making advances pursuant to section 1072(c) of this title, for the reserve funds of State and nonprofit private student loan insurance programs,

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying a loan processing and issuance fee in accordance with section 1078(f) of this title to guaranty agencies, and

(6) there is authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the purpose of carrying out section 1072(c)(7) of this title.

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended, except that no sums may be expended after June 30, 2010, with respect to loans under this part for which the first disbursement is after such date. No additional sums are authorized to be appropriated under paragraph (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

(c) Designation

The program established under this part shall be referred to as the "Robert T. Stafford Federal Student Loan Program". Loans made pursuant to sections 1077 and 1078 of this title shall be known as "Federal Stafford Loans".

(d) Termination of authority to make or insure new loans

Notwithstanding paragraphs (1) through (6) of subsection (b) or any other provision of law—

(1) no new loans (including consolidation loans) may be made or insured under this part after June 30, 2010; and

(2) no funds are authorized to be appropriated, or may be expended, under this chapter and part C of subchapter I of chapter 34 of title 42 or any other Act to make or insure loans under this part (including consolidation loans) for which the first disbursement is after June 30, 2010,

except as expressly authorized by an Act of Congress enacted after March 30, 2010.

(Pub. L. 89–329, title IV, §421, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1353; amended Pub. L. 100–297, title II, §2601(a), Apr. 28, 1988, 102 Stat. 330; Pub. L. 100–369, §8, July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, §411(a)(2), (c), July 23, 1992, 106 Stat. 510, 511; Pub. L. 105–244, title IV, §411, Oct. 7, 1998, 112 Stat. 1673; Pub. L. 109–171, title VIII, §8004(a), Feb. 8, 2006, 120 Stat. 158; Pub. L. 110–227, §6(a), May 7, 2008, 122 Stat. 746; Pub. L. 111–152, title II, §2201, Mar. 30, 2010, 124 Stat. 1074.)

REFERENCES IN TEXT

The Higher Education Amendments of 1986, referred to in subsec. (b), is Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Another section 411 of Pub. L. 105–244 enacted subpart 8 (§1070f et seq.) of part A of this subchapter.

PRIOR PROVISIONS

A prior section 1071, Pub. L. 89–329, title IV, §421, Nov. 8, 1965, 79 Stat. 1236; Pub. L. 90–460, §§2(b)(3), 3(a), Aug. 3, 1968, 82 Stat. 635, 636; Pub. L. 90–575, title I, §§113(b)(1), 114(a), 119(b), Oct. 16, 1968, 82 Stat. 1021, 1027; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2099; Pub. L. 95–43, §1(a)(8)–(10), June 15, 1977, 91 Stat. 213; Pub. L. 96–374, title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 98–79, §6, Aug. 15, 1983, 97 Stat. 482, related to statement of purpose of, appropriations for, and implementation of programs to provide low-interest insured loans to students in institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111–152, §2201(1), inserted ", except that no sums may be expended after June 30, 2010, with respect to loans under this part for which the first disbursement is after such date" after "expended" in concluding provisions.

Subsec. (d). Pub. L. 111–152, §2201(2), added subsec. (d).

2008—Subsec. (b)(6). Pub. L. 110–227 added par. (6).

2006—Subsec. (b)(5). Pub. L. 109–171 substituted "a loan processing and issuance fee" for "an administrative cost allowance".

1998—Subsec. (d). Pub. L. 105–244 struck out heading and text of subsec. (d). Text read as follows:

"Notwithstanding any other provision of this part, no new loan guarantees shall be issued after June 30, 1994, if the Secretary does not issue final regulations implementing the changes made to this part under the Higher Education Amendments of 1992 prior to that date. The authority to issue new loan guarantees shall resume upon the Secretary's issuance of such regulations. This subsection shall not provide the basis for avoiding any requirements for notice and public hearing on such regulations."

1992—Subsec. (c). Pub. L. 102–325, §411(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: "The program established under this part shall be referred to as the 'Robert T. Stafford Student Loan Program'. Loans made under this part shall be known as 'Stafford Loans'."

Subsec. (d). Pub. L. 102–325, §411(c), added subsec. (d).

1988—Subsec. (c). Pub. L. 100–369 substituted "shall be referred" for "may be referred" and inserted provision identifying loans made under this part as "Stafford Loans".

Pub. L. 100–297 added subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–227, §6(b), May 7, 2008, 122 Stat. 746, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [May 7, 2008]."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, with changes in the designation or names of loans or programs under this part effective with respect to applications or other documents (used in making such loans) that are printed after July 23, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–297, title VI, §6303, Apr. 28, 1988, 102 Stat. 431, as amended by Pub. L. 100–351, June 27, 1988, 102 Stat. 661; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675, provided that:

"(a) GENERAL RULE.—Except as otherwise provided, this Act and the amendments made by this Act [see Tables for classification] shall take effect July 1, 1988.

"(b) SPECIAL RULES.—(1) Any provision of this Act or any amendment made by this Act which authorizes appropriations for fiscal year 1988 shall take effect on the date of the enactment of this Act [Apr. 28, 1988].

"(2) The provisions of section 2402, relating to the National Center for Vocational Research, shall take effect on April 10, 1988.

"(3) The amendments made by section 3403 [amending sections 1221e and 1221e–1 of this title] shall take effect for assessments made after September 30, 1989, with respect to State data.

"(4) Allotments to States made under chapters 1 and 2 of title I of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2701 et seq., 2911 et seq.] and under the Adult Education Act [formerly 20 U.S.C. 1201 et seq.] from amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100–202), shall be computed in accordance with the provisions of law applicable to allotments to States under chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 [formerly 20 U.S.C. 3801 et seq., 3811 et seq.] and under the Adult Education Act, respectively, as such Acts were in effect on the day before the date of the enactment of this Act [Apr. 28, 1988].

"(5) Amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100–202), for the following programs shall be awarded in accordance with the applicable provisions of law in effect on the day before the date of the enactment of this Act [Apr. 28, 1988]:

"(A) Programs under subchapter D of chapter 2 of the Education Consolidation and Improvement Act of 1981 [formerly 20 U.S.C. 3851 et seq.], except that projects under section 583(c) [formerly 20 U.S.C. 3851(c)] may not be reviewed by a program significance panel.

"(B) National programs under the Adult Education Act [formerly 20 U.S.C. 1201 et seq.].

"(C) Programs under the Indian Education Act [Pub. L. 92–318, title IV, see Tables for classification].

"(D) Programs under title II of the Education for Economic Security Act [formerly 20 U.S.C. 3961 et seq.].

"(E) The program under section 702 of the McKinney-Vento Homeless Assistance Act [formerly 42

U.S.C. 11421].

"(6) The provisions of part A of title II of this Act [§§2001 to 2034 of Pub. L. 100–297, amending sections 236 et seq. and 631 et seq. of this title], excluding sections 2014(e) and 2018 [amending section 238 of this title and enacting provisions set out as a note under section 238 of this title], shall apply only with respect to amounts appropriated for fiscal years beginning after September 30, 1988.

"(7) The amendments made by section 6001 [amending section 11421 of Title 42, The Public Health and Welfare], relating to literacy training of homeless adults, shall take effect on October 1, 1988.

"(8) Any election under section 5209(b)(1) [25 U.S.C. 2508(b)(1)] conveyed to the Secretary prior to August 1, 1988, shall take effect for the fiscal year beginning on October 1, 1988, and thereafter."

EFFECTIVE DATE

Pub. L. 99–498, title IV, §402(b)–(d), Oct. 17, 1986, 100 Stat. 1428, 1429, as amended by Pub. L. 100–50, §22(b), June 3, 1987, 101 Stat. 361, provided that:

"(b) EFFECTIVE DATES.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act [Oct. 17, 1986], except—

"(1) as otherwise provided in such part B;

"(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act [20 U.S.C. 1077(a)(2)(C), 1078(b)(1)(M)] (other than clauses (viii), (ix), and (x) of each such section) shall apply only to loans to new borrowers that (A) are made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1987; or (B) are disbursed on or after July 1, 1987;

"(3) the changes made in sections 425(a), 428(b)(1)(A), and 428(b)(1)(B) of the Act [20 U.S.C. 1075(a), 1078(b)(1)(A), (B)] shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

"(4) the changes made in subsections (a), (b), and (d) of section 433 of the Act [20 U.S.C. 1083(a), (b), (d)] shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

"(5) the changes in section 428(b)(1)(H) [20 U.S.C. 1078(b)(1)(H)] shall apply with respect only to loans for which the borrower files an application on or after July 1, 1987;

"(6) the changes in sections 435(d)(5) and 438(d) of the Act [20 U.S.C. 1085(d)(5), 1087–1(d)] shall take effect 30 days after the date of enactment of this Act [Oct. 17, 1986]; and

"(7) the changes made in section 438(b) [20 U.S.C. 1087–1(b)] shall take effect with respect to loans disbursed on or after 30 days after the date of enactment of this Act [Oct. 17, 1986] or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after the date of enactment of this Act.

"(c) CHANGES EFFECTIVE WITHOUT REGARD TO REGULATIONS; REPUBLICATION OF REGULATIONS.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendment made by subsection (a) of this section shall be effective in accordance with subsection (b) of this section without regard to whether such changes are reflected in the regulations prescribed by the Secretary of Education for the purpose of such part.

"(d) NEW BORROWERS.—For the purpose of this section, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act [20 U.S.C. 1071 et seq.]."

STUDY OF ROLE OF GUARANTY AGENCIES

Pub. L. 102–325, title XIV, §1401, July 23, 1992, 106 Stat. 816, directed Secretary of Education to review role of guaranty agencies within Federal Family Education Loan Program by examining administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments and report to Congress within 1 year of July 23, 1992, on the review, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

GENERAL ACCOUNTING OFFICE REPORTS

Pub. L. 99–498, title XIII, §§1311–1314, Oct. 17, 1986, 100 Stat. 1583, 1584, as amended by Pub. L. 100–50, §23(6), June 3, 1987, 101 Stat. 362, directed Comptroller General to conduct studies on practices of State guaranty agencies and multistate guarantors under the student loan program, on the feasibility and efficiency of permitting students to establish multiple year lines of credit with eligible lenders, on the impact of the multiple disbursement system on the ability of students and institutions of higher education to meet

expenses, and on the cost, efficiency, and impact of the consolidation loan program established by Pub. L. 99–498, and directed Comptroller General to make and submit a report to Congress on each study not later than two years after Oct. 17, 1986, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

§1072. Advances for reserve funds of State and nonprofit private loan insurance programs

(a) Purpose of and authority for advances to reserve funds

(1) Purpose; eligible recipients

From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 1071(b) of this title, the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 1078(b) of this title for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 1078(b) of this title, and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 1078(b) of this title in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 1078(b)(1) of this title.

(2) Matching requirement

No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term "unencumbered non-Federal portion" means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

(A) the sum of—

(i) advances made under this section prior to July 1, 1968;

(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

(iii) the proceeds of earnings on advances made under this section; or

(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

Except as provided in section 1078(c)(9)(E) or (F) of this title, such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.

(3) Terms and conditions; repayment

Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 1078(b) of this title as the Secretary determines will best carry out the purpose of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b) Limitations on total advances

(1) In general

The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 1071(b) of this title to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(2) Calculation of population

For the purpose of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(c) Advances for insurance obligations

(1) Use for payment of insurance obligations

From sums appropriated pursuant to section 1071(b)(4)(B) of this title, the Secretary shall advance to each State which has an agreement with the Secretary under section 1078(c) of this title with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2) Amount of advances

(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a) of this section.

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For the purpose of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) of this section shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a) of this section, bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 1078(b) of this title.

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) Use of earnings for insurance obligations

The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4) Repayment of advances

Advances made by the Secretary under this subsection shall, subject to subsection (d) of this section, be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 1081 of this title.

(5) Limitation on number of advances

Except as provided in paragraph (7), advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 1078(b) of this title which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 2 succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 1078(b) of this title on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 4 succeeding calendar years after the date so requested of the advance.

(6) Payment of advances where no State program

(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 1078(b) of this title, and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 1078 of this title and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

(B) The Secretary may enter into an agreement with a private nonprofit institution or organization for the purpose of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written, electronic, and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions; and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(7) Emergency advances

The Secretary is authorized to make advances, on terms and conditions satisfactory to the Secretary, to a guaranty agency—

(A) in accordance with section 1078(j) of this title, in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort; or

(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 1078(c)(9)(F)(v) of this title, in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A).

(d) Recovery of advances during fiscal years 1988 and 1989

(1) Amount and use of recovered funds

Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 1081 of this title. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988 and an amount equal to $35,000,000 for fiscal year 1989.

(2) Determination of guaranty agency obligations

In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

(A) shall consider the solvency and maturity of the reserve and insurance funds of the guaranty agency assisted by such advances, as determined by the Comptroller General taking into account the requirements of State law as in effect on October 17, 1986;

(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) of this section during any year of its eligibility under such subsection; and

(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement of State law as in effect on October 17, 1986.

(e) Correction for errors under reduction of excess cash reserves

(1) In general

The Secretary shall pay any guaranty agency the amount of reimbursement of claims under section 1078(c)(1) of this title, filed between September 1, 1988, and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated because of erroneous financial information provided by such agency to the Secretary and if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant, and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

(2) Amount

The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves which exceeds the amount of that which would have been withheld or canceled if the maximum excess cash reserves had been accurately calculated.

(f) Refund of cash reserve payments

The Secretary shall, within 30 days after July 23, 1992, pay the full amount of payments withheld or canceled under paragraph (3) of this subsection to any guaranty agency which—

(1) was required to eliminate excess cash reserves, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986;

(2) appealed the Secretary's demand that such agency should eliminate such excess cash reserves and received a waiver of a portion of the amount of such excess cash reserves to be eliminated;

(3) had payments under section 1078(c)(1) of this title or section 1078(f) of this title previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986; and

(4) according to a Department of Education review that was completed and forwarded to such guaranty agency prior to January 1, 1992, is expected to become insolvent during or before 1996 and the payments withheld or canceled under paragraph (3) of this subsection are a factor in such agency's impending insolvency.

(g) Preservation and recovery of guaranty agency reserves

(1) Authority to recover funds

Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part, or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that—

(A) the Secretary may direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency;

(B) the Secretary may direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets;

(C) the Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activities involving expenditure, use or transfer of the guaranty agency's reserve funds or assets which the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets; and

(D) any such determination under subparagraph (A) or (B) shall be based on standards prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process.

(2) Termination provisions in contracts

(A) To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after August 10, 1993, shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.

(B) The Secretary may direct a guaranty agency to suspend or cease activities under any contract entered into by or on behalf of such agency after January 1, 1993, if the Secretary determines that the misuse or improper expenditure of such guaranty agency's funds or assets or such contract provides unnecessary or improper benefits to such agency's officers or directors.

(3) Penalties

Violation of any direction issued by the Secretary under this subsection may be subject to the penalties described in section 1097 of this title.

(4) Availability of funds

Any funds that are returned or otherwise recovered by the Secretary pursuant to this subsection shall be available for expenditure for expenses pursuant to section 1087h of this title.

(h) Recall of reserves; limitations on use of reserve funds and assets

(1) In general

Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,000,000,000 from the reserve funds held by guaranty agencies on September 1, 2002.

(2) Deposit

Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

(3) Required share

The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on the agency's required share of recalled reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's required share of recalled reserve funds shall be determined as follows:

(A) The Secretary shall compute each guaranty agency's reserve ratio by dividing (i) the amount held in the agency's reserve funds as of September 30, 1996 (but reflecting later accounting or auditing adjustments approved by the Secretary), by (ii) the original principal amount of all loans for which the agency has an outstanding insurance obligation as of such date, including amounts of outstanding loans transferred to the agency from another guaranty agency.

(B) If the reserve ratio of any guaranty agency as computed under subparagraph (A) exceeds 2.0 percent, the agency's required share shall include so much of the amounts held in the agency's reserve funds as exceed a reserve ratio of 2.0 percent.

(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)), such additional amount shall be obtained by imposing on each guaranty agency an equal percentage reduction in the amount of the agency's reserve funds remaining after deduction of the amount recalled under subparagraph (B), except that such percentage reduction under this subparagraph shall not result in the agency's reserve ratio being reduced below 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount required to be recalled (after deducting the total of the required shares calculated under subparagraph (B)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraph).

(D) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraphs (B) and (C)), such additional amount shall be obtained by imposing on each guaranty agency with a reserve ratio (after deducting the required shares calculated under such subparagraphs) in excess of 0.58 percent an equal percentage reduction in the amount of the agency's reserve funds remaining (after such deduction) that exceed a reserve ratio of 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount to be recalled under paragraph (1) (after deducting the amount recalled under subparagraphs (B) and (C)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraphs) that exceed a reserve ratio of 0.58 percent.

(4) Restricted accounts required

(A) In general

Within 90 days after the beginning of each of the fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of the agency's required share determined under paragraph (3) to a restricted account established by the agency that is of a type selected by the agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities.

(B) Requirement

A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for default reduction activities.

(C) Installments

In each of fiscal years 1998 through 2002, each guaranty agency shall transfer the agency's required share to such restricted account in 5 equal annual installments, except that—

(i) a guaranty agency that has a reserve ratio (as computed under subparagraph (3)(A)) equal to or less than 1.10 percent may transfer the agency's required share to such account in 4 equal installments beginning in fiscal year 1999; and

(ii) a guaranty agency may transfer such required share to such account in accordance with such other payment schedules as are approved by the Secretary.

(5) Shortage

If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary. The Secretary shall first attempt to obtain the amount of such shortage from each guaranty agency that failed to transfer the agency's required share to the agency's restricted account in accordance with paragraph (4).

(6) Enforcement

(A) In general

The Secretary may take such reasonable measures, and require such information, as may be necessary to ensure that guaranty agencies comply with the requirements of this subsection.

(B) Prohibition

If the Secretary determines that a guaranty agency has failed to transfer to a restricted account any portion of the agency's required share under this subsection, the agency may not receive any other funds under this part until the Secretary determines that the agency has so transferred the agency's required share.

(C) Waiver

The Secretary may waive the requirements of subparagraph (B) for a guaranty agency described in such subparagraph if the Secretary determines that there are extenuating circumstances beyond the control of the agency that justify such waiver.

(7) Limitation

(A) Restriction on other authority

The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) of this section during the period from August 5, 1997, through September 30, 2002.

(B) Use of termination collections

Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(B) of this section during such period that do not exceed a guaranty agency's required share of recalled reserve funds under paragraph (3)—

(i) shall be used to satisfy the agency's required share of recalled reserve funds; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4), without regard to whether such funds exceed the next installment required under such paragraph.

(C) Use of sanctions collections

Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(C) of this section during such period that do not exceed a guaranty agency's next installment under paragraph (4)—

(i) shall be used to satisfy the agency's next installment; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4).

(D) Balance available to Secretary

Any reserve funds directed by the Secretary to be returned to the Secretary under subparagraph (B) or (C) of subsection (g)(1) of this section that remain after satisfaction of the requirements of subparagraphs (B) and (C) of this paragraph shall be deposited in the Treasury.

(8) Definitions

For the purposes of this subsection:

(A) Default reduction activities

The term "default reduction activities" means activities to reduce student loan defaults that improve, strengthen, and expand default prevention activities, such as—

(i) establishing a program of partial loan cancellation to reward disadvantaged borrowers for good repayment histories with their lenders;

(ii) establishing a financial and debt management counseling program for high-risk borrowers that provides long-term training (beginning prior to the first disbursement of the borrower's first student loan and continuing through the completion of the borrower's program of education or training) in budgeting and other aspects of financial management, including debt management;

(iii) establishing a program of placement counseling to assist high-risk borrowers in identifying employment or additional training opportunities; and

(iv) developing public service announcements that would detail consequences of student loan default and provide information regarding a toll-free telephone number established by the guaranty agency for use by borrowers seeking assistance in avoiding default.

(B) Reserve funds

The term "reserve funds" when used with respect to a guaranty agency—

(i) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

(ii) does not include buildings, equipment, or other nonliquid assets.

(i) Additional recall of reserves

(1) In general

Notwithstanding any other provision of law and subject to paragraph (4), the Secretary shall recall, from reserve funds held in the Federal Student Loan Reserve Funds established under section 1072a of this title by guaranty agencies—

(A) $85,000,000 in fiscal year 2002;

(B) $82,500,000 in fiscal year 2006; and

(C) $82,500,000 in fiscal year 2007.

(2) Deposit

Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

(3) Required share

The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) on

the basis of the agency's required share. For purposes of this paragraph, a guaranty agency's required share shall be determined as follows:

(A) Equal percentage

The Secretary shall require each guaranty agency to return an amount representing an equal percentage reduction in the amount of reserve funds held by the agency on September 30, 1996.

(B) Calculation

The equal percentage reduction shall be the percentage obtained by dividing—

(i) $250,000,000, by

(ii) the total amount of all guaranty agencies' reserve funds held on September 30, 1996, less any amounts subject to recall under subsection (h) of this section.

(C) Special rule

Notwithstanding subparagraphs (A) and (B), the percentage reduction under subparagraph (B) shall not result in the depletion of the reserve funds of any agency which charges the 1.0 percent insurance premium pursuant to section 1078(b)(1)(H) of this title below an amount equal to the amount of lender claim payments paid during the 90 days prior to the date of the return under this subsection. If any additional amount is required to be returned after deducting the total of the required shares under subparagraph (B) and as a result of the preceding sentence, such additional amount shall be obtained by imposing on each guaranty agency to which the preceding sentence does not apply, an equal percentage reduction in the amount of the agency's remaining reserve funds.

(4) Offset of required shares

If any guaranty agency returns to the Secretary any reserve funds in excess of the amount required under this subsection or subsection (h) of this section, the total amount required to be returned under paragraph (1) shall be reduced by the amount of such excess reserve funds returned.

(5) Definition of reserve funds

The term "reserve funds" when used with respect to a guaranty agency—

(A) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

(B) does not include buildings, equipment, or other nonliquid assets.

(Pub. L. 89–329, title IV, §422, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1354; amended Pub. L. 100–203, title III, §§3001(a), 3002(a), Dec. 22, 1987, 101 Stat. 1330–36, 1330–38; Pub. L. 102–325, title IV, §§412, 416(p)(8), July 23, 1992, 106 Stat. 511, 527; Pub. L. 103–66, title IV, §§4041(a), (2)(A), 4042, Aug. 10, 1993, 107 Stat. 354, 357; Pub. L. 103–208, §2(c)(1), Dec. 20, 1993, 107 Stat. 2460; Pub. L. 105–33, title VI, §6101(a), Aug. 5, 1997, 111 Stat. 648; Pub. L. 105–244, title IV, §412, Oct. 7, 1998, 112 Stat. 1673.)

CODIFICATION

Amendment by Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1072, Pub. L. 89–329, title IV, §422, Nov. 8, 1965, 79 Stat. 1236; Pub. L. 89–752, §11, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title I, §114(b), (c), Oct. 16, 1968, 82 Stat. 1021, 1022; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2100; Pub. L. 95–43, §1(a)(11)–(13), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95–561, title XIII, §1322(a), Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 99–272, title XVI, §16011, Apr. 7, 1986, 100 Stat. 339, authorized advances to establish or strengthen reserve funds of State and nonprofit private loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244, §412(1), substituted "section 1078(c)(9)(E)" for "section

1078(c)(10)(E)" in concluding provisions.

Subsec. (c)(6)(B)(i). Pub. L. 105–244, §412(2)(A), substituted "written, electronic," for "written".

Subsec. (c)(7)(A). Pub. L. 105–244, §412(2)(B), struck out "during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter" after "lender-of-last-resort".

Subsec. (c)(7)(B). Pub. L. 105–244, §412(2)(C), substituted "section 1078(c)(9)(F)(v)" for "section 1078(c)(10)(F)(v)".

Subsec. (g)(1). Pub. L. 105–244, §412(3), struck out "or the program authorized by part C of this subchapter" after "program authorized by this part" in first and second sentences.

Subsec. (i). Pub. L. 105–244, §412(4), added subsec. (i).

1997—Subsec. (h). Pub. L. 105–33 added subsec. (h).

1993—Subsec. (c)(7). Pub. L. 103–66, §4041(a)(2)(A), substituted "to a guaranty agency—" and subpars. (A) and (B) for "to a guaranty agency in accordance with section 1078(c)(10)(F)(v) of this title in order to assist the agency in meeting its immediate cash needs and ensure the uninterrupted payment of default claims by lenders."

Subsec. (c)(7)(B). Pub. L. 103–208 substituted a period for semicolon at end. See Codification note above.

Subsec. (g). Pub. L. 103–66, §4042, added subsec. (g).

1992—Subsec. (a)(2). Pub. L. 102–325, §412(1), inserted at end "Except as provided in section 1078(c)(10)(E) or (F) of this title, such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary."

Subsec. (c)(5), (7). Pub. L. 102–325, §416(p)(8), substituted "Except as provided in paragraph (7), advances" for "Advances" in par. (5) and added par. (7).

Subsecs. (e), (f). Pub. L. 102–325, §412(2), added subsecs. (e) and (f).

1987—Subsec. (e). Pub. L. 100–203, §3002(a), struck out subsec. (e) which related to reduction of excess cash reserves.

Pub. L. 100–203, §3001(a), added subsec. (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–203, title III, §3002(a), Dec. 22, 1987, 101 Stat. 1330–38, provided that the amendment made by that section is effective Sept. 30, 1989.

§1072a. Federal Student Loan Reserve Fund

(a) Establishment

Each guaranty agency shall, not later than 60 days after October 7, 1998, deposit all funds, securities, and other liquid assets contained in the reserve fund established pursuant to section 1072 of this title into a Federal Student Loan Reserve Fund (in this section and section 1072b of this title referred to as the "Federal Fund"), which shall be an account of a type selected by the agency, with the approval of the Secretary.

(b) Investment of funds

Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary. Earnings from the Federal Fund shall be the sole property of the Federal Government.

(c) Additional deposits

After the establishment of the Federal Fund, a guaranty agency shall deposit into the Federal

Fund—

(1) all amounts received from the Secretary as payment of reinsurance on loans pursuant to section 1078(c)(1) of this title;

(2) from amounts collected on behalf of the obligation of a defaulted borrower, a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made—

(A) with respect to the defaulted loan pursuant to sections 1078(c)(6)(A) [1] and 1078–6(a)(1)(B) of this title; and

(B) with respect to a loan that the Secretary has repaid or discharged under section 1087 of this title;

(3) insurance premiums collected from borrowers pursuant to sections 1078(b)(1)(H) and 1078–8(h) of this title;

(4) all amounts received from the Secretary as payment for supplemental preclaims activity performed prior to October 7, 1998;

(5) 70 percent of amounts received after October 7, 1998, from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to October 7, 1998; and

(6) other receipts as specified in regulations of the Secretary.

(d) Uses of funds

Subject to subsection (f) of this section, the Federal Fund may only be used by a guaranty agency—

(1) to pay lender claims pursuant to sections 1078(b)(1)(G), 1078(j), and 1087 of this title; and

(2) to pay into the Agency Operating Fund established pursuant to section 1072b of this title (in this section and section 1072b of this title referred to as the "Operating Fund") a default aversion fee in accordance with section 1078(l) of this title.

(e) Ownership of Federal Fund

The Federal Fund, and any nonliquid asset (such as a building or equipment) developed or purchased by the guaranty agency in whole or in part with Federal reserve funds, regardless of who holds or controls the Federal reserve funds or such asset, shall be considered to be the property of the United States, prorated based on the percentage of such asset developed or purchased with Federal reserve funds, which property shall be used in the operation of the program authorized by this part, as provided in subsection (d) of this section. The Secretary may restrict or regulate the use of such asset only to the extent necessary to reasonably protect the Secretary's prorated share of the value of such asset. The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditures, use, or transfer of the Federal Fund administered by the guaranty agency that the Secretary determines is a misapplication, misuse, or improper expenditure of the Federal Fund or the Secretary's share of such asset.

(f) Transition

(1) In general

In order to establish the Operating Fund, each guaranty agency may transfer not more than 180 days' cash expenses for normal operating expenses (not including claim payments) as a working capital reserve as defined in Office of Management and Budget Circular A–87 (Cost Accounting Standards) from the Federal Fund for deposit into the Operating Fund for use in the performance of the guaranty agency's duties under this part. Such transfers may occur during the first 3 years following the establishment of the Operating Fund. However, no agency may transfer in excess of 45 percent of the balance, as of September 30, 1998, of the agency's Federal Fund to the agency's Operating Fund during such 3-year period. In determining the amount that may be transferred, the agency shall ensure that sufficient funds remain in the Federal Fund to pay lender claims within the required time periods and to meet the reserve recall requirements of this section and subsections (h) and (i) of section 1072 of this title.

(2) Special rule

A limited number of guaranty agencies may transfer interest earned on the Federal Fund to the Operating Fund during the first 3 years after October 7, 1998, if the guaranty agency demonstrates to the Secretary that—

(A) the cash flow in the Operating Fund will be negative without the transfer of such interest; and

(B) the transfer of such interest will substantially improve the financial circumstances of the guaranty agency.

(3) Repayment provisions

Each guaranty agency shall begin repayment of sums transferred pursuant to this subsection not later than the start of the fourth year after the establishment of the Operating Fund, and shall repay all amounts transferred not later than 5 years from the date of the establishment of the Operating Fund. With respect to amounts transferred from the Federal Fund, the guaranty agency shall not be required to repay any interest on the funds transferred and subsequently repaid. The guaranty agency shall provide to the Secretary a reasonable schedule for repayment of the sums transferred and an annual financial analysis demonstrating the agency's ability to comply with the schedule and repay all outstanding sums transferred.

(4) Prohibition

If a guaranty agency transfers funds from the Federal Fund in accordance with this section, and fails to make scheduled repayments to the Federal Fund, the agency may not receive any other funds under this part until the Secretary determines that the agency has made such repayments. The Secretary shall pay to the guaranty agency any funds withheld in accordance with this paragraph immediately upon making the determination that the guaranty agency has made all such repayments.

(5) Waiver

The Secretary may—

(A) waive the requirements of paragraph (3), but only with respect to repayment of interest that was transferred in accordance with paragraph (2); and

(B) waive paragraph (4);

for a guaranty agency, if the Secretary determines that there are extenuating circumstances (such as State constitutional prohibitions) beyond the control of the agency that justify such a waiver.

(6) Extension of repayment period for interest

(A) Extension permitted

The Secretary shall extend the period for repayment of interest that was transferred in accordance with paragraph (2) from 2 years to 5 years if the Secretary determines that—

(i) the cash flow of the Operating Fund will be negative as a result of repayment as required by paragraph (3);

(ii) the repayment of the interest transferred will substantially diminish the financial circumstances of the guaranty agency; and

(iii) the guaranty agency has demonstrated—

(I) that the agency is able to repay all transferred funds by the end of the 8th year following the date of establishment of the Operating Fund; and

(II) that the agency will be financially sound on the completion of repayment.

(B) Repayment of income on transferred funds

All repayments made to the Federal Fund during the 6th, 7th, and 8th years following the establishment of the Operating Fund of interest that was transferred shall include the sums transferred plus any income earned from the investment of the sums transferred after the 5th year.

(7) Investment of Federal funds

Funds transferred from the Federal Fund to the Operating Fund for operating expenses shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.

(8) Special rule

In calculating the minimum reserve level required by section 1078(c)(9)(A) of this title, the Secretary shall include all amounts owed to the Federal Fund by the guaranty agency in the calculation.

(Pub. L. 89–329, title IV, §422A, as added Pub. L. 105–244, title IV, §413(a), Oct. 7, 1998, 112 Stat. 1674; amended Pub. L. 110–315, title IV, §438(a)(1), Aug. 14, 2008, 122 Stat. 3258.)

REFERENCES IN TEXT

Section 1078(c)(6)(A) of this title, referred to in subsec. (c)(2)(A), was redesignated section 1078(c)(6)(A)(i) of this title by Pub. L. 109–171, title VIII, §8014(d)(3)(A), (B), Feb. 8, 2006, 120 Stat. 170.

AMENDMENTS

2008—Subsec. (d)(1). Pub. L. 110–315 substituted "and 1087" for "1087, and 1087–2(q)".

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

[1] *See References in Text note below.*

§1072b. Agency Operating Fund

(a) Establishment

Each guaranty agency shall, not later than 60 days after October 7, 1998, establish a fund designated as the Operating Fund.

(b) Investment of funds

Funds deposited into the Operating Fund shall be invested at the discretion of the guaranty agency in accordance with prudent investor standards.

(c) Additional deposits

After the establishment of the Operating Fund, the guaranty agency shall deposit into the Operating Fund—

(1) the loan processing and issuance fee paid by the Secretary pursuant to section 1078(f) of this title;

(2) 30 percent of amounts received after October 7, 1998, from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to October 7, 1998;

(3) the account maintenance fee paid by the Secretary in accordance with section 1087h of this title;

(4) the default aversion fee paid in accordance with section 1078(l) of this title;

(5) amounts remaining pursuant to section 1078(c)(6)(B) [1] of this title from collection on defaulted loans held by the agency, after payment of the Secretary's equitable share, excluding amounts deposited in the Federal Fund pursuant to section 1072a(c)(2) of this title; and

(6) other receipts as specified in regulations of the Secretary.

(d) Uses of funds

(1) In general

Funds in the Operating Fund shall be used for application processing, loan disbursement,

enrollment and repayment status management, default aversion activities (including those described in section 1072(h)(8) of this title), default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other student financial aid related activities, as selected by the guaranty agency.

(2) Special rule

The guaranty agency may, in the agency's discretion, transfer funds from the Operating Fund to the Federal Fund for use pursuant to section 1072a of this title. Such transfer shall be irrevocable, and any funds so transferred shall become the sole property of the United States.

(3) Definitions

For purposes of this subsection:

(A) Default collection activities

The term "default collection activities" means activities of a guaranty agency that are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the due diligence activities required pursuant to regulations of the Secretary.

(B) Default aversion activities

The term "default aversion activities" means activities of a guaranty agency that are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including due diligence activities required pursuant to regulations of the Secretary.

(C) Enrollment and repayment status management

The term "enrollment and repayment status management" means activities of a guaranty agency that are directly related to ascertaining the student's enrollment status, including prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part.

(e) Ownership and regulation of Operating Fund

(1) Ownership

The Operating Fund, with the exception of funds transferred from the Federal Fund in accordance with section 1072a(f) of this title, shall be considered to be the property of the guaranty agency.

(2) Regulation

Except as provided in paragraph (3), the Secretary may not regulate the uses or expenditure of moneys in the Operating Fund, but the Secretary may require such necessary reports and audits as provided in section 1078(b)(2) of this title.

(3) Exception

Notwithstanding paragraphs (1) and (2), during any period in which funds are owed to the Federal Fund as a result of transfer under section 1072a(f) of this title—

(A) moneys in the Operating Fund may only be used for expenses related to the student loan programs authorized under this part; and

(B) the Secretary may regulate the uses or expenditure of moneys in the Operating Fund.

(Pub. L. 89–329, title IV, §422B, as added Pub. L. 105–244, title IV, §413(b), Oct. 7, 1998, 112 Stat. 1677.)

REFERENCES IN TEXT

Section 1078(c)(6)(B) of this title, referred to in subsec. (c)(5), was redesignated section 1078(c)(6)(A)(ii) of this title by Pub. L. 109–171, title VIII, §8014(d)(3)(A), (B), Feb. 8, 2006, 120 Stat. 170.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

[1] *See References in Text note below.*

§1073. Effects of adequate non-Federal programs

(a) Federal insurance barred to lenders with access to State or private insurance

Except as provided in subsection (b) of this section, the Secretary shall not issue certificates of insurance under section 1079 of this title to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 1078(b) of this title.

(b) Exceptions

The Secretary may issue certificates of insurance under section 1079 of this title to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 1072 of this title for the benefit of students in such State);

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(Pub. L. 89–329, title IV, §423, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1358.)

PRIOR PROVISIONS

A prior section 1073, Pub. L. 89–329, title IV, §423, Nov. 8, 1965, 79 Stat. 1237; Pub. L. 90–575, title I, §119(a), Oct. 16, 1968, 82 Stat. 1026; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2103; Pub. L. 95–43, §1(a)(14), June 15, 1977, 91 Stat. 214; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, limited participation in Federal loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

§1074. Scope and duration of Federal loan insurance program

(a) Limitations on amounts of loans covered by Federal insurance

The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 1085 of this title) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, for each of the succeeding fiscal years ending prior to October 1, 2009, and for the period from October 1, 2009, to June 30, 2010, for loans first disbursed on or before June 30, 2010.

(b) Apportionment of amounts

The Secretary may, if he or she finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a) of this section, Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(Pub. L. 89–329, title IV, §424, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat.

1358; amended Pub. L. 102–325, title IV, §411(b)(1), July 23, 1992, 106 Stat. 510; Pub. L. 105–33, title VI, §6104(1), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, §414, Oct. 7, 1998, 112 Stat. 1679; Pub. L. 109–171, title VIII, §8004(b)(1), Feb. 8, 2006, 120 Stat. 158; Pub. L. 110–315, title IV, §421, Aug. 14, 2008, 122 Stat. 3227; Pub. L. 111–152, title II, §2202, Mar. 30, 2010, 124 Stat. 1074.)

PRIOR PROVISIONS

A prior section 1074, Pub. L. 89–329, title IV, §424, Nov. 8, 1965, 79 Stat. 1237; Pub. L. 90–460, §1(a)(1), Aug. 3, 1968, 82 Stat. 634; Pub. L. 90–575, title I, §112(a), Oct. 16, 1968, 82 Stat. 1020; Pub. L. 92–318, title I, §132(a), June 23, 1972, 86 Stat. 261; Pub. L. 94–328, §2(a), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2103; Pub. L. 96–374, title IV, §411(a), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1415, 1503; Pub. L. 99–272, title XVI, §16018(a)(1), Apr. 7, 1986, 100 Stat. 348, related to new loans under Federal loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–152 substituted "September 30, 1976, for each of the succeeding fiscal years ending prior to October 1, 2009, and for the period from October 1, 2009, to June 30, 2010, for loans first disbursed on or before June 30, 2010." for "September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 2014. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 2018."

2008—Subsec. (a). Pub. L. 110–315 substituted "October 1, 2014" for "October 1, 2012" and "September 30, 2018" for "September 30, 2016".

2006—Subsec. (a). Pub. L. 109–171 substituted "October 1, 2012" for "October 1, 2004" and "September 30, 2016" for "September 30, 2008".

1998—Subsec. (a). Pub. L. 105–244 substituted "October 1, 2004" for "October 1, 2002" and "September 30, 2008" for "September 30, 2006".

1997—Subsec. (a). Pub. L. 105–33 substituted "October 1, 2002" for "October 1, 1998" and "September 30, 2006" for "September 30, 2002".

1992—Subsec. (a). Pub. L. 102–325 substituted "October 1, 1998" for "October 1, 1992" and "September 30, 2002" for "September 30, 1997".

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1075. Limitations on individual federally insured loans and on Federal loan insurance

(a) Annual and aggregate limits

(1) Annual limits

(A) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title); and

(II) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not

exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) $4,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year; and

(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500.

(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.

(2) Aggregate limits

(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 [1] or 1078–2 of this title; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary) and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student),[2] but (II) excluding loans made under section 1078–1 [1] or 1078–2 of this title,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(B) The Secretary may increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(b) Level of insurance coverage based on default rate

(1) Reduction for defaults in excess of 5 or 9 percent

(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 1080 of this title by the Secretary to any eligible lender as described in section 1085(d)(1)(D) of this title exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 1085(d)(1)(D) of this title for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the 4 succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 1085(d)(1)(D) of this title shall be—

(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after October 12, 1976, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

(2) Computation of amounts in repayment

For the purpose of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 1077(a)(2)(B) of this title or such first installment need not be paid pursuant to section 1077(a)(2)(C) of this title; and

(D) the original principal amount of loans repaid by the Secretary under section 1087 of this title.

(3) Payments to assignees

For the purpose of this subsection, payments by the Secretary under section 1080 of this title to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) Pledge of full faith and credit

The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 1080 or 1087 of this title.

(Pub. L. 89–329, title IV, §425, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat.

1359; amended Pub. L. 100–50, §10(a), June 3, 1987, 101 Stat. 341; Pub. L. 102–325, title IV, §413, July 23, 1992, 106 Stat. 512; Pub. L. 103–208, §2(c)(2), (3), Dec. 20, 1993, 107 Stat. 2460, 2461; Pub. L. 105–244, title IV, §415, Oct. 7, 1998, 112 Stat. 1679; Pub. L. 109–171, title VIII, §8005(a), Feb. 8, 2006, 120 Stat. 158.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (a)(2)(A), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1075, Pub. L. 89–329, title IV, §425, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 90–575, title I, §§116(b)(1), 120(a)(2), Oct. 16, 1968, 82 Stat. 1023, 1027; Pub. L. 92–318, title I, §§132A(a), 132B(a), June 23, 1972, 86 Stat. 261, 262; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2104; Pub. L. 95–43, §1(a)(15)–(17), June 15, 1977, 91 Stat. 214; Pub. L. 95–566, §5(b)(2), Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, §412(a), (b), (f), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1416, 1417, 1503; Pub. L. 97–35, title V, §535(a), (b), Aug. 13, 1981, 95 Stat. 455; Pub. L. 99–272, title XVI, §16013(e)(1), Apr. 7, 1986, 100 Stat. 341, limited Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2006—Subsec. (a)(1)(A)(i)(I). Pub. L. 109–171, §8005(a)(1), substituted "$3,500" for "$2,625".

Subsec. (a)(1)(A)(ii)(I). Pub. L. 109–171, §8005(a)(2), substituted "$4,500" for "$3,500".

1998—Subsec. (a)(1)(A)(i)(I). Pub. L. 105–244, §415(1)(A), inserted "and" after semicolon.

Subsec. (a)(1)(A)(i)(II), (III). Pub. L. 105–244, §415(1)(B), added subcl. (II) and struck out former subcls. (II) and (III) which read as follows:

"(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least 2/3 of such an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of such an academic year;".

Subsec. (a)(1)(A)(iii)(II). Pub. L. 105–244, §415(2), inserted "and" after semicolon at end.

1993—Subsec. (a)(1)(A)(ii), (iii). Pub. L. 103–208, §2(c)(2)(A), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

"(ii) the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

"(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least 2/3 of such an academic year; and

"(III) $1,175, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of such an academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

"(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least 2/3 of such an academic year; and

"(III) $1,825, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of such an academic year; and".

Subsec. (a)(1)(A)(iv). Pub. L. 103–208, §2(c)(2)(B), substituted a period for semicolon at end.

Subsec. (a)(1)(C). Pub. L. 103–208, §2(c)(3), added subpar. (C).

1992—Subsec. (a)(1)(A). Pub. L. 102–325, §413(1), added cls. (i) to (iv) and struck out former cls. (i) to (iii) which read as follows:

"(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

"(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has

not successfully completed the remainder of a program of undergraduate education; or

"(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary)."

Subsec. (a)(2)(A). Pub. L. 102–325, §413(2), added cls. (i) and (ii) and concluding provision and struck out former cls. (i) and (ii) which read as follows:

"(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 or 1078–2 of this title; and

"(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such person before he or she became a graduate or professional student), excluding loans made under section 1078–1 or 1078–2 of this title."

1987—Subsec. (a)(2)(A)(i). Pub. L. 100–50, §10(a)(1), inserted ", excluding loans made under section 1078–1 or 1078–2 of this title" after "undergraduate education".

Subsec. (a)(2)(A)(ii). Pub. L. 100–50, §10(a)(2), inserted ", excluding loans made under section 1078–1 or 1078–2 of this title" after "graduate or professional student)".

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–171, title VIII, §8005(e), Feb. 8, 2006, 120 Stat. 159, provided that: "The amendments made by subsections (a), (b), and (d) [amending this section and sections 1078 and 1078–8 of this title] shall be effective July 1, 2007."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(2) of Pub. L. 103–208 effective on and after July 1, 1994 and amendment by section 2(c)(3) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(b)(2), (6) of Pub. L. 103–208 set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, with changes made in subsec. (a), relating to annual and aggregate loan limits, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, except that changes made in subsec. (a)(1)(A)(i) applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, and except that changes made in subsec. (a)(1)(A)(iv) applicable with respect to loans to cover costs of instruction for periods of enrollment beginning on or after Oct. 1, 1993, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except that subsec. (a) of this section applicable only to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

[1] See References in Text note below.

[2] So in original. There is no opening parenthesis.

§1076. Sources of funds

Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(Pub. L. 89–329, title IV, §426, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1361.)

PRIOR PROVISIONS

A prior section 1076, Pub. L. 89–329, title IV, §426, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2106; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to insurability of loans made from funds owned by lender or held by lender in trust, prior to the general revision of this part by Pub. L. 99–498.

§1077. Eligibility of student borrowers and terms of federally insured student loans

(a) List of requirements

Except as provided in section 1078–3 of this title, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 1091 of this title, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement;

(B) provides for repayment (except as provided in subsection (c) of this section) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in subparagraph (C);

(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(o) of this title, has caused or will cause the borrower to have an economic hardship;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B);

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 1077a of this title, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 1087 of this title;

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

(G)(i) contains a notice of the system,[1] of disclosure of information concerning such loan to consumer reporting agencies under section 1080a of this title, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such consumer reporting agencies;

(H) provides that, no more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with the regulations of the Secretary; and

(I) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan;

(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except—

(A) that nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted—

(i) to allow the Secretary to require checks to be made copayable to the institution and the borrower; or

(ii) to prohibit the disbursement of loan proceeds by means other than by check; and

(B) in the case of any student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney; and

(4) the funds borrowed by a student are disbursed in accordance with section 1078–7 of this title.

(b) Special rules for multiple disbursement

For the purpose of subsection (a)(4) of this section—

(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

(2) the requirements of such subsection shall not apply in the case of a loan made under section

1078–2 or 1078–3 of this title, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(c) Special repayment rules

Except as provided in subsection (a)(2)(H) of this section, the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable).

(d) Borrower information

The lender shall obtain the borrower's driver's license number, if any, at the time of application for the loan.

(Pub. L. 89–329, title IV, §427, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1361; amended Pub. L. 100–50, §10(b), (c), June 3, 1987, 101 Stat. 341; Pub. L. 100–369, §§5(b)(1), 7(c), 11(a), July 18, 1988, 102 Stat. 836–838; Pub. L. 101–239, title II, §§2002(a)(1), 2004(b)(2), Dec. 19, 1989, 103 Stat. 2111, 2116; Pub. L. 102–164, title VI, §§601(a), 602(a), Nov. 15, 1991, 105 Stat. 1065, 1066; Pub. L. 102–325, title IV, §414, July 23, 1992, 106 Stat. 513; Pub. L. 103–208, §2(c)(4), Dec. 20, 1993, 107 Stat. 2461; Pub. L. 110–315, title IV, §432(b)(1), Aug. 14, 2008, 122 Stat. 3246.)

PRIOR PROVISIONS

A prior section 1077, Pub. L. 89–329, title IV, §427, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 89–794, title XI, §1101(b)(1), Nov. 8, 1966, 80 Stat. 1476; Pub. L. 90–460, §2(a)(1), Aug. 3, 1968, 82 Stat. 635; Pub. L. 90–575, title I, §§113(b)(2), 116(b)(2), 117(c), 120(c)(2), Oct. 16, 1968, 82 Stat. 1021, 1023, 1026, 1027; Pub. L. 92–318, title I, §§132B(b), 132C(c), June 23, 1972, 86 Stat. 262, 263; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2106; Pub. L. 95–43, §1(a)(9), (18), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95–566, §5(a)(1), Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, §§413(a), (c), 415(a)(2), (b)(1), 416(a)(2), 423(a)(1), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1417–1421, 1432, 1503; Pub. L. 97–35, title V, §537(b)(1), (d)(2), (e)(1), Aug. 13, 1981, 95 Stat. 456, 457; Pub. L. 98–79, §10[(a)], Aug. 15, 1983, 97 Stat. 484; Pub. L. 99–272, title XVI, §§16012(a), 16013(b), 16017(b)(1), Apr. 7, 1986, 100 Stat. 339, 340, 347, set out conditions for Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (a)(2)(G)(i). Pub. L. 110–315, §432(b)(1)(A), substituted "consumer reporting agencies" for "credit bureau organizations".

Subsec. (a)(2)(G)(ii). Pub. L. 110–315, §432(b)(1)(B), substituted "consumer reporting agencies" for "organizations".

1993—Subsec. (a)(2)(C)(i). Pub. L. 103–208 inserted "section" before "1078–2 or 1078–3".

1992—Subsec. (a)(2)(A). Pub. L. 102–325, §414(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender shall—

"(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

"(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history;".

Subsec. (a)(2)(C). Pub. L. 102–325, §414(b), amended subpar. (C) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (a)(2)(G) to (I). Pub. L. 102–325, §414(c)(1), struck out "and" at end of subpar. (G), added subpar. (H), and redesignated former subpar. (H) as (I).

Subsec. (a)(3). Pub. L. 102–325, §414(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this

subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and".

Subsec. (c). Pub. L. 102–325, §414(c)(2), (e), substituted "Special repayment rules" for "Minimum repayment rate" in heading and in text "Except as provided in subsection (a)(2)(H) of this section, the total" for "The total" and "(but in no instance less than the amount of interest due and payable)" for ", except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less".

1991—Subsec. (a)(2)(A). Pub. L. 102–164, §601(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement may be required;".

Subsec. (d). Pub. L. 102–164, §602(a), added subsec. (d).

1989—Subsec. (a)(2)(C)(i). Pub. L. 101–239, §2002(a)(1), inserted before semicolon at end ", except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program".

Subsec. (a)(4). Pub. L. 101–239, §2004(b)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "in the case of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of $1,000 or more, the proceeds of the loan will, subject to subsection (b) of this section, be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment)."

1988—Subsec. (a)(2)(C)(v). Pub. L. 100–369, §7(c), substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Subsec. (a)(2)(C)(vii). Pub. L. 100–369, §11(a), inserted "after January 1, 1986," after "service".

Subsec. (b)(2). Pub. L. 100–369, §5(b)(1), substituted "section 1078–2 or 1078–3" for "section 1078–1, 1078–2, or 1078–3".

1987—Subsec. (a)(2)(C)(vi). Pub. L. 100–50, §10(b)(1), inserted "nonprofit" before "private".

Subsec. (a)(2)(C)(vii). Pub. L. 100–50, §10(b)(2), inserted "or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training" before semicolon at end.

Subsec. (a)(4). Pub. L. 100–50, §10(c), substituted "$1,000 or more" for "more than $1,000".

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (a)(2)(C), relating to deferments, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, and except that changes made in subsec. (a)(2)(H), relating to offering graduated or income sensitive repayment options, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–239, title II, §2002(a)(4), Dec. 19, 1989, 103 Stat. 2111, provided that: "The amendments made by this subsection [amending this section and sections 1078 and 1087dd of this title] shall apply to any loan made, insured, or guaranteed under part B or part E of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087aa et seq.], including a loan made before the enactment of this Act [Dec. 19, 1989], and shall take effect on January 1, 1990, except that such amendments shall not apply with respect to any portion of a period of deferment granted to a borrower under section 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the Higher Education Act of 1965 [sections 1077(a)(2)(C)(i), 1078(b)(1)(M)(i),

1087dd(c)(2)(A)(i) of this title] for service in a medical internship or residency program that is completed prior to the effective date of this section [Dec. 19, 1989]."

Pub. L. 101–239, title II, §2004(c), Dec. 19, 1989, 103 Stat. 2116, provided that: "The amendments made by this section [enacting section 1078–7 of this title and amending this section and section 1078 of this title] shall apply with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1990."

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–369, §11(b), July 18, 1988, 102 Stat. 838, provided that: "The amendments made by subsection (a) [amending this section and section 1078 of this title] and section 10(b) of the Higher Education Technical Amendments Act of 1987 [section 10(b) of Pub. L. 100–50, amending this section and section 1078 of this title] shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965 [probably means part B of title IV of Pub. L. 89–329 which is classified to this part], on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987 [June 3, 1987]."

Amendment by section 5(b)(1) of Pub. L. 100–369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100–369 effective July 18, 1988, see section 13(b) of Pub. L. 100–369, set out as a note under section 1091 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10(b) of Pub. L. 100–50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as an Effective Date of 1988 Amendment note above.

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except that subsec. (a)(2)(C) (other than cls. (viii), (ix), and (x) thereof) of this section shall apply only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

[1] So in original. The comma probably should not appear.

§1077a. Applicable interest rates

(a) Rates to be consistent for borrower's entire debt

With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) of this section in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) Reduction for new borrowers after decline in Treasury bill rates

If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation

with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) of this section for borrowers described in such subsection.

(c) Rates for supplemental loans for students and loans for parents

(1) In general

Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 1078–1 [1] or 1078–2 of this title on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

(2) Reduction of rate after decline in Treasury bill rates

If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 1078–1 [1] or 1078–2 of this title on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

(3) Increase of rate after increase in Treasury bill rates

If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 1078–1 [1] or 1078–2 of this title on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

(4) Availability of variable rates

(A) For any loan made pursuant to section 1078–1 [1] or 1078–2 of this title and disbursed on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 1078–1(d) [1] or 1078–2(d) of this title, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

(B)(i) For any 12-month period beginning on July 1 and ending on or before June 30, 2001, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

(I) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

(II) 3.25 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the rate determined under this subparagraph is determined on the preceding June 26 and is equal to—

(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

(II) 3.25 percent.

(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(D) Notwithstanding subparagraph (A)—

(i) for any loan made pursuant to section 1078–1 [1] of this title for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and
(II) the interest rate shall not exceed 11 percent; and

(ii) for any loan made pursuant to section 1078–2 of this title for which the first disbursement is made on or after October 1, 1992—
(I) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and
(II) the interest rate shall not exceed 10 percent.

(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 1078–2 of this title for which the first disbursement is made on or after July 1, 1994—
(i) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and
(ii) the interest rate shall not exceed 9 percent.

(d) Interest rates for new borrowers after July 1, 1988

Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 1078–1,[1] 1078–2, and 1078–3 of this title) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

(e) Interest rates for new borrowers after October 1, 1992

(1) In general

Notwithstanding subsections (a), (b), and (d) of this section, with respect to any loan (other than a loan made pursuant to sections 1078–1,[1] 1078–2 and 1078–3 of this title) for which the first disbursement is made on or after October 1, 1992, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under section 1077, 1078, or 1078–8 of this title, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus
(B) 3.10 percent,

except that such rate shall not exceed 9 percent.

(2) Consultation

The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(f) Interest rates for new loans after July 1, 1994

(1) In general

Notwithstanding subsections (a), (b), (d), and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior

to such June 1; plus
(B) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

(2) Consultation

The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(g) In school and grace period rules

(1) General rule

Notwithstanding the provisions of subsection (f) of this section, but subject to subsection (h) of this section, with respect to any loan under section 1078 or 1078–8 of this title for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall not exceed the rate determined under paragraph (2).

(2) Rate determination

For purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(h) Interest rates for new loans after July 1, 1998

(1) In general

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 1078–2 and 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the securities with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(2) Interest rates for new PLUS loans after July 1, 1998

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made under section 1078–2 of this title for which the first disbursement is made on or after July 1, 1998, paragraph (1) shall be applied—

(A) by substituting "2.1 percent" for "1.0 percent" in subparagraph (B); and

(B) by substituting "9.0 percent" for "8.25 percent" in the matter following such subparagraph.

(3) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(i) Treatment of excess interest payments on new borrower accounts resulting from decline in Treasury bill rates

(1) Excess interest on 10 percent loans

If, with respect to a loan for which the applicable interest rate is 10 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 10 percent, then an adjustment shall be made to a borrower's account—

(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(2) Amount of adjustment for 10 percent loans

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(3) Excess interest on loans after 1992 amendments, to borrowers with outstanding balances

If, with respect to a loan made on or after July 23, 1992, to a borrower, who on the date of entering into the note or other written evidence of the loan, has an outstanding balance of principal or interest on any other loan made, insured, or guaranteed under this part, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.1 percent is less than the applicable interest rate, then an adjustment shall be made—

(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(4) Amount of adjustment

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) the applicable interest rate minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.1 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(5) Annual adjustment of interest and borrower eligibility for credit

Any adjustment amount computed pursuant to paragraphs (2) and (4) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan account of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan, but the excess interest shall be calculated and credited to the Secretary. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the borrower either by reduction in the amount of the periodic payment on loan, by reducing the number of payments that shall be made with respect to the loan, or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title.

(6) Publication of Treasury bill rate

For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987, publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

(7) Conversion to variable rate

(A) Subject to subparagraphs (C) and (D), a lender or holder shall convert the interest rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).

(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans described in paragraph (1) or to the Government and borrower as specified in paragraph (3).

(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 1083(b) of this title if such disclosure has not been previously made.

(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.

(j) Interest rates for new loans between July 1, 1998, and October 1, 1998

(1) In general

Notwithstanding subsection (h) of this section, but subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

Notwithstanding subsection (h) of this section, with respect to any loan under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under paragraph (1) by substituting "1.7 percent" for "2.3 percent".

(3) PLUS loans

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078–2 of this title for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

(A)(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 3.1 percent; or

(B) 9.0 percent.

(4) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(k) Interest rates for new loans on or after October 1, 1998, and before July 1, 2006

(1) In general

Notwithstanding subsection (h) of this section and subject to paragraph (2) of this subsection, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

Notwithstanding subsection (h) of this section, with respect to any loan under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1077(a)(2)(C) or 1078(b)(1)(M) of this title,

shall be determined under paragraph (1) by substituting "1.7 percent" for "2.3 percent".

(3) PLUS loans

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078–2 of this title for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be determined under paragraph (1)—

(A) by substituting "3.1 percent" for "2.3 percent"; and

(B) by substituting "9.0 percent" for "8.25 percent".

(4) Consolidation loans

With respect to any consolidation loan under section 1078–3 of this title for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

(5) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(l) Interest rates for new loans on or after July 1, 2006, and before July 1, 2010

(1) In general

Notwithstanding subsection (h) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

(2) PLUS loans

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078–2 of this title for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, the applicable rate of interest shall be 8.5 percent on the unpaid principal balance of the loan.

(3) Consolidation loans

With respect to any consolidation loan under section 1078–3 of this title for which the application is received by an eligible lender on or after July 1, 2006, and that was disbursed before July 1, 2010, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

(4) Reduced rates for undergraduate subsidized loans

Notwithstanding subsection (h) and paragraph (1) of this subsection, with respect to any loan to an undergraduate student made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2, 1078–3, or 1078–8 of this title) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, the applicable rate of interest shall be as follows:

(A) For a loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2008, 6.8 percent on the unpaid principal balance of the loan.

(B) For a loan for which the first disbursement is made on or after July 1, 2008, and before July 1, 2009, 6.0 percent on the unpaid principal balance of the loan.

(C) For a loan for which the first disbursement is made on or after July 1, 2009, and before July 1, 2010, 5.6 percent on the unpaid principal balance of the loan.

(m) Lesser rates permitted

Nothing in this section or section 1078–3 of this title shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

(n) Definitions

For the purpose of subsections (a) and (d) of this section—

(1) the term "period of instruction" shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term "period of enrollment" shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

(Pub. L. 89–329, title IV, §427A, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1364; amended Pub. L. 100–50, §10(d)(1), June 3, 1987, 101 Stat. 342; Pub. L. 102–325, title IV, §415, July 23, 1992, 106 Stat. 514; Pub. L. 103–66, title IV, §4101, Aug. 10, 1993, 107 Stat. 364; Pub. L. 103–208, §2(c)(5)–(10), Dec. 20, 1993, 107 Stat. 2461; Pub. L. 105–178, title VIII, §8301(a)(1), June 9, 1998, 112 Stat. 496; Pub. L. 105–244, title IV, §416(a)(1), Oct. 7, 1998, 112 Stat. 1679; Pub. L. 106–554, §1(a)(1) [title III, §318(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–49; Pub. L. 107–139, §1(a)(1), (c), Feb. 8, 2002, 116 Stat. 8, 9; Pub. L. 109–171, title VIII, §8006(a), Feb. 8, 2006, 120 Stat. 159; Pub. L. 110–84, title II, §201(a)(1), Sept. 27, 2007, 121 Stat. 790; Pub. L. 111–152, title II, §2203, Mar. 30, 2010, 124 Stat. 1074.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsecs. (c) to (e)(1), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

CODIFICATION

Amendments by section 2(c)(6)–(10) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1077a, Pub. L. 89–329, title IV, §427A, as added Pub. L. 96–374, title IV, §415(a)(1), Oct. 3, 1980, 94 Stat. 1419; amended Pub. L. 97–35, title V, §534(a)(1), Aug. 13, 1981, 95 Stat. 454; Pub. L. 98–79, §5(a), (b)(1), Aug. 15, 1983, 97 Stat. 481, 482, prescribed applicable interest rates on loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2010—Subsec. (l). Pub. L. 111–152, §2203(1), inserted "and before July 1, 2010" in heading.
Subsec. (l)(1), (2). Pub. L. 111–152, §2203(2), (3), inserted "and before July 1, 2010," after "July 1, 2006,".
Subsec. (l)(3). Pub. L. 111–152, §2203(4), inserted "and that was disbursed before July 1, 2010," after "July

1, 2006,".

Subsec. (l)(4). Pub. L. 111–152, §2203(5)(A), substituted "July 1, 2010" for "July 1, 2012" in introductory provisions.

Subsec. (l)(4)(D), (E). Pub. L. 111–152, §2203(5)(B), struck out subpars. (D) and (E) which read as follows:

"(D) For a loan for which the first disbursement is made on or after July 1, 2010, and before July 1, 2011, 4.5 percent on the unpaid principal balance of the loan.

"(E) For a loan for which the first disbursement is made on or after July 1, 2011, and before July 1, 2012, 3.4 percent on the unpaid principal balance of the loan."

2007—Subsec. (l)(4). Pub. L. 110–84 added par. (4).

2006—Subsec. (l)(2). Pub. L. 109–171 substituted "8.5 percent" for "7.9 percent".

2002—Subsec. (k). Pub. L. 107–139, §1(c), substituted "2006" for "2003" in heading and "July 1, 2006," for "July 1, 2003," wherever appearing in text.

Subsecs. (l) to (n). Pub. L. 107–139, §1(a)(1), added subsec. (l) and redesignated former subsecs. (l) and (m) as (m) and (n), respectively.

2000—Subsec. (c)(4)(B). Pub. L. 106–554 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

"(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.25 percent."

1998—Subsec. (j). Pub. L. 105–178, §8301(a)(1)(B), added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 105–244, §416(a)(1)(B), added subsec. (k). Former subsec. (k) redesignated (l).

Pub. L. 105–178, §8301(a)(1)(A), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 105–244, §416(a)(1)(A), redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Pub. L. 105–178, §8301(a)(1)(A), redesignated subsec. (k) as (l).

Subsec. (m). Pub. L. 105–244, §416(a)(1)(A), redesignated subsec. (l) as (m).

1993—Subsec. (c)(4)(E). Pub. L. 103–66, §4101(1), added subpar. (E).

Subsec. (e)(1). Pub. L. 103–208, §2(c)(5), substituted "under section 1077, 1078, or 1078–8 of this title" for "under this part".

Subsecs. (f) to (h). Pub. L. 103–66, §4101(3), added subsecs. (f) to (h). Former subsecs. (f) to (h) redesignated (i) to (k), respectively.

Subsec. (i). Pub. L. 103–66, §4101(2), redesignated subsec. (f) as (i).

Subsec. (i)(1)(B). Pub. L. 103–208, §2(c)(6), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "by crediting the excess interest to the reduction of principal to the extent provided for under paragraph (5) of this subsection." See Codification note above.

Subsec. (i)(2)(B). Pub. L. 103–208, §2(c)(7), substituted "average daily principal balance" for "outstanding principal balance" and "during" for "at the end of". See Codification note above.

Subsec. (i)(4)(B). Pub. L. 103–208, §2(c)(8), substituted "average daily principal balance" for "outstanding principal balance" and "during" for "at the end of". See Codification note above.

Subsec. (i)(5). Pub. L. 103–208, §2(c)(9)(A)(i), (B), substituted "paragraphs (2) and (4)" for "paragraph (2)" in first sentence and inserted ", but the excess interest shall be calculated and credited to the Secretary" after "required payment on the loan" in second sentence. See Codification note above.

Pub. L. 103–208, §2(c)(9)(A)(ii), which directed substitution of "principal" for "principle" in first sentence, could not be executed because the word "principle" does not appear in text.

Subsec. (i)(7). Pub. L. 103–208, §2(c)(10), added par. (7). See Codification note above.

Subsecs. (j), (k). Pub. L. 103–66, §4101(2), redesignated subsecs. (g) and (h) as (j) and (k), respectively.

1992—Subsec. (c)(4)(D). Pub. L. 102–325, §415(a), added subpar. (D).

Subsec. (e). Pub. L. 102–325, §415(c)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 102–325, §415(b), amended par. (1) heading and substituted "paragraph (5)" for "paragraph (3)" in par. (1)(B), amended par. (2) heading, added pars. (3) and (4), redesignated former par. (3) as (5), struck out "or" before "by reducing the number" and inserted ", or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title" before period at end, redesignated former par. (4) as (6), and struck out former par. (5) which provided for study of treatment of excess interest payments provisions.

Subsecs. (f) to (h). Pub. L. 102–325, §415(c)(1), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

1987—Subsec. (c)(4)(A). Pub. L. 100–50, §10(d)(1)(A), (B), substituted "and disbursed on or after July 1,

1987" for "to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987" and "any 12-month period beginning on or after July 1 and ending on June 30" for "any calendar year".

Subsec. (c)(4)(B). Pub. L. 100–50, §10(d)(1)(C), added subpar. (B) and struck out former subpar. (B) which read as follows: "For any calendar year, the rate determined under this subparagraph is determined on December 15 preceding such calendar year and is equal to—

"(i) the average of the bond equivalent rates of 91-day Treasury bills auctioned during the 12 months ending on November 30 preceding such calendar year; plus

"(ii) 3.75 percent."

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, §416(c), Oct. 7, 1998, 112 Stat. 1682, provided that: "The amendments made by this section [amending this section and sections 1078–2, 1078–3, and 1087–1 of this title] shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.] for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to any loan made under section 428C of such Act [20 U.S.C. 1078–3] for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(5) of Pub. L. 103–208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(6)–(10) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, see section 5(a), (b)(2) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

[1] *See References in Text note below.*

§1078. Federal payments to reduce student interest costs

(a) Federal interest subsidies

(1) Types of loans that qualify

Each student who has received a loan for study at an eligible institution for which the first disbursement is made before July 1, 2010, and—

(A) which is insured by the Secretary under this part; or

(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) of this section and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1) of this section) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b) of this

section,

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2) Additional requirements to receive subsidy

(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth the loan amount for which the student shows financial need; and

(II) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title;

(ii) meet the requirements of subparagraph (B); and

(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's number, if any.

(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has determined and documented the student's amount of need for a loan based on the student's estimated cost of attendance, estimated financial assistance, and, for the purpose of an interest payment pursuant to this section, expected family contribution (as determined under part E of this subchapter), subject to the provisions of subparagraph (D).

(C) For the purpose of this paragraph—

(i) a student's cost of attendance shall be determined under section 1087ll *of this title;*

(ii) a student's estimated financial assistance means, for the period for which the loan is sought—

(I) the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 and part D of this subchapter; plus

(II) other scholarship, grant, or loan assistance, but excluding—

(aa) any national service education award or post-service benefit under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.]; and

(bb) any veterans' education benefits as defined in section 1087vv(c) of this title; and

(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part E of this subchapter.

(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 1078–1 [1] or 1078–8 of this title or a parent under section 1078–2 of this title or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.

(3) Amount of interest subsidy

(A)(i) Subject to section 1087–1(c) of this title, the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

(I) which accrues prior to the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution), or

(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 1077(a)(2)(C) of this title.

(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

(iii) The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) of this section was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(v) A lender may not receive interest on a loan for any period that precedes the date that is—

(I) in the case of a loan disbursed by check, 10 days before the first disbursement of the loan;

(II) in the case of a loan disbursed by electronic funds transfer, 3 days before the first disbursement of the loan; or

(III) in the case of a loan disbursed through an escrow agent, 3 days before the first disbursement of the loan.

(B) If—

(i) a State student loan insurance program is covered by an agreement under subsection (b) of this section,

(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

(iii) the Secretary determines that subsection (d) of this section does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after October 16, 1968, and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

(4) Submission of statements by holders on amount of payment

Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) Duration of authority to make interest subsidized loans

The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on November 8, 1965, and end at the close of June 30, 2010.

(6) Assessment of borrower's financial condition not prohibited or required

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(7) Loans that have not been consummated

Lenders may not charge interest or receive interest subsidies or special allowance payments for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(b) Insurance program agreements to qualify loans for interest subsidies

(1) Requirements of insurance program

Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) of this section if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year, as defined in section 1088(a)(2) of this title, or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length; and

(II) if such student is enrolled in a program of undergraduate education which is less than 1 academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to 1 academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) $4,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree;

(v) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500; and

(vi) in the case of a student enrolled in coursework specified in sections 1091(b)(3)(B) and 1091(b)(4)(B) of this title—

(I) $2,625 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, $5,500 for coursework necessary for enrollment in a graduate or professional degree or certification program; and

(II) in the case of a student who has obtained a baccalaureate degree, $5,500 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary school or secondary school;

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 [1] or 1078–2 of this title; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary), and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student, but (II) excluding loans made under section 1078–1 [1] or 1078–2 of this title,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the student borrower may annually change the selection of a repayment plan under this part, and (iii) the note, or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed, and shall contain a notice that repayment may, following a default by the borrower, be subject to income contingent repayment in accordance with subsection (m) of this section;

(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section

or section 1078–8 of this title, the option of repaying the loan in accordance with a standard, graduated, income-sensitive, or extended repayment schedule (as described in paragraph (9)) established by the lender in accordance with regulations of the Secretary; and

(ii) repayment of loans shall be in installments in accordance with the repayment plan selected under paragraph (9) and commencing at the beginning of the repayment period determined under paragraph (7);

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 1077a of this title;

(G) insures 98 percent of the unpaid principal of loans insured under the program, except that—

(i) such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j);

(ii) for any loan for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2010, the preceding provisions of this subparagraph shall be applied by substituting "97 percent" for "98 percent"; and

(iii) notwithstanding the preceding provisions of this subparagraph, such program shall insure 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G);

(H) provides—

(i) for loans for which the date of guarantee of principal is before July 1, 2006, for the collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and ensures that the proceeds of the premium will not be used for incentive payments to lenders; or

(ii) for loans for which the date of guarantee of principal is on or after July 1, 2006, and that are first disbursed before July 1, 2010, for the collection, and the deposit into the Federal Student Loan Reserve Fund under section 1072a of this title of a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources, and ensures that the proceeds of the Federal default fee will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a)(1) and (2) of this section;

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by borrower—

(i) except as otherwise provided by a repayment plan selected by the borrower under clause (ii), (iii), or (v) of paragraph (9)(A), during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable, notwithstanding any payment plan under paragraph (9)(A)); and

(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution, except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to be eligible to receive a deferment under this clause; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment, except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause;

(iii) during which the borrower—

(I) is serving on active duty during a war or other military operation or national emergency; or

(II) is performing qualifying National Guard duty during a war or other military operation or national emergency,

and for the 180-day period following the demobilization date for the service described in subclause (I) or (II); or

(iv) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(o) of this title, has caused or will cause the borrower to have an economic hardship;

(N) provides that funds borrowed by a student—

(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student;

(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, and only after verification of the student's enrollment by the lender or guaranty agency, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer be authorized, pursuant to an authorized power-of-attorney; or

(iii) in the case of a student who is studying outside the United States in a program of study at an eligible foreign institution, are, at the request of the foreign institution, disbursed directly to the student, only after verification of the student's enrollment by the lender or guaranty agency by the means described in clause (i).[2]

(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 1078–7 of this title;

(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency,

concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;

(Q) provides for the guarantee of loans made to students and parents under sections 1078–1 [1] and 1078–2 of this title;

(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

(T) authorizes (i) the limitation of the total number of loans or volume of loans, made under this part to students attending a particular eligible institution during any academic year; and (ii) the limitation, suspension, or termination of the eligibility of an eligible institution if—

(I) such institution is ineligible for the emergency action, limitation, suspension, or termination of eligible institutions under regulations issued by the Secretary or is ineligible pursuant to criteria, rules, or regulations issued under the student loan insurance program which are substantially the same as regulations with respect to emergency action, limitation, suspension, or termination of such eligibility issued by the Secretary;

(II) there is a State constitutional prohibition affecting the eligibility of such an institution;

(III) such institution fails to make timely refunds to students as required by regulations issued by the Secretary or has not satisfied within 30 days of issuance a final judgment obtained by a student seeking such a refund;

(IV) such institution or an owner, director, or officer of such institution is found guilty in any criminal, civil, or administrative proceeding, or such institution or an owner, director, or officer of such institution is found liable in any civil or administrative proceeding, regarding the obtaining, maintenance, or disbursement of State or Federal grant, loan, or work assistance funds; or

(V) such institution or an owner, director, or officer of such institution has unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal financial assistance funds;

except that, if a guaranty agency limits, suspends, or terminates the participation of an eligible institution, the Secretary shall apply that limitation, suspension, or termination to all locations of such institution, unless the Secretary finds, within 30 days of notification of the action by the guaranty agency, that the guaranty agency's action did not comply with the requirements of this section;

(U) provides (i) for the eligibility of all lenders described in section 1085(d)(1) of this title under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the emergency action, limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders, and (iii) for (I) a compliance audit of each lender that originates or holds more than $5,000,000 in loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 for any lender fiscal year (except that each lender described in section 1085(d)(1)(A)(ii)(III) of this title shall annually submit the results of an audit required by this clause), at least once a year and covering the period since the most recent audit, conducted by a qualified, independent

organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to a lender that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit, except that the Secretary may waive the requirements of this clause (iii) if the lender submits to the Secretary the results of an audit conducted for other purposes that the Secretary determines provides the same information as the audits required by this clause;

(V) provides authority for the guaranty agency to require a participation agreement between the guaranty agency and each eligible institution within the State in which it is designated, as a condition for guaranteeing loans made on behalf of students attending the institution;

(W) provides assurances that the agency will implement all requirements of the Secretary for uniform claims and procedures pursuant to section 1082(l) of this title;

(X) provides information to the Secretary in accordance with subsection (c)(9) of this section and maintains reserve funds determined by the Secretary to be sufficient in relation to such agency's guarantee obligations; and

(Y) provides that—

(i) the lender shall determine the eligibility of a borrower for a deferment described in subparagraph (M)(i) based on—

(I) receipt of a request for deferment from the borrower and documentation of the borrower's eligibility for the deferment;

(II) receipt of a newly completed loan application that documents the borrower's eligibility for a deferment;

(III) receipt of student status information documenting that the borrower is enrolled on at least a half-time basis; or

(IV) the lender's confirmation of the borrower's half-time enrollment status through use of the National Student Loan Data System, if the confirmation is requested by the institution of higher education;

(ii) the lender will notify the borrower of the granting of any deferment under clause (i)(II) or (III) of this subparagraph and of the option to continue paying on the loan; and

(iii) the lender shall, at the time the lender grants a deferment to a borrower who received a loan under section 1078–8 of this title and is eligible for a deferment under subparagraph (M) of this paragraph, provide information to the borrower to assist the borrower in understanding the impact of the capitalization of interest on the borrower's loan principal and on the total amount of interest to be paid during the life of the loan.

(2) Contents of insurance program agreement

Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 1087 of this title, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

(C) provide for making such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit;

(E)(i) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency; and

(ii) provide that the lender (or the holder of the loan) shall, not later than 120 days after the borrower has left the eligible institution, notify the borrower of the date on which the repayment period begins; and

(F) provide that, if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

(i) the transferor and the transferee will be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

(I) the sale or other transfer;

(II) the identity of the transferee;

(III) the name and address of the party to whom subsequent payments or communications must be sent;

(IV) the telephone numbers of both the transferor and the transferee;

(V) the effective date of the transfer;

(VI) the date on which the current servicer (as of the date of the notice) will stop accepting payments; and

(VII) the date on which the new servicer will begin accepting payments; and

(ii) the transferee will be required to notify the guaranty agency, and, upon the request of an institution of higher education, the guaranty agency shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

(I) any sale or other transfer of the loan; and

(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan,

except that this subparagraph (F) shall only apply if the borrower is in the grace period described in section 1077(a)(2)(B) of this title or subsection (b)(7) of this section or is in repayment status.

(3) Restrictions on inducements, payments, mailings, and advertising

A guaranty agency shall not—

(A) offer, directly or indirectly, premiums, payments, stock or other securities, prizes, travel, entertainment expenses, tuition payment or reimbursement, or other inducements to—

(i) any institution of higher education, any employee of an institution of higher education, or any individual or entity in order to secure applicants for loans made under this part; or

(ii) any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a

loan made as part of the guaranty agency's lender-of-last-resort program pursuant to subsection (j)), for the purpose of securing the designation of the guaranty agency as the insurer of such loans;

(B) conduct unsolicited mailings, by postal or electronic means, of student loan application forms to students enrolled in secondary schools or postsecondary educational institutions, or to the families of such students, except that applications may be mailed, by postal or electronic means, to students or borrowers who have previously received loans guaranteed under this part by the guaranty agency;

(C) perform, for an institution of higher education participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, any function that such institution is required to perform under this subchapter and part C of subchapter I of chapter 34 of title 42, except that the guaranty agency may perform functions on behalf of such institution in accordance with section 1092(b) or 1092(l) of this title;

(D) pay, on behalf of an institution of higher education, another person to perform any function that such institution is required to perform under this subchapter and part C of subchapter I of chapter 34 of title 42, except that the guaranty agency may perform functions on behalf of such institution in accordance with section 1092(b) or 1092(l) of this title; or

(E) conduct fraudulent or misleading advertising concerning loan availability, terms, or conditions.

It shall not be a violation of this paragraph for a guaranty agency to provide technical assistance to institutions of higher education comparable to the technical assistance provided to institutions of higher education by the Department.

(4) Special rule

With respect to the graduate fellowship program referred to in paragraph (1)(M)(i)(II), the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program. Requests for deferment of repayment of loans under this part by students engaged in graduate or postgraduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(5) Guaranty agency information transfers

(A) Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

(i) the name and the social security number of the borrower; and

(ii) the amount borrowed and the cumulative amount borrowed.

(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

(6) State guaranty agency information request of State licensing boards

Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.

(7) Repayment period

(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin the day

after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).

(B) In the case of a loan made under section 1078–8 of this title, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.

(C) In the case of a loan made under section 1078–2 or 1078–3 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

(D) There shall be excluded from the 6-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in subparagraph (A) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10 is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(8) Means of disbursement of loan proceeds

Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.

(9) Repayment plans

(A) Design and selection

In accordance with regulations promulgated by the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than 5 years unless the borrower, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over of [3] a shorter period. The borrower may choose from—

(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed 10 years;

(ii) a graduated repayment plan paid over a fixed period of time, not to exceed 10 years;

(iii) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed 10 years, except that the borrower's scheduled payments shall not be less than the amount of interest due;

(iv) for new borrowers on or after October 7, 1998, who accumulate (after October 7, 1998) outstanding loans under this part totaling more than $30,000, an extended repayment plan, with a fixed annual or graduated repayment amount paid over an extended period of time, not to exceed 25 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (1)(L)(i); and

(v) beginning July 1, 2009, an income-based repayment plan that enables a borrower who has a partial financial hardship to make a lower monthly payment in accordance with section 1098e of this title, except that the plan described in this clause shall not be available to a borrower for a loan under section 1078–2 of this title made on behalf of a dependent student or for a consolidation loan under section 1078–3 of this title, if the proceeds of such loan were used to discharge the liability of a loan under section 1078–2 of this title made on behalf of a dependent student.

(B) Lender selection of option if borrower does not select

If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

(c) Guaranty agreements for reimbursing losses

(1) Authority to enter into agreements

(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. The guaranty agency shall be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 100 percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 30 days after the guaranty agency discharges its insurance obligation on the loan.

(B) Notwithstanding subparagraph (A)—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 85 percent of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 75 percent of the amount of such excess.

(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

(ii) the original principal amount of loans insured by it which have been fully repaid; and

(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

(D) Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender-of-last-resort program, the Secretary shall apply the provisions of—

(i) the fourth sentence of subparagraph (A) by substituting "100 percent" for "95 percent"; [1]

(ii) subparagraph (B)(i) by substituting "100 percent" for "85 percent"; and

(iii) subparagraph (B)(ii) by substituting "100 percent" for "75 percent".

(E) Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

(i) the fourth sentence of subparagraph (A) by substituting "100 percent" for "95 percent"; [1]

(ii) subparagraph (B)(i) by substituting "90 percent" for "85 percent"; and

(iii) subparagraph (B)(ii) by substituting "80 percent" for "75 percent".

(F)(i) Notwithstanding any other provisions of this section, in the case of exempt claims, the Secretary shall apply the provisions of—

(I) the fourth sentence of subparagraph (A) by substituting "100 percent" for "95 percent"; [1]

(II) subparagraph (B)(i) by substituting "100 percent" for "85 percent"; and
(III) subparagraph (B)(ii) by substituting "100 percent" for "75 percent".

(ii) For purposes of clause (i) of this subparagraph, the term "exempt claims" means claims with respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits thereon.

(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).

(2) Contents of guaranty agreements

The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including (i) a requirement that each beneficiary of insurance on the loan submit proof that the institution was contacted and other reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known) and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries on defaulted loans under this part;

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 1081 of this title) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)(A)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 1072(c) of this title;

(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school;

(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, certifies to the Secretary that diligent attempts, including contact with the institution, have been made to locate the borrower through

the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary; and

(H) set forth assurances that—

(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made, insured, or guaranteed under this part for attendance at the eligible institution and for whom default aversion assistance activities have been requested under subsection (l) of this section;

(ii) the guaranty agency shall not require the payment from the institution of any fee for such information; and

(iii) the guaranty agency will require the institution to use such information only to assist the institution in reminding students of their obligation to repay student loans and shall prohibit the institution from disseminating the information for any other purpose.

(I) may include such other provisions as may be necessary to promote the purpose of this part.

(3) Forbearance

A guaranty agreement under this subsection—

(A) shall contain provisions providing that—

(i) upon request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to by the parties to the loan with the approval of the insurer and documented in accordance with paragraph (10), and otherwise consistent with the regulations of the Secretary, if the borrower—

(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 1077(a)(2)(C)(vii) of this title or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 1077(a)(2)(C) of this title or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;

(II) has a debt burden under this subchapter and part C of subchapter I of chapter 34 of title 42 that equals or exceeds 20 percent of income;

(III) is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993; or

(IV) is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, and, pursuant to that eligibility, the interest is being paid on such loan under subsection (o) of this section;

(ii) the length of the forbearance granted by the lender—

(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;

(II) under clause (i)(II) or (IV) shall not exceed 3 years; or

(III) under clause (i)(III) shall not exceed the period for which the borrower is serving in a position described in such clause; and

(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a consumer reporting agency solely because of the granting of such forbearance;

(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer;

(C) shall contain provisions that specify that—

(i) the form of forbearance granted by the lender pursuant to this paragraph, other than subparagraph (A)(i)(IV), shall be temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled;

(ii) the form of forbearance granted by the lender pursuant to subparagraph (A)(i)(IV) shall be the temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (o) of this section;

(iii) the lender shall, at the time of granting a borrower forbearance, provide information to the borrower to assist the borrower in understanding the impact of capitalization of interest on the borrower's loan principal and total amount of interest to be paid during the life of the loan; and

(iv) the lender shall contact the borrower not less often than once every 180 days during the period of forbearance to inform the borrower of—

(I) the amount of unpaid principal and the amount of interest that has accrued since the last statement of such amounts provided to the borrower by the lender;

(II) the fact that interest will accrue on the loan for the period of forbearance;

(III) the amount of interest that will be capitalized, and the date on which capitalization will occur;

(IV) the option of the borrower to pay the interest that has accrued before the interest is capitalized; and

(V) the borrower's option to discontinue the forbearance at any time; and

(D) shall contain provisions that specify that—

(i) forbearance for a period not to exceed 60 days may be granted if the lender reasonably determines that such a suspension of collection activity is warranted following a borrower's request for deferment, forbearance, a change in repayment plan, or a request to consolidate loans, in order to collect or process appropriate supporting documentation related to the request, and

(ii) during such period interest shall accrue but not be capitalized.

Guaranty agencies shall not be precluded from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default. The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower, under conditions authorized by the Secretary. Such forbearances shall include (i) forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under subsection (b)(1)(M) of this section or section 1077(a)(2)(C) of this title, and (ii) if the borrower is less than 60 days delinquent on such loans at the time of sale or transfer, forbearances for borrowers on loans which are sold or transferred.

(4) Definitions

For the purpose of this subsection, the terms "insurance beneficiary" and "default" have the meanings assigned to them by section 1085 of this title.

(5) Applicability to existing loans

In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6) Secretary's equitable share

(A) For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

(i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii) an amount equal to 24 percent of such payments for use in accordance with section 1072b of this title, except that—

(I) beginning October 1, 2003 and ending September 30, 2007, this clause shall be applied by substituting "23 percent" for "24 percent"; and

(II) beginning October 1, 2007, this clause shall be applied by substituting "16 percent" for "24 percent".

(B) A guaranty agency shall—

(i) on or after October 1, 2006—

(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation by the borrower under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan that is paid off with excess consolidation proceeds.

(C) For purposes of subparagraph (B), the term "excess consolidation proceeds" means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this subchapter and part C of subchapter I of chapter 34 of title 42 that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.

(7) New programs eligible for 100 percent reinsurance

(A) Notwithstanding paragraph (1)(C), the amount to be paid a guaranty agency for any fiscal year—

(i) which begins on or after October 1, 1977 and ends before October 1, 1991; and

(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guaranty agency 100 percent of the amount expended by such agency in discharge of such agency's insurance obligation for any fiscal year which—

(i) begins on or after October 1, 1991; and

(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section or is one of the 4 succeeding fiscal years.

(C) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) or (B) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

(8) Assignment to protect Federal fiscal interest

If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(9) Guaranty agency reserve level

(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain in the agency's Federal Student Loan Reserve Fund established under section 1072a of this title a current minimum reserve level of at least 0.25 percent of the total attributable amount of all outstanding loans guaranteed by such agency. For purposes of this paragraph, such total attributable amount does not include amounts of outstanding loans transferred to the guaranty agency from another guaranty agency pursuant to a plan of the Secretary in response to the insolvency of the latter such guaranty agency.

(B) The Secretary shall collect, on an annual basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency's current reserves, cash disbursements and accounts receivable.

(C) If (i) any guaranty agency falls below the required minimum reserve level in any 2 consecutive years, (ii) any guaranty agency's Federal reimbursement payments are reduced to 85 percent pursuant to paragraph (1)(B)(i), or (iii) the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require the guaranty agency to submit and implement a management plan acceptable to the Secretary within 45 working days of any such event.

(D)(i) If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the guaranty agency will improve its financial and administrative condition to the required level within 18 months.

(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.

(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

(ii) the Secretary determines that a guaranty agency has failed to improve substantially its administrative and financial condition;

(iii) the Secretary determines that the guaranty agency is in danger of financial collapse;

(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest; or

(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers.

(F) If a guaranty agency's agreement under this subsection is terminated pursuant to subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to—

(i) permit the transfer of guarantees to another guaranty agency;

(ii) revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation, or termination of the guaranty agency;

(iii) transfer guarantees to the Department of Education for the purpose of payment of such claims and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with this chapter and part C of subchapter I of chapter 34 of title 42;

(iv) design and implement a plan to restore the guaranty agency's viability;

(v) provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title, with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

(I) meet the immediate cash needs of the guaranty agency;

(II) ensure the uninterrupted payment of claims; or

(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j) of this section;

(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or

(vii) take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and to avoid disruption of the student loan program.

(G) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

(ii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after August 10, 1993, shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.

(I) The Secretary shall not take any action under subparagraph (E) or (F) without giving the guaranty agency notice and the opportunity for a hearing that, if commenced after September 24, 1998, shall be on the record.

(J) Notwithstanding any other provision of law, the information transmitted to the Secretary pursuant to this paragraph shall be confidential and exempt from disclosure under section 552 of title 5, relating to freedom of information, or any other Federal law.

(K) The Secretary, within 6 months after the end of each fiscal year, shall submit to the authorizing committees a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system.

(10) Documentation of forbearance agreements

For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming the agreement of the borrower by notice to the borrower from the lender, and by recording the terms in the borrower's file.

(d) Usury laws inapplicable

No provision of any law of the United States (other than this chapter and part C of subchapter I of chapter 34 of title 42 and section 3937 of title 50) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) Repealed. Pub. L. 110–315, title IV, §422(h), Aug. 14, 2008, 122 Stat. 3231

(f) Payments of certain costs

(1) [4] Payment for certain activities

(A) In general

The Secretary—

(i) for loans originated during fiscal years beginning on or after October 1, 1998, and before October 1, 2003, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.65 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency; and

(ii) for loans originated on or after October 1, 2003, and first disbursed before July 1, 2010, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.40 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency.

(B) Payment

The payment required by subparagraph (A) shall be paid on a quarterly basis. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this paragraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application under this subparagraph.

(C) Requirement for payment

No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(g) Action on insurance program and guaranty agreements

If a nonprofit private institution or organization—

(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) of this section with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b) of this section, and

(2) as provided in the application, undertakes to meet the requirements of section 1072(c)(6)(B)(i), (ii), and (iii) of this title,

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the authorizing committees of his actions.

(h) Repealed. Pub. L. 110–315, title IV, §438(a)(2)(B), Aug. 14, 2008, 122 Stat. 3258

(i) Multiple disbursement of loans

(1) Escrow accounts administered by escrow agent

Any guaranty agency or eligible lender (hereafter in this subsection referred to as the "escrow agent") may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the "lender") for the purpose of authorizing disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 10 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

(2) Authority of escrow agent

Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(j) Lenders-of-last-resort

(1) General requirement

In each State, the guaranty agency or an eligible lender in the State described in section 1085(d)(1)(D) of this title shall, before July 1, 2010, make loans directly, or through an agreement with an eligible lender or lenders, to eligible students and parents who are otherwise unable to obtain loans under this part (except for consolidation loans under section 1078–3 of this title) or who attend an institution of higher education in the State that is designated under paragraph (4). Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B) of this section, nor be less than $200. No loan under section 1078, 1078–2, or 1078–8 of this title that is made pursuant to this subsection shall be made with interest rates, origination or default fees, or other terms and conditions that are more favorable to the borrower than the maximum interest rates, origination or default fees, or other terms and conditions applicable to that type of loan under this part. The guaranty agency shall consider the request of any eligible lender, as defined under section 1085(d)(1)(A) of this title, to serve as the lender-of-last-resort pursuant to this subsection.

(2) Rules and operating procedures

The guaranty agency shall develop rules and operating procedures for the lender-of-last-resort program designed to ensure that—

(A) the program establishes operating hours and methods of application designed to facilitate application by students and ensure a response within 60 days after the student's original complete application is filed under this subsection;

(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to receive a loan under this part from an eligible lender, nor, in the case of students and parents applying for loans under this subsection because of an inability

to otherwise obtain loans under this part (except for consolidation loans under section 1078–3 of this title), be required to receive more than two rejections from eligible lenders in order to obtain a loan under this subsection;

(C) information about the availability of loans under the program is made available to institutions of higher education in the State; and

(D) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation.

(3) Advances to guaranty agencies for lender-of-last-resort services

(A) In order to ensure the availability of loan capital, the Secretary is authorized to provide a guaranty agency designated for a State with additional advance funds in accordance with subparagraph (C) and section 1072(c)(7) of this title, with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.

(C) The Secretary shall exercise the authority described in subparagraph (A) only if the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part or designates an institution of higher education for participation in the program under this subsection under paragraph (4), and that the guaranty agency designated for that State has the capability to provide lender-of-last-resort loans in a timely manner, in accordance with the guaranty agency's obligations under paragraph (1), but cannot do so without advances provided by the Secretary under this paragraph. If the Secretary makes the determinations described in the preceding sentence and determines that it would be cost-effective to do so, the Secretary may provide advances under this paragraph to such guaranty agency. If the Secretary determines that such guaranty agency does not have such capability, or will not provide such loans in a timely fashion, the Secretary may provide such advances to enable another guaranty agency, that the Secretary determines to have such capability, to make lender-of-last-resort loans to eligible borrowers in that State who are experiencing loan access problems or to eligible borrowers who attend an institution in the State that is designated under paragraph (4).

(4) Institution-wide student qualification

Upon the request of an institution of higher education and pursuant to standards developed by the Secretary, the Secretary shall designate such institution for participation in the lender-of-last-resort program under this paragraph.[5] If the Secretary designates an institution under this paragraph, the guaranty agency designated for the State in which the institution is located shall make loans, in the same manner as such loans are made under paragraph (1), to students and parent borrowers of the designated institution, regardless of whether the students or parent borrowers are otherwise unable to obtain loans under this part (other than a consolidation loan under section 1078–3 of this title).

(5) Standards developed by the Secretary

In developing standards with respect to paragraph (4), the Secretary may require—

(A) an institution of higher education to demonstrate that, despite due diligence on the part of the institution, the institution has been unable to secure the commitment of eligible lenders willing to make loans under this part to a significant number of students attending the institution;

(B) that, prior to making a request under such paragraph for designation for participation in the lender-of-last-resort program, an institution of higher education shall demonstrate that the institution has met a minimum threshold, as determined by the Secretary, for the number or

percentage of students at such institution who have received rejections from eligible lenders for loans under this part; and

(C) any other standards and guidelines the Secretary determines to be appropriate.

(6) Expiration of authority

The Secretary's authority under paragraph (4) to designate institutions of higher education for participation in the program under this subsection shall expire on June 30, 2010.

(7) Expiration of designation

The eligibility of an institution of higher education, or borrowers from such institution, to participate in the program under this subsection pursuant to a designation of the institution by the Secretary under paragraph (4) shall expire on June 30, 2010. After such date, borrowers from an institution designated under paragraph (4) shall be eligible to participate in the program under this subsection as such program existed on the day before May 7, 2008.

(8) Prohibition on inducements and marketing

Each guaranty agency or eligible lender that serves as a lender-of-last-resort under this subsection—

(A) shall be subject to the prohibitions on inducements contained in subsection (b)(3) and the requirements of section 1085(d)(5) of this title; and

(B) shall not advertise, market, or otherwise promote loans under this subsection, except that nothing in this paragraph shall prohibit a guaranty agency from fulfilling its responsibilities under paragraph (2)(C).

(9) Dissemination and reporting

(A) In general

The Secretary shall—

(i) broadly disseminate information regarding the availability of loans made under this subsection;

(ii) during the period beginning July 1, 2008 and ending June 30, 2011, provide to the authorizing committees and make available to the public—

(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection;

(II) quarterly reports on—

(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

(bb) any related payments by the Department, a guaranty agency, or an eligible lender; and

(III) a budget estimate of the costs to the Federal Government (including subsidy and administrative costs) for each 100 dollars loaned, of loans made pursuant to this subsection between May 7, 2008, and June 30, 2010, disaggregated by type of loan, compared to such costs to the Federal Government during such time period of comparable loans under this part and part C, disaggregated by part and by type of loan; and

(iii) beginning July 1, 2011, provide to the authorizing committees and make available to the public—

(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection; and

(II) annual reports on—

(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

(bb) any related payments by the Department, a guaranty agency, or an eligible lender.

(B) Separate reporting

The information required to be reported under subparagraph (A)(ii)(II) shall be reported separately for loans originated or approved pursuant to paragraph (4), or payments related to such loans, for the time period in which the Secretary is authorized to make designations under paragraph (4).

(k) Information on defaults

(1) Provision of information to eligible institutions

Notwithstanding any other provision of law, in order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency shall, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection shall include the names and addresses of such students.

(2) Public dissemination not authorized

Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).

(3) Borrower location information

Any information provided by the institution relating to borrower location shall be used by the guaranty agency in conducting required skip-tracing activities.

(4) Provision of information to borrowers in default

Each guaranty agency that has received a default claim from a lender regarding a borrower, shall provide the borrower in default, on not less than two separate occasions, with a notice, in simple and understandable terms, of not less than the following information:

(A) The options available to the borrower to remove the borrower's loan from default.

(B) The relevant fees and conditions associated with each option.

(l) Default aversion assistance

(1) Assistance required

Upon receipt of a complete request from a lender received not earlier than the 60th day of delinquency, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in default aversion activities designed to prevent the default by a borrower on a loan covered by such agreement.

(2) Reimbursement

(A) In general

A guaranty agency, in accordance with the provisions of this paragraph, may transfer from the Federal Student Loan Reserve Fund under section 1072a of this title to the Agency Operating Fund under section 1072b of this title a default aversion fee. Such fee shall be paid for any loan on which a claim for default has not been paid as a result of the loan being brought into current repayment status by the guaranty agency on or before the 300th day after the loan becomes 60 days delinquent.

(B) Amount

The default aversion fee shall be equal to 1 percent of the total unpaid principal and accrued interest on the loan at the time the request is submitted by the lender. A guaranty agency may transfer such fees earned under this subsection not more frequently than monthly. Such a fee shall not be paid more than once on any loan for which the guaranty agency averts the default unless—

(i) at least 18 months has elapsed between the date the borrower entered current repayment status and the date the lender filed a subsequent default aversion assistance request; and

(ii) during the period between such dates, the borrower was not more than 30 days past due

on any payment of principal and interest on the loan.

(C) Definition

For the purpose of earning the default aversion fee, the term "current repayment status" means that the borrower is not delinquent in the payment of any principal or interest on the loan.

(m) Income contingent and income-based repayment

(1) Authority of Secretary to require

The Secretary may require borrowers who have defaulted on loans made under this part that are assigned to the Secretary under subsection (c)(8) of this section to repay those loans under an income contingent repayment plan or income-based repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part C of this subchapter or an income-based repayment plan under section 1098e of this title, as the case may be.

(2) Loans for which income contingent or income-based repayment may be required

A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8) of this section.

(n) Blanket certificate of loan guaranty

(1) In general

Subject to paragraph (3), any guaranty agency that has entered into or enters into any insurance program agreement with the Secretary under this part may—

(A) offer eligible lenders participating in the agency's guaranty program a blanket certificate of loan guaranty that permits the lender to make loans without receiving prior approval from the guaranty agency of individual loans for eligible borrowers enrolled in eligible programs at eligible institutions; and

(B) provide eligible lenders with the ability to transmit electronically data to the agency concerning loans the lender has elected to make under the agency's insurance program via standard reporting formats, with such reporting to occur at reasonable and standard intervals.

(2) Limitations on blanket certificate of guaranty

(A) An eligible lender may not make a loan to a borrower under this section after such lender receives a notification from the guaranty agency that the borrower is not an eligible borrower.

(B) A guaranty agency may establish limitations or restrictions on the number or volume of loans issued by a lender under the blanket certificate of guaranty.

(3) Participation level

During fiscal years 1999 and 2000, the Secretary may permit, on a pilot basis, a limited number of guaranty agencies to offer blanket certificates of guaranty under this subsection. Beginning in fiscal year 2001, any guaranty agency that has an insurance program agreement with the Secretary may offer blanket certificates of guaranty under this subsection.

(4) Report required

The Secretary shall, at the conclusion of the pilot program under paragraph (3), provide a report to the authorizing committees on the impact of the blanket certificates of guaranty on program efficiency and integrity.

(o) Armed Forces student loan interest payment program

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest and any special allowance on a loan to a member of the Armed Forces that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on

such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV) of this section.

(3) Special allowance defined

For the purposes of this subsection, the term "special allowance",[6] means a special allowance that is payable with respect to a loan under section 1087–1 of this title.

(Pub. L. 89–329, title IV, §428, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1367; amended Pub. L. 100–50, §10(a)–(c), (e)–(m), June 3, 1987, 101 Stat. 341–343; Pub. L. 100–203, title III, §§3001(b), 3002(b), 3003, Dec. 22, 1987, 101 Stat. 1330–38, 1330–39; Pub. L. 100–369, §§5(b)(2), 7(c), 11(a), July 18, 1988, 102 Stat. 836–838; Pub. L. 101–239, title II, §§2002(a)(2), (b)(1), 2004(b)(1), (3), 2006(b), Dec. 19, 1989, 103 Stat. 2111, 2116, 2118; Pub. L. 101–508, title III, §§3002, 3004(b), Nov. 5, 1990, 104 Stat. 1388–25, 1388–27; Pub. L. 102–26, §9, Apr. 9, 1991, 105 Stat. 128; Pub. L. 102–164, title VI, §§601(b), 602(b), 604, 605(b)(2), Nov. 15, 1991, 105 Stat. 1065, 1066, 1068; Pub. L. 102–325, title IV, §§411(b)(2), 416(a)–(e)(1), (f)–(p)(7), (q)–(t), July 23, 1992, 106 Stat. 510, 516–525, 527–529; Pub. L. 103–66, title IV, §§4041(a)(1), (2)(B), (b), 4043(a), 4044, 4045, 4102(c), 4107(a), (b), 4108(a), (b), 4110(a), 4112(a), 4201(a), Aug. 10, 1993, 107 Stat. 354, 355, 358, 359, 367–370; Pub. L. 103–82, title I, §102(c)(1), Sept. 21, 1993, 107 Stat. 823; Pub. L. 103–208, §2(c)(11)–(28), Dec. 20, 1993, 107 Stat. 2462–2465; Pub. L. 103–382, title III, §355(a), Oct. 20, 1994, 108 Stat. 3967; Pub. L. 105–33, title VI, §§6101(b), 6104(2), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, §417(a)–(c)(1)(A), (2)–(k), Oct. 7, 1998, 112 Stat. 1682–1690; Pub. L. 107–314, div. A, title VI, §651(b), Dec. 2, 2002, 116 Stat. 2579; Pub. L. 109–171, title VIII, §§8004(b)(2), 8005(b), 8007(a), 8008(a), 8009(b)(1), 8014(a)(1), (b)(1), (c)(1), (d), (e), (j)(1)–(3), Feb. 8, 2006, 120 Stat. 158, 160, 162, 164, 168–171; Pub. L. 110–84, title II, §202(a), title III, §§301, 302(b)(1), 303(a), Sept. 27, 2007, 121 Stat. 791, 796, 797; Pub. L. 110–227, §§3(b), 5(a), May 7, 2008, 122 Stat. 742, 743; Pub. L. 110–315, title I, §103(b)(4), title IV, §§422(a)(1), (b)–(g)(1), (h)–(j), 424(b), 432(b)(2), 438(a)(2), Aug. 14, 2008, 122 Stat. 3088, 3227–3231, 3233, 3246, 3258; Pub. L. 110–350, §2, Oct. 7, 2008, 122 Stat. 3947; Pub. L. 111–39, title IV, §402(a)(1), (b)(1), (f)(1), July 1, 2009, 123 Stat. 1940, 1943; Pub. L. 111–152, title II, §2204, Mar. 30, 2010, 124 Stat. 1075; Pub. L. 112–74, div. F, title III, §309(d)(1), Dec. 23, 2011, 125 Stat. 1101; Pub. L. 114–113, div. H, title III, §311, Dec. 18, 2015, 129 Stat. 2638.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (a)(2)(C)(ii)(II)(aa), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127. Title I of the Act enacted subchapter I (§12511 et seq.) of chapter 129 of Title 42, The Public Health and Welfare, and amended sections 1070a–6 and 1087vv of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

Section 1078–1 of this title, referred to in subsecs. (a)(2)(E) and (b)(1)(B), (Q), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

The phrase " '95 percent' ", referred to in subsec. (c)(1)(D)(i), (E)(i), and (F)(i)(I) as appearing in "the fourth sentence of subparagraph (A)", no longer appears in subpar. (A) of subsec. (c)(1) after the amendment by Pub. L. 114–113.

The Higher Education Amendments of 1992, referred to in subsec. (c)(3)(A)(i)(I), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

The National and Community Service Trust Act of 1993, referred to in subsec. (c)(3)(A)(i)(III), is Pub. L.

103–82, Sept. 21, 1993, 107 Stat. 785. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 12501 of Title 42, The Public Health and Welfare, and Tables.

CODIFICATION

Amendments by section 2(c)(17), (26), (27) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325, Pub. L. 103–66, and Pub. L. 103–82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078, Pub. L. 89–329, title IV, §428, Nov. 8, 1965, 79 Stat. 1240; Pub. L. 90–460, §§1(a)(2), 2(a)(2), (b)(1), (2), 3(b), Aug. 3, 1968, 82 Stat. 634–636; Pub. L. 90–575, title I, §§111(a), (b)(1), 112(b), 113(b)(3), (4), 115(a)(1)–(3), (b), 116(b)(3), 117(a), (b), 120(a)(1), (b), (c)(1), Oct. 16, 1968, 82 Stat. 1020–1027; Pub. L. 92–318, title I, §§132(b), 132A(b), 132C(a), (b), 132D(b)–(d), June 23, 1972, 86 Stat. 261–264; Pub. L. 93–269, §§2–4, Apr. 18, 1974, 88 Stat. 87, 89; Pub. L. 94–328, §2(b), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2108; S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, §1(a)(19)–(29), June 15, 1977, 91 Stat. 214–216; Pub. L. 95–566, §5(a)(2), (b)(1), (3)–(5), Nov. 1, 1978, 92 Stat. 2403; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, §5(b), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §§411(b), 412(c), (d), (f), 413(b), (d), 414, 415(a)(3)–(5), (b)(2), 417, 423(a)(2), (b)–(d), title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1416–1420, 1422, 1432, 1503; Pub. L. 97–35, title V, §§532(a), (b)(1), 535(c), (d), 536(b), 537(a)(1), (b)(2), (c), (d)(1), (e)(2), Aug. 13, 1981, 95 Stat. 451, 452, 455–457; Pub. L. 98–79, §10(b), Aug. 15, 1983, 97 Stat. 484; Pub. L. 99–272, title XVI, §§16012(b), 16013(a), (c), (e)(2), (3), 16014(a)(1), (b)(1), (2) formerly (1), (3) formerly (2), 16015(b), 16016, 16018(a)(2), 16021, 16032(c), Apr. 7, 1986, 100 Stat. 340–343, 348, 349, 355, renumbered and amended, Pub. L. 99–320, §2(a), (b), May 23, 1986, 100 Stat. 491, related to Federal interest subsidy payments, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1078a, Pub. L. 91–95, §2, Oct. 22, 1969, 83 Stat. 141; Pub. L. 92–318, title I, §134(a), June 23, 1972, 86 Stat. 270; Pub. L. 93–269, §5, Apr. 18, 1974, 88 Stat. 89; Pub. L. 94–328, §2(c), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, §127(c)(1), Oct. 12, 1976, 90 Stat. 2142, related to special allowances for insured student loans, prior to repeal by Pub. L. 94–482, title I, §127(c)(2), Oct. 12, 1976, 90 Stat. 2142.

AMENDMENTS

2015—Subsec. (c)(1)(A). Pub. L. 114–113, which directed substitution of "100 percent" for "95 percent" in subsec. (c)(1), was executed by making the substitution the first time "95 percent" appeared to reflect the probable intent of Congress.

2011—Subsec. (a)(3)(A)(i)(I). Pub. L. 112–74 amended subcl. (I) generally. Prior to amendment, subcl. (I) read as follows: "which accrues prior to the beginning of the repayment period of the loan, or".

2010—Subsec. (a)(1). Pub. L. 111–152, §2204(a)(1)(A), inserted "for which the first disbursement is made before July 1, 2010, and" after "eligible institution" in introductory provisions.

Subsec. (a)(5). Pub. L. 111–152, §2204(a)(1)(B), substituted "June 30, 2010." for "September 30, 2014, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 2018."

Subsec. (b)(1)(G). Pub. L. 111–152, §2204(b), repealed Pub. L. 110–84, §303. See 2007 Amendment note below.

Subsec. (b)(1)(G)(ii). Pub. L. 111–152, §2204(a)(2)(A), inserted "and before July 1, 2010," after "July 1, 2006,".

Subsec. (b)(1)(H)(ii). Pub. L. 111–152, §2204(a)(2)(B), inserted "and that are first disbursed before July 1, 2010," after "July 1, 2006,".

Subsec. (f)(1)(A)(ii). Pub. L. 111–152, §2204(a)(3), struck out "during fiscal years beginning" after "originated" and inserted "and first disbursed before July 1, 2010," after "October 1, 2003,".

Subsec. (j)(1). Pub. L. 111–152, §2204(a)(4), inserted ", before July 1, 2010," after "section 1085(d)(1)(D) of this title shall".

2009—Subsec. (a)(2)(A)(i)(II). Pub. L. 111–39, §402(f)(1)(A), struck out "and" after semicolon at end.

Subsec. (b)(1)(G)(i). Pub. L. 111–39, §402(a)(1), which directed amendment of cl. (i), as amended by section 303 of Pub. L. 110–84, by striking "or 1087–2(q)", could not be executed because of the repeal of section 303 by Pub. L. 111–152, §2204(b). See 2010 Amendment note above and 2007 Amendment note below.

Subsec. (b)(1)(M)(i). Pub. L. 111–39, §402(f)(1)(B)(i), inserted "section" before "1078–2" in concluding provisions.

Subsec. (b)(3)(A)(i). Pub. L. 111–39, §402(f)(1)(B)(ii), substituted "any institution of higher education, any employee of an institution of higher education, or any individual or entity" for "any institution of higher education or the employees of an institution of higher education".

Subsec. (b)(3)(C), (D). Pub. L. 111–39, §402(b)(1), inserted "or 1092(l)" after "section 1092(b)".

Subsec. (b)(4). Pub. L. 111–39, §402(f)(1)(B)(iii), substituted "With respect to the graduate fellowship program referred to in paragraph (1)(M)(i)(II)," for "For the purpose of paragraph (1)(M)(i)(III) of this subsection,".

Subsec. (b)(7)(B). Pub. L. 111–39, §402(f)(1)(B)(iv)(I), struck out "clause (i) or (ii) of" before "subparagraph (A)".

Subsec. (b)(7)(D). Pub. L. 111–39, §402(f)(1)(B)(iv)(II), substituted "subparagraph (A)" for "subparagraph (A)(i)".

Subsec. (c)(9)(K). Pub. L. 111–39, §402(f)(1)(C), substituted "6 months" for "3 months".

2008—Subsec. (a)(2)(C). Pub. L. 110–315, §422(a)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "For the purpose of subparagraph (B) and this paragraph—

"(i) a student's cost of attendance shall be determined under section 1087ll of this title;

"(ii) a student's estimated financial assistance means, for the period for which the loan is sought—

"(I) the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 and part D of this subchapter;

"(II) any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 1087vv(c) of this title, but excluding benefits described in paragraph (2)(E) of such section); plus

"(III) other scholarship, grant, or loan assistance, but excluding any national service education award or post-service benefit under title I of the National and Community Service Act of 1990; and

"(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part E of this subchapter."

Subsec. (a)(5). Pub. L. 110–315, §422(b), substituted "2014" for "2012" and "2018" for "2016".

Subsec. (b)(1)(G)(i). Pub. L. 110–315, §438(a)(2)(A), struck out "or section 1087–2(q) of this title" before semicolon at end.

Subsec. (b)(1)(L)(i). Pub. L. 110–315, §422(e)(2), substituted "clause (ii), (iii), or (v)" for "clause (ii) or (iii)".

Subsec. (b)(1)(Y)(i). Pub. L. 110–315, §422(c)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: "the lender shall determine the eligibility of a borrower for a deferment described in subparagraph (M)(i) based on receipt of—

"(I) a request for deferment from the borrower and documentation of the borrower's eligibility for the deferment;

"(II) a newly completed loan application that documents the borrower's eligibility for a deferment; or

"(III) student status information received by the lender that the borrower is enrolled on at least a half-time basis; and".

Subsec. (b)(1)(Y)(iii). Pub. L. 110–315, §422(c)(1)(B), (C), added cl. (iii).

Subsec. (b)(2)(F)(i)(V) to (VII). Pub. L. 110–315, §422(c)(2), added subcls. (V) to (VII).

Subsec. (b)(3). Pub. L. 110–315, §422(d), amended par. (3) generally. Prior to amendment, text read as follows: "A guaranty agency shall not—

"(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part;

"(B) offer, directly or indirectly, any premium, incentive payment, or other inducement to any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made under section 1078–8 of this title or a loan made as part of a guaranty agency's lender-of-last-resort program) for the purpose of securing the designation of that guaranty agency as the insurer of such loans;

"(C) conduct unsolicited mailings of student loan application forms to students enrolled in secondary school or a postsecondary institution, or to parents of such students, except that applications may be mailed to borrowers who have previously received loans guaranteed under this part by the guaranty agency; or

"(D) conduct fraudulent or misleading advertising concerning loan availability.

"It shall not be a violation of this paragraph for a guaranty agency to provide assistance to institutions of higher education comparable to the kinds of assistance provided to institutions of higher education by the Department of Education."

Subsec. (b)(7)(C). Pub. L. 110–315, §424(b), substituted "section 1078–2 or 1078–3" for "section 1078–1

or 1078–3".

Pub. L. 110–227, §3(b), struck out ", 1078–2," after "section 1078–1".

Subsec. (b)(9)(A)(v). Pub. L. 110–315, §422(e)(1), added cl. (v).

Subsec. (c)(2)(H)(i). Pub. L. 110–315, §422(f)(1), substituted "default aversion" for "preclaims".

Subsec. (c)(3)(A)(iii). Pub. L. 110–315, §432(b)(2), substituted "consumer reporting agency" for "credit bureau organization".

Subsec. (c)(3)(C)(iii), (iv). Pub. L. 110–315, §422(f)(2), added cls. (iii) and (iv).

Subsec. (c)(9)(K). Pub. L. 110–315, §103(b)(4)(A), substituted "authorizing committees" for "House Committee on Education and the Workforce and the Senate Committee on Labor and Human Resources".

Subsec. (d). Pub. L. 110–315, §422(g)(1), inserted "and section 527 of the Appendix to title 50" after "(other than this chapter and part C of subchapter I of chapter 34 of title 42" in introductory provisions.

Subsec. (e). Pub. L. 110–315, §422(h), struck out subsec. (e). Text read as follows: "At the time of offering a borrower a loan under this part, and at the time of offering the borrower the option of repaying a loan in accordance with this section, the lender shall provide the borrower with a notice that informs the borrower, in a form prescribed by the Secretary by regulation—

"(1) that all borrowers are eligible for income-sensitive repayment, including through loan consolidation under section 1078–3 of this title;

"(2) the procedures by which the borrower may elect income-sensitive repayment; and

"(3) where and how the borrower may obtain additional information concerning income-sensitive repayment."

Subsec. (g). Pub. L. 110–315, §103(b)(4)(B), substituted "authorizing committees" for "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" in concluding provisions.

Subsec. (h). Pub. L. 110–315, §438(a)(2)(B), struck out subsec. (h) which related to lending by guaranty agencies.

Subsec. (j)(1). Pub. L. 110–227, §5(a)(1), after second sentence, inserted "No loan under section 1078, 1078–2, or 1078–8 of this title that is made pursuant to this subsection shall be made with interest rates, origination or default fees, or other terms and conditions that are more favorable to the borrower than the maximum interest rates, origination or default fees, or other terms and conditions applicable to that type of loan under this part."

Pub. L. 110–227, §5(a)(1), in first sentence, substituted "eligible students and parents who are otherwise unable to obtain loans under this part (except for consolidation loans under section 1078–3 of this title) or who attend an institution of higher education in the State that is designated under paragraph (4)" for "students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part".

Subsec. (j)(2)(B). Pub. L. 110–227, §5(a)(2), inserted ", in the case of students and parents applying for loans under this subsection because of an inability to otherwise obtain loans under this part (except for consolidation loans under section 1078–3 of this title)," after "lender, nor".

Subsec. (j)(2)(C) to (E). Pub. L. 110–315, §438(a)(2)(C), inserted "and" at the end of subpar. (C), substituted period for "; and" at the end of subpar. (D), and struck out subpar. (E) which read as follows: "the guaranty agency notifies the Secretary when the guaranty agency believes or has reason to believe that the Secretary may need to exercise the Secretary's authority under section 1087–2(q) of this title."

Subsec. (j)(3)(C). Pub. L. 110–227, §5(a)(3), inserted "or designates an institution of higher education for participation in the program under this subsection under paragraph (4)" after "under this part" in first sentence and "or to eligible borrowers who attend an institution in the State that is designated under paragraph (4)" after "problems" in third sentence.

Subsec. (j)(4), (5). Pub. L. 110–227, §5(a)(4), added pars. (4) and (5).

Subsec. (j)(6). Pub. L. 110–350, §2(1), substituted "June 30, 2010" for "June 30, 2009".

Pub. L. 110–227, §5(a)(4), added par. (6).

Subsec. (j)(7). Pub. L. 110–350, §2(2), substituted "June 30, 2010" for "June 30, 2009".

Pub. L. 110–227, §5(a)(4), added par. (7).

Subsec. (j)(8), (9). Pub. L. 110–227, §5(a)(4), added pars. (8) and (9).

Subsec. (j)(9)(A)(ii). Pub. L. 110–350, §2(3)(A), substituted "June 30, 2011" for "June 30, 2010" in introductory provisions.

Pub. L. 110–315, §103(b)(4)(C), substituted "authorizing committees" for "Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives" in introductory provisions.

Subsec. (j)(9)(A)(ii)(III). Pub. L. 110–350, §2(3)(B), substituted "June 30, 2010" for "June 30, 2009".

Subsec. (j)(9)(A)(iii). Pub. L. 110–350, §2(3)(C), substituted "July 1, 2011" for "July 1, 2010".

Pub. L. 110–315, §103(b)(4)(C), substituted "authorizing committees" for "Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives" in introductory provisions.

Subsec. (k)(4). Pub. L. 110–315, §422(i), added par. (4).

Subsec. (m). Pub. L. 110–315, §422(j)(1), inserted "and income-based" after "Income contingent" in heading.

Subsec. (m)(1). Pub. L. 110–315, §422(j)(2), inserted "or income-based repayment plan" before ", the terms and conditions" and "or an income-based repayment plan under section 1098e of this title, as the case may be" before the period at end.

Subsec. (m)(2). Pub. L. 110–315, §422(j)(3), inserted "or income-based" after "income contingent" in heading.

Subsec. (n)(4). Pub. L. 110–315, §103(b)(4)(D), substituted "authorizing committees" for "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate".

2007—Subsec. (b)(1)(G). Pub. L. 110–84, §303(a), which directed the general amendment of subpar. (G), was repealed by Pub. L. 111–152, §2204(b).

Subsec. (b)(1)(M)(iii). Pub. L. 110–84, §202(a), struck out "not in excess of 3 years" before "during" in introductory provisions, substituted comma for "; or" at end of subcl. (II), and inserted concluding provisions.

Subsec. (c)(1)(D) to (H). Pub. L. 110–84, §302(b)(1), redesignated subpars. (E) to (H) as (D) to (G), respectively, and struck out former subpar. (D) which read as follows: "Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender, servicer, or guaranty agency designated for exceptional performance under section 1078–9 of this title shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance."

Subsec. (c)(6)(A)(ii). Pub. L. 110–84, §301, amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "an amount equal to 24 percent of such payments for use in accordance with section 1072b of this title, except that, beginning on October 1, 2003, this subparagraph shall be applied by substituting '23 percent' for '24 percent'."

2006—Subsec. (a)(3)(A)(v)(III). Pub. L. 109–171, §8014(j)(1), added subcl. (III).

Subsec. (a)(5). Pub. L. 109–171, §8004(b)(2), substituted "2012" and "2016" for "2004" and "2008", respectively.

Subsec. (b)(1)(A)(i)(I). Pub. L. 109–171, §8005(b)(1), substituted "$3,500" for "$2,625".

Subsec. (b)(1)(A)(ii)(I). Pub. L. 109–171, §8005(b)(2), substituted "$4,500" for "$3,500".

Subsec. (b)(1)(G). Pub. L. 109–171, §8014(a)(1), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: "insures 98 percent of the unpaid principal of loans insured under the program, except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j) of this section or section 1087–2(q) of this title;".

Subsec. (b)(1)(H). Pub. L. 109–171, §8014(b)(1), amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: "provides for collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;".

Subsec. (b)(1)(M)(iii), (iv). Pub. L. 109–171, §8007(a), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (b)(1)(N)(ii), (iii). Pub. L. 109–171, §8008(a), added cls. (ii) and (iii) and struck out former cl. (ii), which read as follows: "in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled or at an eligible foreign institution, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney;".

Subsec. (b)(7)(A). Pub. L. 109–171, §8009(b)(1), substituted "shall begin the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution)." for "shall begin—

"(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

"(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for

repayment to commence at an earlier date."

Subsec. (c)(1)(A). Pub. L. 109–171, §8014(j)(2), substituted "30 days" for "45 days" in last sentence.

Subsec. (c)(1)(G), (H). Pub. L. 109–171, §8014(c)(1), added subpar. (G) and redesignated former subpar. (G) as (H) and realigned margin.

Subsec. (c)(2)(A). Pub. L. 109–171, §8014(d)(1), inserted "(i)" after "including" and added cl. (ii) before semicolon at end.

Subsec. (c)(2)(D). Pub. L. 109–171, §8014(d)(2), substituted "paragraph (6)(A)" for "paragraph (6)".

Subsec. (c)(3)(A)(i). Pub. L. 109–171, §8014(e)(1), in introductory provisions, struck out "in writing" after "on terms agreed to" and inserted "and documented in accordance with paragraph (10)" after "approval of the insurer".

Subsec. (c)(6). Pub. L. 109–171, §8014(d)(3), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and added subpars. (B) and (C).

Subsec. (c)(10). Pub. L. 109–171, §8014(e)(2), added par. (10).

Subsec. (i)(1). Pub. L. 109–171, §8014(j)(3), substituted "10 days" for "21 days" in third sentence.

2002—Subsec. (c)(3)(A)(i)(IV). Pub. L. 107–314, §651(b)(1)(A), added subcl. (IV).

Subsec. (c)(3)(A)(ii)(II). Pub. L. 107–314, §651(b)(1)(B), inserted "or (IV)" after "(i)(II)".

Subsec. (c)(3)(C). Pub. L. 107–314, §651(b)(1)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: "shall contain provisions that specify that the form of forbearance granted by the lender for purposes of this paragraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and".

Subsec. (o). Pub. L. 107–314, §651(b)(2), added subsec. (o).

1998—Subsec. (a)(2)(A)(i). Pub. L. 105–244, §417(a)(1)(A), added subcls. (I) and (II) and struck out former subcls. (I) to (III) which read as follows:

"(I) sets forth such student's estimated cost of attendance (as determined under section 1087ll of this title);

"(II) sets forth such student's estimated financial assistance; and

"(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title;".

Subsec. (a)(2)(B). Pub. L. 105–244, §417(a)(1)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part E of this subchapter) and the amount of such need, subject to the provisions of subparagraph (D)."

Subsec. (a)(2)(C). Pub. L. 105–244, §417(a)(1)(C), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "For the purpose of paragraph (1) and this paragraph—

"(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 and part D of this subchapter, and any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 1087vv(c) of this title), plus other scholarship, grant, or loan assistance; and

"(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part E of this subchapter."

Subsec. (a)(2)(F). Pub. L. 105–244, §417(a)(1)(D), struck out subpar. (F) which read as follows: "Except as provided in subparagraph (D), an eligible institution may refuse to certify a statement which permits a student to receive a loan under this part or to certify a loan amount that is less than the student's determination of need (as determined under part E of this subchapter), if the reason for such action is documented and provided in written form to each student so affected."

Subsec. (a)(5). Pub. L. 105–244, §417(a)(2), substituted "September 30, 2004" for "September 30, 2002" and "September 30, 2008" for "September 30, 2006".

Subsec. (b)(1)(A). Pub. L. 105–244, §417(b)(1)(A), inserted ", as defined in section 1088(a)(2) of this title," after "academic year" in introductory provisions.

Subsec. (b)(1)(A)(i)(I). Pub. L. 105–244, §417(b)(1)(B)(i), substituted "length; and" for "length (as determined under section 1088 of this title);".

Subsec. (b)(1)(A)(i)(II), (III). Pub. L. 105–244, §417(b)(1)(B)(ii), added subcl. (II) and struck out former subcls. (II) and (III) which read as follows:

"(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least 2/3 of such an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of such an academic year;".

Subsec. (b)(1)(A)(vi). Pub. L. 105–244, §417(b)(1)(C)–(E), added cl. (vi).

Subsec. (b)(1)(D)(ii). Pub. L. 105–244, §417(b)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "the repayment period of any insured loan may not exceed 10 years, and".

Subsec. (b)(1)(E). Pub. L. 105–244, §417(b)(3), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

"(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 1078–1 of this title, the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with regulations of the Secretary; and

"(ii) repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years commencing at the beginning of the repayment period determined under paragraph (7) of this subsection;".

Subsec. (b)(1)(G). Pub. L. 105–244, §417(b)(4), struck out "not less than" after "insures".

Subsec. (b)(1)(L)(i). Pub. L. 105–244, §417(b)(5), inserted "except as otherwise provided by a repayment plan selected by the borrower under clause (ii) or (iii) of paragraph (9)(A)," before "during any" and ", notwithstanding any payment plan under paragraph (9)(A)" after "due and payable".

Subsec. (b)(1)(M)(i)(I). Pub. L. 105–244, §417(b)(6)(A), inserted before semicolon ", except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to be eligible to receive a deferment under this clause".

Subsec. (b)(1)(M)(ii). Pub. L. 105–244, §417(b)(6)(B), inserted before semicolon ", except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause".

Subsec. (b)(1)(U)(i)(I), (ii). Pub. L. 105–244, §417(b)(7)(A), substituted "emergency action," for "emergency action,,".

Subsec. (b)(1)(U)(iii)(I). Pub. L. 105–244, §417(b)(7)(B), inserted "that originates or holds more than $5,000,000 in loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 for any lender fiscal year (except that each lender described in section 1085(d)(1)(A)(ii)(III) of this title shall annually submit the results of an audit required by this clause)," before "at least once a year".

Subsec. (b)(1)(X). Pub. L. 105–244, §417(b)(8)(B)(i), substituted "subsection (c)(9)" for "subsection (c)(10)".

Subsec. (b)(1)(Y). Pub. L. 105–244, §417(b)(8)(A), (B)(ii), (C), added subpar. (Y).

Subsec. (b)(3). Pub. L. 105–244, §417(b)(9)(B), inserted concluding provisions.

Subsec. (b)(3)(C). Pub. L. 105–244, §417(b)(9)(A), added subpar. (C) and struck out former subpar. (C) which read as follows: "conduct unsolicited mailings to students enrolled in secondary school of student loan application forms; or".

Subsec. (b)(7)(D). Pub. L. 105–244, §417(b)(10), added subpar. (D).

Subsec. (b)(9). Pub. L. 105–244, §417(b)(11), added par. (9).

Subsec. (c)(1)(A). Pub. L. 105–244, §417(c)(1)(A)(i), substituted "95 percent" for "98 percent".

Subsec. (c)(1)(B)(i). Pub. L. 105–244, §417(c)(1)(A)(ii), substituted "85 percent" for "88 percent".

Subsec. (c)(1)(B)(ii). Pub. L. 105–244, §417(c)(1)(A)(iii), substituted "75 percent" for "78 percent".

Subsec. (c)(1)(E)(i). Pub. L. 105–244, §417(c)(1)(A)(iv)(I), substituted "95 percent" for "98 percent".

Subsec. (c)(1)(E)(ii). Pub. L. 105–244, §417(c)(1)(A)(iv)(II), substituted "85 percent" for "88 percent".

Subsec. (c)(1)(E)(iii). Pub. L. 105–244, §417(c)(1)(A)(iv)(III), substituted "75 percent" for "78 percent".

Subsec. (c)(1)(F)(i). Pub. L. 105–244, §417(c)(1)(A)(v)(I), substituted "95 percent" for "98 percent".

Subsec. (c)(1)(F)(ii). Pub. L. 105–244, §417(c)(1)(A)(v)(II), substituted "85 percent" for "88 percent".

Subsec. (c)(1)(F)(iii). Pub. L. 105–244, §417(c)(1)(A)(v)(III), substituted "75 percent" for "78 percent".

Subsec. (c)(2)(A). Pub. L. 105–244, §417(c)(2)(A), substituted "proof that the institution was contacted and other reasonable attempts were made" for "proof that reasonable attempts were made".

Subsec. (c)(2)(G). Pub. L. 105–244, §417(c)(2)(B), substituted "certifies to the Secretary that diligent attempts, including contact with the institution, have been made" for "certifies to the Secretary that diligent attempts have been made".

Subsec. (c)(2)(H)(ii). Pub. L. 105–244, §417(c)(3), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "the guaranty agency may require the payment by the institution of a reasonable fee (as

determined in accordance with regulations prescribed by the Secretary) for such information; and".

Subsec. (c)(3)(A)(i). Pub. L. 105–244, §417(c)(4)(A), struck out "written" before "request" in introductory provisions.

Subsec. (c)(3)(D). Pub. L. 105–244, §417(c)(4)(B)–(D), added subpar. (D).

Subsec. (c)(6). Pub. L. 105–244, §417(c)(5), amended heading and text of par. (6) generally, revising and restating provisions relating to Secretary's equitable share.

Subsec. (c)(8). Pub. L. 105–244, §417(c)(6), redesignated subpar. (A) as entire par. and struck out subpar. (B) which read as follows: "An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary's request."

Subsec. (c)(9)(A). Pub. L. 105–244, §417(c)(7)(A), substituted "maintain in the agency's Federal Student Loan Reserve Fund established under section 1072a of this title a current minimum reserve level of at least 0.25 percent" for "maintain a current minimum reserve level of at least .5 percent".

Subsec. (c)(9)(C). Pub. L. 105–244, §417(c)(7)(B), substituted "85 percent pursuant to paragraph (1)(B)(i)" for "80 percent pursuant to subsection (c)(1)(B)(ii) of this section", struck out ", as appropriate," after "Secretary shall require", and substituted "45 working days" for "30 working days".

Subsec. (c)(9)(E)(iv). Pub. L. 105–244, §417(c)(7)(C)(i), inserted "or" at end.

Subsec. (c)(9)(E)(v). Pub. L. 105–244, §417(c)(7)(C)(ii), substituted a period for "; or" at end.

Subsec. (c)(9)(E)(vi). Pub. L. 105–244, §417(c)(7)(C)(iii), struck out cl. (vi) which read as follows: "the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter."

Subsec. (c)(9)(F)(vii). Pub. L. 105–244, §417(c)(7)(D), substituted "and to avoid disruption of the student loan program." for "to avoid disruption of the student loan program, and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter."

Subsec. (c)(9)(I). Pub. L. 105–244, §417(c)(7)(E), inserted "that, if commenced after September 24, 1998, shall be on the record" after "for a hearing".

Subsec. (c)(9)(K). Pub. L. 105–244, §417(c)(7)(F), substituted "and the Workforce" for "and Labor" and struck out "and the progress of the transition from the loan programs under this part to the direct student loan programs under part C of this subchapter" after "guaranty agency system".

Subsec. (e). Pub. L. 105–244, §417(d), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) related to payments for lender referral services.

Subsec. (f). Pub. L. 105–244, §417(e), amended heading and text of subsec. (f) generally. Prior to amendment, subsec. (f) authorized the Secretary to make payments to guaranty agencies for fiscal years prior to fiscal year 1994 for certain administrative and other costs and provided for applications for such payments.

Subsec. (g). Pub. L. 105–244, §417(f), substituted "and the Workforce" for "and Labor" in concluding provisions.

Subsec. (j)(3). Pub. L. 105–244, §417(g)(1), struck out "during transition to direct lending" after "services" in heading.

Subsec. (j)(3)(A). Pub. L. 105–244, §417(g)(2), struck out "during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter" after "loan capital" and inserted "designated for a State" after "a guaranty agency" and "subparagraph (C) and" after "funds in accordance with".

Subsec. (j)(3)(C). Pub. L. 105–244, §417(g)(3), added subpar. (C).

Subsec. (l). Pub. L. 105–244, §417(h), amended heading and text of subsec. (l) generally. Prior to amendment, text read as follows:

"(1) ASSISTANCE REQUIRED.—Upon receipt of a proper request from the lender, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in preclaims assistance activities (as described in subsection (c)(6)(C)(i)(I) of this section) and supplemental preclaims assistance activities (as described in subsection (c)(6)(C) of this section) with respect to each loan covered by such agreement.

"(2) PAYMENTS FOR SUPPLEMENTAL PRECLAIMS ASSISTANCE.—The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency that engages in supplemental preclaims assistance (as defined in subsection (c)(6)(C) of this section) on a loan guaranteed under this part. For each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent, such payment shall be equal to one percent of the total of the unpaid principal and the accrued unpaid interest of the loan."

Subsec. (m)(1). Pub. L. 105–244, §417(i), substituted "may require borrowers" for "shall require at least 10 percent of the borrowers".

Subsec. (n). Pub. L. 105–244, §417(k), added subsec. (n).

Pub. L. 105–244, §417(j), struck out heading and text of subsec. (n) which related to State share of default costs.

1997—Subsec. (a)(5). Pub. L. 105–33, §6104(2), substituted "September 30, 2002," for "September 30, 1998," and "September 30, 2006." for "September 30, 2002."

Subsec. (c)(9)(A). Pub. L. 105–33, §6101(b), struck out "for the fiscal year of the agency that begins in 1993" after "loans guaranteed by such agency" and struck out at end "The minimum reserve level shall increase to—

"(i) .7 percent of such total attributable amount for the fiscal year of the agency that begins in 1994;

"(ii) .9 percent of such total attributable amount for the fiscal year of the agency that begins in 1995; and

"(iii) 1.1 percent of such total attributable amount for each fiscal year of the agency that begins on or after January 1, 1996."

1994—Subsec. (c)(1)(G). Pub. L. 103–382 added subpar. (G).

1993—Subsec. (a)(2)(C)(i). Pub. L. 103–208, §2(c)(11), substituted "; and" for period at end.

Subsec. (a)(2)(E). Pub. L. 103–208, §2(c)(12), inserted "or 1078–8" after "1078–1".

Subsec. (b)(1)(A)(ii), (iii). Pub. L. 103–208, §2(c)(13)(A), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

"(ii) in the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

"(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least 2/3 of such academic year; and

"(III) $1,175, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of such academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

"(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least 2/3 of such an academic year; and

"(III) $1,825, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of such an academic year; and".

Subsec. (b)(1)(A)(iv), (v). Pub. L. 103–208, §2(c)(13)(B), (C), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (b)(1)(B). Pub. L. 103–208, §2(c)(14), substituted a semicolon for period at end of closing provisions.

Subsec. (b)(1)(D). Pub. L. 103–66, §4043(a)(1), substituted "be subject to income contingent repayment in accordance with subsection (m) of this section;" for "be subject to repayment in accordance with the regulations required by subsection (m) of this section if the Secretary has published the finding required by paragraph (2) of such subsection;".

Subsec. (b)(1)(G). Pub. L. 103–66, §4108(b), substituted "98 percent" for "100 percent" and inserted before semicolon at end ", except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j) of this section or section 1087–2(q) of this title".

Subsec. (b)(1)(H). Pub. L. 103–66, §4102(c), substituted "1.0 percent" for "3 percent".

Subsec. (b)(1)(N). Pub. L. 103–208, §2(c)(15), amended subpar. (N) generally. Prior to amendment, subpar. (N) read as follows: "provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check and except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney;".

Subsec. (b)(1)(U). Pub. L. 103–208, §2(c)(16), inserted a comma after "emergency action" in two places and substituted "this clause" for "this clause;" at end.

Subsec. (b)(1)(V). Pub. L. 103–208, §2(c)(17), redesignated subpar. (X) as (V) and struck out former subpar. (V) which related to procedure and requirements for granting a forbearance while a borrower is enrolled in a medical or dental internship or residency program. See Codification note above.

Subsec. (b)(1)(W). Pub. L. 103–208, §2(c)(17), redesignated subpar. (Y) as (W) and struck out former subpar. (W) which read as follows:

"(i) provides that, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary, during periods in which the borrower is serving in a national service position, for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

"(ii) provides that clauses (iii) and (iv) of subparagraph (V) shall also apply to a forbearance granted under this subparagraph; and

"(iii) provides that interest shall continue to accrue on a loan for which a borrower receives forbearance under this subparagraph and shall be capitalized or paid by the borrower;". See Codification note above.

Pub. L. 103–82, §102(c)(1)(A), added subpar. (W) and redesignated former subpar. (W) as (X).

Subsec. (b)(1)(X). Pub. L. 103–208, §2(c)(17)(B), redesignated subpar. (Z) as (X). Former subpar. (X) redesignated (V). See Codification note above.

Pub. L. 103–82, §102(c)(1)(A)(i), redesignated subpar. (W) as (X). Former subpar. (X) redesignated (Y).

Subsec. (b)(1)(Y). Pub. L. 103–208, §2(c)(17)(B), redesignated subpar. (Y) as (W). See Codification note above.

Pub. L. 103–82, §102(c)(1)(A)(i), redesignated subpar. (X) as (Y). Former subpar. (Y) redesignated (Z).

Subsec. (b)(1)(Z). Pub. L. 103–208, §2(c)(17)(B), redesignated subpar. (Z) as (X). See Codification note above.

Pub. L. 103–82, §102(c)(1)(A)(i), redesignated subpar. (Y) as (Z).

Subsec. (b)(2)(F)(i). Pub. L. 103–208, §2(c)(18), substituted "either jointly or separately to provide a notice" for "each to provide a separate notice".

Subsec. (b)(2)(F)(ii). Pub. L. 103–208, §2(c)(19)–(21), substituted "transferee" for "transferor" in introductory provisions, struck out "to another holder" after "the loan" in subcl. (I), and substituted "the new" for "such other" in subcl. (II).

Subsec. (b)(7). Pub. L. 103–208, §2(c)(22), amended par. (7) generally. Prior to amendment, par. (7) read as follows:

"(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall begin on the day immediately following the expiration of the 6-month period after the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment or forbearance.

"(B) In the case of a loan made under section 1078–1 or 1078–8 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

"(C) In the case of a loan made under section 1078–2 or 1078–3 of this title, the repayment period shall begin on the day the loan is disbursed, and shall exclude any period of authorized deferment or forbearance."

Subsec. (b)(8). Pub. L. 103–208, §2(c)(23), added par. (8).

Subsec. (c)(1)(A). Pub. L. 103–208, §2(c)(24), substituted last sentence for former last sentence which read as follows: "In no case shall a guaranty agency file a claim under this subsection for reimbursement with respect to losses prior to 270 days after the loan becomes delinquent with respect to any installment thereon, or later than 45 days after the guaranty agency discharges its insurance obligation on the loan."

Pub. L. 103–66, §4108(a)(1), substituted "98 percent" for "100 percent" in fourth sentence.

Subsec. (c)(1)(B), (E), (F). Pub. L. 103–66, §4108(a)(2)–(4), in subpar. (B), substituted "88 percent" for "90 percent" in cl. (i) and "78 percent" for "80 percent" in cl. (ii), and added subpars. (E) and (F).

Subsec. (c)(2)(G). Pub. L. 103–208, §2(c)(25), substituted "certifies" for "demonstrates" before "to the Secretary".

Subsec. (c)(3)(A). Pub. L. 103–208, §2(c)(26), added subpar. (A) and struck out former subpar. (A) which read as follows: "shall contain provisions providing for forbearance in accordance with subparagraphs (V) and (W) of subsection (b)(1) of this section for the benefit of the student borrower serving in a medical or dental internship or residency program;". See Codification note above.

Pub. L. 103–82, §102(c)(1)(B), substituted "subparagraphs (V) and (W) of subsection (b)(1)" for "subsection (b)(1)(V)".

Subsec. (c)(6)(A)(ii). Pub. L. 103–66, §4110(a), substituted "27 percent" for "30 percent".

Subsec. (c)(8). Pub. L. 103–66, §4044, designated existing provisions as subpar. (A), struck out second and third sentences, and added subpar. (B). Prior to amendment, second and third sentences read as follows: "Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such agency has made adequate collections efforts. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider the agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans."

Subsec. (c)(9). Pub. L. 103–66, §4107(a), redesignated par. (10) as (9) and struck out former par. (9) which required guaranty agencies to pay reinsurance fees to the Secretary.

Subsec. (c)(10). Pub. L. 103–66, §4107(a)(2), redesignated par. (10) as (9).

Subsec. (c)(10)(C). Pub. L. 103–66, §4045(1), inserted ", as appropriate," after "the Secretary shall require".

Subsec. (c)(10)(D). Pub. L. 103–66, §4045(2), designated existing provisions as cl. (i), substituted "If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a" for "Each", and added cl. (ii).

Subsec. (c)(10)(E)(iv) to (vi). Pub. L. 103–66, §4045(3), added cls. (iv) to (vi).

Subsec. (c)(10)(F). Pub. L. 103–66, §4045(4)(A), substituted "If a guaranty" for "Except as provided in subparagraph (G), if a guaranty".

Subsec. (c)(10)(F)(v). Pub. L. 103–66, §4045(4)(B), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: "provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title in order to meet immediate cash needs of the guaranty agency and ensure the uninterrupted payment of claims, with such restrictions on the use of such funds, as determined appropriate by the Secretary; or".

Subsec. (c)(10)(F)(vi), (vii). Pub. L. 103–66, §4045(4)(C), (D), in cl. (vi), substituted "to avoid" for "and to avoid" before "disruption of the student" and inserted before period at end ", and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter", redesignated cl. (vi) as (vii), and added new cl. (vi).

Subsec. (c)(10)(G). Pub. L. 103–66, §4045(5), (7), added subpar. (G) and struck out former subpar. (G) which read as follows: "The Secretary may not take any action under subparagraph (E) or (F) against any guaranty agency that is backed by the full faith and credit of the State where such guaranty agency is the primary guarantor."

Subsec. (c)(10)(H) to (J). Pub. L. 103–66, §4045(6), (7), added subpar. (H) and redesignated former subpars. (H) and (I) as (I) and (J), respectively. Former subpar. (J) redesignated (K).

Subsec. (c)(10)(K). Pub. L. 103–66, §4045(6), (8), redesignated subpar. (J) as (K) and substituted "system and the progress of the transition from the loan programs under this part to the direct student loan programs under part C of this subchapter." for "system, together with recommendations for legislative changes, if necessary, for the maintenance of a strong guaranty agency system."

Subsec. (e)(1). Pub. L. 103–66, §4041(b)(1), amended heading, designated existing provisions as subpar. (A) and substituted "with which the Secretary has an agreement under subparagraph (B)" for "in any State", and added subpar. (B).

Subsec. (e)(2). Pub. L. 103–66, §4041(b)(2)(A), in introductory provisions, substituted "with which the Secretary has an agreement under paragraph (1)(B)" for "in a State".

Subsec. (e)(2)(A). Pub. L. 103–208, §2(c)(27), redesignated former cl. (i), subcl. (I) as (i) and former cl. (i), subcl. (II) as (ii) and struck out cl. (i) designation following subpar. (A) designation. See Codification note above.

Pub. L. 103–66, §4041(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State; and".

Subsec. (e)(3). Pub. L. 103–66, §4041(b)(3), substituted "From funds available for costs of transition under section 1087h of this title, the" for "The".

Subsec. (e)(5). Pub. L. 103–66, §4041(b)(4), struck out par. (5) which related to authorization of appropriations.

Subsec. (f)(1)(A). Pub. L. 103–66, §4107(b)(1), substituted "For a fiscal year prior to fiscal year 1994, the Secretary" for "The Secretary".

Subsec. (f)(1)(B). Pub. L. 103–66, §4107(b)(2), inserted "prior to fiscal year 1994" after "any fiscal year".

Subsec. (j)(2). Pub. L. 103–208, §2(c)(28), substituted "lender-of-last-resort" for "lender of last resort" in introductory provisions.

Subsec. (j)(2)(A) to (E). Pub. L. 103–66, §4041(a)(2)(B), in subpar. (A) inserted before semicolon "and

ensure a response within 60 days after the student's original complete application is filed under this subsection", added subpar. (B), and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (j)(3). Pub. L. 103–66, §4041(a)(1), added par. (3) consisting of subpars. (A) and (B), and struck out former par. (3) relating to limitation on lender-of-last-resort program, consisting of subpars. (A) to (C).

Subsec. (l)(2). Pub. L. 103–66, §4112(a), inserted second sentence and struck out former second sentence which read as follows: "Such payments shall be equal to $50.00 for each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent."

Subsec. (m). Pub. L. 103–66, §4043(a)(2), amended par. (1) generally, added par. (2), and struck out former pars. (2) to (4). Prior to amendment, former pars. (1) to (4) related to establishment of terms and conditions, collection mechanism, loans for which income contingent repayment is required, and additional authority, respectively.

Subsec. (n). Pub. L. 103–66, §4201(a), added subsec. (n).

1992—Subsec. (a)(2)(C). Pub. L. 102–325, §416(a)(1), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

"(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 2 of part A of this subchapter, part D of this subchapter, and part C of subchapter I of chapter 34 of title 42, and any amount paid the student under chapters 32, 34, and 35 of title 38, plus other scholarship, grant, or loan assistance; and

"(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student."

Subsec. (a)(3)(A)(v). Pub. L. 102–325, §416(a)(2), added cl. (v).

Subsec. (a)(5). Pub. L. 102–325, §411(b)(2), substituted "September 30, 1998" for "September 30, 1992" and "September 30, 2002" for "September 30, 1997".

Subsec. (a)(7). Pub. L. 102–325, §416(a)(3), added par. (7).

Subsec. (b)(1)(A). Pub. L. 102–325, §416(b)(1)(A), inserted "or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled" in introductory provisions.

Subsec. (b)(1)(A)(i) to (iv). Pub. L. 102–325, §416(b)(1)(B), added cls. (i) to (iv) and struck out former cls. (i) to (iii) which read as follows:

"(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

"(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; and

"(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary);".

Subsec. (b)(1)(B). Pub. L. 102–325, §416(b)(2), which directed the amendment of subpar. (B) by striking clauses (i) and (ii) and inserting language which contained new cls. (i) and (ii) followed by concluding provisions, was executed by substituting the new cls. (i) and (ii) and concluding provisions for former cls. (i) and (ii) and former concluding provisions to reflect the probable intent of Congress. Prior to amendment, cls. (i) and (ii) and concluding provisions read as follows:

> "(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 or 1078–2 of this title; and
>
> "(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 1078–1 or 1078–2 of this title;

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;".

Subsec. (b)(1)(D), (E). Pub. L. 102–325, §416(c)(1), amended subpars. (D) and (E) generally. Prior to amendment, subpars. (D) and (E) read as follows:

"(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the repayment period of any insured loan may not exceed 10 years, and (iii) the note or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

"(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of

this paragraph, provides that repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;".

Subsec. (b)(1)(L)(i). Pub. L. 102–325, §416(d), substituted "(but in no instance less than the amount of interest due and payable)" for ", except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less".

Subsec. (b)(1)(M). Pub. L. 102–325, §416(e)(1), amended subpar. (M) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (b)(1)(N). Pub. L. 102–325, §416(f), substituted "except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney;" for "except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student;".

Subsec. (b)(1)(T). Pub. L. 102–325, §416(g), amended subpar. (T) generally. Prior to amendment, subpar. (T) read as follows: "provides no restrictions with respect to eligible institutions (other than nonresidential correspondence schools) which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program as in effect on January 1, 1985, unless—

"(i) that institution is ineligible under regulations for the emergency action, limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program; or

"(ii) there is a State constitutional prohibition affecting the eligibility of such an institution;".

Subsec. (b)(1)(U)(iii). Pub. L. 102–325, §416(h), added cl. (iii).

Subsec. (b)(1)(V). Pub. L. 102–325, §416(i)(4), (5), added cls. (ii) and (iii) and redesignated former cl. (ii) as (iv).

Pub. L. 102–325, §416(i)(3), which directed the amendment of cl. (ii) by substituting a semicolon for a period at end, could not be executed because the period had been stricken by Pub. L. 102–164, §601(b)(2).

Pub. L. 102–325, §416(i)(1), (2), struck out "and" at end of cl. (i) and inserted "or (ii)" after "clause (i)" in two places in cl. (ii).

Subsec. (b)(1)(W) to (Y). Pub. L. 102–325, §416(j), added subpars. (W) to (Y) and struck out former subpars. (W) and (X) which related to credit reports, credit worthy cosigners, and authorizations for entry of judgments against borrowers in the event of default.

Subsec. (b)(2)(C). Pub. L. 102–325, §416(k)(1), substituted ", including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States," for ", as the Secretary may reasonably require to carry out the Secretary's functions under this part,".

Subsec. (b)(2)(D)(i). Pub. L. 102–325, §416(k)(2)(A), substituted "on at least an annual basis" for "at least once every 2 years".

Subsec. (b)(2)(E). Pub. L. 102–325, §416(k)(3), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(2)(F). Pub. L. 102–325, §416(k)(2)(B), (4), added subpar. (F).

Subsec. (b)(3)(B) to (D). Pub. L. 102–325, §416(l), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (b)(4). Pub. L. 102–325, §416(n), inserted at end sentence relating to requests for deferment of repayment by students engaged in fellowship-supported study outside the United States.

Pub. L. 102–325, §416(m), redesignated par. (5) as (4) and struck out former par. (4) which related to targeted teacher deferment rule.

Subsec. (b)(5). Pub. L. 102–325, §416(m)(2), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (b)(6). Pub. L. 102–325, §416(o), added par. (6). Former par. (6) redesignated (5).

Subsec. (b)(7). Pub. L. 102–325, §416(c)(2), added par. (7).

Subsec. (c)(1)(A). Pub. L. 102–325, §416(p)(1), substituted ", or later than 45 days after the guaranty agency discharges its insurance obligation on the loan." for period at end.

Subsec. (c)(1)(D). Pub. L. 102–325, §416(p)(2), added subpar. (D).

Subsec. (c)(2). Pub. L. 102–325, §416(p)(3), struck out "and" at end of subpar. (F), added subpars. (G) and (H), and redesignated former subpar. (G) as (I).

Subsec. (c)(3). Pub. L. 102–325, §416(p)(4), added subpar. (C) and concluding provisions and struck out former last sentence which read as follows: "Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default."

Subsec. (c)(7)(A). Pub. L. 102–325, §416(p)(5)(A), substituted "(1)(C)" for "(1)(B)" in introductory provisions and inserted "and ends before October 1, 1991" in cl. (i).

Subsec. (c)(7)(B). Pub. L. 102–325, §416(p)(5)(D), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (c)(7)(C). Pub. L. 102–325, §416(p)(5)(B), (C), redesignated subpar. (B) as (C) and inserted "or (B)" after "(A)".

Subsec. (c)(8). Pub. L. 102–325, §416(p)(6), inserted provisions at end directing Secretary to develop criteria to determine whether agency has made adequate collection efforts and directing Secretary to consider certain factors in making determination.

Subsec. (c)(10). Pub. L. 102–325, §416(p)(7), added par. (10).

Subsec. (f)(1)(A)(i). Pub. L. 102–325, §416(q)(1), substituted "eligible lender" for "commercial lender".

Subsec. (f)(1)(C). Pub. L. 102–325, §416(q)(2), added subpar. (C).

Subsec. (j). Pub. L. 102–325, §416(r), designated existing provisions as par. (1), inserted par. heading, and added pars. (2) and (3).

Subsec. (k)(3). Pub. L. 102–325, §416(s), added par. (3).

Subsec. (m). Pub. L. 102–325, §416(t), added subsec. (m).

1991—Subsec. (a)(2)(A)(iii). Pub. L. 102–164, §602(b)(1), added cl. (iii). Amendment was executed by striking "and" at end of cl. (i)(III) to reflect the probable intent of Congress notwithstanding directory language directing the striking of "and" at end of cl. (i)(I).

Subsec. (a)(2)(F). Pub. L. 102–26 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "Except as provided in subparagraph (D), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has an agreement under subsection (b) of this section with any guaranty agency, a statement which permits a student to receive any loan under this part, except that, in individual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement."

Subsec. (b)(1)(W). Pub. L. 102–164, §601(b), added subpar. (W).

Subsec. (b)(1)(X). Pub. L. 102–164, §604, added subpar. (X).

Subsec. (c)(6)(D). Pub. L. 102–164, §605(b)(2), struck out subpar. (D) which read as follows: "In the case of a State which enacts and enforces a garnishment law that complies with the requirements of section 1078–5 of this title, subparagraph (A)(ii) shall be applied by substituting '35 percent' for '30 percent'."

1990—Subsec. (a)(2)(F). Pub. L. 101–508, §3004(b), inserted before period at end ", except that, in individual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement".

Subsec. (c)(1)(A). Pub. L. 101–508, §3002(a)(1), struck out before period at end of first sentence ", including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C)".

Subsec. (c)(6)(C). Pub. L. 101–508, §3002(a)(2)–(5), in introductory provisions of cl. (i), substituted "subsection (l) of this section" for "this paragraph", in cl. (i)(I), substituted "generally comparable in intensiveness to the level of preclaims assistance performed, prior to the 120th day of delinquency, by the guaranty agency as of October 16, 1990" for "required or permitted under paragraph (2)(A) of this subsection and subsection (f) of this section", in cl. (ii), substituted "payment under subsection (l) of this section" for "reimbursement" and "described in division (i)(I) of this subparagraph" for "which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f) of this section", and in cl. (iv), struck out first sentence which read as follows: "The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or $100, whichever is less."

Subsec. (l). Pub. L. 101–508, §3002(b), added subsec. (l).

1989—Subsec. (a)(2)(A)(i)(III). Pub. L. 101–239, §2004(b)(1), added subcl. (III).

Subsec. (b)(1)(M)(i). Pub. L. 101–239, §2002(a)(2), inserted before semicolon at end ", except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan

made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program".

Subsec. (b)(1)(O). Pub. L. 101–239, §2004(b)(3), amended subpar. (O) generally, substituting requirement that student loans be disbursed in accordance with section 1078–7 of this title for provisions requiring that certain loans be disbursed directly by lender in 2 or more installments, none exceeding more than one-half of the loan, or in installments pursuant to escrow provisions in subsec. (i).

Subsec. (b)(1)(T)(i). Pub. L. 101–239, §2006(b)(1), inserted "emergency action," after "regulations for the".

Subsec. (b)(1)(U). Pub. L. 101–239, §2006(b), in cl. (i) inserted "emergency action," after "regulations for the", and in cl. (ii) inserted "take emergency action," after "such program to".

Subsec. (b)(1)(V). Pub. L. 101–239, §2002(b)(1)(A), added subpar. (V).

Subsec. (c)(3). Pub. L. 101–239, §2002(b)(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default."

1988—Subsec. (b)(1)(M)(v). Pub. L. 100–369, §7(c), substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Subsec. (b)(1)(M)(vii). Pub. L. 100–369, §11(a), inserted "after January 1, 1986," after "service".

Subsec. (b)(1)(O). Pub. L. 100–369, §5(b)(2), substituted "section 1078–2 or 1078–3" for "section 1078–1, 1078–2, or 1078–3".

1987—Subsec. (a)(2)(D). Pub. L. 100–50, §10(e), substituted "certifies the eligibility of any student" for "permits the student".

Subsec. (b)(1)(A)(i). Pub. L. 100–50, §10(f)(1), substituted "first and" for "first or".

Subsec. (b)(1)(B)(i). Pub. L. 100–50, §10(a)(1), inserted ", excluding loans made under section 1078–1 or 1078–2 of this title" after "undergraduate education".

Subsec. (b)(1)(B)(ii). Pub. L. 100–50, §10(a)(2), inserted ", excluding loans made under section 1078–1 or 1078–2 of this title" after "graduate or professional student)".

Subsec. (b)(1)(M)(vi). Pub. L. 100–50, §10(b)(1), inserted "nonprofit" before "private".

Subsec. (b)(1)(M)(vii). Pub. L. 100–50, §10(b)(2), inserted "or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training" before semicolon at end.

Subsec. (b)(1)(N). Pub. L. 100–50, §10(f)(2), inserted "and except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student" before semicolon at end.

Subsec. (b)(1)(O). Pub. L. 100–50, §10(c), substituted "$1,000 or more" for "more than $1,000".

Subsec. (b)(1)(O)(i). Pub. L. 100–50, §10(f)(3), substituted "being disbursed" for "being dispensed".

Subsec. (b)(1)(P). Pub. L. 100–50, §10(f)(4), added subpar. (P) and struck out former subpar. (P) which read as follows: "requires the borrower and the institution at which the borrower is in attendance to promptly notify the holder of the loan, directly or through the guaranty agency, concerning any change of address or status;".

Subsec. (b)(1)(T). Pub. L. 100–50, §10(f)(5), inserted "(other than nonresidential correspondence schools)" after "eligible institutions".

Subsec. (b)(5). Pub. L. 100–50, §10(g), substituted "paragraph (1)(M)(i)(III)" for "paragraph (1)(M)".

Subsec. (b)(6)(A). Pub. L. 100–50, §10(h)(1), substituted "Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section" for "Prior to the implementation of section 1092b of this title".

Subsec. (b)(6)(B)(ii). Pub. L. 100–50, §10(h)(2), added cl. (ii) and struck out former cl. (ii) which read as follows: "the amount borrowed, the cumulative amount borrowed, the income reported on the loan application, and the purposes and the cost of attendance of the borrower."

Subsec. (c)(1)(A). Pub. L. 100–203, §3002(b)(1), substituted "shall be deemed" for "shall, subject to section 1072(e) of this title, be deemed".

Pub. L. 100–203, §3001(b)(1), substituted "shall, subject to section 1072(e) of this title, be deemed" for "shall be deemed".

Subsec. (c)(6)(C)(iv). Pub. L. 100–50, §10(i), inserted at end "In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable."

Subsec. (c)(6)(D). Pub. L. 100–50, §10(j), inserted "and enforces" after "enacts".

Subsec. (c)(9)(A). Pub. L. 100–203, §3002(b)(2), substituted "an amount equal to" for "an amount, subject to section 1072(e) of this title, equal to" in introductory provisions.

Pub. L. 100–203, §3001(b)(2), substituted "an amount, subject to section 1072(e) of this title, equal to" for "an amount equal to" in introductory provisions.

Subsec. (c)(9)(A)(i), (ii). Pub. L. 100–50, §10(k)(1), inserted "covered" before "loans".

Subsec. (c)(9)(D). Pub. L. 100–50, §10(k)(2), added subpar. (D).

Subsec. (f)(1)(B). Pub. L. 100–203, §3002(b)(3), substituted "shall be deemed" for "shall, subject to section 1072(e) of this title, be deemed".

Pub. L. 100–203, §3001(b)(3), substituted "shall, subject to section 1072(e) of this title, be deemed" for "shall be deemed".

Subsec. (i)(1). Pub. L. 100–50, §10(l), struck out "multiple" after "authorizing" and substituted "21 days" for "45 days".

Subsec. (j). Pub. L. 100–50, §10(m), inserted provision at end that the guaranty agency consider the request of an eligible lender to serve as the lender-of-last-resort pursuant to this subsection.

Subsec. (k)(1). Pub. L. 100–203, §3003, substituted "Notwithstanding any other provision of law, in" for "In", "guaranty agency shall" for "guaranty agency may", and "subsection shall include" for "subsection may include".

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–74, div. F, title III, §309(d)(2), Dec. 23, 2011, 125 Stat. 1101, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to new Federal Direct Stafford Loans made on or after July 1, 2012 and before July 1, 2014."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), except as otherwise provided, see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

Pub. L. 111–39, title IV, §402(a)(2), July 1, 2009, 123 Stat. 1940, provided that: "The amendment made by paragraph (1) [amending this section] shall be effective as if enacted as part of the amendment in [former] section 303(a) of the College Cost Reduction and Access Act (Public Law 110–84) [amending this section], shall take effect on October 1, 2012, and shall apply with respect to loans made on or after such date."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §422(a)(2), Aug. 14, 2008, 122 Stat. 3228, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on July 1, 2010."

Pub. L. 110–315, title IV, §422(g)(3), Aug. 14, 2008, 122 Stat. 3231, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on the date of enactment of this Act [Aug. 14, 2008], and the amendment made by paragraph (2) [amending section 1087–1 of this title] shall take effect for loans for which the first disbursement is made on or after July 1, 2008."

Pub. L. 110–315, title IV, §424(c), Aug. 14, 2008, 122 Stat. 3233, provided that: "The amendments made by this section [amending this section and section 1078–2 of this title] shall take effect for loans for which the first disbursement is made on or after July 1, 2008."

Pub. L. 110–227, §3(c), May 7, 2008, 122 Stat. 742, provided that: "The amendments made by this section [amending this section and section 1078–2 of this title] shall be effective for loans first disbursed on or after July 1, 2008."

Pub. L. 110–227, §5(b), May 7, 2008, 122 Stat. 746, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [May 7, 2008]."

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by sections 202(a), (d) and 301 of Pub. L. 110–84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as a note under section 1070a of this title.

Pub. L. 110–84, title III, §302(c), Sept. 27, 2007, 121 Stat. 796, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1087–1 of this title and repealing section 1078–9 of this title] shall be effective on October 1, 2007, except that section 428I of the Higher Education Act of 1965 [20 U.S.C. 1078–9] (as in effect on the day before the date of enactment of this Act [Sept. 27, 2007]) shall apply to eligible lenders that received a designation under subsection (a) of such section prior to October 1, 2007, for the remainder of the year for which the designation was made."

Pub. L. 110–84, title III, §303(b), Sept. 27, 2007, 121 Stat. 797, which provided that amendment by former section 303(a) of Pub. L. 110–84 (amending this section) would be effective on Oct. 1, 2012, and applicable

with respect to loans made on or after such date, was repealed by Pub. L. 111–152, title II, §2204(b), Mar. 30, 2010, 124 Stat. 1075.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Amendment by section 8005(b) of Pub. L. 109–171 effective July 1, 2007, see section 8005(e) of Pub. L. 109–171, set out as a note under section 1075 of this title.

Pub. L. 109–171, title VIII, §8007(f), Feb. 8, 2006, 120 Stat. 161, as amended by Pub. L. 110–84, title II, §202(d), Sept. 27, 2007, 121 Stat. 792, provided that: "The amendments made by this section [amending this section and sections 1087e, 1087dd, and 1088 of this title] shall apply with respect to all loans under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.]."

Pub. L. 109–171, title VIII, §8014(a)(2), Feb. 8, 2006, 120 Stat. 168, provided that: "The amendment made by this subsection [amending this section] shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006."

Pub. L. 109–171, title VIII, §8014(c)(2), Feb. 8, 2006, 120 Stat. 170, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006."

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–314 applicable with respect to interest, and any special allowance under section 1087–1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107–314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 417(a), (b), (c)(2)–(k) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §417(c)(1)(B), Oct. 7, 1998, 112 Stat. 1687, provided that: "The amendments made by subparagraph (A) of this paragraph [amending this section] apply to loans for which the first disbursement is made on or after October 1, 1998."

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–382, title III, §355(b), Oct. 20, 1994, 108 Stat. 3967, provided that: "Subsection (a) [amending this section] and the amendment made by subsection (a) shall take effect on August 10, 1993."

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by section 2(c)(11), (12), (14)–(17), (22)–(28) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, amendment by section 2(c)(13)(A) of Pub. L. 103–208 effective on and after July 1, 1994, amendment by section 2(c)(13)(B), (C) and (18) of Pub. L. 103–208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(19)–(21) of Pub. L. 103–208 effective on and after 30 days after Dec. 20, 1993, see section 5(a), (b)(2), (3), (6) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Pub. L. 103–66, title IV, §4043(b), Aug. 10, 1993, 107 Stat. 358, provided that: "The amendments made by this section [amending this section] shall take effect on July 1, 1994."

Pub. L. 103–66, title IV, §4102(d), Aug. 10, 1993, 107 Stat. 367, provided that: "The amendments made by this section [amending this section and sections 1078–8 and 1087–1 of this title] shall take effect on July 1, 1994."

Pub. L. 103–66, title IV, §4107(c), Aug. 10, 1993, 107 Stat. 369, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1993."

Pub. L. 103–66, title IV, §4108(c), Aug. 10, 1993, 107 Stat. 369, provided that: "The amendments made by this section [amending this section] shall apply to any loan for which the first disbursement is made on or after October 1, 1993."

Pub. L. 103–66, title IV, §4110(b), Aug. 10, 1993, 107 Stat. 370, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1993."

Pub. L. 103–66, title IV, §4112(b), Aug. 10, 1993, 107 Stat. 370, provided that: "The amendment made by this section [amending this section] shall take effect on October 1, 1993."

Pub. L. 103–66, title IV, §4201(b), Aug. 10, 1993, 107 Stat. 371, provided that: "The amendment made by this section [amending this section] shall take effect on October 1, 1994."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–325, title IV, §432, July 23, 1992, 106 Stat. 562, as amended by Pub. L. 103–208, §2(k)(5), Dec. 20, 1993, 107 Stat. 2486, provided that:

"(a) IN GENERAL.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendments made by this part [part B (§§411–432) of title IV of Pub. L. 102–325, see Tables for classification] shall take effect on the date of enactment of this Act [July 23, 1992], except—

"(1) as otherwise provided in such part B;

"(2) that the changes made in sections 425(a), 428(b)(1)(A), 428(b)(1)(B), 428A(b), 428B(b) [20 U.S.C. 1075(a), 1078(b)(1)(A), (B), 1078–1(b), 1078–2(b)], relating to annual and aggregate loan limits, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, except that—

"(A) the changes made in section 425(a)(1)(A)(i) and 428(b)(1)(A)(i) shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992; and

"(B) the changes made in section 425(a)(1)(A)(iv) and 428(b)(1)(A)(iv) shall apply with respect to loans to cover the costs of instruction for periods of enrollment beginning on or after October 1, 1993;

"(3) that the changes made in sections 427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1) [20 U.S.C. 1077(a)(2)(C), 1078(b)(1)(M), 1078–2(d)(1)], relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

"(4) that the changes made in sections 428(a)(7) and 428(f)(1)(C), relating to payments for unconsummated loans, shall apply with respect to loans made on or after October 1, 1992;

"(5) that the changes made in sections 427(a)(2)(H) and 428(b)(1)(E)(i), relating to offering graduated or income sensitive repayment options, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

"(6) that the changes made in section 428(b)(4), relating to teacher deferment, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

"(7) that section 428(c)(2)(H)(i) as added by such amendments shall be effective on and after October 1, 1992;

"(8) that the changes in section 428(c)(3) with respect to forbearance after a default shall be effective on and after October 1, 1992;

"(9) that the changes made in section 428B(a) [20 U.S.C. 1078–2(a)] with respect to use of credit histories shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

"(10) that section 428B(c) as added by such amendments, relating to disbursement of Federal PLUS Loans, shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

"(11) that the changes made in section 428C [20 U.S.C. 1078–3], relating to consolidation loans, shall apply with respect to loans under such section for which the application is received by an eligible lender on or after January 1, 1993;

"(12) that section 428H [20 U.S.C. 1078–8] as added by such amendments shall be effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992;

"(13) that the changes made in section 438 [20 U.S.C. 1087–1] shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

"(14) that the changes in section 439(d)(1) [20 U.S.C. 1087–2(d)(1)], relating to facilities loans, shall apply with respect to applications received on or after July 1, 1992; and

"(15) that the changes in the designation or names of loans or programs under part B is [sic] effective with respect to applications or other documents (used in making such loans) that are printed after the date of enactment of this Act.

"(b) NEW BORROWERS.—For purposes of the section, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act [20 U.S.C. 1071 et seq.]."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 2002(a)(2) of Pub. L. 101–239 applicable to any loan made, insured, or guaranteed under this part or part D of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inapplicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101–239, set out as a note under section 1077 of this title.

Pub. L. 101–239, title II, §2002(b)(2), Dec. 19, 1989, 103 Stat. 2112, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to loans made before, on, or after the date of enactment of this Act [Dec. 19, 1989]."

Amendment by section 2004(b)(1), (3) of Pub. L. 101–239 applicable with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101–239, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 11(a) of Pub. L. 100–369 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as a note under section 1077 of this title.

Amendment by section 5(b)(2) of Pub. L. 100–369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100–369 effective July 18, 1988, see section 13(b) of Pub. L. 100–369, set out as a note under section 1091 of this title.

EFFECTIVE DATE OF 1987 AMENDMENTS

Pub. L. 100–203, title III, §3002(b)(1)–(3), Dec. 22, 1987, 101 Stat. 1330–38, provided in part that the amendments by section 3002(b)(1)–(3) of Pub. L. 100–203 are effective Sept. 30, 1989.

Amendment by section 10(b) of Pub. L. 100–50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as an Effective Date of 1988 Amendment note under section 1077 of this title.

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1987, with subsection (b)(1)(M) (except cls. (viii), (ix), and (x)) applicable only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, subsection (b)(1)(A) and (B) applicable with respect only to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, and subsection (b)(1)(H) applicable with respect only to loans for which the borrower files an application on or after July 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

CONSTRUCTION OF 2006 AMENDMENT

Pub. L. 109–171, title VIII, §8007(e), Feb. 8, 2006, 120 Stat. 161, provided that: "Nothing in the amendments made by this section [amending this section and sections 1087e, 1087dd, and 1088 of this title] shall be construed to authorize any refunding of any repayment of a loan."

REVIEW OF INDUCEMENTS LIMITATIONS

Pub. L. 110–227, §5(c), May 7, 2008, 122 Stat. 746, provided that: "Within 90 days after the date of enactment of this Act [May 7, 2008], the Secretary of Education shall review, and as necessary revise, the Department of Education's regulations concerning prohibited guaranty agency inducements to eligible lenders (34 CFR 682.401(e)) to ensure that such agencies do not engage in improper inducements in the expansion of operations of the lender-of-last-resort program as authorized by the amendments made by this section [amending this section]. The Secretary shall submit a report on the review and revision required by this subsection to the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 180 days after such date of enactment."

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIODS OF INSTRUCTION BEGINNING AFTER JUNE 30, 1983

Pub. L. 97–301, §9, Oct. 13, 1982, 96 Stat. 1403, as amended by Pub. L. 98–79, §4(b), Aug. 15, 1983, 97

Stat. 481; Pub. L. 98–511, title VII, §707(7), (8), Oct. 19, 1984, 98 Stat. 2407, 2408; Pub. L. 99–272, title XVI, §16018(b), Apr. 7, 1986, 100 Stat. 348; Pub. L. 99–498, title IV, §408(a)(6), (7), Oct. 17, 1986, 100 Stat. 1495, specified that the family contribution schedule for specific periods of instruction through June 30, 1988, for loans made, insured, or guaranteed under this part be the family contribution schedule for such loans for the period of instruction from July 1, 1982, through June 30, 1983, and required the family contribution schedule for the period of instruction from July 1, 1982, through June 30, 1983, to be modified by the Secretary of Education for use for each of the specific periods of instruction to reflect the most recent and relevant data, prior to repeal by Pub. L. 99–498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, effective with respect to any academic year beginning on or after July 1, 1988, Pub. L. 97–301.

[1] See References in Text note below.

[2] So in original. The period probably should be a semicolon.

[3] So in original.

[4] So in original. No par. (2) has been enacted.

[5] So in original. Probably should be "subsection."

[6] So in original. The comma probably should not appear.

§1078–1. Voluntary flexible agreements with guaranty agencies

(a) Voluntary agreements

(1) Authority

Subject to paragraph (2),[1] the Secretary may enter into a voluntary, flexible agreement with a guaranty agency under this section, in lieu of agreements with a guaranty agency under subsections (b) and (c) of section 1078 of this title. The Secretary may waive or modify any requirement under such subsections, except that the Secretary may not waive—

(A) any statutory requirement pertaining to the terms and conditions attached to student loans or default claim payments made to lenders;

(B) the prohibitions on inducements contained in section 1078(b)(3) of this title; or

(C) the Federal default fee required by section 1078(b)(1)(H) of this title and the second sentence of section 1078–8(h) of this title.

(2) Eligibility

During fiscal years 1999, 2000, and 2001, the Secretary may enter into a voluntary, flexible agreement with not more than 6 guaranty agencies that had 1 or more agreements with the Secretary under subsections (b) and (c) of section 1078 of this title as of the day before October 7, 1998. Beginning in fiscal year 2002, any guaranty agency or consortium thereof may enter into a voluntary flexible agreement with the Secretary.

(3) Report required

(A) In general

The Secretary, in consultation with the guaranty agencies operating under voluntary flexible agreements, shall report on an annual basis to the authorizing committees regarding the program outcomes that the voluntary flexible agreements have had with respect to—

(i) program integrity and program and cost efficiencies, delinquency prevention, and default aversion, including a comparison of such outcomes to such outcomes for each guaranty agency operating under an agreement under subsection (b) or (c) of section 1078 of this title;

(ii) consumer education programs described in section 1083a of this title; and
(iii) the availability and delivery of student financial aid.

(B) Contents

Each report described in subparagraph (A) shall include—
(i) a description of each voluntary flexible agreement and the performance goals established by the Secretary for each agreement;
(ii) a list of—
(I) guaranty agencies operating under voluntary flexible agreements;
(II) the specific statutory or regulatory waivers provided to each such guaranty agency; and
(III) any other waivers provided to other guaranty agencies under paragraph (1);

(iii) a description of the standards by which each guaranty agency's performance under the guaranty agency's voluntary flexible agreement was assessed and the degree to which each guaranty agency achieved the performance standards;
(iv) an analysis of the fees paid by the Secretary, and the costs and efficiencies achieved under each voluntary flexible agreement; and
(v) an identification of promising practices for program improvement that could be replicated by other guaranty agencies.

(b) Terms of agreement

An agreement between the Secretary and a guaranty agency under this section—
(1) shall be developed by the Secretary, in consultation with the guaranty agency, on a case-by-case basis;
(2) may only include provisions—
(A) specifying the responsibilities of the guaranty agency under the agreement, with respect to—
(i) administering the issuance of insurance on loans made under this part on behalf of the Secretary;
(ii) monitoring insurance commitments made under this part;
(iii) default aversion activities;
(iv) review of default claims made by lenders;
(v) payment of default claims;
(vi) collection of defaulted loans;
(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary in a timely manner, and on an accurate, and auditable basis;
(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this subchapter and part C of subchapter I of chapter 34 of title 42;
(ix) monitoring of institutions and lenders participating in the program under this part; and
(x) informational outreach to schools and students in support of access to higher education;

(B) regarding the fees the Secretary shall pay, in lieu of revenues that the guaranty agency may otherwise receive under this part, to the guaranty agency under the agreement, and other funds that the guaranty agency may receive or retain under the agreement, except that in no case may the cost to the Secretary of the agreement, as reasonably projected by the Secretary, exceed the cost to the Secretary, as similarly projected, in the absence of the agreement;
(C) regarding the use of net revenues, as described in the agreement under this section, for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;
(D) regarding the standards by which the guaranty agency's performance of the agency's responsibilities under the agreement will be assessed, and the consequences for a guaranty

agency's failure to achieve a specified level of performance on 1 or more performance standards;

(E) regarding the circumstances in which a guaranty agency's agreement under this section may be ended in advance of the agreement's expiration date;

(F) regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage; and

(G) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part;

(3) shall provide for uniform lender participation with the guaranty agency under the terms of the agreement; and

(4) shall not prohibit or restrict borrowers from selecting a lender of the borrower's choosing, subject to the prohibitions and restrictions applicable to the selection under this chapter and part C of subchapter I of chapter 34 of title 42.

(c) Public notice

(1) In general

The Secretary shall publish in the Federal Register a notice to all guaranty agencies that sets forth—

(A) an invitation for the guaranty agencies to enter into agreements under this section; and

(B) the criteria that the Secretary will use for selecting the guaranty agencies with which the Secretary will enter into agreements under this section.

(2) Agreement notice

The Secretary shall notify the members of the authorizing committees not later than 30 days prior to concluding an agreement under this section. The notice shall contain—

(A) a description of the voluntary flexible agreement and the performance goals established by the Secretary for the agreement;

(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency;

(C) a description of the standards by which each guaranty agency's performance under the agreement will be assessed; and

(D) a description of the fees that will be paid to each participating guaranty agency.

(3) Waiver notice

The Secretary shall notify the members of the authorizing committees not later than 30 days prior to the granting of a waiver pursuant to subsection (a)(2) [1] of this section to a guaranty agency that is not a party to a voluntary flexible agreement.

(4) Public availability

The text of any voluntary flexible agreement, and any subsequent revisions, and any waivers related to section 1078(b)(3) of this title that are not part of such an agreement, shall be readily available to the public.

(5) Modification notice

The Secretary shall notify the members of the authorizing committees 30 days prior to any modifications to an agreement under this section.

(d) Termination

At the expiration or early termination of an agreement under this section, the Secretary shall reinstate the guaranty agency's prior agreements under subsections (b) and (c) of section 1078 of this title, subject only to such additional requirements as the Secretary determines to be necessary in

order to ensure the efficient transfer of responsibilities between the agreement under this section and the agreements under subsections (b) and (c) of section 1078 of this title, and including the guaranty agency's compliance with reserve requirements under sections 1072 and 1078 of this title.

(Pub. L. 89–329, title IV, §428A, as added Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691; amended Pub. L. 109–171, title VIII, §8014(b)(3), (f), Feb. 8, 2006, 120 Stat. 169, 170; Pub. L. 110–315, title I, §103(b)(5), title IV, §423, Aug. 14, 2008, 122 Stat. 3089, 3231.)

REFERENCES IN TEXT

Paragraph (2) of subsec. (a) of this section, referred to in subsecs. (a)(1) and (c)(3), was struck out by Pub. L. 109–171, §8014(f)(2), and par. (3) was redesignated (2). See 2006 Amendment note below.

PRIOR PROVISIONS

A prior section 1078–1, Pub. L. 89–329, title IV, §428A, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1384; amended Pub. L. 100–50, §10(n), (o)(1), (p)(1), (q), (r)(1), June 3, 1987, 101 Stat. 343, 344; Pub. L. 100–369, §§3–5(a), (b)(3), July 18, 1988, 102 Stat. 835, 836; Pub. L. 101–239, title II, §2003(a)(1), (b)(1), (c)(1), Dec. 19, 1989, 103 Stat. 2112, 2114; Pub. L. 101–508, title III, §3006(b), Nov. 5, 1990, 104 Stat. 1388–28; Pub. L. 102–26, §2(c)(1), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title IV, §417, July 23, 1992, 106 Stat. 529; Pub. L. 103–208, §2(c)(29)–(32), Dec. 20, 1993, 107 Stat. 2465, 2466, related to Federal supplemental loans for students, prior to repeal by Pub. L. 103–66, title IV, §4047(b), (d), Aug. 10, 1993, 107 Stat. 364, effective July 1, 1994.

Another prior section 1078–1, Pub. L. 89–329, title IV, §428A, as added Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2120; amended Pub. L. 95–43, §1(a)(30)–(32), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §412(e), (f), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1416, 1417, 1503; Pub. L. 97–35, title V, §535(e), Aug. 13, 1981, 95 Stat. 455, related to student loan insurance programs, prior to the general amendment of this part by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110–315, §423, added par. (3).

Subsec. (c)(2), (3). Pub. L. 110–315, §103(b)(5)(A), (B), substituted "members of the authorizing committees" for "Chairperson and the Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives".

Subsec. (c)(5). Pub. L. 110–315, §103(b)(5)(C), substituted "members of the authorizing committees" for "Chairperson and the Ranking Minority Members of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives".

2006—Subsec. (a)(1)(B). Pub. L. 109–171, §8014(f)(1), struck out "unless the Secretary determines that such a waiver is consistent with the purposes of this section and is limited to activities of the guaranty agency within the State or States for which the guaranty agency serves as the designated guarantor" before "; or".

Subsec. (a)(1)(C). Pub. L. 109–171, §8014(b)(3), added subpar. (C).

Subsec. (a)(2), (3). Pub. L. 109–171, §8014(f)(2), (3), redesignated par. (3) as (2) and struck out heading and text of former par. (2). Text read as follows: "If the Secretary grants a waiver pursuant to paragraph (1)(B), any guaranty agency doing business within the affected State or States may request, and the Secretary shall grant, an identical waiver to such guaranty agency under the same terms and conditions (including service area limitations) as govern the original waiver."

Subsec. (a)(4). Pub. L. 109–171, §8014(f)(4), struck out par. (4), which required the Secretary to report to congressional committees regarding the impact that the voluntary flexible agreements had on program integrity, program and cost efficiencies, and the availability and delivery of student financial aid.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

[1] *See References in Text note below.*

§1078–2. Federal PLUS loans

(a) Authority to borrow

(1) Authority and eligibility

Prior to July 1, 2010, a graduate or professional student or the parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b) of this section, if—

(A) the graduate or professional student or the parents do not have an adverse credit history as determined pursuant to regulations promulgated by the Secretary;

(B) in the case of a graduate or professional student or parent who has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this subchapter and part C of subchapter I of chapter 34 of title 42, such graduate or professional student or parent has completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this subchapter and part C of subchapter I of chapter 34 of title 42 obtained by fraud; and

(C) the graduate or professional student or the parents meet such other eligibility criteria as the Secretary may establish by regulation, after consultation with guaranty agencies, eligible lenders, and other organizations involved in student financial assistance.

(2) Terms, conditions, and benefits

Except as provided in subsections (c), (d), and (e) of this section, loans made under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

(3) Special rules

(A) Parent borrowers

Whenever necessary to carry out the provisions of this section, the terms "student" and "borrower" as used in this part shall include a parent borrower under this section.

(B)(i) Extenuating circumstances

An eligible lender may determine that extenuating circumstances exist under the regulations promulgated pursuant to paragraph (1)(A) if, during the period beginning January 1, 2007, and ending December 31, 2009, an applicant for a loan under this section—

(I) is or has been delinquent for 180 days or fewer on mortgage loan payments or on medical bill payments during such period; and

(II) does not otherwise have an adverse credit history, as determined by the lender in accordance with the regulations promulgated pursuant to paragraph (1)(A), as such regulations were in effect on the day before May 7, 2008.

(ii) Definition of mortgage loan

In this subparagraph, the term "mortgage loan" means an extension of credit to a borrower that is secured by the primary residence of the borrower.

(iii) Rule of construction

Nothing in this subparagraph shall be construed to limit an eligible lender's authority under the regulations promulgated pursuant to paragraph (1)(A) to determine that extenuating circumstances exist.

(b) Limitation based on need

Any loan under this section may be counted as part of the expected family contribution in the determination of need under this subchapter and part C of subchapter I of chapter 34 of title 42, but no loan may be made to any graduate or professional student or any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial

aid as certified by the eligible institution under section 1078(a)(2)(A) of this title. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(c) PLUS loan disbursement

All loans made under this section shall be disbursed in accordance with the requirements of section 1078–7 of this title and shall be disbursed by—

(1) an electronic transfer of funds from the lender to the eligible institution; or

(2) a check copayable to the eligible institution and the graduate or professional student or parent borrower.

(d) Payment of principal and interest

(1) Commencement of repayment

Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral—

(A)(i) during any period during which the parent borrower or the graduate or professional student borrower meets the conditions required for a deferral under section 1077(a)(2)(C) or 1078(b)(1)(M) of this title; and

(ii) upon the request of the parent borrower, during any period during which the student on whose behalf the loan was borrowed by the parent borrower meets the conditions required for a deferral under section 1077(a)(2)(C)(i)(I) or 1078(b)(1)(M)(i)(I) of this title; and

(B)(i) in the case of a parent borrower, upon the request of the parent borrower, during the 6-month period beginning on the later of—

(I) the day after the date the student on whose behalf the loan was borrowed ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

(II) if the parent borrower is also a student, the day after the date such parent borrower ceases to carry at least one-half such a workload; and

(ii) in the case of a graduate or professional student borrower, during the 6-month period beginning on the day after the date such student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).

(2) Capitalization of interest

(A) In general

Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) shall, if agreed upon by the borrower and the lender—

(i) be paid monthly or quarterly; or

(ii) be added to the principal amount of the loan not more frequently than quarterly by the lender.

(B) Insurable limits

Capitalization of interest under this paragraph shall not be deemed to exceed the annual insurable limit on account of the borrower.

(3) Subsidies prohibited

No payments to reduce interest costs shall be paid pursuant to section 1078(a) of this title on loans made pursuant to this section.

(4) Applicable rates of interest

Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 1077a of this title.

(5) Amortization

The amount of the periodic payment and the repayment schedule for any loan made pursuant to

this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually, or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 1077a(c)(4) of this title.

(e) Refinancing

(1) Refinancing to secure combined payment

An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under this section as in effect prior to October 17, 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

(2) Refinancing to secure variable interest rate

An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under this section as in effect prior to October 17, 1986, in order to permit the borrower to obtain the interest rate provided under section 1077a(c)(4) of this title. A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

(3) Refinancing by discharge of previous loan

A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 1077a(c)(4) of this title;

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (d)(5)(B) of this section);

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

(4) Certification in lieu of promissory note presentation

Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

(f) Verification of immigration status and social security number

A parent who wishes to borrow funds under this section shall be subject to verification of the

parent's—

(1) immigration status in the same manner as immigration status is verified for students under section 1091(g) of this title; and

(2) social security number in the same manner as social security numbers are verified for students under section 1091(p) of this title.

(Pub. L. 89–329, title IV, §428B, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1386; amended Pub. L. 100–50, §10(o), (p)(2), (q), (r)(1), June 3, 1987, 101 Stat. 343, 344; Pub. L. 102–325, title IV, §418, July 23, 1992, 106 Stat. 531; Pub. L. 103–66, title IV, §4109(a), Aug. 10, 1993, 107 Stat. 369; Pub. L. 105–178, title VIII, §8301(a)(2), June 9, 1998, 112 Stat. 497; Pub. L. 105–244, title IV, §§416(a)(2), 419, Oct. 7, 1998, 112 Stat. 1680, 1694; Pub. L. 109–171, title VIII, §§8005(c), 8014(g), Feb. 8, 2006, 120 Stat. 158, 171; Pub. L. 110–227, §§3(a), 4, May 7, 2008, 122 Stat. 742, 743; Pub. L. 110–315, title IV, §424(a), Aug. 14, 2008, 122 Stat. 3232; Pub. L. 111–39, title IV, §402(f)(2), July 1, 2009, 123 Stat. 1943; Pub. L. 111–152, title II, §2205, Mar. 30, 2010, 124 Stat. 1075.)

PRIOR PROVISIONS

A prior section 1078–2, Pub. L. 89–329, title IV, §428B, as added Pub. L. 96–374, title IV, §419, Oct. 3, 1980, 94 Stat. 1424; amended Pub. L. 97–35, title V, §§532(b)(3), 534(a)(2), (c)(1), (2), Aug. 13, 1981, 95 Stat. 452, 454; Pub. L. 98–79, §12, Aug. 15, 1983, 97 Stat. 484, related to auxiliary loans to assist students, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–152 substituted "Prior to July 1, 2010, a graduate" for "A graduate" in introductory provisions.

2009—Subsec. (e)(3)(B). Pub. L. 111–39, §402(f)(2)(A), substituted "subsection (d)(5)(B)" for "subsection (c)(5)(B)".

Subsec. (e)(5). Pub. L. 111–39, §402(f)(2)(B), struck out par. (5) which related to notification to borrowers of availability of refinancing options for certain loans made before Oct. 17, 1986.

2008—Subsec. (a)(3). Pub. L. 110–227, §4, amended par. (3) generally. Prior to amendment, text read as follows: "Whenever necessary to carry out the provisions of this section, the terms 'student' and 'borrower' as used in this part shall include a parent borrower under this section."

Subsec. (a)(3)(B)(i)(II). Pub. L. 110–315, §424(a)(1), added subcl. (II) and struck out former subcl. (II) which read as follows: "is not and has not been more than 89 days delinquent on the repayment of any other debt during such period."

Subsec. (d)(1), (2). Pub. L. 110–315, §424(a)(2), added pars. (1) and (2) and struck out former pars. (1) and (2) which related to commencement of repayment and capitalization of interest.

Pub. L. 110–227, §3(a), amended pars. (1) and (2) generally. Prior to amendment, text related to commencement of repayment and capitalization of interest.

2006—Subsec. (a)(1). Pub. L. 109–171, §8005(c)(1)(A), in introductory provisions, substituted "A graduate or professional student or the parents" for "Parents".

Subsec. (a)(1)(A). Pub. L. 109–171, §8005(c)(1)(B), substituted "the graduate or professional student or the parents" for "the parents".

Subsec. (a)(1)(B). Pub. L. 109–171, §8014(g)(1), (3), added subpar. (B). Former subpar. (B) redesignated (C).

Pub. L. 109–171, §8005(c)(1)(C), substituted "the graduate or professional student or the parents" for "the parents".

Subsec. (a)(1)(C). Pub. L. 109–171, §8014(g)(2), redesignated subpar. (B) as (C).

Subsec. (b). Pub. L. 109–171, §8005(c)(2), substituted "any graduate or professional student or any parent" for "any parent".

Subsec. (c)(2). Pub. L. 109–171, §8005(c)(3), substituted "graduate or professional student or parent" for "parent".

Subsec. (d)(1). Pub. L. 109–171, §8005(c)(4), substituted "the graduate or professional student or the parent" for "the parent".

1998—Subsec. (a). Pub. L. 105–244, §419(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Parents of a dependent student, who do not have an adverse credit history as determined pursuant to regulations of the Secretary, shall be eligible to borrow funds under this section in amounts specified in subsection (b) of this section, and unless otherwise specified in subsections (c), (d), and

(e) of this section, such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms 'student' and 'borrower' as used in this part shall include a parent borrower under this section."

Subsec. (d)(4). Pub. L. 105–244, §416(a)(2), substituted "section 1077a" for "section 1077a(c)".

Pub. L. 105–178 which directed substitution of "section 1077a of this title for loans made under this section" for "section 1077a(c) of this title" in "section 428B(d)(4) (20 U.S.C. 1078–2(d)(4))" could not be executed because it did not indicate what act was to be amended.

Subsec. (f). Pub. L. 105–244, §419(2), added subsec. (f).

1993—Subsec. (c). Pub. L. 103–66 inserted "shall be disbursed in accordance with the requirements of section 1078–7 of this title and" after "under this section".

1992—Pub. L. 102–325, §418(a), substituted "Federal PLUS" for "PLUS" in section catchline.

Subsec. (a). Pub. L. 102–325, §418(b)(1), substituted "subsections (c), (d), and (e)" for "subsections (c) and (d)" and inserted ", who do not have an adverse credit history as determined pursuant to regulations of the Secretary," after "a dependent student".

Subsec. (b). Pub. L. 102–325, §418(b)(2), struck out subsec. (b) designation and heading, redesignated par. (3) as subsec. (b), and struck out pars. (1) and (2) which set the annual limit on the amount parents may borrow for one student in any academic year at $4,000 and set the aggregate insured principal amount for insured loans at not to exceed $20,000.

Subsec. (c). Pub. L. 102–325, §418(b)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 102–325, §418(c), (d), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral (A) during any period during which the parent meets the conditions required for a deferral under clause (i), (viii), or (ix) of section 1077(a)(2)(C) or 1078(b)(1)(M) of this title; and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under this section and who meets the conditions required for a deferral under clause (i) of either such section.

"(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student."

Pub. L. 102–325, §418(b)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102–325, §418(b)(3), redesignated subsec. (d) as (e).

1987—Subsec. (a). Pub. L. 100–50, §10(o)(2)(A), struck out ", but such a parent borrower shall not be eligible for any deferment pursuant to section 1077(a)(2)(C) or 1078(b)(1)(M) of this title except for the deferments allowed (with respect to the student) under clauses (i), (viii), and (ix) of such sections" after "borrower under this section".

Subsec. (b)(3). Pub. L. 100–50, §10(p)(2), amended first sentence generally, substituting "for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid" for "which would cause the combined loans of the parent and the student for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance".

Subsec. (c)(1). Pub. L. 100–50, §10(o)(2)(B), struck out "pursuant to sections 1077(a)(2)(C)(i), (viii), and (ix) and 1078(b)(1)(M)(i), (viii), and (ix) of this title" after "subject to deferral" and inserted in lieu cls. (A) and (B).

Subsec. (c)(2). Pub. L. 100–50, §10(o)(1), (2)(C), (q), in introductory provisions, struck out "and interest" after first reference to "principal", and substituted "pursuant to paragraph (1) of this subsection" for "under sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title", and, in subpar. (A), inserted "monthly or" before "quarterly".

Subsec. (d)(1). Pub. L. 100–50, §10(r)(1)(A), inserted "at any time" after "eligible lender may" in first sentence, substituted "the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3)" for "the borrower complies with the requirements of paragraph (2)" in second sentence, and inserted "(if required by them)" after "shall be reported" in third sentence.

Subsec. (d)(2). Pub. L. 100–50, §10(r)(1)(B), inserted "under this section before July 1, 1987, or" before "under this section" and substituted "to reissue a loan or loans" for "to reissue a loan" and "reissuing such loan or loans" for "reissuing such loan".

Subsec. (d)(5). Pub. L. 100–50, §10(r)(1)(C), substituted "October 1, 1987" for "January 1, 1987" and, in subpar. (B), inserted "and of the practical consequences of such options in terms of interest rates and monthly

and total payments for a set of loan examples" before semicolon at end.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–315 effective for loans for which the first disbursement is made on or after July 1, 2008, see section 424(c) of Pub. L. 110–315, set out as a note under section 1078 of this title.

Amendment by section 3(a) of Pub. L. 110–227 effective for loans first disbursed on or after July 1, 2008, see section 3(c) of Pub. L. 110–227, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(a)(2) of Pub. L. 105–244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under section 1078–3 of this title for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105–244, set out as a note under section 1077a of this title.

Amendment by section 419 of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–66, title IV, §4109(c), Aug. 10, 1993, 107 Stat. 370, provided that: "The amendments made by this section [amending this section and section 1078–7 of this title] shall be effective with respect to loans for which the first disbursement is made on or after October 1, 1993."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (b), relating to annual and aggregate loan limits, are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, changes made in subsec. (a) with respect to use of credit histories are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, and subsec. (c), as added by Pub. L. 102–325, relating to disbursement of Federal PLUS Loans, is applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

AMENDMENT OF NOTE OR OTHER WRITTEN EVIDENCE OF LOAN BY ELIGIBLE LENDER AT REQUEST OF BORROWER; CIRCUMSTANCES; DENIAL OF REQUEST

Pub. L. 100–50, §10(r)(2), June 3, 1987, 101 Stat. 344, provided that: "An eligible lender who has refinanced a loan or loans under section 428A(d) [former 20 U.S.C. 1078–1(d)] or 428B(d) [20 U.S.C. 1078–2(d)] between the date of enactment of the Higher Education Amendments of 1986 [Oct. 17, 1986] and July 1, 1987, may, at the request of a borrower or with the written consent of the borrower, amend the note or other written evidence of loan as necessary to comply with the requirements of such sections and section 427A(c)(4) [20 U.S.C. 1077a(c)(4)] as amended by this Act. Any borrower who is denied such a request shall be treated as eligible to obtain a loan from another lender under section 428A(d)(3) or 428B(d)(3), as applicable, for the purposes of discharging the loan from the original lender, and a borrower exercising this option shall not be subject to an additional insurance fee under section 428A(d)(3)(C) or 428B(d)(3)(C)."

§1078–3. Federal consolidation loans

(a) Agreements with eligible lenders

(1) Agreement required for insurance coverage

For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) of this section with the following eligible lenders:

(A) the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title;

(B) State agencies described in subparagraphs (D) and (F) of section 1085(d)(1) of this title; and

(C) other eligible lenders described in subparagraphs (A), (B), (C), (E), and (J) of such section.

(2) Insurance coverage of consolidation loans

Except as provided in section 1079(e) of this title, no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2) of this section. Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 1078(c) of this title, but no payment shall be made with respect to such loans under section 1078(f) of this title to any such agency.

(3) Definition of eligible borrower

(A) For the purpose of this section, the term "eligible borrower" means a borrower who—

(i) is not subject to a judgment secured through litigation with respect to a loan under this subchapter and part C of subchapter I of chapter 34 of title 42 or to an order for wage garnishment under section 1095a of this title; and

(ii) at the time of application for a consolidation loan—

(I) is in repayment status as determined under section 1078(b)(7)(A) of this title;

(II) is in a grace period preceding repayment; or

(III) is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans.

(B)(i) [1] An individual's status as an eligible borrower under this section or under section 1087e(g) of this title terminates under both sections upon receipt of a consolidation loan under this section or under section 1087e(g) of this title, except that—

(I) an individual who receives eligible student loans after the date of receipt of the consolidation loan may receive a subsequent consolidation loan;

(II) loans received prior to the date of the consolidation loan may be added during the 180-day period following the making of the consolidation loan;

(III) loans received following the making of the consolidation loan may be added during the 180-day period following the making of the consolidation loan;

(IV) loans received prior to the date of the first consolidation loan may be added to a subsequent consolidation loan; and

(V) an individual may obtain a subsequent consolidation loan under section 1087e(g) of this title only—

(aa) for the purposes of obtaining income contingent repayment or income-based repayment, and only if the loan has been submitted to the guaranty agency for default aversion or if the loan is already in default;

(bb) for the purposes of using the public service loan forgiveness program under section 1087e(m) of this title; or

(cc) for the purpose of using the no accrual of interest for active duty service members benefit offered under section 1087e(o) of this title.

(4) "Eligible student loans" defined

For the purpose of paragraph (1), the term "eligible student loans" means loans—

(A) made, insured, or guaranteed under this part, and first disbursed before July 1, 2010, including loans on which the borrower has defaulted (but has made arrangements to repay the obligation on the defaulted loans satisfactory to the Secretary or guaranty agency, whichever insured the loans);

(B) made under part D of this subchapter;

(C) made under part C of this subchapter;

(D) made under subpart II of part A of title VII of the Public Health Service Act [42 U.S.C. 292q et seq.]; or

(E) made under part E of title VIII of the Public Health Service Act [42 U.S.C. 297a et seq.].

(b) Contents of agreements, certificates of insurance, and loan notes

(1) Agreements with lenders

Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) of this section who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

(A) that, in the case of all lenders described in subsection (a)(1) of this section, the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section;

(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c) of this section;

(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3) of this section, and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all eligible student loans received by the eligible borrower which are selected by the borrower for consolidation;

(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994, and before July 1, 2010;

(F) that the lender shall disclose to a prospective borrower, in simple and understandable terms, at the time the lender provides an application for a consolidation loan—

(i) whether consolidation would result in a loss of loan benefits under this part or part C, including loan forgiveness, cancellation, and deferment;

(ii) with respect to Federal Perkins Loans under part D—

(I) that if a borrower includes a Federal Perkins Loan under part D in the consolidation loan, the borrower will lose all interest-free periods that would have been available for the Federal Perkins Loan, such as—

(aa) the periods during which no interest accrues on such loan while the borrower is enrolled in school at least half-time;

(bb) the grace period under section 1087dd(c)(1)(A) of this title; and

(cc) the periods during which the borrower's student loan repayments are deferred under section 1087dd(c)(2) of this title;

(II) that if a borrower includes a Federal Perkins Loan in the consolidation loan, the borrower will no longer be eligible for cancellation of part or all of the Federal Perkins Loan under section 1087ee(a) of this title; and

(III) the occupations listed in section 1087ee of this title that qualify for Federal Perkins Loan cancellation under section 1087ee(a) of this title;

(iii) the repayment plans that are available to the borrower;

(iv) the options of the borrower to prepay the consolidation loan, to pay such loan on a shorter schedule, and to change repayment plans;

(v) that borrower benefit programs for a consolidation loan may vary among different lenders;

(vi) the consequences of default on the consolidation loan; and

(vii) that by applying for a consolidation loan, the borrower is not obligated to agree to take the consolidation loan; and

(G) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

(2) Issuance of certificate of comprehensive insurance coverage

The Secretary shall issue a certificate of comprehensive insurance coverage under section 1079(b) of this title to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) of this section unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

(3) Contents of certificate

A certificate issued under paragraph (2) shall, at a minimum, provide—

(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

(i) that the loan is a legal, valid, and binding obligation of the borrower;

(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

(C) the effective date and expiration date of the certificate;

(D) the aggregate amount to which the certificate applies;

(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions;

(F) the alternative repayment terms which will be offered to borrowers by the lender;

(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

(4) Terms and conditions of loans

A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

(ii) provides that interest shall accrue and be paid during any such period—

(I) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender before November 13, 1997, that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title;

(II) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, except that the Secretary shall pay such interest only on that portion of the loan that repays Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title or Federal Direct Stafford Loans for which the borrower received an interest subsidy under section 1087e of this title; or

(III) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I) or (II);

(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(E)(i) contains a notice of the system of disclosure concerning such loan to consumer reporting agencies under section 1080a of this title, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such consumer reporting agencies.

(5) Direct loans

If, before July 1, 2010, a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), or is unable to obtain a consolidation loan with income-sensitive repayment terms or income-based repayment terms acceptable to the borrower from such a lender, or chooses to obtain a consolidation loan for the purposes of using the public service loan forgiveness program offered under section 1087e(m) of this title, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. In addition, in the event that a borrower chooses to obtain a consolidation loan for the purposes of using the no accrual of interest for active duty service members program offered under section 1087e(o) of this title, the Secretary shall offer a Federal Direct Consolidation loan to any such borrower who applies for participation in such program. A direct consolidation loan offered under this paragraph shall, as requested by the borrower, be repaid either pursuant to income contingent repayment under part C of this subchapter, pursuant to income-based repayment under section 1098e of this title, or pursuant to any other repayment provision under this section, except that if a borrower intends to be eligible to use the public service loan forgiveness program under section 1087e(m) of this title, such loan shall be repaid using one of the repayment options described in section 1087e(m)(1)(A) of this title. The Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans.

(6) Nondiscrimination in loan consolidation

An eligible lender that makes consolidation loans under this section shall not discriminate against any borrower seeking such a loan—

(A) based on the number or type of eligible student loans the borrower seeks to consolidate, except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) of this section or subsection (d)(1)(C)(ii) of this section;

(B) based on the type or category of institution of higher education that the borrower attended;

(C) based on the interest rate to be charged to the borrower with respect to the consolidation loan; or

(D) with respect to the types of repayment schedules offered to such borrower.

(c) Payment of principal and interest

(1) Interest rate

(A) Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender—

(i) on or after October 1, 1998, and before July 1, 2006, the applicable interest rate shall be determined under section 1077a(k)(4) of this title; or

(ii) on or after July 1, 2006, and that is disbursed before July 1, 2010, the applicable interest rate shall be determined under section 1077a(l)(3) of this title.

(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the greater of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

(ii) 9 percent.

(C) A consolidation loan made on or after July 1, 1994, and disbursed before July 1, 2010, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.

(D) A consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, and before October 1, 1998, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the rate specified in section 1077a(f) of this title, except that the eligible lender may continue to calculate interest on such a loan at the rate previously in effect and defer, until not later than April 1, 1998, the recalculation of the interest on such a loan at the rate required by this subparagraph if the recalculation is applied retroactively to the date on which the loan is made.

(2) Repayment schedules

(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2) of this section and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which shall include the establishment of graduated, income-sensitive, or income-based repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive or income-based repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

(iv) is equal to or greater than $20,000 but less than $40,000, then such consolidation loan shall be repaid in not more than 20 years;

(v) is equal to or greater than $40,000 but less than $60,000, then such consolidation loan shall be repaid in not more than 25 years; or

(vi) is equal to or greater than $60,000, then such consolidation loan shall be repaid in not more than 30 years.

(B) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

(3) Additional repayment requirements

Notwithstanding paragraph (2)—

(A) except in the case of an income-based repayment schedule under section 1098e of this title, a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment be an amount equal to not less than the accrued unpaid interest;

(B) except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, the lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of $5, round the payment to the next highest whole dollar amount that is a multiple of $5; and

(C) an income-based repayment schedule under section 1098e of this title shall not be available to a consolidation loan borrower who used the proceeds of the loan to discharge the liability on a loan under section 1078–2 of this title, or a Federal Direct PLUS loan, made on behalf of a dependent student.

(4) Commencement of repayment

Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D) of this section, discharged the liability of the borrower on the loans selected for consolidation.

(5) Insurance premiums prohibited

No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan, but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan.

(d) Special program authorized

(1) General rule and definition of eligible student loan

(A) In general

Subject to the provisions of this subsection, the Secretary or a guaranty agency shall enter into agreements with eligible lenders described in subparagraphs (A), (B), and (C) of subsection (a)(1) of this section for the consolidation of eligible student loans.

(B) Applicability rule

Unless otherwise provided in this subsection, the agreements entered into under subparagraph (A) and the loans made under such agreements for the consolidation of eligible student loans under this subsection shall have the same terms, conditions, and benefits as all other agreements and loans made under this section.

(C) "Eligible student loans" defined

For the purpose of this subsection, the term "eligible student loans" means loans—

(i) of the type described in subparagraphs (A), (B), and (C) of subsection (a)(4) of this section; and

(ii) made under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.].

(2) Interest rate rule

(A) In general

The portion of each consolidated loan that is attributable to an eligible student loan described in paragraph (1)(C)(ii) shall bear interest at a rate not to exceed the rate determined under subparagraph (B).

(B) Determination of the maximum interest rate

For the 12-month period beginning after July 1, 1992, and for each 12-month period thereafter, beginning on July 1 and ending on June 30, the interest rate applicable under subparagraph (A) shall be equal to the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1, for each 12-month period for which the determination is made, plus 3 percent.

(C) Publication of maximum interest rate

The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of such determination.

(3) Special rules

(A) No special allowance rule

No special allowance under section 1087–1 of this title shall be paid with respect to the portion of any consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(B) No interest subsidy rule

No interest subsidy under section 1078(a) of this title shall be paid on behalf of any eligible borrower for any portion of a consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(C) Additional reserve rule

Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, additional reserves shall not be required for any guaranty agency with respect to a loan made under this subsection.

(D) Insurance rule

Any insurance premium paid by the borrower under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.] with respect to a loan made under that subpart and consolidated under this subsection shall be retained by the student loan insurance account established under section 710 of the Public Health Service Act [42 U.S.C. 292i].

(4) Regulations

The Secretary is authorized to promulgate such regulations as may be necessary to facilitate carrying out the provisions of this subsection.

(e) Termination of authority

The authority to make loans under this section expires at the close of June 30, 2010. No loan may be made under this section for which the disbursement is on or after July 1, 2010. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b) of this section. Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 1074(a) of this title.

(f) Interest payment rebate fee

(1) In general

For any month beginning on or after October 1, 1993, each holder of a consolidation loan under this section for which the first disbursement was made on or after October 1, 1993, shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee

calculated on an annual basis equal to 1.05 percent of the principal plus accrued unpaid interest on such loan.

(2) Special rule

For consolidation loans based on applications received during the period from October 1, 1998 through January 31, 1999, inclusive, the rebate described in paragraph (1) shall be equal to 0.62 percent of the principal plus accrued unpaid interest on such loan.

(3) Deposit

The Secretary shall deposit all fees collected pursuant to this subsection into the insurance fund established in section 1081 of this title.

(Pub. L. 89–329, title IV, §428C, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1388; amended Pub. L. 100–50, §10(s), June 3, 1987, 101 Stat. 345; Pub. L. 102–325, title IV, §419, July 23, 1992, 106 Stat. 532; Pub. L. 102–408, title III, §306(a), (b), Oct. 13, 1992, 106 Stat. 2084, 2086; Pub. L. 103–66, title IV, §§4046(a), (b)(2), 4106(a), Aug. 10, 1993, 107 Stat. 360, 363, 368; Pub. L. 103–208, §2(c)(33)–(37), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 103–382, title III, §356, Oct. 20, 1994, 108 Stat. 3967; Pub. L. 104–208, div. A, title I, §101(e) [title VI, §602(b)(1)(A)(ii)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–283; Pub. L. 105–33, title VI, §6104(3), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–78, title VI, §609(b)–(e), Nov. 13, 1997, 111 Stat. 1522, 1523; Pub. L. 105–244, title IV, §§416(b)(2), 420, Oct. 7, 1998, 112 Stat. 1682, 1695; Pub. L. 107–139, §1(a)(2), Feb. 8, 2002, 116 Stat. 8; Pub. L. 109–171, title VIII, §§8004(b)(3), 8009(a), (b)(2), (c), Feb. 8, 2006, 120 Stat. 158, 163, 164; Pub. L. 109–234, title VII, §7015(a), (c), (d), June 15, 2006, 120 Stat. 485; Pub. L. 110–84, title II, §203(b)(1), (2), Sept. 27, 2007, 121 Stat. 794, 795; Pub. L. 110–315, title IV, §§425(a)–(b)(2), (c), (d)(1), (e), 432(b)(3), Aug. 14, 2008, 122 Stat. 3233–3235, 3246; Pub. L. 111–39, title IV, §402(c)(1), (f)(3), July 1, 2009, 123 Stat. 1940, 1943; Pub. L. 111–152, title II, §2206(a), Mar. 30, 2010, 124 Stat. 1075.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (a)(4)(D), (E) and (d)(1)(C)(ii), (3)(D), is act July 1, 1944, ch. 373, 58 Stat. 682. Subparts I and II of part A of title VII of the Act are classified generally to subpart I (§292 et seq.) and subpart II (§292q et seq.), respectively, of part A of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Part E of title VIII of the Act is classified generally to part E (§297a et seq.) of subchapter VI of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

CODIFICATION

Amendments by section 2(c)(33), (36) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078–3, Pub. L. 89–329, title IV, §428C, as added Pub. L. 99–272, title XVI, §16017(a), Apr. 7, 1986, 100 Stat. 343, related to consolidation loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2010—Subsec. (a)(4)(A). Pub. L. 111–152, §2206(a)(1), inserted ", and first disbursed before July 1, 2010" after "under this part".

Subsec. (b)(1)(E). Pub. L. 111–152, §2206(a)(2)(A), inserted ", and before July 1, 2010" before semicolon.

Subsec. (b)(5). Pub. L. 111–152, §2206(a)(2)(B), substituted "If, before July 1, 2010," for "In the event that".

Subsec. (c)(1)(A)(ii). Pub. L. 111–152, §2206(a)(3)(A), inserted "and that is disbursed before July 1, 2010," after "2006,".

Subsec. (c)(1)(C). Pub. L. 111–152, §2206(a)(3)(B), inserted "and disbursed before July 1, 2010," after "1994,".

Subsec. (e). Pub. L. 111–152, §2206(a)(4), substituted "June 30, 2010. No loan may be made under this section for which the disbursement is on or after July 1, 2010." for "September 30, 2014."

2009—Subsec. (a)(4)(E). Pub. L. 111–39, §402(f)(3)(A), substituted "part E" for "subpart II of part B".

Subsec. (c)(2)(A). Pub. L. 111–39, §402(f)(3)(B), in introductory provisions, substituted "subsection (b)(2)" for "subsection (b)(2)(F)" and inserted comma after "graduated".

Subsec. (c)(3)(A). Pub. L. 111–39, §402(c)(1), substituted "section 1098e of this title," for "section 1098e of this title".

Subsec. (d)(3)(D). Pub. L. 111–39, §402(f)(3)(C), substituted "loan insurance account" for "loan insurance fund".

Subsec. (f)(3). Pub. L. 111–39, §402(f)(3)(D), substituted "this subsection" for "subsection (a) of this section".

2008—Subsec. (a)(3)(B)(i)(V)(cc). Pub. L. 110–315, §425(a), added item (cc).

Subsec. (b)(1)(F), (G). Pub. L. 110–315, §425(b)(1), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (b)(4)(E)(i). Pub. L. 110–315, §432(b)(3)(A), substituted "consumer reporting agencies" for "credit bureau organizations".

Subsec. (b)(4)(E)(ii). Pub. L. 110–315, §432(b)(3)(B), substituted "consumer reporting agencies" for "organizations".

Subsec. (b)(5). Pub. L. 110–315, §425(c), made technical correction to directory language of Pub. L. 110–84, §203(b)(2)(C). See 2007 Amendment note below.

Pub. L. 110–315, §425(b)(2), substituted "A direct consolidation loan offered under this paragraph" for "Such direct consolidation loan" and inserted after first sentence "In addition, in the event that a borrower chooses to obtain a consolidation loan for the purposes of using the no accrual of interest for active duty service members program offered under section 1087e(o) of this title, the Secretary shall offer a Federal Direct Consolidation loan to any such borrower who applies for participation in such program."

Subsec. (c)(2)(A). Pub. L. 110–315, §425(d)(1)(A), in introductory provisions, substituted "income-sensitive, or income-based" for "or income-sensitive" and inserted "or income-based" after "such income-sensitive".

Subsec. (c)(3). Pub. L. 110–315, §425(d)(1)(B), inserted "except in the case of an income-based repayment schedule under section 1098e of this title" before "a repayment schedule" in subpar. (A) and added subpar. (C).

Subsec. (e). Pub. L. 110–315, §425(e), substituted "2014" for "2012".

2007—Subsec. (a)(3)(B)(i)(V). Pub. L. 110–84, §203(b)(1)(A), amended subcl. (V) generally. Prior to amendment, subcl. (V) read as follows: "an individual may obtain a subsequent consolidation loan under section 1087e(g) of this title only for the purposes of obtaining an income contingent repayment plan, and only if the loan has been submitted to the guaranty agency for default aversion."

Subsec. (a)(3)(B)(i)(V)(aa). Pub. L. 110–84, §203(b)(2)(A), substituted "income contingent repayment or income-based repayment," for "an income contingent repayment plan," and inserted "or if the loan is already in default" before semicolon.

Subsec. (b)(5). Pub. L. 110–84, §203(b)(2)(C), as amended by Pub. L. 110–315, §425(c), inserted ", pursuant to income-based repayment under section 1098e of this title," after "part C of this subchapter" in third sentence.

Pub. L. 110–84, §203(b)(2)(B), inserted "or income-based repayment terms" after "income-sensitive repayment terms" in first sentence.

Pub. L. 110–84, §203(b)(1)(B), (C), inserted "or chooses to obtain a consolidation loan for the purposes of using the public service loan forgiveness program offered under section 1087e(m) of this title," after "from such a lender," in first sentence and ", except that if a borrower intends to be eligible to use the public service loan forgiveness program under section 1087e(m) of this title, such loan shall be repaid using one of the repayment options described in section 1087e(m)(1)(A) of this title" before period at end of second sentence.

2006—Subsec. (a)(3)(A)(ii)(I). Pub. L. 109–171, §8009(b)(2), inserted "as determined under section 1078(b)(7)(A) of this title" after "repayment status".

Subsec. (a)(3)(B)(i). Pub. L. 109–171, §8009(a)(1)(A), (B), substituted "under this section or under section 1087e(g) of this title terminates under both sections upon receipt of a consolidation loan under this section or under section 1087e(g) of this title" for "under this section terminates upon receipt of a consolidation loan under this section".

Subsec. (a)(3)(B)(i)(V). Pub. L. 109–171, §8009(a)(1)(C)–(E), added subcl. (V).

Subsec. (a)(3)(C). Pub. L. 109–171, §8009(c), struck out subpar. (C), which read as follows:

"(C)(i) A married couple, each of whom has eligible student loans, may be treated as if such couple were an individual borrowing under subparagraphs (A) and (B) if such couple agrees to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of the respective loan

obligations that are to be consolidated, and without regard to any subsequent change that may occur in such couple's marital status.

"(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall—

"(I) individually make the initial certification that no other application is pending in accordance with subsection (b)(1)(A) of this section; and

"(II) agree to notify the holder concerning any change of address in accordance with subsection (b)(4) of this section."

Subsec. (b)(1)(A). Pub. L. 109–234, §7015(a), struck out "and (i) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, except that this clause shall not apply in the case of a borrower with multiple holders of loans under this part, or (ii) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan with income-sensitive repayment terms from the holders of the outstanding loans of that borrower (which are so selected for consolidation)" after "loan under this section".

Subsec. (b)(5). Pub. L. 109–234, §7015(c), reenacted heading without change and substituted in text "In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. Such direct consolidation loan" for "In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1) of this section, or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a direct consolidation loan. Such direct consolidation loan".

Pub. L. 109–171, §8009(a)(2), which directed substitution of "In the event that a lender with an agreement under subsection (a)(1) of this section denies a consolidation loan application submitted to the lender by an eligible borrower under this section, or denies an application submitted to the lender by such a borrower for a consolidation loan with income-sensitive repayment terms, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. The Secretary shall offer such a loan to a borrower who has defaulted, for the purpose of resolving the default." for first sentence, was repealed by Pub. L. 109–234, §7015(d). See Effective Date of 2006 Amendment note below.

Subsec. (e). Pub. L. 109–171, §8004(b)(3), substituted "2012" for "2004".

2002—Subsec. (c)(1)(A). Pub. L. 107–139 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003, the applicable interest rate shall be determined under section 1077a(k)(4) of this title."

1998—Subsec. (a)(3). Pub. L. 105–244, §420(a), amended heading, added subpars. (A) and (B), and struck out former subpars. (A) and (B) which defined the term "eligible borrower", provided for termination of individual's status as an eligible borrower, and provided for counting loans against certain limitations on aggregate indebtedness.

Subsec. (a)(4)(C). Pub. L. 105–244, §420(b), added subpar. (C) and struck out former subpar. (C) which read as follows: "made under part C of this subchapter, except that loans made under such part shall be eligible student loans only for consolidation loans for which the application is received by an eligible lender during the period beginning on November 13, 1997, and ending on October 1, 1998;".

Subsec. (b)(1)(A)(i). Pub. L. 105–244, §420(c)(1), inserted "except that this clause shall not apply in the case of a borrower with multiple holders of loans under this part," after "under this section,".

Subsec. (b)(4)(C)(ii). Pub. L. 105–244, §420(c)(2), inserted "during any such period" after "and be paid" in introductory provisions and struck out ", or on or after October 1, 1998," before "that consolidated" in subcl. (I) and "and before October 1, 1998," before "except that" in subcl. (II).

Subsec. (b)(6)(A). Pub. L. 105–244, §420(c)(3), inserted before semicolon at end ", except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) of this section or subsection (d)(1)(C)(ii) of this section".

Subsec. (c)(1). Pub. L. 105–244, §420(b)(2), amended heading, added subpar. (A), and struck out former subpar. (A) which read as follows: "Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B), (C), or (D). For the purposes of payment of special allowances under section 1087–1(b)(2) of this title, the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan."

Subsec. (e). Pub. L. 105–244, §420(d), substituted "September 30, 2004" for "September 30, 2002".

Subsec. (f)(2), (3). Pub. L. 105–244, §420(e), added par. (2) and redesignated former par. (2) as (3).

1997—Subsec. (a)(4)(C) to (E). Pub. L. 105–78, §609(b), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (b)(4)(C)(ii)(I). Pub. L. 105–78, §609(c)(1), (2), inserted "for which the application is received by an eligible lender before November 13, 1997, or on or after October 1, 1998," after "consolidation loan" and struck out "or" at end.

Subsec. (b)(4)(C)(ii)(II), (III). Pub. L. 105–78, §609(c)(3)–(5), added subcl. (II) and redesignated former subcl. (II) as (III) and inserted "or (II)" before semicolon at end.

Subsec. (b)(6). Pub. L. 105–78, §609(d), added par. (6).

Subsec. (c)(1)(A). Pub. L. 105–78, §609(e)(1), substituted "subparagraph (B), (C), or (D)" for "subparagraph (B) or (D)".

Subsec. (c)(1)(D). Pub. L. 105–78, §609(e)(2), added subpar. (D).

Subsec. (e). Pub. L. 105–33 substituted "September 30, 2002." for "September 30, 1998."

1996—Subsec. (a)(1)(A). Pub. L. 104–208 inserted "or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title" after "Student Loan Marketing Association".

1994—Subsec. (a)(4)(D). Pub. L. 103–382 added subpar. (D).

1993—Subsec. (a)(3). Pub. L. 103–66, §4046(a)(1), amended heading.

Subsec. (a)(3)(A). Pub. L. 103–208, §2(c)(33), substituted "defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans" for "delinquent or defaulted borrower who will reenter repayment through loan consolidation". See Codification note above.

Pub. L. 103–66, §4046(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan—

"(i) has an outstanding indebtedness on eligible student loans, at the time of application for a consolidation loan, of not less than $7,500; and

"(ii) is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation."

Subsec. (a)(3)(B)(ii). Pub. L. 103–66, §4046(b)(2), struck out at end "Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidated loans to receive, to maintain, or to make reports with respect to preexisting records relating to any eligible student loan (as defined under paragraph (4)) discharged by a borrower in receiving a consolidation loan."

Subsec. (a)(4)(A). Pub. L. 103–208, §2(c)(34), struck out before semicolon at end ", except for loans made to parent borrowers under section 1078–2 of this title as in effect prior to October 17, 1986".

Subsec. (a)(4)(C). Pub. L. 103–208, §2(c)(35), substituted "part A" for "part C" before "of title VII of the Public Health Service Act".

Subsec. (b)(1)(A), (E), (F). Pub. L. 103–66, §4046(a)(2)(A), inserted "with income-sensitive repayment terms" after "obtain a consolidation loan" in subpar. (A)(ii), added subpar. (E), and redesignated former subpar. (E) as (F).

Subsec. (b)(4)(C). Pub. L. 103–66, §4046(a)(2)(B), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;".

Subsec. (b)(5). Pub. L. 103–66, §4046(a)(2)(C), added par. (5).

Subsec. (c)(1)(B), (C). Pub. L. 103–66, §4046(a)(3)(A), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

"(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan which is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

"(C) A consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan equal to not less than 9 percent."

Subsec. (c)(2)(A). Pub. L. 103–208, §2(c)(36), inserted period at end of cl. (vi). See Codification note above.

Pub. L. 103–66, §4046(a)(3)(B)(i), in introductory provisions substituted "income-sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive repayment schedules, or by the terms of repayment pursuant to income contingent

repayment offered by the Secretary under subsection (b)(5) of this section, such repayment terms" for "income sensitive repayment schedules. Such repayment terms", added cl. (i), and redesignated former cls. (i) to (v) as (ii) to (vi), respectively.

Subsec. (c)(2)(B), (C). Pub. L. 103–66, §4046(a)(3)(B)(ii), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "Unless a consolidation loan under subparagraph (A)(ii) will be used to discharge at least $5,000 of loans made under this part, such loan shall be repaid in accordance with subparagraph (A)(i)."

Subsec. (c)(3)(A). Pub. L. 103–208, §2(c)(37), inserted "be an amount" before "equal to".

Subsec. (c)(3)(B). Pub. L. 103–66, §4046(a)(3)(C), inserted "except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section," before "the lender".

Subsec. (f). Pub. L. 103–66, §4106(a), added subsec. (f).

1992—Pub. L. 102–325, §419(a), substituted "Federal consolidation" for "Consolidation" in section catchline.

Subsec. (a)(3)(A)(i). Pub. L. 102–325, §419(b)(1)(A), substituted "$7,500" for "$5,000".

Subsec. (a)(3)(A)(ii). Pub. L. 102–325, §419(b)(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days."

Subsec. (a)(3)(B). Pub. L. 102–325, §419(c), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to eligible student loans received after the date of receipt of the consolidation loan. Loans made under this section shall, to the extent used to discharge loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, be counted against the applicable limitations on aggregate indebtedness contained in sections 1075(a)(2), 1078(b)(1)(B), 1078–1(b)(2), and 1087dd(a)(2) of this title. Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidation loans to receive, to maintain, or to make reports with respect to pre-existing records relating to any eligible student loan (as defined under subsection (a)(4) of this section) discharged by a borrower in receiving a consolidation loan."

Subsec. (a)(3)(C). Pub. L. 102–325, §419(d), added subpar. (C).

Subsec. (a)(4)(A). Pub. L. 102–325, §419(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "made, insured, or guaranteed under this part, except for loans made to parent borrowers under section 1078–2 of this title, including loans made to parent borrowers under section 1078–2 of this title as in effect prior to October 17, 1986;".

Subsec. (b)(4)(C). Pub. L. 102–325, §419(e), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period for which the borrower would be eligible for a deferral under clause (i), (viii), or (ix) of section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;".

Subsec. (c)(2)(A). Pub. L. 102–325, §419(f), substituted "which shall include" for "which may include" in first sentence, inserted second sentence, and struck out former second sentence which read as follows: "Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

"(i) is equal to or greater than $5,000 but less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

"(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

"(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

"(iv) is equal to or greater than $20,000 but less than $45,000, then such consolidation loan shall be repaid in not more than 20 years; or

"(v) is equal to or greater than $45,000, then such consolidation loan shall be repaid in not more than 25 years."

Subsec. (d). Pub. L. 102–408, §306(a), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 102–325, §419(g), substituted "September 30, 1998" for "September 30, 1992".

Subsec. (e). Pub. L. 102–408, §306(b), which directed the substitution of "1997" for "1992", could not be executed because "1992" did not appear in text subsequent to the amendment by Pub. L. 102–325, §419(g). See above.

Pub. L. 102–408, §306(a)(1), redesignated subsec. (d) as subsec. (e).

1987—Subsec. (a)(1)(C). Pub. L. 100–50, §10(s)(1), which directed the amendment of subpar. (C) by substituting "(C), (E), and (J)" for "(C) and (E)", was executed by substituting the new language for "(C), and (E)", as the probable intent of Congress.

Subsec. (a)(3)(A). Pub. L. 100–50, §10(s)(2), struck out cl. (iii) which read as follows: "is not a parent borrower under section 1078–2 of this title."

Subsec. (a)(3)(B). Pub. L. 100–50, §10(s)(3), substituted "eligible student loans received" for "loans received under this subchapter and part C of subchapter I of chapter 34 of title 42", "under this subchapter and part C of subchapter I of chapter 34 of title 42" for "under this part", and ", 1078(b)(1)(B), 1078–1(b)(2), and 1087dd(a)(2) of this title" for "and 1078(b)(1)(B) of this title", and inserted provision that nothing in subpar. (B) should be interpreted to authorize Secretary to require lenders, holders, or guarantors of consolidation loans to make reports with respect to pre-existing records relating to eligible student loans discharged by a borrower in receiving a consolidation loan.

Subsec. (a)(4)(A). Pub. L. 100–50, §10(s)(4), inserted exception for loans made to parent borrowers under section 1078–2 of this title.

Subsec. (b)(1)(C). Pub. L. 100–50, §10(s)(5), in cl. (i), substituted "subsection (a)(3) of this section" for "subsection (a)(2) of this section" and, in cl. (ii), substituted "all eligible student loans received by the eligible borrower" for "all loans received by the eligible borrower under this subchapter and part C of subchapter I of chapter 34 of title 42".

Subsec. (c)(2)(A)(v). Pub. L. 100–50, §10(s)(6), substituted "equal to or greater" for "more" the first time appearing, as the probable intent of Congress.

Subsec. (c)(5). Pub. L. 100–50, §10(s)(7), inserted ", but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan" before period at end.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), except as otherwise provided, see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

Pub. L. 111–39, title IV, §402(c)(2), July 1, 2009, 123 Stat. 1941, provided that: "The amendment made by paragraph (1) [amending this section] shall be effective as if enacted as part of the amendments in section 425(d)(1) of the Higher Education Opportunity Act (Public Law 110–315), and shall take effect on July 1, 2009."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §425(d)(2), Aug. 14, 2008, 122 Stat. 3235, provided that: "The amendments made by this subsection [amending this section] shall take effect on July 1, 2009."

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–84, title II, §203(c), Sept. 27, 2007, 121 Stat. 795, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 1098e of this title and amending this section and section 1087e of this title] shall be effective on July 1, 2009.

"(2) EXCEPTION.—The amendments made by subsection (b)(1) [amending this section] shall be effective on July 1, 2008."

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–234, title VII, §7015(b), June 15, 2006, 120 Stat. 485, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to any loan made under section 428C of the Higher Education Act of 1965 (20 U.S.C. 1078–3) for which the application is received by an eligible lender on or after the date of enactment of this Act [June 15, 2006]."

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(b)(2) of Pub. L. 105–244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under this section for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105–244, set out as a note under section 1077a of this title.

Amendment by section 420 of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub.

L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, §101(e) [title VI, §602(b)(1)(B)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–284, provided that: "The amendments made by this paragraph [amending this section and section 1085 of this title] shall take effect on the reorganization effective date as defined in section 440(h) of the Higher Education Act of 1965 [20 U.S.C. 1087–3(h)] (as added by subsection (a))."

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Pub. L. 103–66, title IV, §4046(c), Aug. 10, 1993, 107 Stat. 363, provided that: "The amendments made by this section [amending this section and section 1085 of this title] shall take effect on July 1, 1994, except that the amendments made by subsection (a)(2)(B) [amending this section] shall take effect upon enactment [Aug. 10, 1993]."

EFFECTIVE DATE OF 1992 AMENDMENTS

Pub. L. 102–408, title III, §306(c), Oct. 13, 1992, 106 Stat. 2086, provided that: "The amendments made by this section [amending this section] take effect 60 days after the date of enactment of this Act [Oct. 13, 1992]."

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in this section, relating to consolidation loans, applicable with respect to loans for which the application is received by an eligible lender on or after Jan. 1, 1993, see section 432, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PENDING APPLICANTS

Pub. L. 105–78, title VI, §609(f), Nov. 13, 1997, 111 Stat. 1523, provided that: "The consolidation loans authorized by the amendments made by this section [amending this section] shall be available notwithstanding any pending application by a student for a consolidation loan under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), upon withdrawal of such application by the student at any time prior to receipt of such a consolidation loan."

COST EVALUATION REPORT

Pub. L. 99–272, title XVI, §16017(d), Apr. 7, 1986, 100 Stat. 348, provided that: "The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section [enacting former section 1078–3 of this title and amending former sections 1077, 1085, 1087–1, and 1087–2 of this title] and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection."

[1] So in original. No cl. (ii) has been enacted.

§1078–4. Commingling of funds

Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that—

(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

(Pub. L. 89–329, title IV, §428D, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1393.)

§1078–5. Repealed. Pub. L. 102–164, title VI, §605(b)(1), Nov. 15, 1991, 105 Stat. 1068

Section, Pub. L. 89–329, title IV, §428E, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1393; amended Pub. L. 100–50, §10(t), June 3, 1987, 101 Stat. 345, related to State garnishment law requirements.

§1078–6. Default reduction program

(a) Other repayment incentives

(1) Sale or assignment of loan

(A) In general

Each guaranty agency, upon securing 9 payments made within 20 days of the due date during 10 consecutive months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 1078(c) of this title, shall—

(i) if practicable, sell the loan to an eligible lender; or

(ii) beginning July 1, 2014, assign the loan to the Secretary if the guaranty agency has been unable to sell the loan under clause (i).

(B) Monthly payments

Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts described in subparagraph (A) more than is reasonable and affordable based on the borrower's total financial circumstances.

(C) Consumer reporting agencies

Upon the sale or assignment of the loan, the Secretary, guaranty agency or other holder of the loan shall request any consumer reporting agency to which the Secretary, guaranty agency or holder, as applicable, reported the default of the loan, to remove the record of the default from the borrower's credit history.

(D) Duties upon sale

With respect to a loan sold under subparagraph (A)(i)—

(i) the guaranty agency—

(I) shall, in the case of a sale made on or after July 1, 2014, repay the Secretary 100 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(II) may, in the case of a sale made on or after July 1, 2014, in order to defray collection costs—

(aa) charge to the borrower an amount not to exceed 16 percent of the outstanding principal and interest at the time of the loan sale; and

(bb) retain such amount from the proceeds of the loan sale; and

(ii) the Secretary shall reinstate the Secretary's obligation to—

(I) reimburse the guaranty agency for the amount that the agency may, in the future, expend to discharge the guaranty agency's insurance obligation; and

(II) pay to the holder of such loan a special allowance pursuant to section 1087–1 of this title.

(E) Duties upon assignment

With respect to a loan assigned under subparagraph (A)(ii)—

(i) the guaranty agency shall add to the principal and interest outstanding at the time of the

assignment of such loan an amount equal to the amount described in subparagraph (D)(i)(II)(aa); and

(ii) the Secretary shall pay the guaranty agency, for deposit in the agency's Operating Fund established pursuant to section 1072b of this title, an amount equal to the amount added to the principal and interest outstanding at the time of the assignment in accordance with clause (i).

(F) Eligible lender limitation

A loan shall not be sold to an eligible lender under subparagraph (A)(i) if such lender has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part.

(G) Default due to error

A loan that does not meet the requirements of subparagraph (A) may also be eligible for sale or assignment under this paragraph upon a determination that the loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status.

(2) Use of proceeds of sales

Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under paragraph (1)(A)(i) shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(D)(ii)(I) for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

(3) Borrower eligibility

Any borrower whose loan is sold or assigned under paragraph (1)(A) shall not be precluded by section 1091 of this title from receiving additional loans or grants under this subchapter and part C of subchapter I of chapter 34 of title 42 (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to such loan sale or assignment.

(4) Applicability of general loan conditions

A loan that is sold or assigned under paragraph (1) shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

(5) Limitation

A borrower may obtain the benefits available under this subsection with respect to rehabilitating a loan (whether by loan sale or assignment) only one time per loan.

(b) Satisfactory repayment arrangements to renew eligibility

Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew eligibility for all title IV student financial assistance (regardless of whether the defaulted loan has been sold to an eligible lender or assigned to the Secretary) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances. A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.

(c) Financial and economic literacy

Each program described in subsection (b) shall include making available financial and economic education materials for a borrower who has rehabilitated a loan.

(Pub. L. 89–329, title IV, §428F, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1394; amended Pub. L. 100–50, §10(u), June 3, 1987, 101 Stat. 346; Pub. L. 101–239, title II, §2005(a), Dec. 19, 1989, 103 Stat. 2116; Pub. L. 102–325, title IV, §420, July 23, 1992, 106 Stat. 534; Pub. L. 103–208, §2(c)(38)–(40), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 105–244, title IV, §421, Oct. 7, 1998, 112 Stat. 1696; Pub. L. 109–171, title VIII, §8014(h), Feb. 8, 2006, 120 Stat. 171; Pub. L. 110–315, title IV, §426, Aug. 14, 2008, 122 Stat. 3235; Pub. L. 111–39, title IV,

§402(d)(1), July 1, 2009, 123 Stat. 1941; Pub. L. 113–67, div. A, title V, §501, Dec. 26, 2013, 127 Stat. 1186.)

REFERENCES IN TEXT

Title IV, referred to in subsec. (b), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

AMENDMENTS

2013—Subsec. (a)(1)(A)(ii). Pub. L. 113–67, §501(1), added cl. (ii) and struck out former cl. (ii) which read as follows: "on or before September 30, 2011, assign the loan to the Secretary if—

"(I) the Secretary has determined that market conditions unduly limit a guaranty agency's ability to sell loans under clause (i); and

"(II) the guaranty agency has been unable to sell loans under clause (i)."

Subsec. (a)(1)(D)(i). Pub. L. 113–67, §501(2), added cl. (i) and struck out former cl. (i) which read as follows: "the guaranty agency—

"(I) shall repay the Secretary 81.5 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(II) may, in order to defray collection costs—

"(aa) charge to the borrower an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of the loan sale; and

"(bb) retain such amount from the proceeds of the loan sale; and".

2009—Subsec. (a)(1). Pub. L. 111–39, §402(d)(1)(A)(i), amended par. (1) generally. Prior to amendment, par. (1) related to the sale of a loan by a guaranty agency or the Secretary.

Subsec. (a)(2). Pub. L. 111–39, §402(d)(1)(A)(ii), substituted "paragraph (1)(A)(i)" for "paragraph (1) of this subsection" and "paragraph (1)(D)(ii)(I)" for "paragraph (1)(B)(ii) of this subsection".

Subsec. (a)(3). Pub. L. 111–39, §402(d)(1)(A)(iii)(II), substituted "sale or assignment." for "sale."

Pub. L. 111–39, §402(d)(1)(A)(iii)(I), which directed substitution of "sold or assigned under paragraph (1)(A)" for "sold under paragraph (2)", was executed by making the substitution for "sold under paragraph (1)" to reflect the probable intent of Congress.

Subsec. (a)(4). Pub. L. 111–39, §402(d)(1)(A)(iv), substituted "that is sold or assigned under paragraph (1)" for "which is sold under paragraph (1) of this subsection".

Subsec. (a)(5). Pub. L. 111–39, §402(d)(1)(A)(v), inserted "(whether by loan sale or assignment)" after "rehabilitating a loan".

Subsec. (b). Pub. L. 111–39, §402(d)(1)(B), inserted "or assigned to the Secretary" after "sold to an eligible lender".

2008—Subsec. (a)(1)(A). Pub. L. 110–315, §426(1)(A), inserted at end "Upon the sale of the loan to an eligible lender, the guaranty agency or other holder of the loan shall request any consumer reporting agency to which the guaranty agency or holder, as applicable, reported the default of the loan, to remove the record of default from the borrower's credit history."

Subsec. (a)(5). Pub. L. 110–315, §426(1)(B), added par. (5).

Subsec. (c). Pub. L. 110–315, §426(2), added subsec. (c).

2006—Subsec. (a)(1)(A). Pub. L. 109–171, §8014(h)(1), substituted "9 payments made within 20 days of the due date during 10 consecutive months" for "consecutive payments for 12 months".

Subsec. (a)(1)(C), (D). Pub. L. 109–171, §8014(h)(2), (3), added subpar. (C) and redesignated former subpar. (C) as (D).

1998—Subsec. (b). Pub. L. 105–244 substituted "Satisfactory repayment arrangements to renew eligibility" for "Special rule" in heading.

1993—Subsec. (a)(2). Pub. L. 103–208, §2(c)(38), substituted "paragraph (1) of this subsection" for "this paragraph" and "this subsection" for "this section".

Subsec. (a)(4). Pub. L. 103–208, §2(c)(39), substituted "paragraph (1) of this subsection" for "this paragraph".

Subsec. (b). Pub. L. 103–208, §2(c)(40), inserted at end "A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once."

1992—Subsec. (a). Pub. L. 102–325, §420(1)–(3), redesignated subsec. (b) as (a), in par. (1)(A) substituted "Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon" for "Upon" and inserted provision at end that neither the guaranty agency nor the Secretary demand from the

borrower as monthly payments more than is reasonable and affordable based upon the borrower's total financial circumstances, in par. (3) inserted "or grants" after "loans", and struck out former subsec. (a) which related to program requirements for the default reduction program.

Subsec. (b). Pub. L. 102–325, §420(4), added subsec. (b). Former subsec. (b) redesignated (a).

1989—Pub. L. 101–239 amended section generally, substituting provisions relating to default reduction program for former provisions relating to rehabilitation of defaulted loans.

1987—Subsecs. (b), (c). Pub. L. 100–50 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "The loans which shall be eligible for rehabilitation under this section shall be only those loans which are made to borrowers who, at the time of default on the loan, are unemployed or institutionalized."

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–67, div. A, title V, §501, Dec. 26, 2013, 127 Stat. 1186, provided that the amendments made by section 501 of Pub. L. 113–67 are effective July 1, 2014.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–39, title IV, §402(d)(2), July 1, 2009, 123 Stat. 1942, provided that: "The amendments made by paragraph (1) [amending this section] shall be effective on the date of enactment of this Act [July 1, 2009], and shall apply to any loan on which monthly payments described in section 428F(a)(1)(A) [42 U.S.C. 1078–6(a)(1)(A)] were paid before, on, or after such date of enactment."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PUBLICITY THROUGH COMMUNICATIONS MEDIA OF AVAILABILITY OF DEFAULT REDUCTION PROGRAM

Pub. L. 101–239, title II, §2005(b), Dec. 19, 1989, 103 Stat. 2118, provided that: "The Secretary of Education shall, from funds available through student loan collections, commencing not less than 30 days before the beginning of the default reduction program required by the amendment made by this section [amending this section], and continuing throughout the duration of such program, widely publicize (through various communications media) the availability of the default reduction program."

§1078–7. Requirements for disbursement of student loans

(a) Multiple disbursement required

(1) Two disbursements required

The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

(2) Minimum interval required

The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at

the beginning of the second semester, quarter, or similar division of such period of enrollment.

(3) Special rule

An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months. Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning on February 8, 2006.

(4) Amendment to special rule

Beginning on October 1, 2011, the special rule under paragraph (3) shall be applied by substituting "15 percent" for "10 percent".

(b) Disbursement and endorsement requirements

(1) First year students

The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period. An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph. Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning on February 8, 2006.

(2) Other students

The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of enrollment for which the loan is made.

(3) Amendment to cohort default rate exemption

Beginning on October 1, 2011, the exemption to the requirements of paragraph (1) in the second sentence of such paragraph shall be applied by substituting "15 percent" for "10 percent".

(c) Method of multiple disbursement

Disbursements under subsection (a) of this section—

(1) shall be made in accordance with a schedule provided by the institution (under section 1078(a)(2)(A)(i)(II) of this title) that complies with the requirements of this section;

(2) may be made directly by the lender or, in the case of a loan under sections 1078 and 1078–1 [1] of this title, may be disbursed pursuant to the escrow provisions of section 1078(i) of this title; and

(3) notwithstanding subsection (a)(2), may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed by the lender in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.

(d) Withholding of second disbursement

(1) Withdrawing students

A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled before the disbursement of the second or any succeeding installment shall withhold such disbursement. Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

(2) Students receiving over-awards

If the sum of a disbursement for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this subchapter and part C of subchapter I of chapter 34 of title 42, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount, except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

(e) Exclusion of consolidation and foreign study loans

The provisions of this section shall not apply in the case of a loan made under section 1078–3 of this title, or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 1085(m) of this title) of less than 5 percent.

(f) Beginning of period of enrollment

For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.

(g) Sales prior to disbursement prohibited

An eligible lender shall not sell or transfer a promissory note for any loan made, insured, or guaranteed under this part until the final disbursement of such loan has been made, except that the prohibition of this subsection shall not apply if—

(1) the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan; and

(2) the first disbursement of such loan has been made.

(Pub. L. 89–329, title IV, §428G, as added Pub. L. 101–239, title II, §2004(a), Dec. 19, 1989, 103 Stat. 2115; amended Pub. L. 101–508, title III, §3003(a), Nov. 5, 1990, 104 Stat. 1388–26; Pub. L. 102–325, title IV, §421, July 23, 1992, 106 Stat. 534; Pub. L. 103–66, title IV, §4109(b), Aug. 10, 1993, 107 Stat. 369; Pub. L. 103–208, §2(c)(41), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 105–244, title IV, §422(a)–(c), Oct. 7, 1998, 112 Stat. 1696; Pub. L. 109–171, title VIII, §8010, Feb. 8, 2006, 120 Stat. 164; Pub. L. 110–315, title IV, §427, Aug. 14, 2008, 122 Stat. 3235; Pub. L. 111–39, title IV, §402(f)(4), July 1, 2009, 123 Stat. 1943.)

REFERENCES IN TEXT

Section 422(d) of the Higher Education Amendments of 1998, referred to in subsecs. (a)(3) and (b)(1), is section 422(d) of Pub. L. 105–244, set out as an Effective and Termination Dates of 1998 Amendment note below.

Section 1078–1 of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

CODIFICATION

Text of subsec. (a)(3) and second sentence of subsec. (b)(1), which was temporarily added by Pub. L. 105–244, §422(a), (b), and then omitted, was restored pursuant to amendment by Pub. L. 109–171, §8010(1), (2). See 1998 and 2006 Amendment notes and Effective and Termination Dates of 1998 Amendment note below.

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111–39, §402(f)(4)(A), substituted "section 1078(a)(2)(A)(i)(II)" for "section 1078(a)(2)(A)(i)(III)".

Subsec. (c)(3). Pub. L. 111–39, §402(f)(4)(B), added par. (3) and struck out former par. (3) which read as follows: "notwithstanding subsection (a)(2) of this section, may, with the permission of the borrower, be

disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made."

2008—Subsec. (a)(4). Pub. L. 110–315, §427(a), added par. (4).

Subsec. (b)(3). Pub. L. 110–315, §427(b), added par. (3).

2006—Subsec. (a)(3). Pub. L. 109–171, §8010(1), inserted "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning February 8, 2006." at end. See Codification note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (b)(1). Pub. L. 109–171, §8010(2), inserted "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning February 8, 2006." at end. See Codification note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (e). Pub. L. 109–171, §8010(3), struck out ", made to a student to cover the cost of attendance at an eligible institution outside the United States" after "section 1078–3 of this title".

1998—Subsec. (a)(3). Pub. L. 105–244, §422(a), (d), temporarily added par. (3) which read as follows: "An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months." See Codification note and 2006 Amendment note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (b)(1). Pub. L. 105–244, §422(b), (d), temporarily inserted at end "An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph." See Codification note and 2006 Amendment note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (e). Pub. L. 105–244, §422(c), substituted ", made to a student" for "or made to a student" and inserted before the period at end ", or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 1085(m) of this title) of less than 5 percent".

1993—Subsec. (c)(3). Pub. L. 103–208 directed the substitution of "disbursed by the lender" for "disbursed" and was executed by making the substitution the first place "disbursed" appeared, to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 103–66 substituted "consolidation" for "PLUS, consolidation," in heading and "section 1078–3" for "section 1078–2 or 1078–3" in text.

1992—Subsec. (c)(3). Pub. L. 102–325, §421(a), added par. (3).

Subsec. (d)(2). Pub. L. 102–325, §421(b), inserted ", except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph" before period at end of first sentence.

Subsec. (g). Pub. L. 102–325, §421(c), added subsec. (g).

1990—Subsec. (b)(1). Pub. L. 101–508 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The first installment of the proceeds of any loan made under section 1078–1 of this title that is made to a student borrower who has not successfully completed the first year of a program of undergraduate education shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until—

"(A) 30 days after the borrower begins a course of study; and

"(B) the institution certifies that the borrower continues to be enrolled and in attendance at the end of such 30-day period, and is maintaining satisfactory progress;

but may be disbursed to the eligible institution prior to the end of such 30-day period."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE AND TERMINATION DATES OF 1998 AMENDMENT

Amendment by section 422(c) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in

Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §422(d), Oct. 7, 1998, 112 Stat. 1696, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002."

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–66 effective with respect to loans for which the first disbursement is made on or after Oct. 1, 1993, see section 4109(c) of Pub. L. 103–66, set out as a note under section 1078–2 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–508, title III, §3003(b), Nov. 5, 1990, 104 Stat. 1388–26, provided that: "The amendment made by this section [amending this section] shall be effective for loans made on or after the date of enactment of this Act [Nov. 5, 1990] to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991."

EFFECTIVE DATE

Section applicable with respect to loans made to cover cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 1077 of this title.

[1] *See References in Text note below.*

§1078–8. Unsubsidized Stafford loans for middle-income borrowers

(a) In general

It is the purpose of this section to authorize insured loans under this part that are first disbursed before July 1, 2010, for borrowers who do not qualify for Federal interest subsidy payments under section 1078 of this title. Except as provided in this section, all terms and conditions for Federal Stafford loans established under section 1078 of this title shall apply to loans made pursuant to this section.

(b) Eligible borrowers

Prior to July 1, 2010, any student meeting the requirements for student eligibility under section 1091 of this title (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Federal Stafford Loan for which the first disbursement is made before such date if the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, has—

(1) determined and documented the student's need for the loan based on the student's estimated cost of attendance (as determined under section 1087ll of this title) and the student's estimated financial assistance, including a loan which qualifies for interest subsidy payments under section 1078 of this title; and

(2) provided the lender a statement—

(A) certifying the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c) of this section; and

(B) setting forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title.

(c) Determination of amount of loan

The determination of the amount of a loan by an eligible institution under subsection (b) of this section shall be calculated by subtracting from the estimated cost of attendance at the eligible

institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subsection (b) of this section, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the amount calculated under the preceding sentence.

(d) Loan limits

(1) In general

Except as provided in paragraphs (2), (3), and (4), the annual and aggregate limits for loans under this section shall be the same as those established under section 1078(b)(1) of this title, less any amount received by such student pursuant to the subsidized loan program established under section 1078 of this title.

(2) Limits for graduate, professional, and independent postbaccalaureate students

(A) Annual limits

The maximum annual amount of loans under this section a graduate or professional student, or a student described in clause (ii), may borrow in any academic year (as defined in section 1088(a)(2) of this title) or its equivalent shall be the amount determined under paragraph (1), plus—

(i) in the case of such a student who is a graduate or professional student attending an eligible institution, $12,000; and

(ii) notwithstanding paragraph (4), in the case of an independent student, or a dependent student whose parents are unable to borrow under section 1078–2 of this title or the Federal Direct PLUS Loan Program, who has obtained a baccalaureate degree and who is enrolled in coursework specified in paragraph (3)(B) or (4)(B) of section 1091(b) of this title—

(I) $7,000 for coursework necessary for enrollment in a graduate or professional program; and

(II) $7,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school,

except in cases where the Secretary determines that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

(B) Aggregate limit

The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in subparagraph (A), as prescribed by the Secretary by regulation.

(3) Limits for undergraduate dependent students

(A) Annual limits

The maximum annual amount of loans under this section an undergraduate dependent student (except an undergraduate dependent student whose parents are unable to borrow under section 1078–2 of this title or the Federal Direct PLUS Loan Program) may borrow in any academic year (as defined in section 1088(a)(2) of this title) or its equivalent shall be the sum of the amount determined under paragraph (1), plus $2,000.

(B) Aggregate limits

The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be $31,000.

(4) Limits for undergraduate independent students

(A) Annual limits

The maximum annual amount of loans under this section an undergraduate independent student, or an undergraduate dependent student whose parents are unable to borrow under section 1078–2 of this title or the Federal Direct PLUS Loan Program, may borrow in any academic year (as defined in section 1088(a)(2) of this title) or its equivalent shall be the sum of the amount determined under paragraph (1), plus—

(i) in the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study—

(I) $6,000, if such student is enrolled in a program whose length is at least one academic year in length; or

(II) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

(ii) in the case of such a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

(I) $7,000; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year; and

(iii) in the case of such a student enrolled in coursework specified in—

(I) section 1091(b)(3)(B) of this title, $6,000; or

(II) section 1091(b)(4)(B) of this title, $7,000.

(B) Aggregate limits

The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be $57,500.

(5) Capitalized interest

Interest capitalized shall not be deemed to exceed a maximum aggregate amount determined under subparagraph (B) of paragraph (2), (3), or (4).

(e) Payment of principal and interest

(1) Commencement of repayment

Repayment of principal on loans made under this section shall begin at the beginning of the repayment period described in section 1078(b)(7) of this title. Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.

(2) Capitalization of interest

(A) Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title shall, if agreed upon by the borrower and the lender—

(i) be paid monthly or quarterly; or

(ii) be added to the principal amount of the loan by the lender only—

(I) when the loan enters repayment;

(II) at the expiration of a grace period, in the case of a loan that qualifies for a grace period;

(III) at the expiration of a period of deferment or forbearance; or

(IV) when the borrower defaults.

(B) The capitalization of interest described in subparagraph (A) shall not be deemed to exceed the annual insurable limit on account of the student.

(3) Subsidies prohibited

No payments to reduce interest costs shall be paid pursuant to section 1078(a) of this title on loans made pursuant to this section.

(4) Applicable rates of interest

Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 1077a of this title.

(5) Amortization

The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually; or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 1077a(c)(4) of this title.

(6) Repayment period

For purposes of calculating the repayment period under section 1078(b)(9) of this title, such period shall commence at the time the first payment of principal is due from the borrower.

(7) Qualification for forbearance

A lender may grant the borrower of a loan under this section a forbearance for a period not to exceed 60 days if the lender reasonably determines that such a forbearance from collection activity is warranted following a borrower's request for forbearance, deferment, or a change in repayment plan, or a request to consolidate loans in order to collect or process appropriate supporting documentation related to the request. During any such period, interest on the loan shall accrue but not be capitalized.

(f) Repealed. Pub. L. 105–244, title IV, §423(f), Oct. 7, 1998, 112 Stat. 1698

(g) Single application form and loan repayment schedule

A guaranty agency shall use a single application form and a single repayment schedule for subsidized Federal Stafford loans made pursuant to section 1078 of this title and for unsubsidized Federal Stafford loans made pursuant to this section.

(h) Insurance premium

Each State or nonprofit private institution or organization having an agreement with the Secretary under section 1078(b)(1) of this title may charge a borrower under this section an insurance premium equal to not more than 1.0 percent of the principal amount of the loan, if such premium will not be used for incentive payments to lenders. Effective for loans for which the date of guarantee of principal is on or after July 1, 2006, and that are first disbursed before July 1, 2010, in lieu of the insurance premium authorized under the preceding sentence, each State or nonprofit private institution or organization having an agreement with the Secretary under section 1078(b)(1) of this title shall collect and deposit into the Federal Student Loan Reserve Fund under section 1072a of this title, a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from

other non-Federal sources. The Federal default fee shall not be used for incentive payments to lenders.

(Pub. L. 89–329, title IV, §428H, as added Pub. L. 102–325, title IV, §422, July 23, 1992, 106 Stat. 535; amended Pub. L. 103–66, title IV, §§4047(a), 4102(b), Aug. 10, 1993, 107 Stat. 363, 366; Pub. L. 103–208, §2(c)(42)–(45), Dec. 20, 1993, 107 Stat. 2466, 2467; Pub. L. 104–134, title I, §101(d) [title V, §514(a)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–245; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–244, title IV, §423, Oct. 7, 1998, 112 Stat. 1696; Pub. L. 109–171, title VIII, §§8005(d), 8014(b)(2), Feb. 8, 2006, 120 Stat. 159, 169; Pub. L. 110–227, §2(a), May 7, 2008, 122 Stat. 740; Pub. L. 110–315, title IV, §428(a), Aug. 14, 2008, 122 Stat. 3235; Pub. L. 111–39, title IV, §402(f)(5), July 1, 2009, 123 Stat. 1944; Pub. L. 111–152, title II, §2207, Mar. 30, 2010, 124 Stat. 1076.)

CODIFICATION

Amendments by section 2(c)(42), (45) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–152, §2207(1), inserted "that are first disbursed before July 1, 2010," after "under this part".

Subsec. (b). Pub. L. 111–152, §2207(2), substituted "Prior to July 1, 2010, any student" for "Any student" and inserted "for which the first disbursement is made before such date" after "unsubsidized Federal Stafford Loan" in introductory provisions.

Subsec. (h). Pub. L. 111–152, §2207(3), inserted "and that are first disbursed before July 1, 2010," after "July 1, 2006,".

2009—Subsec. (d)(2). Pub. L. 111–39, §402(f)(5)(A), amended heading generally, resulting in text identical to that after execution of the amendment by Pub. L. 110–315, §428(a)(1)(A). See 2008 Amendment note below.

Subsec. (e)(6). Pub. L. 111–39, §402(f)(5)(B), amended par. (6) generally, resulting in text identical to that after execution of the amendment by Pub. L. 105–244, §423(d). See 1998 Amendment note below.

2008—Subsec. (d). Pub. L. 110–227 amended subsec. (d) generally. Prior to amendment, subsec. (d) related to loan limits.

Subsec. (d)(2). Pub. L. 110–315, §428(a)(1)(A), which directed substitution of "Graduate, professional, and independent postbaccalaureate students" for "Graduate and professional students" in heading, was executed by substituting "graduate, professional, and independent postbaccalaureate students" for "graduate and professional students" to reflect the probable intent on Congress.

Subsec. (d)(2)(A). Pub. L. 110–315, §428(a)(1)(B)(i), inserted ", or a student described in clause (ii)," after "graduate or professional student" in introductory provisions.

Subsec. (d)(2)(A)(ii). Pub. L. 110–315, §428(a)(1)(B)(ii), added cl. (ii) and struck out former cl. (ii) which read as follows: "in the case of a graduate student enrolled in coursework specified in sections 1091(b)(3)(B) and 1091(b)(4)(B) of this title, $7,000;".

Subsec. (d)(4)(A)(iii). Pub. L. 110–315, §428(a)(2), added cl. (iii) and struck out former cl. (iii) which read as follows: "in the case of such a student enrolled in coursework specified in sections 1091(b)(3)(B) and 1091(b)(4)(B) of this title, $6,000 for coursework necessary for enrollment in an undergraduate degree or certificate program."

2006—Subsec. (d)(2)(C). Pub. L. 109–171, §8005(d)(1), substituted "$12,000" for "$10,000".

Subsec. (d)(2)(D). Pub. L. 109–171, §8005(d)(2), substituted "$7,000" for "$5,000" in cls. (i) and (ii).

Subsec. (h). Pub. L. 109–171, §8014(b)(2), inserted at end "Effective for loans for which the date of guarantee of principal is on or after July 1, 2006, in lieu of the insurance premium authorized under the preceding sentence, each State or nonprofit private institution or organization having an agreement with the Secretary under section 1078(b)(1) of this title shall collect and deposit into the Federal Student Loan Reserve Fund under section 1072a of this title, a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources. The Federal default fee shall not be used for incentive payments to lenders."

1998—Subsec. (b). Pub. L. 105–244, §423(a), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "Any student meeting the requirements for student eligibility under section

1091 of this title (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Stafford loan. Such student shall provide to the lender a statement from the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, which—

"(1) sets forth such student's estimated cost of attendance (as determined under section 1087ll of this title);

"(2) sets forth such student's estimated financial assistance, including a loan which qualifies for subsidy payments under section 1078 of this title; and

"(3) certifies the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c) of this section."

Subsec. (d)(2). Pub. L. 105–244, §423(b)(1)(A), in introductory provisions, inserted "(as defined in section 1088(a)(2) of this title)" after "academic year" and struck out "or in any period of 7 consecutive months, whichever is longer," after "or its equivalent".

Subsec. (d)(2)(A). Pub. L. 105–244, §423(b)(1)(B), substituted "length; and" for "length (as determined under section 1088 of this title);" in cl. (i), added cl. (ii), and struck out former cls. (ii) and (iii) which read as follows:

"(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least 2/3 of such an academic year; and

"(iii) $1,500, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of such an academic year;".

Subsec. (d)(2)(D). Pub. L. 105–244, §423(b)(1)(C), (D), added subpar. (D).

Subsec. (d)(3). Pub. L. 105–244, §423(b)(2), inserted at end "Interest capitalized shall not be deemed to exceed such maximum aggregate amount."

Subsec. (e)(2). Pub. L. 105–244, §423(c), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student."

Subsec. (e)(6). Pub. L. 105–244, §423(d), which directed substitution of "repayment period under section 1078(b)(9) of this title" for "10 year repayment period under section 1078(b)(1)(D) of this title", was executed by making the substitution for "10-year repayment period under section 1078(b)(1)(D) of this title" to reflect the probable intent of Congress.

Subsec. (e)(7). Pub. L. 105–244, §423(e), added par. (7).

Subsec. (f). Pub. L. 105–244, §423(f), struck out heading and text of subsec. (f) which provided for lenders to charge borrowers origination fees on loans.

1996—Subsec. (d)(2). Pub. L. 104–134 substituted semicolon for period at end of subpar. (C) and inserted concluding provisions.

1993—Subsec. (b). Pub. L. 103–66, §4047(a)(1), inserted "(including graduate and professional students as defined in regulations promulgated by the Secretary)" in introductory provisions.

Subsec. (d). Pub. L. 103–66, §4047(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The annual and aggregate limits for loans under this section shall be the same as those established under section 1078(b)(1) of this title, less any amount received by such student pursuant to the subsidized loan program established under section 1078 of this title."

Subsec. (d)(2)(B). Pub. L. 103–208, §2(c)(42), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "in the case of such a student attending an eligible institution who has completed the first 2 years of undergraduate study but who has not completed the remainder of a program of undergraduate study—

"(i) $5,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this section);

"(ii) $3,325, if such student is enrolled in a program whose length is less than one academic year, but at least 2/3 of such an academic year; and

"(iii) $1,675, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of such an academic year; and". See Codification note above.

Subsec. (e)(1). Pub. L. 103–208, §2(c)(43), substituted "shall begin at the beginning of the repayment period described in section 1078(b)(7) of this title." for "shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution."

and inserted at end "Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date."

Subsec. (e)(4). Pub. L. 103–208, §2(c)(44), substituted "section 1077a" for "section 1077a(e)".

Subsec. (e)(5), (6). Pub. L. 103–66, §4047(a)(3), added pars. (5) and (6).

Subsec. (f). Pub. L. 103–66, §4102(b)(1)(A), substituted "Origination fee" for "Insurance premium" in section catchline.

Subsec. (f)(1). Pub. L. 103–66, §4102(b)(1)(B), (C), struck out reference to insurance premium in heading and in text substituted "an origination fee in the amount of 3.0 percent" for "a combined origination fee and insurance premium in the amount of 6.5 percent" and struck out second sentence which read as follows: "A guaranty agency may not charge an insurance premium on any loan made under this section."

Subsec. (f)(2). Pub. L. 103–66, §4102(b)(1)(D), substituted "origination fee" for "combined fee and premium".

Subsec. (f)(3). Pub. L. 103–66, §4102(b)(1)(E), substituted "origination fee" for "combined origination fee and insurance premium".

Subsec. (f)(4). Pub. L. 103–66, §4102(b)(1)(F), in heading substituted "origination fee" for "insurance premium" and in text substituted "origination fees" for "combined origination fee and insurance premiums" and "to pay" for "and premiums to pay".

Subsec. (f)(5). Pub. L. 103–66, §4102(b)(1)(G), inserted "origination fee and" in heading and in text substituted "do not exceed the combined origination fee under this subsection and the insurance premium under subsection (h) of this section, the Secretary is directed to lower the origination fee and insurance premium accordingly" for "do not exceed the 6.5 percent insurance premium, the Secretary is directed to lower the insurance premium accordingly".

Subsec. (h). Pub. L. 103–208, §2(c)(45), redesignated subsec. (l) as (h). See Codification note above.

Subsec. (l). Pub. L. 103–208, §2(c)(45), redesignated subsec. (l) as (h). See Codification note above.

Pub. L. 103–66, §4102(b)(2), added subsec. (l).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §428(b), Aug. 14, 2008, 122 Stat. 3236, provided that: "The amendments made by this section [amending this section] shall take effect for loans for which the first disbursement is made on or after July 1, 2008."

Pub. L. 110–227, §2(c), May 7, 2008, 122 Stat. 742, provided that: "The amendments made by this section [amending this section] shall be effective for loans first disbursed on or after July 1, 2008."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 8014(b)(2) of Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Amendment by section 8005(d) of Pub. L. 109–171 effective July 1, 2007, see section 8005(e) of Pub. L. 109–171, set out as a note under section 1075 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–134, title I, §101(d) [title V, §514(b)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–245, provided that: "The amendments made by subsection (a) [amending this section] shall be effective for loans made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1996."

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by section 2(c)(42)–(43)(A), (44), (45) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, and amendment by section 2(c)(43)(B) of Pub. L. 103–208 effective on and after Apr. 1, 1994, see section 5(a), (b)(5) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Pub. L. 103–66, title IV, §4047(d), Aug. 10, 1993, 107 Stat. 364, provided that: "Except as otherwise

provided herein [see section 4047(c) of Pub. L. 103–66, set out below], the amendments made by this section [amending this section and repealing section 1078–1 of this title] shall take effect on July 1, 1994."

Amendment by section 4102(b) of Pub. L. 103–66 effective July 1, 1994, see section 4102(d) of Pub. L. 103–66, set out as a note under section 1078 of this title.

EFFECTIVE DATE

Section effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after Oct. 1, 1992, see section 432(a)(12) of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1078 of this title.

STUDENT ELIGIBILITY

Pub. L. 110–227, §2(b), May 7, 2008, 122 Stat. 742, provided that: "Loan limit increases authorized by the amendments made by this section [amending this section] shall be available only to students who meet the requirements of section 484(a) of the Higher Education Act of 1965 (20 U.S.C. 1091(a))."

CONTINUING APPLICABILITY OF TERMS, CONDITIONS, AND BENEFITS OF LOANS

Pub. L. 103–66, title IV, §4047(c), Aug. 10, 1993, 107 Stat. 364, provided that: "Notwithstanding the amendments made by this section [amending this section and repealing section 1078–1 of this section], with respect to loans provided under sections 428A [former 20 U.S.C. 1078–1] and 428H of the Act [20 U.S.C. 1078–8] (as such sections existed on the date preceding the date of enactment of this Act [Aug. 10, 1993]) the terms, conditions and benefits applicable to such loans under such sections shall continue to apply to such loans after the date of enactment of this Act."

§1078–9. Repealed. Pub. L. 110–84, title III, §302(a), Sept. 27, 2007, 121 Stat. 796

Section, Pub. L. 89–329, title IV, §428I, as added Pub. L. 102–325, title IV, §422, July 23, 1992, 106 Stat. 536; amended Pub. L. 103–208, §2(c)(46), Dec. 20, 1993, 107 Stat. 2467; Pub. L. 109–171, title VIII, §8014(i), Feb. 8, 2006, 120 Stat. 171, related to special insurance and reinsurance rules.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2007, except that section as in effect on the day before Sept. 27, 2005, shall apply to eligible lenders that received a designation under subsec. (a) of this section prior to Oct. 1, 2007, for the remainder of the year for which the designation was made, see section 302(c) of Pub. L. 110–84, set out as an Effective Date of 2007 Amendment note under section 1078 of this title.

§1078–10. Loan forgiveness for teachers

(a) Statement of purpose

It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

(b) Program authorized

The Secretary shall carry out a program, through the holder of the loan, of assuming the obligation to repay a qualified loan amount for a loan made under section 1078 or 1078–8 of this title, in accordance with subsection (c) of this section, for any new borrower on or after October 1, 1998, who—

(1) has been employed as a full-time teacher for 5 consecutive complete school years—

(A) in a school or location that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such schools or locations; and

(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 [1] of the Elementary Secondary [2] Education Act of 1965 [20 U.S.C. 7801], or meets the requirements of subsection (g)(3); and

(2) is not in default on a loan for which the borrower seeks forgiveness.

(c) Qualified loans amount

(1) In general

The Secretary shall repay not more than $5,000 in the aggregate of the loan obligation on a loan made under section 1078 or 1078–8 of this title that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1) of this section. No borrower may receive a reduction of loan obligations under both this section and section 1087j of this title.

(2) Treatment of consolidation loans

A loan amount for a loan made under section 1078–3 of this title may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 1078 or 1078–8 of this title for a borrower who meets the requirements of subsection (b) of this section, as determined in accordance with regulations prescribed by the Secretary.

(3) Additional amounts for teachers in mathematics, science, or special education

Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall repay under this section shall be not more than $17,500 in the case of—

(A) a secondary school teacher—

(i) who meets the requirements of subsection (b) of this section; and

(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

(B) an elementary school or secondary school teacher—

(i) who meets the requirements of subsection (b) of this section;

(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 1401 of this title); and

(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency, is teaching children with disabilities that correspond with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.

(d) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(e) Construction

Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

(f) List

If the list of schools in which a teacher may perform service pursuant to subsection (b) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(g) Additional eligibility provisions

(1) Continued eligibility

Any teacher who performs service in a school that—

(A) meets the requirements of subsection (b)(1)(A) of this section in any year during such service; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan forgiveness pursuant to

subsection (b) of this section.

(2) Prevention of double benefits

No borrower may, for the same service, receive a benefit under both this section and—

(A) section 1078–11 of this title;

(B) section 1087e(m) of this title; or

(C) subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(3) Private school teachers

An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(B), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 [1] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801], and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.

(h) "Year" defined

For purposes of this section, the term "year", where applied to service as a teacher, means an academic year as defined by the Secretary.

(Pub. L. 89–329, title IV, §428J, as added Pub. L. 102–325, title IV, §422, July 23, 1992, 106 Stat. 541; amended Pub. L. 103–82, title I, §102(c)(2), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, §2(c)(47)–(51), Dec. 20, 1993, 107 Stat. 2467; Pub. L. 105–244, title IV, §424, Oct. 7, 1998, 112 Stat. 1698; Pub. L. 108–409, §3(a)(1)(A), (b)(1), Oct. 30, 2004, 118 Stat. 2300; Pub. L. 109–171, title VIII, §8013(e)(1), Feb. 8, 2006, 120 Stat. 167; Pub. L. 110–315, title IV, §429, Aug. 14, 2008, 122 Stat. 3236; Pub. L. 111–39, title IV, §402(f)(6), July 1, 2009, 123 Stat. 1944.)

REFERENCES IN TEXT

Section 9101 of the Elementary and Secondary Education Act of 1965, referred to in subsecs. (b)(1)(B) and (g)(3), was amended by Pub. L. 114–95 and, as so amended, is now section 8101 of the Act and no longer defines "highly qualified". A reference in this section to the term "highly qualified" as defined in section 9101 of the Act is to be treated as a reference to such term under such section 9101 as in effect on the day before the date of enactment of Pub. L. 114–95. See section 9214(a)(1) of Pub. L. 114–95, set out as a Use of the Term "Highly Qualified" in Other Laws note under section 1070g–2 of this title.

The National and Community Service Act of 1990, referred to in subsec. (g)(2)(C), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§12601 et seq.) of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111–39, §402(f)(6)(A), inserted at end "No borrower may receive a reduction of loan obligations under both this section and section 1087j of this title."

Subsec. (g)(2)(B) to (D). Pub. L. 111–39, §402(f)(6)(B), inserted "or" at end of subpar. (B), redesignated subpar. (D) as (C) and substituted "12601" for "12571", and struck out former subpar. (C) which read as follows: "section 1087j of this title; or".

2008—Subsec. (b)(1)(A). Pub. L. 110–315, §429(1), inserted "or location" after "a school" and "or locations" after "schools".

Subsec. (c)(1). Pub. L. 110–315, §429(2), struck out at end "No borrower may receive a reduction of loan obligations under both this section and section 1087j of this title."

Subsec. (c)(3)(B)(iii). Pub. L. 110–315, §429(3), inserted "or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency," after "borrower is employed,".

Subsec. (g)(2). Pub. L. 110–315, §429(4), added par. (2) and struck out former par. (2). Prior to

amendment, text read as follows: "No borrower may, for the same service, receive a benefit under both this subsection and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.)."

2006—Subsec. (b)(1)(B). Pub. L. 109–171, §8013(e)(1)(A), inserted ", or meets the requirements of subsection (g)(3)" before "; and".

Subsec. (g)(3). Pub. L. 109–171, §8013(e)(1)(B), added par. (3).

2004—Subsec. (b)(1). Pub. L. 108–409, §3(a)(1)(A), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

"(B) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed; and

"(C) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and".

Subsec. (c)(3). Pub. L. 108–409, §3(b)(1), added par. (3).

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized Secretary to carry out demonstration program for loan forgiveness for teachers, individuals performing national community service, and nurses.

1993—Subsec. (b)(1). Pub. L. 103–208, §2(c)(47), substituted "section" for "sections" in introductory provisions.

Pub. L. 103–82, §102(c)(2)(A), substituted "October 1, 1989" for "October 1, 1992" in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 103–208, §2(c)(48), substituted "serves as a full-time volunteer" for "agrees in writing to volunteer for service".

Subsec. (c)(1). Pub. L. 103–208, §2(c)(49), substituted "year of service" for "academic year" wherever appearing.

Subsec. (c)(5). Pub. L. 103–82, §102(c)(2)(B), added par. (5).

Subsec. (d). Pub. L. 103–208, §2(c)(50), substituted "to eligible" for "of eligibility" in heading.

Subsec. (e). Pub. L. 103–208, §2(c)(51), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "Each eligible individual desiring loan repayment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT; TRANSITION RULE

Pub. L. 108–409, §3(a)(2), Oct. 30, 2004, 118 Stat. 2300, provided that:

"(A) RULE.—The amendments made by paragraph (1) of this subsection to sections 428J(b)(1) and 460(b)(1)(A) of the Higher Education Act of 1965 [sections 1078–10(b)(1) and 1087j(b)(1)(A) of this title] shall not be applied to disqualify any individual who, before the date of enactment of this Act [Oct. 30, 2004], commenced service that met and continues to meet the requirements of such sections as such sections were in effect on the day before the date of enactment of this Act.

"(B) RULE NOT APPLICABLE TO INCREASED QUALIFIED LOAN AMOUNTS.—Subparagraph (A) of this paragraph shall not apply for purposes of obtaining increased qualified loan amounts under sections 428J(c)(3) and 460(c)(3) of the Higher Education Act of 1965 [sections 1078–10(c)(3) and 1087j(c)(3) of this title] as added by subsection (b) of this section."

Pub. L. 108–409, §3(b)(3), Oct. 30, 2004, 118 Stat. 2301, as amended by Pub. L. 109–150, §2(c)(1), Dec. 30, 2005, 119 Stat. 2884; Pub. L. 109–171, title VIII, §8013(c)(2), (d)(1), Feb. 8, 2006, 120 Stat. 167, provided that: "The amendments made by this subsection [amending this section and section 1087j of this title] shall apply only with respect to eligible individuals who are new borrowers (as such term is defined in 103 of the Higher Education Act of 1965 (20 U.S.C. 1003)) on or after October 1, 1998."

[Pub. L. 109–150, §2(c)(1), which amended section 3(b)(3) of Pub. L. 108–409, set out above, was repealed

by Pub. L. 109–171, §8013(d)(1), eff. July 1, 2006.]

[Amendment by Pub. L. 109–150 effective as if enacted on Oct. 1, 2005, see section 2(d)(2) of Pub. L. 109–150, set out as an Effective Date of 2005 Amendment note under section 1087–1 of this title.]

[Amendment by Pub. L. 109–171, §8013(c)(2), effective as if enacted on Oct. 1, 2005, and as if amendment by section 2(c)(1) of Pub. L. 109–150 had not been enacted, see section 8013(c)(3), (d)(2) of Pub. L. 109–171, set out as notes under section 1087–1 of this title.]

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

INFORMATION ON BENEFITS TO RURAL SCHOOL DISTRICTS

Pub. L. 108–409, §3(c), Oct. 30, 2004, 118 Stat. 2302, provided that: "The Secretary shall—

"(1) notify local educational agencies eligible to participate in the Small Rural Achievement Program authorized under subpart 1 of part B of title VI [now V] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7345 et seq.] of the benefits available under the amendments made by this section [amending this section and section 1087j of this title]; and

"(2) encourage such agencies to notify their teachers of such benefits."

[1] *See References in Text note below.*

[2] *So in original. Probably should be preceded by "and".*

§1078–11. Loan forgiveness for service in areas of national need

(a) Program authorized

(1) Loan forgiveness authorized

The Secretary shall forgive, in accordance with this section, the qualified loan amount described in subsection (c) of the student loan obligation of a borrower who—

(A) is employed full-time in an area of national need, as described in subsection (b); and

(B) is not in default on a loan for which the borrower seeks forgiveness.

(2) Method of loan forgiveness

To provide loan forgiveness under paragraph (1), the Secretary is authorized to carry out a program—

(A) through the holder of the loan, to assume the obligation to repay a qualified loan amount for a loan made, insured, or guaranteed under this part (other than an excepted PLUS loan or an excepted consolidation loan (as such terms are defined in section 1098e(a) of this title)); and

(B) to cancel a qualified loan amount for a loan made under part C of this subchapter (other than an excepted PLUS loan or an excepted consolidation loan).

(3) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out this section.

(b) Areas of national need

For purposes of this section, an individual is employed in an area of national need if the individual meets the requirements of one of the following:

(1) Early childhood educators

The individual is employed full-time as an early childhood educator.

(2) Nurses

The individual is employed full-time—

(A) as a nurse in a clinical setting; or

(B) as a member of the nursing faculty at an accredited school of nursing (as those terms are defined in section 296 of title 42).

(3) Foreign language specialists

The individual—

(A) has obtained a baccalaureate or advanced degree in a critical foreign language; and

(B) is employed full-time—

(i) in an elementary school or secondary school as a teacher of a critical foreign language;

(ii) in an agency of the United States Government in a position that regularly requires the use of such critical foreign language; or

(iii) in an institution of higher education as a faculty member or instructor teaching a critical foreign language.

(4) Librarians

The individual is employed full-time as a librarian in—

(A) a public library that serves a geographic area within which the public schools have a combined average of 30 percent or more of the schools' total student enrollments composed of children meeting a measure of poverty under section 6313(a)(5) of this title; or

(B) a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such a school.

(5) Highly qualified teachers serving students who are limited English proficient, low-income communities, and underrepresented populations

The individual—

(A) is highly qualified, as such term is defined in section 9101 [1] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]; and

(B) is employed full-time—

(i) as a teacher educating students who are limited English proficient;

(ii) as a teacher in a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such a school;

(iii) as a teacher and is an individual from an underrepresented population in the teaching profession, as determined by the Secretary; or

(iv) as a teacher in an educational service agency, as such term is defined in section 7801 of this title.

(6) Child welfare workers

The individual—

(A) has obtained a degree in social work or a related field with a focus on serving children and families; and

(B) is employed full-time in public or private child welfare services.

(7) Speech-language pathologists and audiologists

The individual—

(A) is employed full-time as a speech-language pathologist or audiologist in an eligible preschool program or a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such a school; and

(B) has, at a minimum, a graduate degree in speech-language pathology, audiology, or communication sciences and disorders.

(8) School counselors

The individual—

(A) is employed full-time as a school counselor who has documented competence in counseling children and adolescents in a school setting and who—

(i) is licensed by the State or certified by an independent professional regulatory authority;

(ii) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

(iii) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent; and

(B) is so employed in a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such a school.

(9) Public sector employees

The individual is employed full-time in—

(A) public safety (including as a first responder, firefighter, police officer, or other law enforcement or public safety officer);

(B) emergency management (including as an emergency medical technician);

(C) public health (including full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics); or

(D) public interest legal services (including prosecution, public defense, or legal advocacy in low-income communities at a nonprofit organization).

(10) Nutrition professionals

The individual—

(A) is a licensed, certified, or registered dietician who has completed a degree in a relevant field; and

(B) is employed full-time as a dietician with an agency of the special supplemental nutrition program for women, infants, and children under section 1786 of title 42.

(11) Medical specialists

The individual—

(A) has received a degree from a medical school at an institution of higher education; and

(B) has been accepted to, or currently participates in, a full-time graduate medical education training program or fellowship (or both) to provide health care services (as recognized by the Accreditation Council for Graduate Medical Education) that—

(i) requires more than five years of total graduate medical training; and

(ii) has fewer United States medical school graduate applicants than the total number of positions available in such program or fellowship.

(12) Mental health professionals

The individual—

(A) has not less than a master's degree in social work, psychology, or psychiatry; and

(B) is employed full-time providing mental health services to children, adolescents, or veterans.

(13) Dentists

The individual—

(A)(i) has received a degree from an accredited dental school (as accredited by the Commission on Dental Accreditation);

(ii) has completed residency training in pediatric dentistry, general dentistry, or dental public health; and

(iii) is employed full-time as a dentist; or

(B) is employed full-time as a member of the faculty at a program or school accredited by the Commission on Dental Accreditation.

(14) STEM employees

The individual is employed full-time in applied sciences, technology, engineering, or mathematics.

(15) Physical therapists

The individual—

(A) is a physical therapist; and

(B) is employed full-time providing physical therapy services to children, adolescents, or veterans.

(16) Superintendents, principals, and other administrators

The individual is employed full-time as a school superintendent, principal, or other administrator in a local educational agency, including in an educational service agency, in which 30 percent or more of the schools are schools that qualify under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such a school.

(17) Occupational therapists

The individual is an occupational therapist and is employed full-time providing occupational therapy services to children, adolescents, or veterans.

(18) Allied health professionals

The individual is employed full-time as an allied health professional—

(A) in a Federal, State, local, or tribal public health agency; or

(B) in a setting where patients might require health care services, including acute care facilities, ambulatory care facilities, personal residences and other settings located in health professional shortage areas, medically underserved areas, or medically underserved populations, as recognized by the Secretary of Health and Human Services.

(c) Qualified loan amount

(1) In general

Subject to paragraph (2), for each school, academic, or calendar year of full-time employment in an area of national need described in subsection (b) that a borrower completes on or after August 14, 2008, the Secretary shall forgive not more than $2,000 of the student loan obligation of the borrower that is outstanding after the completion of each such school, academic, or calendar year of employment, respectively.

(2) Maximum amount

The Secretary shall not forgive more than $10,000 in the aggregate for any borrower under this section, and no borrower shall receive loan forgiveness under this section for more than five years of service.

(d) Priority

The Secretary shall grant loan forgiveness under this section on a first-come, first-served basis, and subject to the availability of appropriations.

(e) Rule of construction

Nothing in this section shall be construed to authorize the refunding of any repayment of a loan.

(f) Ineligibility for double benefits

No borrower may, for the same service, receive a reduction of loan obligations under both this section and section 1078–10, 1078–12, 1087e(m), or 1087j of this title.

(g) Definitions

In this section:

(1) Allied health professional

The term "allied health professional" means an allied health professional as defined in section 295p(5) of title 42 who—

(A) has graduated and received an allied health professions degree or certificate from an institution of higher education; and

(B) is employed with a Federal, State, local or tribal public health agency, or in a setting where patients might require health care services, including acute care facilities, ambulatory care facilities, personal residences and other settings located in health professional shortage areas, medically underserved areas, or medically underserved populations, as recognized by the Secretary of Health and Human Services.

(2) Audiologist

The term "audiologist" means an individual who—

(A) has received, at a minimum, a graduate degree in audiology from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 1099b(a) of this title; and

(B)(i) provides audiology services under subsection (ll)(2) of section 1395x of title 42; or

(ii) meets or exceeds the qualifications for a qualified audiologist under subsection (ll)(4) of such section.

(3) Early childhood educator

The term "early childhood educator" means an individual who—

(A) works directly with children in an eligible preschool program or eligible early childhood education program in a low-income community;

(B) is involved directly in the care, development, and education of infants, toddlers, or young children age five and under; and

(C) has completed a baccalaureate or advanced degree in early childhood development or early childhood education, or in a field related to early childhood education.

(4) Eligible preschool program

The term "eligible preschool program" means a program that—

(A) provides for the care, development, and education of infants, toddlers, or young children age five and under;

(B) meets any applicable State or local government licensing, certification, approval, and registration requirements, and

(C) is operated by—

(i) a public or private school that is supported, sponsored, supervised, or administered by a local educational agency;

(ii) a Head Start agency serving as a grantee designated under the Head Start Act (42 U.S.C. 9831 et seq.);

(iii) a nonprofit or community based organization; or

(iv) a child care program, including a home.

(5) Eligible early childhood education program

The term "eligible early childhood education program" means—

(A) a family child care program, center-based child care program, State prekindergarten program, school program, or other out-of-home early childhood development care program, that—

(i) is licensed or regulated by the State; and

(ii) serves two or more unrelated children who are not old enough to attend kindergarten;

(B) a Head Start Program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); or

(C) an Early Head Start Program carried out under section 645A of the Head Start Act (42 U.S.C. 9840a).

(6) Low-income community

The term "low-income community" means a school attendance area (as defined in section 6313(a)(2)(A) of this title)—

(A) in which 70 percent of households earn less than 85 percent of the State median household income; or

(B) that includes a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such a school.

(7) Nurse

The term "nurse" means a nurse who meets all of the following:

(A) The nurse graduated from—

(i) an accredited school of nursing (as those terms are defined in section 296 of title 42);

(ii) a nursing center; or

(iii) an academic health center that provides nurse training.

(B) The nurse holds a valid and unrestricted license to practice nursing in the State in which the nurse practices in a clinical setting.

(C) The nurse holds one or more of the following:

(i) A graduate degree in nursing, or an equivalent degree.

(ii) A nursing degree from a collegiate school of nursing (as defined in section 296 of title 42).

(iii) A nursing degree from an associate degree school of nursing (as defined in such section).

(iv) A nursing degree from a diploma school of nursing (as defined in such section).

(8) Occupational therapist

The term "occupational therapist" means an individual who—

(A) has received, at a minimum, a baccalaureate degree in occupational therapy from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 1099b(a) of this title; and

(B)(i) provides occupational therapy services under section 1395x(g) of title 42; or

(ii) meets or exceeds the qualifications for a qualified occupational therapist, as determined by State law.

(9) Physical therapist

The term "physical therapist" means an individual who—

(A) has received, at a minimum, a graduate degree in physical therapy from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 1099b(a) of this title; and

(B)(i) provides physical therapy services under section 1395x(p) of title 42; or

(ii) meets or exceeds the qualifications for a qualified physical therapist, as determined by State law.

(10) Speech-language pathologist

The term "speech-language pathologist" means a speech-language pathologist who—

(A) has received, at a minimum, a graduate degree in speech-language pathology or communication sciences and disorders from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 1099b(a) of this title; and

(B) provides speech-language pathology services under section 1395x(ll)(1) of title 42, or meets or exceeds the qualifications for a qualified speech-language pathologist under subsection (ll)(4) of such section.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years to provide loan forgiveness in

accordance with this section.

(Pub. L. 89–329, title IV, §428K, as added Pub. L. 105–244, title IV, §425, Oct. 7, 1998, 112 Stat. 1699; amended Pub. L. 110–315, title IV, §430, Aug. 14, 2008, 122 Stat. 3236; Pub. L. 111–39, title IV, §402(f)(7), July 1, 2009, 123 Stat. 1944; Pub. L. 111–148, title V, §5205(b), Mar. 23, 2010, 124 Stat. 611; Pub. L. 114–95, title IX, §9215(oo)(8), Dec. 10, 2015, 129 Stat. 2180.)

REFERENCES IN TEXT

Section 9101 of the Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(5)(A), was amended by Pub. L. 114–95 and, as so amended, is now section 8101 of the Act and no longer defines "highly qualified". A reference in this section to the term "highly qualified" as defined in section 9101 of the Act is to be treated as a reference to such term under such section 9101 as in effect on the day before the date of enactment of Pub. L. 114–95. See section 9214(a)(1) of Pub. L. 114–95, set out as a Use of the Term "Highly Qualified" in Other Laws note under section 1070g–2 of this title.

The Head Start Act, referred to in subsec. (g)(4)(C)(ii), (5)(B), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (b)(5)(B)(iv). Pub. L. 114–95, §9215(oo)(8)(A), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

Subsec. (b)(8). Pub. L. 114–95, §9215(oo)(8)(B), added par. (8) and struck out former par. (8). Prior to amendment, text read as follows: "The individual is employed full-time as a school counselor (as such term is defined in section 7245(e) of this title), in a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such a school."

2010—Subsec. (b)(18). Pub. L. 111–148, §5205(b)(1), added par. (18).

Subsec. (g). Pub. L. 111–148, §5205(b)(2), added par. (1) and redesignated former pars. (1) to (9) as (2) to (10), respectively.

2009—Subsec. (g)(9)(B). Pub. L. 111–39 substituted "under subsection (ll)(4) of such section" for "under subsection (ll)(3) of such section".

2008—Pub. L. 110–315 amended section generally. Prior to amendment, section related to loan forgiveness for child care providers.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

ALLIED HEALTH WORKFORCE RECRUITMENT AND RETENTION PROGRAMS

Pub. L. 111–148, title V, §5205(a), Mar. 23, 2010, 124 Stat. 611, provided that: "The purpose of this section [amending this section] is to assure an adequate supply of allied health professionals to eliminate critical allied health workforce shortages in Federal, State, local, and tribal public health agencies or in settings where patients might require health care services, including acute care facilities, ambulatory care facilities, personal residences and other settings, as recognized by the Secretary of Health and Human Services by authorizing an Allied Health Loan Forgiveness Program."

[For definition of "Allied Health Loan Forgiveness Program" as used in section 5205(a) of Pub. L. 111–148, set out above, see section 5002(a) of Pub. L. 111–148, set out as a note under section 294q of Title 42, The Public Health and Welfare.]

[1] *See References in Text note below.*

§1078–12. Loan repayment for civil legal assistance attorneys

(a) Purpose

The purpose of this section is to encourage qualified individuals to enter and continue employment as civil legal assistance attorneys.

(b) Definitions

In this section:

(1) Civil legal assistance attorney

The term "civil legal assistance attorney" means an attorney who—

(A) is a full-time employee of—

(i) a nonprofit organization that provides legal assistance with respect to civil matters to low-income individuals without a fee; or

(ii) a protection and advocacy system or client assistance program that provides legal assistance with respect to civil matters and receives funding under—

(I) subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.);

(II) section 732 or 794e of title 29;

(III) part A of title I of the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.);

(IV) section 3004 of title 29;

(V) section 1320b–21 of title 42;

(VI) section 300d–53 of title 42; or

(VII) section 21061 of title 52;

(B) as such employee, provides civil legal assistance as described in subparagraph (A) on a full-time basis; and

(C) is continually licensed to practice law.

(2) Student loan

(A) In general

Except as provided in subparagraph (B), the term "student loan" means—

(i) subject to clause (ii), a loan made, insured, or guaranteed under this part, part C, or part D; and

(ii) a loan made under section 1078–3 or 1087e(g) of this title, to the extent that such loan was used to repay—

(I) a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct PLUS Loan;

(II) a loan made under section 1078, 1078–2, or 1078–8 of this title; or

(III) a loan made under part D.

(B) Exclusion of parent plus loans

The term "student loan" does not include any of the following loans:

(i) A loan made to the parents of a dependent student under section 1078–2 of this title.

(ii) A Federal Direct PLUS Loan made to the parents of a dependent student.

(iii) A loan made under section 1078–3 or 1087e(g) of this title, to the extent that such loan was used to repay—

(I) a loan made to the parents of a dependent student under section 1078–2 of this title; or

(II) a Federal Direct PLUS Loan made to the parents of a dependent student.

(c) Program authorized

From amounts appropriated under subsection (i) for a fiscal year, the Secretary shall carry out a program of assuming the obligation to repay a student loan, by direct payments on behalf of a borrower to the holder of such loan, in accordance with subsection (d), for any borrower who—

(1) is employed as a civil legal assistance attorney; and

(2) is not in default on a loan for which the borrower seeks repayment.

(d) Terms of agreement

(1) In general

To be eligible to receive repayment benefits under subsection (c), a borrower shall enter into a written agreement with the Secretary that specifies that—

(A) the borrower will remain employed as a civil legal assistance attorney for a required period of service of not less than three years, unless involuntarily separated from that employment;

(B) if the borrower is involuntarily separated from employment on account of misconduct, or voluntarily separates from employment, before the end of the period specified in the agreement, the borrower will repay the Secretary the amount of any benefits received by such employee under this agreement;

(C) if the borrower is required to repay an amount to the Secretary under subparagraph (B) and fails to repay such amount, a sum equal to that amount shall be recoverable by the Federal Government from the employee by such methods as are provided by law for the recovery of amounts owed to the Federal Government;

(D) the Secretary may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be contrary to the public interest; and

(E) the Secretary shall make student loan payments under this section for the period of the agreement, subject to the availability of appropriations.

(2) Repayments

(A) In general

Any amount repaid by, or recovered from, an individual under this subsection shall be credited to the appropriation account from which the amount involved was originally paid.

(B) Merger

Any amount credited under subparagraph (A) shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations, if any, as the sums with which the amount was merged.

(3) Limitations

(A) Student loan payment amount

Student loan repayments made by the Secretary under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed upon by the borrower and the Secretary in an agreement under paragraph (1), except that the amount paid by the Secretary under this section shall not exceed—

(i) $6,000 for any borrower in any calendar year; or

(ii) an aggregate total of $40,000 in the case of any borrower.

(B) Beginning of payments

Nothing in this section shall authorize the Secretary to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the Secretary entered into an agreement with the borrower under this subsection.

(e) Additional agreements

(1) In general

On completion of the required period of service under an agreement under subsection (d), the borrower and the Secretary may, subject to paragraph (2), enter into an additional agreement in

accordance with subsection (d).

(2) Term

An agreement entered into under paragraph (1) may require the borrower to remain employed as a civil legal assistance attorney for less than three years.

(f) Award basis; priority

(1) Award basis

Subject to paragraph (2), the Secretary shall provide repayment benefits under this section on a first-come, first-served basis, and subject to the availability of appropriations.

(2) Priority

The Secretary shall give priority in providing repayment benefits under this section in any fiscal year to a borrower who—

(A) has practiced law for five years or less and, for not less than 90 percent of the time in such practice, has served as a civil legal assistance attorney;

(B) received repayment benefits under this section during the preceding fiscal year; and

(C) has completed less than three years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

(g) Ineligibility for double benefits

No borrower may, for the same service, receive a reduction of loan obligations under both this section and section 1078–11 or 1087e(m) of this title.

(h) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out this section.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(Pub. L. 89–329, title IV, §428L, as added Pub. L. 110–315, title IV, §431, Aug. 14, 2008, 122 Stat. 3242.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in (b)(1)(A)(ii)(I), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of title I of the Act is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

The Protection and Advocacy for Individuals with Mental Illness Act, referred to in subsec. (b)(1)(A)(ii)(III), is Pub. L. 99–319, May 23, 1986, 100 Stat. 478. Part A of title I of the Act is classified generally to part A (§10801 et seq.) of subchapter I of chapter 114 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of Title 42 and Tables.

§1079. Certificate of Federal loan insurance—effective date of insurance

(a) Loan-by-loan insurance

(1) Authority to issue certificates on application

If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Effectiveness of certificate

Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) of this section shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) of this section by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c) of this section.

(3) Contents of applications

An application submitted pursuant to subsection (a)(1) of this section shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c) of this section, and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) Comprehensive insurance coverage certificate

(1) Establishment of system by regulation

In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a) of this section, the Secretary may, in accordance with regulations consistent with section 1074 of this title, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) Uncovered loans

If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 1074 of this title, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) of this section or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

(c) Charges for Federal insurance

The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the

payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 1080(a) of this title.

(d) Assignability of insurance

The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) Consolidation not to affect insurance

The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a) of this section, the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b) of this section, the Secretary may amend that certificate accordingly.

(Pub. L. 89–329, title IV, §429, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1395.)

PRIOR PROVISIONS

A prior section 1079, Pub. L. 89–329, title IV, §429, Nov. 8, 1965, 79 Stat. 1243; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2123; Pub. L. 96–374, title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503, related to certificates of Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

§1080. Default of student under Federal loan insurance program

(a) Notice to Secretary and payment of loss

Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 1075(b) of this title. Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that the institution was contacted and other reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than 90 days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation.

(b) Effect of payment of loss

Upon payment of the amount of the loss pursuant to subsection (a) of this section, the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost

of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

(c) Forbearance not precluded

Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

(d) Care and diligence required of holders

Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 1078(a)(4) of this title and section 1079(a)(3) of this title, or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) Default rate of lenders, holders, and guaranty agencies

(1) In general

The Secretary shall annually publish a list indicating the cohort default rate (determined in accordance with section 1085(m) of this title) for each originating lender, subsequent holder, and guaranty agency participating in the program assisted under this part and an average cohort default rate for all institutions of higher education within each State.

(2) Regulations

The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(3) Rate establishment and correction

The Secretary shall establish a cohort default rate for lenders, holders, and guaranty agencies (determined consistent with section 1085(m) of this title), except that the rate for lenders, holders, and guaranty agencies shall not reflect any loans issued in accordance with section 1078(j) of this title. The Secretary shall allow institutions, lenders, holders, and guaranty agencies the opportunity to correct such cohort default rate information.

(Pub. L. 89–329, title IV, §430, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1397; amended Pub. L. 102–325, title IV, §423, July 23, 1992, 106 Stat. 543; Pub. L. 105–244, title IV, §426, Oct. 7, 1998, 112 Stat. 1702.)

PRIOR PROVISIONS

A prior section 1080, Pub. L. 89–329, title IV, §430, Nov. 8, 1965, 79 Stat. 1244; Pub. L. 90–575, title I,

§113(b)(5), Oct. 16, 1968, 82 Stat. 1021; Pub. L. 92–318, title I, §132B(c), June 23, 1972, 86 Stat. 262; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2125; Pub. L. 95–43, §1(a)(33), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §§416(a)(1), (b), 422, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1420, 1421, 1432, 1503; Pub. L. 99–272, title XVI, §§16014(a)(2), 16022, Apr. 7, 1986, 100 Stat. 341, 349, related to default of student borrowers under Federal loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 inserted "the institution was contacted and other" after "submit proof that" in third sentence.

1992—Subsec. (e). Pub. L. 102–325 added subsec. (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

STUDY OF FRAUD-BASED DEFENSES

Pub. L. 102–325, title XIV, §1403, July 23, 1992, 106 Stat. 817, directed Secretary of Education to conduct a study of impact of fraud-based defenses on Federal Family Education Loan Program and to submit a report to Congress on the study not later than 19 months after July 23, 1992, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

§1080a. Reports to consumer reporting agencies and institutions of higher education

(a) Agreements to exchange information

For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 1078 of this title, the Secretary and each guaranty agency, eligible lender, and subsequent holder shall enter into an agreement with each consumer reporting agency to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such consumer reporting agencies in complying with the Fair Credit Reporting Act [15 U.S.C. 1681 et seq.], such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance) or by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such consumer reporting agencies for responses to objections raised by borrowers. Subject to the requirements of subsection (c) of this section, such agreements shall require the Secretary or the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such consumer reporting agencies, with respect to any loan under this part that has not been repaid by the borrower—

(1) that the loan is an education loan (as such term is defined in section 1019 of this title);

(2) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

(3) information concerning the repayment status of the loan for inclusion in the file of the borrower, except that nothing in this subsection shall be construed to affect any otherwise applicable provision of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(4) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan; and

(5) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

(b) Additional information

Such agreements may also provide for the disclosure by such consumer reporting agencies to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice

under subsection (a)(4) of this section that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

(c) Contents of agreements

Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

(1) no information is disclosed by the Secretary or the guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purpose of this section;

(2) as to any information so disclosed, such consumer reporting agencies will be promptly notified of, and will promptly record, any change submitted by the Secretary, the guaranty agency, eligible lender, or subsequent holder with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

(4) with regard to notices of default under subsection (a)(4) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to consumer reporting agencies unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

(d) Contractor status of participants

A guaranty agency, eligible lender, or subsequent holder or consumer reporting agency which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5.

(e) Disclosure to institutions

The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and (b) of this section concerning student borrowers to the eligible institutions such borrowers attend or previously attended. To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or previously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.

(f) Duration of authority

Notwithstanding paragraphs (4) and (5) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(5)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

(1) 7 years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty;

(2) 7 years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to the consumer reporting agency; or

(3) in the case of a borrower who reenters repayment after defaulting on a loan and subsequently goes into default on such loan, 7 years from the date the loan entered default such subsequent time.

(Pub. L. 89–329, title IV, §430A, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1398; amended Pub. L. 100–50, §10(v), June 3, 1987, 101 Stat. 346; Pub. L. 102–325, title IV, §424, July 23, 1992, 106 Stat. 543; Pub. L. 103–208, §2(c)(52), Dec. 20, 1993, 107 Stat. 2467; Pub. L. 110–315, title IV, §432(a), Aug. 14, 2008, 122 Stat. 3245; Pub. L. 111–39, title IV, §402(f)(8), July 1, 2009, 123 Stat. 1944.)

REFERENCES IN TEXT

The Fair Credit Reporting Act, referred to in subsec. (a), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

PRIOR PROVISIONS

A prior section 1080a, Pub. L. 89–329, title IV, §430A, as added Pub. L. 99–272, title XVI, §16023, Apr. 7, 1986, 100 Stat. 349; amended Pub. L. 99–320, §2(c), May 23, 1986, 100 Stat. 491, related to reports to credit bureaus and institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (f). Pub. L. 111–39, in introductory provisions, substituted "and (5)" for "and (6)" and "(a)(5)" for "(a)(6)".

2008—Pub. L. 110–315, §432(a)(1), substituted "consumer reporting agencies" for "credit bureaus" in section catchline.

Subsec. (a). Pub. L. 110–315, §432(a)(2)(B)–(D), added pars. (1) and (3) and redesignated former pars. (1), (2) and (3) as (2), (4) and (5), respectively.

Pub. L. 110–315, §432(a)(2)(A), in introductory provisions, substituted "the Secretary and" for "the Secretary," and "an agreement with each consumer reporting agency" for "agreements with credit bureau organizations" in first sentence, "such consumer reporting agencies" for "such organizations" in two places and "insurance) or by" for "insurance), by" in second sentence, and "Secretary or" for "Secretary," and "consumer reporting agencies" for "organizations" in third sentence.

Subsec. (b). Pub. L. 110–315, §432(a)(3), substituted "consumer reporting agencies" for "organizations" and "subsection (a)(4)" for "subsection (a)(2)".

Subsec. (c)(2). Pub. L. 110–315, §432(a)(4)(A), substituted "consumer reporting agencies" for "organizations".

Subsec. (c)(4). Pub. L. 110–315, §432(a)(4)(B)(i), substituted "subsection (a)(4)" for "subsection (a)(2)".

Subsec. (c)(4)(A). Pub. L. 110–315, §432(a)(4)(B)(ii), substituted "consumer reporting agencies" for "credit bureau organizations".

Subsec. (d). Pub. L. 110–315, §432(a)(5), substituted "consumer reporting agency" for "credit bureau organization".

1993—Subsec. (f)(1). Pub. L. 103–208 substituted a semicolon for the comma at end.

1992—Subsec. (f). Pub. L. 102–325 struck out "or" at end of par. (1), added pars. (2) and (3), and struck out former par. (2) which read as follows: "with regard to an account on a loan on which the Secretary or the guaranty agency has paid a claim but not reported the account to a consumer reporting agency on or before October 1, 1985, 7 years from that date."

1987—Subsec. (e). Pub. L. 100–50 inserted sentence at end permitting an eligible institution to enter into arrangements with holders of delinquent loans made to borrowers for purpose of providing current information on borrower's location or employment or to assist holder in contacting and influencing borrower to avoid default.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of

1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1081. Insurance fund

(a) Establishment

There is hereby established a student loan insurance fund (hereinafter in this section called the "fund") which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 1078(c) of this title. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 1072 of this title, and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) Borrowing authority

If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 1078(c) of this title, the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(Pub. L. 89–329, title IV, §431, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1400; amended Pub. L. 100–50, §10(w), June 3, 1987, 101 Stat. 346.)

CODIFICATION

In subsec. (b), "chapter 31 of title 31" and "that chapter" substituted for "the Second Liberty Bond Act, as amended" and "that Act, as amended", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1081, Pub. L. 89–329, title IV, §431, Nov. 8, 1965, 79 Stat. 1245; Pub. L. 90–460, §3(c), Aug. 3, 1968, 82 Stat. 638; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2126; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a student loan insurance fund, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted "section 1072 of this title" for "section 1072(a)(4)(C) of this title".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

FEDERAL FAMILY EDUCATION LOAN INSURANCE FUND

Pub. L. 105–244, title IV, §434, Oct. 7, 1998, 112 Stat. 1711, provided that: "Any funds in the insurance fund, as established under section 431 of the Higher Education Act of 1965 (20 U.S.C. 1081), on the date of enactment of this Act [Oct. 7, 1998] shall be transferred to and deposited in the Treasury. All funds received by the Secretary of Education under subsection (a) of such section after the date of enactment of this Act shall be deposited into the fund in accordance with such subsection."

TRANSFER OF ASSETS AND LIABILITIES OF THE VOCATIONAL STUDENT LOAN INSURANCE FUND

All assets and liabilities of the vocational student loan insurance fund transferred to the student loan insurance fund, see section 116(c)(2) of Pub. L. 90–575, set out as a note under former section 981 et seq. of this title.

§1082. Legal powers and responsibilities

(a) General powers

In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part, including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 1078(c) of this title; and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) Financial operations responsibilities

The Secretary shall, with respect to the financial operations arising by reason of this part prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31. The transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government. The Secretary may not enter into any settlement of any claim under this subchapter and part C of subchapter I of chapter 34 of title 42 that exceeds $1,000,000 unless—

(1) the Secretary requests a review of the proposed settlement of such claim by the Attorney General; and

(2) the Attorney General responds to such request, which may include, at the Attorney General's discretion, a written opinion related to such proposed settlement.

(c) Data collection

(1) Collection by category of loan

(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) of this paragraph as the Secretary deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2) Collection and reporting requirements

(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) Institutional, public, or nonprofit lenders

For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d) Delegation

(1) Regional offices

The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Department.

(2) Delegable functions

The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 1079 of this title and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive

insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 1080(a) of this title, examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under subsection (a) of this section), and recommending litigation with respect to any such claim.

(e) Use of information on borrowers

Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 1078(c)(1) of this title, any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

(f) Audit of financial transactions

(1) Comptroller General and Inspector General authority

The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 1078(b) of this title;

(B) any eligible lender as defined in section 1085(d)(1) of this title;

(C) a representative sample of eligible lenders under this part, upon the request of either of the authorizing committees, with respect to the payment of the special allowance under section 1087–1 of this title in order to evaluate the program authorized by this part.

(2) Access to records

For the purpose of carrying out this subsection, the records of any entity described in subparagraph (A), (B), (C), or (D) [1] of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purpose of section 716(c) of title 31, such records shall be considered to be records to which the Comptroller General has access by law, and for the purpose of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of functions assigned by that Act to the Inspector General.

(3) "Record" defined

For the purpose of this subsection, the term "record" includes any information, document, report, answer, account, paper, or other data or documentary evidence.

(4) Audit procedures

In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.

(g) Civil penalties

(1) Authority to impose penalties

Upon determination, after reasonable notice and opportunity for a hearing, that a lender or a guaranty agency—

(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

(2) Limitations

No civil penalty may be imposed under paragraph (1) of this subsection unless the Secretary determines that—

(A) the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from a violation, failure, or misrepresentation that is material; and

(B) the lender or guaranty agency knew or should have known that its actions violated or failed to carry out the provisions of this part or the regulations thereunder.

(3) Correction of failure

A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to notification by the Secretary under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

(4) Consideration as single violation

For the purpose of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency, and occurring prior to notification by the Secretary under that paragraph, shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both. The Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

(5) Assignees not liable for violations by others

If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

(6) Compromise

Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

(h) Authority of the Secretary to impose and enforce limitations, suspensions, and terminations

(1) Imposition of sanctions

(A) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

(i) has substantially failed—

(I) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

(II) to make the reports or statements under section 1078(a)(4) of this title, or

(III) to pay the required loan insurance premiums to any guaranty agency, or

(ii) has engaged in—

(I) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

(II) the practice of making loans that violate the certification for eligibility provided in section 1078 of this title,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part.

(B) The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under subparagraph (A)(i) of this paragraph or practice under subparagraph (A)(ii) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

(i) exercise the necessary care and diligence,

(ii) comply with the requirements described in subparagraph (A)(i), or

(iii) cease to engage in the practices described in subparagraph (A)(ii),

as the case may be.

(2) Review of sanctions on lenders

(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 1078(b)(1)(U) of this title within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 1078(b)(1)(U) of this title shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 1078(b)(1)(U) of this title and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the lender has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(3) Review of sanctions on eligible institutions

(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 1078(b)(1)(T) of this title within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 1078(b)(1)(T) of this title shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 1078(b)(1)(T) of this title and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(i) Authority to sell defaulted loans

In the event that all other collection efforts have failed, the Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies, eligible lenders, guaranty agencies, or other qualified purchaser on such terms as the Secretary determines are in the best financial interests of the United States. A loan may not be sold pursuant to this subsection if such loan is in repayment status.

(j) Authority of Secretary to take emergency actions against lenders

(1) Imposition of sanctions

If the Secretary—

(A) receives information, determined by the Secretary to be reliable, that a lender is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation;

(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

(C) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures authorized in subsection (h) of this section;

the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the lender (by registered mail, return receipt requested), take emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to the lender.

(2) Length of emergency action

An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the lender under subsection (h) of this section before the expiration of that period.

(3) Opportunity to show cause

The Secretary shall provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted.

(k) Program of assistance for borrowers

(1) In general

The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this subchapter and part C of subchapter I of chapter 34 of title 42, including providing

employers with options for payroll deduction of loan payments and offering loan repayment matching provisions as part of employee benefit packages.

(2) Publication

The Secretary shall publicize models for providing the repayment assistance described in paragraph (1) and each year select entities that deserve recognition, through means devised by the Secretary, for the development of innovative plans for providing such assistance to employees.

(3) Recommendation

The Secretary shall recommend to the appropriate committees in the Senate and House of Representatives changes to statutes that could be made in order to further encourage such efforts.

(l) Uniform administrative and claims procedures

(1) In general

The Secretary shall, by regulation developed in consultation with guaranty agencies, lenders, institutions of higher education, secondary markets, students, third party servicers and other organizations involved in providing loans under this part, prescribe standardized forms and procedures regarding—

(A) origination of loans;
(B) electronic funds transfer;
(C) guaranty of loans;
(D) deferments;
(E) forbearance;
(F) servicing;
(G) claims filing;
(H) borrower status change and anticipated graduation date; and
(I) cures.

(2) Special rules

(A) The forms and procedures described in paragraph (1) shall include all aspects of the loan process as such process involves eligible lenders and guaranty agencies and shall be designed to minimize administrative costs and burdens (other than the costs and burdens involved in the transition to new forms and procedures) involved in exchanges of data to and from borrowers, schools, lenders, secondary markets, and the Department.

(B) Nothing in this paragraph shall be construed to limit the development of electronic forms and procedures.

(3) Simplification requirements

Such regulations shall include—

(A) standardization of computer formats, forms design, and guaranty agency procedures relating to the origination, servicing, and collection of loans made under this part;

(B) authorization of alternate means of document retention, including the use of microfilm, microfiche, laser disc, compact disc, and other methods allowing the production of a facsimile of the original documents;

(C) authorization of the use of computer or similar electronic methods of maintaining records relating to the performance of servicing, collection, and other regulatory requirements under this chapter and part C of subchapter I of chapter 34 of title 42; and

(D) authorization and implementation of electronic data linkages for the exchange of information to and from lenders, guarantors, institutions of higher education, third party servicers, and the Department of Education for student status confirmation reports, claim filing, interest and special allowance billing, deferment processing, and all other administrative steps relating to loans made pursuant to this part where using electronic data linkage is feasible.

(4) Additional recommendations

The Secretary shall review regulations prescribed pursuant to paragraph (1) and seek additional

recommendations from guaranty agencies, lenders, institutions of higher education, students, secondary markets, third party servicers and other organizations involved in providing loans under this part, not less frequently than annually, for additional methods of simplifying and standardizing the administration of the programs authorized by this part.

(m) Common forms and formats

(1) Common guaranteed student loan application form and promissory note

(A) In general

The Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, shall prescribe common application forms and promissory notes, or master promissory notes, to be used for applying for loans under this part.

(B) Requirements

The forms prescribed by the Secretary shall—

(i) use clear, concise, and simple language to facilitate understanding of loan terms and conditions by applicants; and

(ii) be formatted to require the applicant to clearly indicate a choice of lender.

(C) Free application form

For academic year 1999–2000 and succeeding academic years, the Secretary shall prescribe the form developed under section 1090 of this title as the application form under this part, other than for loans under sections 1078–2 and 1078–3 of this title.

(D) Master promissory note

(i) In general

The Secretary shall develop and require the use of master promissory note forms for loans made under this part and part C of this subchapter. Such forms shall be available for periods of enrollment beginning not later than July 1, 2000. Each form shall allow eligible borrowers to receive, in addition to initial loans, additional loans for the same or subsequent periods of enrollment through a student confirmation process approved by the Secretary. Such forms shall be used for loans made under this part or part C of this subchapter as directed by the Secretary. Unless otherwise notified by the Secretary, each institution of higher education that participates in the program under this part or part C may use a master promissory note for loans under this part and part C.

(ii) Consultation

In developing the master promissory note under this subsection, the Secretary shall consult with representatives of guaranty agencies, eligible lenders, institutions of higher education, students, and organizations involved in student financial assistance.

(iii) Sale; assignment; enforceability

Notwithstanding any other provision of law, each loan made under a master promissory note under this subsection may be sold or assigned independently of any other loan made under the same promissory note and each such loan shall be separately enforceable in all Federal and State courts on the basis of an original or copy of the master promissory note in accordance with the terms of the master promissory note.

(E) Perfection of security interests in student loans

(i) In general

Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in loans made under this part, on behalf of any eligible lender (as defined in section 1085(d) of this title) shall attach, be perfected, and be assigned priority in the manner provided by the applicable State's law for

perfection of security interests in accounts, as such law may be amended from time to time (including applicable transition provisions). If any such State's law provides for a statutory lien to be created in such loans, such statutory lien may be created by the entity or entities governed by such State law in accordance with the applicable statutory provisions that created such a statutory lien.

(ii) Collateral description

In addition to any other method for describing collateral in a legally sufficient manner permitted under the laws of the State, the description of collateral in any financing statement filed pursuant to this subparagraph shall be deemed legally sufficient if it lists such loans, or refers to records (identifying such loans) retained by the secured party or any designee of the secured party identified in such financing statement, including the debtor or any loan servicer.

(iii) Sales

Notwithstanding clauses (i) and (ii) and any provisions of any State law to the contrary, other than any such State's law providing for creation of a statutory lien, an outright sale of loans made under this part shall be effective and perfected automatically upon attachment as defined in the Uniform Commercial Code of such State.

(2) Common deferment form

The Secretary, in cooperation with representatives of guaranty agencies, institutions of higher education, and lenders involved in loans made under this part, shall prescribe a common deferment reporting form to be used for the processing of deferments of loans made under this subchapter and part C of subchapter I of chapter 34 of title 42.

(3) Common reporting formats

The Secretary shall promulgate standards including necessary rules, regulations (including the definitions of all relevant terms), and procedures so as to require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats, so as to permit the direct comparison of data submitted by individual lenders, servicers, or guaranty agencies.

(4) Electronic forms

Nothing in this section shall be construed to limit the development and use of electronic forms and procedures.

(n) Default reduction management

(1) Authorization

There are authorized to be appropriated $25,000,000 for fiscal year 1999 and each of the four succeeding fiscal years, for the Secretary to expend for default reduction management activities for the purposes of establishing a performance measure that will reduce defaults by 5 percent relative to the prior fiscal year. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

(2) Allowable activities

Allowable activities for which such funds shall be expended by the Secretary shall include the following: (A) program reviews; (B) audits; (C) debt management programs; (D) training activities; and (E) such other management improvement activities approved by the Secretary.

(3) Plan for use required

The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section to accomplish the 5 percent reduction in defaults. At the conclusion of the fiscal year, the Secretary shall report

the Secretary's findings and activities concerning the expenditure of funds and whether the performance measure was met. If the performance measure was not met, the Secretary shall report the following:

(A) why the goal was not met, including an indication of any managerial deficiencies or of any legal obstacles;

(B) plans and a schedule for achieving the established performance goal;

(C) recommended legislative or regulatory changes necessary to achieve the goal; and

(D) if the performance standard or goal is impractical or infeasible, why that is the case and what action is recommended, including whether the goal should be changed or the program altered or eliminated.

This report shall be submitted to the Appropriations Committees of the House of Representatives and the Senate and to the authorizing committees.

(o) Consequences of guaranty agency insolvency

In the event that the Secretary has determined that a guaranty agency is unable to meet its insurance obligations under this part, the holder of loans insured by the guaranty agency may submit insurance claims directly to the Secretary and the Secretary shall pay to the holder the full insurance obligation of the guaranty agency, in accordance with insurance requirements no more stringent than those of the guaranty agency. Such arrangements shall continue until the Secretary is satisfied that the insurance obligations have been transferred to another guarantor who can meet those obligations or a successor will assume the outstanding insurance obligations.

(p) Reporting requirement

All officers and directors, and those employees and paid consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State licensing agencies or boards, and entities acting as secondary markets (including the Student Loan Marketing Association), who are engaged in making decisions as to the administration of any program or funds under this subchapter and part C of subchapter I of chapter 34 of title 42 or as to the eligibility of any entity or individual to participate under this subchapter and part C of subchapter I of chapter 34 of title 42, shall report to the Secretary, in such manner and at such time as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, §432, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1401; amended Pub. L. 100–50, §10(x), (y), June 3, 1987, 101 Stat. 346; Pub. L. 101–239, title II, §2006(a), Dec. 19, 1989, 103 Stat. 2118; Pub. L. 102–325, title IV, §425, July 23, 1992, 106 Stat. 543; Pub. L. 103–208, §2(k)(2), (3), Dec. 20, 1993, 107 Stat. 2485; Pub. L. 104–66, title I, §1042(e), Dec. 21, 1995, 109 Stat. 716; Pub. L. 105–244, title IV, §427, Oct. 7, 1998, 112 Stat. 1702; Pub. L. 106–554, §1(a)(1) [title III, §311], Dec. 21, 2000, 114 Stat. 2763, 2763A–46; Pub. L. 109–171, title VIII, §8014(j), Feb. 8, 2006, 120 Stat. 171; Pub. L. 110–315, title I, §103(b)(6), title IV, §433, Aug. 14, 2008, 122 Stat. 3089, 3247; Pub. L. 111–39, title IV, §402(f)(9), July 1, 2009, 123 Stat. 1944.)

REFERENCES IN TEXT

Subparagraph (D) of paragraph (1) of subsec. (f), referred to in subsec. (f)(2), was repealed by Pub. L. 105–244, title IV, §427(a)(3), Oct. 7, 1998, 112 Stat. 1702.

The Inspector General Act of 1978, referred to in subsec. (f)(2), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1082, Pub. L. 89–329, title IV, §432, Nov. 8, 1965, 79 Stat. 1246; Pub. L. 90–460, §3(d), Aug. 3, 1968, 82 Stat. 638; Pub. L. 93–604, title VII, §705(a), Jan. 2, 1975, 88 Stat. 1964; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2127; Pub. L. 96–88, title III, §301(b)(2), Oct. 17, 1979, 93 Stat. 678;

Pub. L. 96–374, title IV, §416(c), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1421, 1503; Pub. L. 99–272, title XVI, §16024, Apr. 7, 1986, 100 Stat. 351, related to functions, powers, and duties of Secretary, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–39, §402(f)(9)(A), made technical amendment to reference in original act which appears in text as reference to section 1078 of this title.

Subsec. (m)(1)(B). Pub. L. 111–39, §402(f)(9)(B), in cl. (i), inserted "and" at end and, in cl. (ii), substituted period for "; and".

2008—Subsec. (b). Pub. L. 110–315, §433(a), inserted at end "The Secretary may not enter into any settlement of any claim under this subchapter and part C of subchapter I of chapter 34 of title 42 that exceeds $1,000,000 unless—" and pars. (1) and (2).

Subsec. (f)(1)(C). Pub. L. 110–315, §103(b)(6)(A), substituted "either of the authorizing committees" for "the Committee on Education and the Workforce of the House of Representatives or the Committee on Labor and Human Resources of the Senate".

Subsec. (m)(1)(D)(i). Pub. L. 110–315, §433(b), inserted at end "Unless otherwise notified by the Secretary, each institution of higher education that participates in the program under this part or part C may use a master promissory note for loans under this part and part C."

Subsec. (n)(3). Pub. L. 110–315, §103(b)(6)(B), substituted "authorizing committees" for "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" in concluding provisions.

2006—Subsec. (l)(1)(H). Pub. L. 109–171 inserted "and anticipated graduation date" after "status change".

2000—Subsec. (m)(1)(D)(iv). Pub. L. 106–554, §1(a)(1) [title III, §311(1)], struck out heading and text of cl. (iv). Text read as follows: "Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in loans made under this part created on behalf of any eligible lender as defined in section 1085(d) of this title may be perfected either through the taking of possession of such loans (which can be through taking possession of an original or copy of the master promissory note) or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts."

Subsec. (m)(1)(E). Pub. L. 106–554, §1(a)(1) [title III, §311(2)], added subpar. (E).

1998—Subsec. (f)(1)(B). Pub. L. 105–244, §427(a)(1), substituted "section 1085(d)(1)" for "section 1085(d)(1)(D), (F), or (H)".

Subsec. (f)(1)(C). Pub. L. 105–244, §427(a)(2), substituted "and the Workforce" for "and Labor" and a period for "; and" at end.

Subsec. (f)(1)(D). Pub. L. 105–244, §427(a)(3), struck out subpar. (D) which read as follows: "any Authority required to file a plan for doing business under section 1087–1(d) of this title."

Subsec. (k)(3). Pub. L. 105–244, §427(b), substituted "The Secretary" for "Within 1 year after July 23, 1992, the Secretary".

Subsec. (m)(1)(A). Pub. L. 105–244, §427(c)(1)(A), substituted "common application forms and promissory notes, or master promissory notes," for "a common application form and promissory note".

Subsec. (m)(1)(B). Pub. L. 105–244, §427(c)(1)(B), substituted "The forms" for "The form" in introductory provisions and struck out cl. (iii) which read as follows: "permit, to the maximum extent practicable, application for any loan under this part."

Subsec. (m)(1)(C). Pub. L. 105–244, §427(c)(1)(C), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: "The Secretary shall approve a form for use not later than 360 days after July 23, 1992."

Subsec. (m)(1)(D). Pub. L. 105–244, §427(c)(1)(D), amended heading and text of subpar. (D) generally. Prior to amendment, text read as follows: "Nothing in this section shall be construed to limit the development of electronic forms and procedures."

Subsec. (m)(4). Pub. L. 105–244, §427(c)(2), added par. (4).

Subsec. (n)(1). Pub. L. 105–244, §427(d)(1), substituted "1999" for "1993".

Subsec. (n)(3). Pub. L. 105–244, §427(d)(2), substituted "and the Workforce" for "and Labor" in concluding provisions.

Subsec. (p). Pub. L. 105–244, §427(e), struck out "State postsecondary reviewing entities designated under subpart 1 of part G of this subchapter," after "agencies or boards,".

1995—Subsec. (b). Pub. L. 104–66 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary shall, with respect to the financial operations arising by reason of this part—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

"(2) maintain with respect to insurance under this part an integral set of accounts and prepare financial statements in accordance with generally accepted accounting principles, which shall be audited annually by the General Accounting Office in conformity with generally accepted Government auditing standards except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government."

1993—Subsec. (h)(2)(A), (3)(A). Pub. L. 103–208 amended directory language of Pub. L. 102–325, §425(d)(1). See 1992 Amendment notes below.

1992—Subsec. (a)(1). Pub. L. 102–325, §425(a), inserted before semicolon at end ", including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers".

Subsecs. (a)(3), (g)(1). Pub. L. 102–325, §425(b)(1), (2), struck out "on the record" after "for a hearing".

Subsec. (g)(2). Pub. L. 102–325, §425(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from—

"(A)(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial misrepresentation;

"(ii) gross negligence; or

"(iii) willful actions on the part of the lender or guaranty agency; and

"(B) the violation, failure, or substantial misrepresentation is material."

Subsec. (g)(3). Pub. L. 102–325, §425(c)(2), substituted "notification by the Secretary under that paragraph" for "the institution of an action under that paragraph".

Subsec. (g)(4). Pub. L. 102–325, §425(c)(3), inserted ", and occurring prior to notification by the Secretary under that paragraph," after "guaranty agency" and substituted "or both. The" for "or both, and the".

Subsec. (h)(2)(A). Pub. L. 102–325, §425(d)(1), as amended by Pub. L. 103–208, §2(k)(2), in second sentence substituted "The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction" for "The Secretary shall disqualify such lender from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification".

Pub. L. 102–325, §425(b)(3), in first sentence struck out ", in accordance with sections 556 and 557 of title 5," after "The Secretary shall".

Subsec. (h)(2)(B), (C). Pub. L. 102–325, §425(d)(2), (3), added subpar. (B), redesignated former subpar. (B) as (C), and substituted "sanction" for "disqualification" in two places.

Subsec. (h)(3)(A). Pub. L. 102–325, §425(d)(4), as amended by Pub. L. 103–208, §2(k)(3), in second sentence substituted "The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions" for "The Secretary shall disqualify such institution from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification".

Pub. L. 102–325, §425(b)(4), in first sentence struck out ", in accordance with sections 556 and 557 of title 5," after "The Secretary shall".

Subsec. (h)(3)(B), (C). Pub. L. 102–325, §425(d)(5), (6), added subpar. (B), redesignated former subpar. (B) as (C), and substituted "sanction" for "disqualification" in two places.

Subsecs. (k) to (p). Pub. L. 102–325, §425(e), added subsecs. (k) to (p).

1989—Subsec. (j). Pub. L. 101–239 added subsec. (j).

1987—Subsec. (f)(4). Pub. L. 100–50, §10(x), added par. (4).

Subsec. (g)(2)(A)(i), (B). Pub. L. 100–50, §10(y), substituted "misrepresentation" for "representation".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

[1] *See References in Text note below.*

§1083. Student loan information by eligible lenders

(a) Required disclosure before disbursement

Each eligible lender, at or prior to the time such lender disburses a loan that is insured or guaranteed under this part (other than a loan made under section 1078–3 of this title), shall provide thorough and accurate loan information on such loan to the borrower in simple and understandable terms. Any disclosure required by this subsection may be made by an eligible lender by written or electronic means, including as part of the application material provided to the borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. Each lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. The disclosure shall include—

(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;

(2) the name of the eligible lender, and the address to which communications and payments should be sent;

(3) the principal amount of the loan;

(4) the amount of any charges, such as the origination fee and Federal default fee, and whether those fees will be—

(A) collected by the lender at or prior to the disbursal of the loan;

(B) deducted from the proceeds of the loan;

(C) paid separately by the borrower; or

(D) paid by the lender;

(5) the stated interest rate on the loan;

(6) for loans made under section 1078–8 of this title or to a student borrower under section 1078–2 of this title, an explanation—

(A) that the borrower has the option to pay the interest that accrues on the loan while the borrower is a student at an institution of higher education; and

(B) if the borrower does not pay such interest while attending an institution, when and how often interest on the loan will be capitalized;

(7) for loans made to a parent borrower on behalf of a student under section 1078–2 of this title, an explanation—

(A) that the parent has the option to defer payment on the loan while the student is enrolled on at least a half-time basis in an institution of higher education;

(B) if the parent does not pay the interest on the loan while the student is enrolled in an institution, when and how often interest on the loan will be capitalized; and

(C) that the parent may be eligible for a deferment on the loan if the parent is enrolled on at least a half-time basis in an institution of higher education;

(8) the yearly and cumulative maximum amounts that may be borrowed;

(9) a statement of the total cumulative balance, including the loan being disbursed, owed by the borrower to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(10) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(11) a description of the types of repayment plans that are available for the loan;

(12) a statement as to the minimum and maximum repayment terms which the lender may impose, and the minimum annual payment required by law;

(13) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(14) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty;

(15) a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred;

(16) a statement summarizing the circumstances in which a borrower may obtain forbearance on the loan;

(17) a description of the options available for forgiveness of the loan, and the requirements to obtain loan forgiveness;

(18) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a consumer reporting agency; and

(19) an explanation of any cost the borrower may incur during repayment or in the collection of the loan, including fees that the borrower may be charged, such as late payment fees and collection costs.

(b) Required disclosure before repayment

Each eligible lender shall, at or prior to the start of the repayment period on a loan made, insured, or guaranteed under section 1078, 1078–2, or 1078–8 of this title, disclose to the borrower by written or electronic means the information required under this subsection in simple and understandable terms. Each eligible lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. The disclosure required by this subsection shall be made not less than 30 days nor more than 150 days before the first payment on the loan is due from the borrower. The disclosure shall include—

(1) the name of the eligible lender or loan servicer, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin or the deferment period under section 1078–2(d)(1) of this title is to end, as applicable;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure (including, if applicable, the estimated amount of interest to be capitalized) as of the scheduled date on which the repayment period is to begin or the deferment period under 1078–2(d)(1) of this title is to end, as applicable;

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) information on loan repayment benefits offered for the loan or loans, including—

(A) whether the lender offers any benefits that are contingent on the repayment behavior of the borrower, such as—

(i) a reduction in interest rate if the borrower repays the loan by automatic payroll or checking account deduction;

(ii) a reduction in interest rate if the borrower makes a specified number of on-time

payments; and

(iii) other loan repayment benefits for which the borrower could be eligible that would reduce the amount of repayment or the length of the repayment period;

(B) if the lender provides a loan repayment benefit—

(i) any limitations on such benefit;

(ii) explicit information on the reasons a borrower may lose eligibility for such benefit;

(iii) for a loan repayment benefit that reduces the borrower's interest rate—

(I) examples of the impact the interest rate reduction would have on the length of the borrower's repayment period and the amount of repayment; and

(II) upon the request of the borrower, the effect the reduction in interest rate would have with respect to the borrower's payoff amount and time for repayment; and

(iv) whether and how the borrower can regain eligibility for a benefit if a borrower loses a benefit;

(6) a description of all the repayment plans that are available to the borrower and a statement that the borrower may change from one plan to another during the period of repayment;

(7) the repayment schedule for all loans covered by the disclosure, including—

(A) the date the first installment is due; and

(B) the number, amount, and frequency of required payments, which shall be based on a standard repayment plan or, in the case of a borrower who has selected another repayment plan, on the repayment plan selected by the borrower;

(8) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options;

(9) except as provided in subsection (d)—

(A) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(B) if the borrower has already paid interest on the loan or loans, the amount of interest paid;

(10) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(11) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty;

(12) a description of the options by which the borrower may avoid or be removed from default, including any relevant fees associated with such options; and

(13) additional resources, including nonprofit organizations, advocates, and counselors (including the Student Loan Ombudsman of the Department) of which the lender is aware, where borrowers may receive advice and assistance on loan repayment.

(c) Separate notification

Each eligible lender shall, at the time such lender notifies a borrower of approval of a loan which is insured or guaranteed under this part, provide the borrower with a separate notification which summarizes, in simple and understandable terms, the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a consumer reporting agency. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

(d) Special disclosure rules on PLUS loans, and unsubsidized loans

Loans made under sections 1078–2 and 1078–8 of this title shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(7) if the lender, in lieu of such

disclosure, provides the borrower with sample projections of monthly repayment amounts, assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower, or the student on whose behalf the loan is made, is in school, in simple and understandable terms. Such sample projections shall disclose the cost to the borrower of—

(1) capitalizing the interest; and

(2) paying the interest as the interest accrues.

(e) Required disclosures during repayment

(1) Pertinent information about a loan provided on a periodic basis

Each eligible lender shall provide the borrower of a loan made, insured, or guaranteed under this part with a bill or statement (as applicable) that corresponds to each payment installment time period in which a payment is due and that includes, in simple and understandable terms—

(A) the original principal amount of the borrower's loan;

(B) the borrower's current balance, as of the time of the bill or statement, as applicable;

(C) the interest rate on such loan;

(D) the total amount the borrower has paid in interest on the loan;

(E) the aggregate amount the borrower has paid for the loan, including the amount the borrower has paid in interest, the amount the borrower has paid in fees, and the amount the borrower has paid against the balance;

(F) a description of each fee the borrower has been charged for the most recently preceding installment time period;

(G) the date by which the borrower needs to make a payment in order to avoid additional fees and the amount of such payment and the amount of such fees;

(H) the lender's or loan servicer's address and toll-free phone number for payment and billing error purposes; and

(I) a reminder that the borrower has the option to change repayment plans, a list of the names of the repayment plans available to the borrower, a link to the appropriate page of the Department's website to obtain a more detailed description of the repayment plans, and directions for the borrower to request a change in repayment plan.

(2) Information provided to a borrower having difficulty making payments

Each eligible lender shall provide to a borrower who has notified the lender that the borrower is having difficulty making payments on a loan made, insured, or guaranteed under this part with the following information in simple and understandable terms:

(A) A description of the repayment plans available to the borrower, including how the borrower should request a change in repayment plan.

(B) A description of the requirements for obtaining forbearance on a loan, including expected costs associated with forbearance.

(C) A description of the options available to the borrower to avoid defaulting on the loan, and any relevant fees or costs associated with such options.

(3) Required disclosures during delinquency

Each eligible lender shall provide to a borrower who is 60 days delinquent in making payments on a loan made, insured, or guaranteed under this part with a notice, in simple and understandable terms, of the following:

(A) The date on which the loan will default if no payment is made.

(B) The minimum payment the borrower must make to avoid default.

(C) A description of the options available to the borrower to avoid default, and any relevant fees or costs associated with such options, including a description of deferment and forbearance and the requirements to obtain each.

(D) Discharge options to which the borrower may be entitled.

(E) Additional resources, including nonprofit organizations, advocates, and counselors (including the Student Loan Ombudsman of the Department), of which the lender is aware, where the borrower can receive advice and assistance on loan repayment.

(f) Cost of disclosure and consequences of nondisclosure

(1) No cost to borrowers

The information required under this section shall be available without cost to the borrower.

(2) Consequences of nondisclosure

The failure of an eligible lender to provide information as required by this section shall not—

(A) relieve a borrower of the obligation to repay a loan in accordance with the loan's terms; or

(B) provide a basis for a claim for civil damages.

(3) Rule of construction

Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act [15 U.S.C. 1601 et seq.] with regard to loans made under this part.

(4) Actions by the Secretary

The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

(Pub. L. 89–329, title IV, §433, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1406; amended Pub. L. 100–50, §10(z), June 3, 1987, 101 Stat. 346; Pub. L. 102–325, title IV, §426, July 23, 1992, 106 Stat. 548; Pub. L. 103–208, §2(c)(53), (54), (k)(4), Dec. 20, 1993, 107 Stat. 2468, 2485; Pub. L. 105–244, title IV, §428, Oct. 7, 1998, 112 Stat. 1704; Pub. L. 110–315, title IV, §434(a), Aug. 14, 2008, 122 Stat. 3247.)

REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (f)(3), is title I of Pub. L. 90–321, May 29, 1968, 82 Stat. 146, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

PRIOR PROVISIONS

A prior section 1083, Pub. L. 89–329, title IV, §433, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 90–575, title I, §116(d), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 92–318, title I, §132(c), June 23, 1972, 86 Stat. 261; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2129; Pub. L. 95–43, §1(a)(34), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to requirements for institutional lenders, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Pub. L. 110–315 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to student loan information by eligible lenders.

1998—Subsec. (a). Pub. L. 105–244, §428(a), amended heading and introductory provisions generally. Prior to amendment, introductory provisions read as follows: "Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part (other than a loan made under section 1078–3 of this title), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosure shall include—".

Subsec. (b). Pub. L. 105–244, §428(b), amended heading and introductory provisions generally. Prior to amendment, introductory provisions read as follows: "Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. For any loan made, insured, or guaranteed under this part, other than a loan made under section 1078–2 or 1078–3 of this title, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—".

1993—Subsec. (b). Pub. L. 103–208, §2(c)(53), substituted "30 days" for "60 days" in introductory provisions.

Subsec. (e). Pub. L. 103–208, §2(k)(4), amended directory language of Pub. L. 102–325, §426(c). See 1992 Amendment note below.

Pub. L. 103–208, §2(c)(54), substituted "sections" for "section" before "1078–1".

1992—Subsec. (a). Pub. L. 102–325, §426(a), added par. (1) and redesignated former pars. (1) to (13) as (2) to (14), respectively.

Subsec. (b). Pub. L. 102–325, §426(b)(1), in introductory provisions, inserted second sentence and struck out former second sentence which read as follows: "Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower."

Subsec. (b)(8). Pub. L. 102–325, §426(b)(2), inserted "except as provided in subsection (e) of this section," before "the projected".

Subsec. (e). Pub. L. 102–325, §426(c), as amended by Pub. L. 103–208, §2(k)(4), added subsec. (e).

1987—Subsec. (a). Pub. L. 100–50, §10(z)(1), inserted "(other than a loan made under section 1078–3 of this title)" after "this part" in first sentence.

Subsec. (a)(8). Pub. L. 100–50, §10(z)(2), added par. (8) and struck out former par. (8) which read as follows: "a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, the projected level of indebtedness of the student based on a 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 4- or 5-year college career;".

Subsec. (b)(7). Pub. L. 100–50, §10(z)(3), inserted ", except that such explanation is not required when the loan being made is a consolidation loan under section 1078–3 of this title" before semicolon at end.

Subsec. (d). Pub. L. 100–50, §10(z)(4), substituted "notifies a borrower of approval of a loan" for "makes the first disbursement of a loan with respect to a borrower".

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §434(b), Aug. 14, 2008, 122 Stat. 3252, provided that:

"(1) REGULAR DISCLOSURE REQUIREMENTS AND DISCLOSURE REQUIREMENTS TO BORROWERS HAVING DIFFICULTY MAKING PAYMENTS.—Paragraphs (1) and (2) of section 433(e) of the Higher Education Act of 1965 [20 U.S.C. 1083(e)(1), (2)], as amended by subsection (a), shall apply with respect to loans for which the first payment is due on or after July 1, 2009.

"(2) DISCLOSURE REQUIREMENTS FOR BORROWERS WITH DELINQUENT LOANS.—Section 433(e)(3) of the Higher Education Act of 1965 [20 U.S.C. 1083(e)(3)], as amended by subsection (a), shall apply with respect to loans that become delinquent on or after July 1, 2009."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(53) of Pub. L. 103–208 effective on and after 60 days after Dec. 20, 1993 and amendments by section 2(c)(54), (k)(4) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, see section 5(a), (b)(4) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsecs. (a), (b), and (d) of this section applicable only with respect to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

§1083a. Consumer education information

(a) In general

Each guaranty agency participating in a program under this part, working with the institutions of higher education served by such guaranty agency, shall develop and make available high-quality educational programs and materials to provide training for students and families in budgeting and

financial management, including debt management and other aspects of financial literacy, such as the cost of using high interest loans to pay for postsecondary education, particularly as budgeting and financial management relates to student loan programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42. Such programs and materials shall be in formats that are simple and understandable to students and families, and shall be provided before, during, and after the students' enrollment in an institution of higher education. The activities described in this section shall be considered default reduction activities for the purposes of section 1072 of this title.

(b) Rule of construction

Nothing in this section shall be construed to prohibit—

(1) a guaranty agency from using existing activities, programs, and materials in meeting the requirements of this section;

(2) a guaranty agency from providing programs or materials similar to the programs or materials described in subsection (a) to an institution of higher education that provides loans exclusively through part C; or

(3) a lender or loan servicer from providing outreach or financial aid literacy information in accordance with subsection (a).

(Pub. L. 89–329, title IV, §433A, as added Pub. L. 110–315, title IV, §435, Aug. 14, 2008, 122 Stat. 3252.)

PRIOR PROVISIONS

A prior section 1083a, Pub. L. 89–329, title IV, §433A, as added Pub. L. 96–374, title IV, §418, Oct. 3, 1980, 94 Stat. 1423; amended Pub. L. 97–301, §13(a), Oct. 13, 1982, 96 Stat. 1404; Pub. L. 98–79, §3(a), Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, title XVI, §16012(c), Apr. 7, 1986, 100 Stat. 340, related to student loan information to be provided by eligible lenders, prior to the general revision of this part by Pub. L. 99–498. See section 1083 of this title.

§1084. Participation by Federal credit unions in Federal, State, and private student loan insurance programs

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 1078(a)(1)(B) of this title.

(Pub. L. 89–329, title IV, §434, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1408.)

PRIOR PROVISIONS

A prior section 1084, Pub. L. 89–329, title IV, §434, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 90–575, title I, §116(b)(4), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 91–206, §6, Mar. 10, 1970, 84 Stat. 51; Pub. L. 92–318, title I, §132D(e), June 23, 1972, 86 Stat. 264; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2129; Pub. L. 95–630, title V, §502(a), Nov. 10, 1978, 92 Stat. 3681, related to participation by Federal credit unions in Federal, State, and private student loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

§1085. Definitions for student loan insurance program

As used in this part:

(a) Eligible institution

(1) In general

Except as provided in paragraph (2), the term "eligible institution" means an institution of

higher education, as defined in section 1002 of this title, except that, for the purposes of sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title, an eligible institution includes any institution that is within this definition without regard to whether such institution is participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and includes any institution ineligible for participation in any program under this part pursuant to paragraph (2) of this subsection.

(2) Ineligibility based on high default rates

(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and for the two succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B);

(ii) there are exceptional mitigating circumstances within the meaning of paragraph (5); or

(iii) there are, in the judgment of the Secretary, other exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During such appeal, the Secretary may permit the institution to continue to participate in a program under this part. If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal.

(B) For purposes of determinations under subparagraph (A), the threshold percentage is—

(i) 35 percent for fiscal year 1991 and 1992;

(ii) 30 percent for fiscal year 1993;

(iii) 25 percent for fiscal year 1994 through fiscal year 2011; and

(iv) 30 percent for fiscal year 2012 and any succeeding fiscal year.

(C) Until July 1, 1999, this paragraph shall not apply to any institution that is—

(i) a part B institution within the meaning of section 1061(2) of this title;

(ii) a tribally controlled college or university, as defined in section 1801(a)(4) of title 25; or

(iii) a Navajo Community College under the Navajo Community College Act [25 U.S.C. 640a et seq.].

(D) Notwithstanding the first sentence of subparagraph (A), the Secretary shall restore the eligibility to participate in a program under subpart 1 of part A, part B, or part D of this subchapter of an institution that did not appeal its loss of eligibility within 30 days of receiving notification if the Secretary determines, on a case-by-case basis, that the institution's failure to appeal was substantially justified under the circumstances, and that—

(i) the institution made a timely request that the appropriate guaranty agency correct errors in the draft data used to calculate the institution's cohort default rate;

(ii) the guaranty agency did not correct the erroneous data in a timely fashion; and

(iii) the institution would have been eligible if the erroneous data had been corrected by the guaranty agency.

(3) Appeals for regulatory relief

An institution whose cohort default rate, calculated in accordance with subsection (m), is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) for any two consecutive fiscal years may, not later than 30 days after the date the institution receives notification from the Secretary, file an appeal demonstrating exceptional mitigating circumstances, as defined in paragraph (5). The Secretary shall issue a decision on any such appeal not later than 45 days after the date of submission of the appeal. If the Secretary determines that the institution demonstrates exceptional mitigating circumstances, the Secretary may not subject the institution to provisional certification based solely on the institution's cohort default rate.

(4) Appeals based upon allegations of improper loan servicing

An institution that—

(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;

(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 1078–1(a)(2) [1] of this title; or

(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;

may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access for a reasonable period of time, not to exceed 30 days, to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records used by a guaranty agency in determining whether to pay a claim on a defaulted loan or by the Department in determining an institution's default rate in the loan program under part C of this subchapter. The Secretary shall reduce the institution's cohort default rate to reflect the percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B) of this section.

(5) Definition of mitigating circumstances

(A) For purposes of this subsection, an institution of higher education shall be treated as having exceptional mitigating circumstances that make application of paragraph (2) inequitable, and that provide for regulatory relief under paragraph (3), if such institution, in the opinion of an independent auditor, meets the following criteria:

(i) For a 12-month period that ended during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined, at least two-thirds of the students enrolled on at least a half-time basis at the institution—

(I) are eligible to receive a Federal Pell Grant award that is at least equal to one-half the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student would be eligible based on the student's enrollment status; or

(II) have an adjusted gross income that when added with the adjusted gross income of the student's parents (unless the student is an independent student), of less than the poverty level, as determined by the Department of Health and Human Services.

(ii) In the case of an institution of higher education that offers an associate, baccalaureate, graduate or professional degree, 70 percent or more of the institution's regular students who were initially enrolled on a full-time basis and were scheduled to complete their programs during the same 12-month period described in clause (i)—

(I) completed the educational programs in which the students were enrolled;

(II) transferred from the institution to a higher level educational program;

(III) at the end of the 12-month period, remained enrolled and making satisfactory progress toward completion of the student's educational programs; or

(IV) entered active duty in the Armed Forces of the United States.

(iii)(I) In the case of an institution of higher education that does not award a degree described in clause (ii), had a placement rate of 44 percent or more with respect to the institution's former regular students who—

(aa) remained in the program beyond the point the students would have received a 100 percent tuition refund from the institution;

(bb) were initially enrolled on at least a half-time basis; and

(cc) were originally scheduled, at the time of enrollment, to complete their educational programs during the same 12-month period described in clause (i).

(II) The placement rate shall not include students who are still enrolled and making satisfactory progress in the educational programs in which the students were originally enrolled on the date following 12 months after the date of the student's last date of attendance at the institution.

(III) The placement rate is calculated by determining the percentage of all those former regular students who—

(aa) are employed, in an occupation for which the institution provided training, on the date following 12 months after the date of their last day of attendance at the institution;

(bb) were employed, in an occupation for which the institution provided training, for at least 13 weeks before the date following 12 months after the date of their last day of attendance at the institution; or

(cc) entered active duty in the Armed Forces of the United States.

(IV) The placement rate shall not include as placements a student or former student for whom the institution is the employer.

(B) For purposes of determining a rate of completion and a placement rate under this paragraph, a student is originally scheduled, at the time of enrollment, to complete the educational program on the date when the student will have been enrolled in the program for the amount of time normally required to complete the program. The amount of time normally required to complete the program for a student who is initially enrolled full-time is the period of time specified in the institution's enrollment contract, catalog, or other materials, for completion of the program by a full-time student. For a student who is initially enrolled less than full-time, the period is the amount of time it would take the student to complete the program if the student remained enrolled at that level of enrollment throughout the program.

(6) Reduction of default rates at certain minority institutions

(A) Beneficiaries of exception required to establish management plan

After July 1, 1999, any institution that has a cohort default rate that equals or exceeds 25 percent for each of the three most recent fiscal years for which data are available and that relies on the exception in subparagraph (B) to continue to be an eligible institution shall—

(i) submit to the Secretary a default management plan which the Secretary, in the Secretary's discretion, after consideration of the institution's history, resources, dollars in default, and targets for default reduction, determines is acceptable and provides reasonable assurance that the institution will, by July 1, 2004, have a cohort default rate that is less than 25 percent;

(ii) engage an independent third party (which may be paid with funds received under section 1059d of this title or part B of subchapter III of this chapter) to provide technical assistance in implementing such default management plan; and

(iii) provide to the Secretary, on an annual basis or at such other intervals as the Secretary may require, evidence of cohort default rate improvement and successful implementation of such default management plan.

(B) Discretionary eligibility conditioned on improvement

Notwithstanding the expiration of the exception in paragraph (2)(C), the Secretary may, in the Secretary's discretion, continue to treat an institution described in subparagraph (A) of this paragraph as an eligible institution for each of the 1-year periods beginning on July 1 of 1999 through 2003, only if the institution submits by the beginning of such period evidence satisfactory to the Secretary that—

(i) such institution has complied and is continuing to comply with the requirements of subparagraph (A); and

(ii) such institution has made substantial improvement, during each of the preceding 1-year periods, in the institution's cohort default rate.

(7) Default prevention and assessment of eligibility based on high default rates

(A) First year

(i) In general

An institution whose cohort default rate is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) in any fiscal year shall establish a default prevention task force to prepare a plan to—

(I) identify the factors causing the institution's cohort default rate to exceed such threshold;

(II) establish measurable objectives and the steps to be taken to improve the institution's cohort default rate; and

(III) specify actions that the institution can take to improve student loan repayment, including appropriate counseling regarding loan repayment options.

(ii) Technical assistance

Each institution subject to this subparagraph shall submit the plan under clause (i) to the Secretary, who shall review the plan and offer technical assistance to the institution to promote improved student loan repayment.

(B) Second consecutive year

(i) In general

An institution whose cohort default rate is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) for two consecutive fiscal years, shall require the institution's default prevention task force established under subparagraph (A) to review and revise the plan required under such subparagraph, and shall submit such revised plan to the Secretary.

(ii) Review by the Secretary

The Secretary shall review each revised plan submitted in accordance with this subparagraph, and may direct that such plan be amended to include actions, with measurable objectives, that the Secretary determines, based on available data and analyses of student loan defaults, will promote student loan repayment.

(8) Participation rate index

(A) In general

An institution that demonstrates to the Secretary that the institution's participation rate index is equal to or less than 0.0625 for any of the 3 most recent fiscal years for which data is available shall not be subject to paragraph (2). The participation rate index shall be determined by multiplying the institution's cohort default rate for loans under this part or part C of this subchapter, or weighted average cohort default rate for loans under this part and part C of this subchapter, by the percentage of the institution's regular students, enrolled on at least a half-time basis, who received a loan made under this part or part C of this subchapter for a 12-month period ending during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined.

(B) Data

An institution shall provide the Secretary with sufficient data to determine the institution's participation rate index within 30 days after receiving an initial notification of the institution's draft cohort default rate.

(C) Notification

Prior to publication of a final cohort default rate for an institution that provides the data described in subparagraph (B), the Secretary shall notify the institution of the institution's compliance or noncompliance with subparagraph (A).

(b), (c) Repealed. Pub. L. 102–325, title IV, §427(b)(1), (c), July 23, 1992, 106 Stat. 549

(d) Eligible lender

(1) In general

Except as provided in paragraphs (2) through (6), the term "eligible lender" means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to July 23, 1992, (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part, (III) it is a bank (as defined in section 1813(a)(1) of title 12) that is a wholly owned subsidiary of a nonprofit foundation, the foundation is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of such title, and the bank makes loans under this part only to undergraduate students who are age 22 or younger and has a portfolio of such loans that is not more than $5,000,000, or (IV) it is a National or State chartered bank, or a credit union, with assets of less than $1,000,000,000;

(B) a pension fund as defined in the Employee Retirement Income Security Act [29 U.S.C. 1001 et seq.];

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title, or an agency of any State functioning as a secondary market;

(G) for purposes of making loans under sections 1078–2(d) and 1078–3 of this title, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title;

(H) for purposes of making loans under sections 1078(h) [1] and 1078(j) of this title, a guaranty agency;

(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950));

(J) for purpose of making loans under section 1078–3 of this title, any nonprofit private

agency functioning in any State as a secondary market; and

(K) a consumer finance company subsidiary of a national bank which, as of October 7, 1998, through one or more subsidiaries: (i) acts as a small business lending company, as determined under regulations of the Small Business Administration under section 120.470 of title 13, Code of Federal Regulations (as such section is in effect on October 7, 1998); and (ii) participates in the program authorized by this part pursuant to subparagraph (C), provided the national bank and all of the bank's direct and indirect subsidiaries taken together as a whole, do not have, as their primary consumer credit function, the making or holding of loans made to students under this part.

(2) Requirements for eligible institutions

(A) In general

To be an eligible lender under this part, an eligible institution—

(i) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

(ii) shall not be a home study school;

(iii) shall not—

(I) make a loan to any undergraduate student;

(II) make a loan other than a loan under section 1078 or 1078–8 of this title to a graduate or professional student; or

(III) make a loan to a borrower who is not enrolled at that institution;

(iv) shall award any contract for financing, servicing, or administration of loans under this subchapter and part C of subchapter I of chapter 34 of title 42 on a competitive basis;

(v) shall offer loans that carry an origination fee or an interest rate, or both, that are less than such fee or rate authorized under the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42;

(vi) shall not have a cohort default rate (as defined in subsection (m)) greater than 10 percent;

(vii) shall, for any year for which the institution engages in activities as an eligible lender, provide for a compliance audit conducted in accordance with section 1078(b)(1)(U)(iii)(I) of this title, and the regulations thereunder, and submit the results of such audit to the Secretary;

(viii) shall use any proceeds from special allowance payments and interest payments from borrowers, interest subsidies received from the Department of Education, and any proceeds from the sale or other disposition of loans, for need-based grant programs; and

(ix) shall have met the requirements of subparagraphs (A) through (F) of this paragraph as in effect on the day before February 8, 2006, and made loans under this part, on or before April 1, 2006.

(B) Administrative expenses

An eligible lender under subparagraph (A) shall be permitted to use a portion of the proceeds described in subparagraph (A)(viii) for reasonable and direct administrative expenses.

(C) Supplement, not supplant

An eligible lender under subparagraph (A) shall ensure that the proceeds described in subparagraph (A)(viii) are used to supplement, and not to supplant, non-Federal funds that would otherwise be used for need-based grant programs.

(3) Disqualification for high default rates

The term "eligible lender" does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such

loans as are described in section 1078(a)(1) of this title made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in subsection (m).

(4) Waiver of disqualification

Whenever the Secretary determines that—

(A) there is reasonable possibility that an eligible institution may, within 1 year after a determination is made under paragraph (3), improve the collection of loans described in section 1078(a)(1) of this title, so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(5) Disqualification for use of certain incentives

The term "eligible lender" does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has—

(A) offered, directly or indirectly, points, premiums, payments (including payments for referrals and for processing or finder fees), prizes, stock or other securities, travel, entertainment expenses, tuition payment or reimbursement, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements, to any institution of higher education, any employee of an institution of higher education, or any individual or entity in order to secure applicants for loans under this part;

(B) conducted unsolicited mailings, by postal or electronic means, of student loan application forms to students enrolled in secondary schools or postsecondary institutions, or to family members of such students, except that applications may be mailed, by postal or electronic means, to students or borrowers who have previously received loans under this part from such lender;

(C) entered into any type of consulting arrangement, or other contract to provide services to a lender, with an employee who is employed in the financial aid office of an institution of higher education, or who otherwise has responsibilities with respect to student loans or other financial aid of the institution;

(D) compensated an employee who is employed in the financial aid office of an institution of higher education, or who otherwise has responsibilities with respect to student loans or other financial aid of the institution, and who is serving on an advisory board, commission, or group established by a lender or group of lenders for providing such service, except that the eligible lender may reimburse such employee for reasonable expenses incurred in providing such service;

(E) performed for an institution of higher education any function that such institution of higher education is required to perform under this title, except that a lender shall be permitted to perform functions on behalf of such institution in accordance with section 1092(b) or 1092(l) of this title;

(F) paid, on behalf of an institution of higher education, another person to perform any function that such institution of higher education is required to perform under this subchapter

and part C of subchapter I of chapter 34 of title 42, except that a lender shall be permitted to perform functions on behalf of such institution in accordance with section 1092(b) or 1092(l) of this title;

(G) provided payments or other benefits to a student at an institution of higher education to act as the lender's representative to secure applications under this subchapter and part C of subchapter I of chapter 34 of title 42 from individual prospective borrowers, unless such student—

(i) is also employed by the lender for other purposes; and

(ii) made all appropriate disclosures regarding such employment;

(H) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

(I) engaged in fraudulent or misleading advertising.

It shall not be a violation of this paragraph for a lender to provide technical assistance to institutions of higher education comparable to the kinds of technical assistance provided to institutions of higher education by the Department.

(6) Rebate fee requirement

To be an eligible lender under this part, an eligible lender shall pay rebate fees in accordance with section 1078–3(f) of this title.

(7) Eligible lender trustees

Notwithstanding any other provision of this subsection, an eligible lender may not make or hold a loan under this part as trustee for an institution of higher education, or for an organization affiliated with an institution of higher education, unless—

(A) the eligible lender is serving as trustee for that institution or organization as of September 30, 2006, under a contract that was originally entered into before September 30, 2006, and that continues in effect or is renewed after September 30, 2006; and

(B) the institution or organization, and the eligible lender, with respect to its duties as trustee, each comply on and after January 1, 2007, with the requirements of paragraph (2), except that—

(i) the requirements of clauses (i), (ii), (vi), and (viii) of paragraph (2)(A) shall, subject to clause (ii) of this subparagraph, only apply to the institution (including both an institution for which the lender serves as trustee and an institution affiliated with an organization for which the lender serves as trustee);

(ii) in the case of an organization affiliated with an institution—

(I) the requirements of clauses (iii) and (v) of paragraph (2)(A) shall apply to the organization; and

(II) the requirements of clause (viii) of paragraph (2)(A) shall apply to the institution or the organization (or both), if the institution or organization receives (directly or indirectly) the proceeds described in such clause;

(iii) the requirements of clauses (iv) and (ix) of paragraph (2)(A) shall not apply to the eligible lender, institution, or organization; and

(iv) the eligible lender, institution, and organization shall ensure that the loans made or held by the eligible lender as trustee for the institution or organization, as the case may be, are included in a compliance audit in accordance with clause (vii) of paragraph (2)(A).

(8) School as lender program audit

Each institution serving as an eligible lender under paragraph (1)(E), and each eligible lender serving as a trustee for an institution of higher education or an organization affiliated with an institution of higher education, shall annually complete and submit to the Secretary a compliance audit to determine whether—

(A) the institution or lender is using all proceeds from special allowance payments and

interest payments from borrowers, interest subsidies received from the Department, and any proceeds from the sale or other disposition of loans, for need-based grant programs, in accordance with paragraph (2)(A)(viii);

(B) the institution or lender is using not more than a reasonable portion of the proceeds described in paragraph (2)(A)(viii) for direct administrative expenses; and

(C) the institution or lender is ensuring that the proceeds described in paragraph (2)(A)(viii) are being used to supplement, and not to supplant, Federal and non-Federal funds that would otherwise be used for need-based grant programs.

(e) Line of credit

The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(f) Due diligence

The term "due diligence" requires the utilization by a lender, in the servicing and collection of loans insured under this part, of servicing and collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(g), (h) Repealed. Pub. L. 102–325, title IV, §427(f), July 23, 1992, 106 Stat. 550

(i) Holder

The term "holder" means an eligible lender who owns a loan.

(j) Guaranty agency

The term "guaranty agency" means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 1078(b) of this title.

(k) Insurance beneficiary

The term "insurance beneficiary" means the insured or its authorized representative assigned in accordance with section 1079(d) of this title.

(l) Default

Except as provided in subsection (m) of this section, the term "default" includes only such defaults as have existed for (1) 270 days in the case of a loan which is repayable in monthly installments, or (2) 330 days in the case of a loan which is repayable in less frequent installments.

(m) Cohort default rate

(1) In general

(A) Except as provided in paragraph (2), the term "cohort default rate" means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 1078, 1078–1,[1] or 1078–8 of this title received for attendance at the institution, the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans) received for attendance at that institution in that fiscal year who default before the end of the second fiscal year following the fiscal year in which the students entered repayment. The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.

(B) In determining the number of students who default before the end of such second fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default,

any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.

(C) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment, the term "cohort default rate" means the percentage of such current and former students who entered repayment on such loans (or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans) in any of the three most recent fiscal years, who default before the end of the second fiscal year following the year in which they entered repayment.

(2) Special rules

(A) In the case of a student who has attended and borrowed at more than one school, the student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

(C) Any loan which has been rehabilitated before the end of the second fiscal year following the year in which the loan entered repayment is not considered as in default for purposes of this subsection. The Secretary may require guaranty agencies to collect data with respect to defaulted loans in a manner that will permit the identification of any defaulted loan for which (i) the borrower is currently making payments and has made not less than 6 consecutive on-time payments by the end of such second fiscal year, and (ii) a guaranty agency has renewed the borrower's title IV eligibility as provided in section 1078–6(b) of this title.

(D) For the purposes of this subsection, a loan made in accordance with section 1078–1 [1] of this title (or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under section 1078–1 [1] of this title) shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of forbearance based on such enrollment. Each eligible lender of a loan made under section 1078–1 [1] of this title (or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under section 1078–1 [1] of this title) shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

(3) Regulations to prevent evasions

The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(4) Collection and reporting of cohort default rates and life of cohort default rates

(A) The Secretary shall publish not less often than once every fiscal year a report showing cohort default data and life of cohort default rates for each category of institution, including: (i) four-year public institutions; (ii) four-year private nonprofit institutions; (iii) two-year public institutions; (iv) two-year private nonprofit institutions; (v) four-year proprietary institutions; (vi) two-year proprietary institutions; and (vii) less than two-year proprietary institutions. For purposes of this subparagraph, for any fiscal year in which one or more current and former students at an institution enter repayment on loans under section 1078, 1078–2, or 1078–8 of this title, received for attendance at the institution, the Secretary shall publish the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans) received for attendance at the institution in that fiscal year who default before the end of each succeeding fiscal year.

(B) The Secretary may designate such additional subcategories within the categories specified

in subparagraph (A) as the Secretary deems appropriate.

(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.

(D) The Secretary shall publish the report described in subparagraph (C) by September 30 of each year.

(n) Repealed. Pub. L. 102–325, title IV, §427(f), July 23, 1992, 106 Stat. 550

(o) Economic hardship

(1) In general

For purposes of this part and part D of this subchapter, a borrower shall be considered to have an economic hardship if—

(A) such borrower is working full-time and is earning an amount which does not exceed the greater of—

(i) the minimum wage rate described in section 206 of title 29; or

(ii) an amount equal to 150 percent of the poverty line applicable to the borrower's family size as determined in accordance with section 9902(2) of title 42; or

(B) such borrower meets such other criteria as are established by the Secretary by regulation in accordance with paragraph (2).

(2) Considerations

In establishing criteria for purposes of paragraph (1)(B), the Secretary shall consider the borrower's income and debt-to-income ratio as primary factors.

(p) Eligible not-for-profit holder

(1) Definition

Subject to the limitations in paragraph (2) and the prohibition in paragraph (3), the term "eligible not-for-profit holder" means an eligible lender under subsection (d) (except for an eligible lender described in subsection (d)(1)(E)) that requests a special allowance payment under section 1087–1(b)(2)(I)(vi)(II) of this title or a payment under section 1141 of this title and that is—

(A) a State, or a political subdivision, authority, agency, or other instrumentality thereof, including such entities that are eligible to issue bonds described in section 1.103–1 of title 26, Code of Federal Regulations, or section 144(b) of title 26;

(B) an entity described in section 150(d)(2) of such title that has not made the election described in section 150(d)(3) of such title;

(C) an entity described in section 501(c)(3) of such title; or

(D) acting as a trustee on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d).

(2) Limitations

(A) Existing on September 27, 2007

(i) In general

An eligible lender shall not be an eligible not-for-profit holder under this chapter and part C of subchapter I of chapter 34 of title 42 unless such lender—

(I) was a State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) that was, on September 27, 2007, acting as an eligible lender under subsection (d) (other than an eligible lender described in subsection (d)(1)(E)); or

(II) is acting as a trustee on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1),

regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), and such State, political subdivision, authority, agency, instrumentality, or other entity, on September 27, 2007, was the sole beneficial owner of a loan eligible for any special allowance payment under section 1087–1 of this title.

(ii) Exception

Notwithstanding clause (i), a State may elect, in accordance with regulations of the Secretary, to waive the requirements of this subparagraph for a new not-for-profit holder determined by the State to be necessary to carry out a public purpose of such State, except that a State may not make such election with respect the [2] requirements of clause (i)(II).

(B) No for-profit ownership or control

(i) In general

No State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) shall be an eligible not-for-profit holder under this chapter and part C of subchapter I of chapter 34 of title 42 if such State, political subdivision, authority, agency, instrumentality, or other entity is owned or controlled, in whole or in part, by a for-profit entity.

(ii) Trustees

A trustee described in paragraph (1)(D) shall not be an eligible not-for-profit holder under this chapter and part C of subchapter I of chapter 34 of title 42 with respect to a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), if such State, political subdivision, authority, agency, instrumentality, or other entity is owned or controlled, in whole or in part, by a for-profit entity.

(C) Sole ownership of loans and income

No State, political subdivision, authority, agency, instrumentality, trustee, or other entity described in paragraph (1)(A), (B), (C), or (D) shall be an eligible not-for-profit holder under this chapter and part C of subchapter I of chapter 34 of title 42 with respect to any loan, or income from any loan, unless—

(i) such State, political subdivision, authority, agency, instrumentality, or other entity is the sole beneficial owner of such loan and the income from such loan; or

(ii) such trustee holds the loan on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), and such State, political subdivision, authority, agency, instrumentality, or other entity is the sole beneficial owner of such loan and the income from such loan.

(D) Trustee compensation limitations

A trustee described in paragraph (1)(D) shall not receive compensation as consideration for acting as an eligible lender on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), in excess of reasonable and customary fees.

(E) Rule of construction

For purposes of subparagraphs (A), (B), (C), and (D) of this paragraph, a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority,

agency, instrumentality, or other entity is an eligible lender under subsection (d), shall not—

(i) be deemed to be owned or controlled, in whole or in part, by a for-profit entity; or

(ii) lose its status as the sole owner of a beneficial interest in a loan and the income from a loan,

by such State, political subdivision, authority, agency, instrumentality, or other entity, or by the trustee described in paragraph (1)(D), granting a security interest in, or otherwise pledging as collateral, such loan, or the income from such loan, to secure a debt obligation for which such State, political subdivision, authority, agency, instrumentality, or other entity is the issuer of the debt obligation.

(3) Prohibition

In the case of a loan for which the special allowance payment is calculated under section 1087–1(b)(2)(I)(vi)(II) of this title and that is sold by the eligible not-for-profit holder holding the loan to an entity that is not an eligible not-for-profit holder under this chapter and part C of subchapter I of chapter 34 of title 42, the special allowance payment for such loan shall, beginning on the date of the sale, no longer be calculated under section 1087–1(b)(2)(I)(vi)(II) of this title and shall be calculated under section 1087–1(b)(2)(I)(vi)(I) of this title instead.

(4) Regulations

Not later than 1 year after September 27, 2007, the Secretary shall promulgate regulations in accordance with the provisions of this subsection.

(Pub. L. 89–329, title IV, §435, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1408; amended Pub. L. 100–50, §10(aa), June 3, 1987, 101 Stat. 347; Pub. L. 101–239, title II, §§2003(a)(2), 2007(a), Dec. 19, 1989, 103 Stat. 2113, 2120; Pub. L. 101–508, title III, §3004(a), Nov. 5, 1990, 104 Stat. 1388–26; Pub. L. 101–542, title III, §301, Nov. 8, 1990, 104 Stat. 2387; Pub. L. 102–26, §2(a)(1), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title IV, §§416(e)(2), 427(a), (b)(1), (c)–(g), July 23, 1992, 106 Stat. 519, 549, 550; Pub. L. 103–66, title IV, §§4046(b)(1), 4106(b), Aug. 10, 1993, 107 Stat. 362, 368; Pub. L. 103–208, §2(c)(55)–(62), Dec. 20, 1993, 107 Stat. 2468, 2469; Pub. L. 103–235, §1, Apr. 28, 1994, 108 Stat. 381; Pub. L. 103–382, title III, §357, Oct. 20, 1994, 108 Stat. 3967; Pub. L. 104–208, div. A, title I, §101(e) [title VI, §602(b)(1)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–283; Pub. L. 105–244, title I, §102(b)(2), title IV, §429(a)–(c)(1), (d), title IX, §901(d), Oct. 7, 1998, 112 Stat. 1622, 1704–1709, 1828; Pub. L. 106–554, §1(a)(1) [title III, §§308(a), 312], Dec. 21, 2000, 114 Stat. 2763, 2763A–45, 2763A–46; Pub. L. 109–171, title VIII, §8011, Feb. 8, 2006, 120 Stat. 165; Pub. L. 109–292, §3(a), Sept. 30, 2006, 120 Stat. 1340; Pub. L. 110–84, title III, §304, Sept. 27, 2007, 121 Stat. 797; Pub. L. 110–109, §4, Oct. 31, 2007, 121 Stat. 1028; Pub. L. 110–315, title IV, §§436(a)(1), (b)–(e)(1), 438(a)(3), Aug. 14, 2008, 122 Stat. 3253–3256, 3258; Pub. L. 111–39, title IV, §402(b)(2), (f)(10), July 1, 2009, 123 Stat. 1940, 1944; Pub. L. 111–152, title II, §2101(b)(3), Mar. 30, 2010, 124 Stat. 1073.)

REFERENCES IN TEXT

The Navajo Community College Act, referred to in subsec. (a)(2)(C)(iii), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

The Employee Retirement Income Security Act, referred to in subsec. (d)(1)(B), probably means the Employee Retirement Income Security Act of 1974, Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

Section 1078–1 of this title, referred to in subsecs. (a)(4)(B) and (m)(1)(A), (2)(D), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

Section 1078(h) of this title, referred to in subsec. (d)(1)(H), was repealed by Pub. L. 110–315, title IV, §438(a)(2)(B), Aug. 14, 2008, 122 Stat. 3258.

Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)), referred to in subsec. (d)(1)(I), is act May 3, 1950, ch. 152, 64 Stat. 98, known as the Rural Rehabilitation Corporation Trust Liquidation Act, which was classified to sections 440 to 444 of former Title 40, Public Buildings, Property, and Works, and as notes set out under section 1001 of Title 7, Agriculture, and section 440 of former Title 40, and was omitted from the Code.

Title IV, referred to in subsec. (m)(2)(C), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1085, Pub. L. 89–329, title IV, §435, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 89–698, title II, §204, Oct. 29, 1966, 80 Stat. 1072; Pub. L. 90–575, title I, §§116(a), 118(a), Oct. 16, 1968, 82 Stat. 1023, 1026; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2130; Pub. L. 95–43, §1(a)(35), (36), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §§413(e), 421(e)(2), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1418, 1432, 1503; Pub. L. 99–272, title XVI, §§16017(b)(2), 16020, Apr. 7, 1986, 100 Stat. 347, 349, defined terms used in this part, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2010—Subsec. (a)(5)(A)(i)(I). Pub. L. 111–152 substituted "one-half the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student would be eligible" for "one-half the maximum Federal Pell Grant award for which a student would be eligible".

2009—Subsec. (a)(2)(C)(ii). Pub. L. 111–39, §402(f)(10)(A), substituted "a tribally controlled college or university, as defined in section 1801(a)(4) of title 25" for "a tribally controlled community college within the meaning of section 1801(a)(4) of title 25".

Subsec. (d)(1). Pub. L. 111–39, §402(f)(10)(B)(i), substituted "section 501(a) of such title" for "section 501(1) of such title" in subpar. (A)(ii)(III) and "sections 1078–2(d) and 1078–3 of this title," for "sections 1078–1(d), 1078–2(d), and 1078–3 of this title," in subpar (G).

Subsec. (d)(2)(A)(vi), (3). Pub. L. 111–39, §402(f)(10)(B)(ii), (iii), made technical amendment to reference in original act which appears in text as reference to subsec. (m).

Subsec. (d)(5)(A). Pub. L. 111–39, §402(f)(10)(B)(iv), substituted "to any institution of higher education, any employee of an institution of higher education, or any individual or entity in order to secure applicants for loans under this part" for "to any institution of higher education or any employee of an institution of higher education in order to secure applicants for loans under this part".

Subsec. (d)(5)(E), (F). Pub. L. 111–39, §402(b)(2), inserted "or 1092(l)" after "section 1092(b)".

Subsec. (o)(1)(A)(ii). Pub. L. 111–39, §402(f)(10)(C), made technical amendment to reference in original act which appears in text as reference to section 9902(2) of title 42.

Subsec. (p)(1). Pub. L. 111–39, §402(f)(10)(D), made technical amendment to reference in original act which appears in text as reference to section 1141 of this title.

2008—Subsec. (a)(2)(A)(ii). Pub. L. 110–315, §436(a)(1)(A)(i), substituted "paragraph (5)" for "paragraph (4)".

Subsec. (a)(2)(B)(iii), (iv). Pub. L. 110–315, §436(a)(1)(A)(ii), added cls. (iii) and (iv) and struck out former cl. (iii) which read as follows: "25 percent for any succeeding fiscal year."

Subsec. (a)(3) to (8). Pub. L. 110–315, §436(a)(1)(B)–(E), added pars. (3) and (7), redesignated former pars. (3), (4), (5), and (6), as (4), (5), (6), and (8), respectively, and, in introductory provisions of par. (5)(A), substituted "For purposes of this subsection, an institution of higher education shall be treated as having exceptional mitigating circumstances that make application of paragraph (2) inequitable, and that provide for regulatory relief under paragraph (3), if such institution, in the opinion of an independent auditor, meets the following criteria:" for "For purposes of paragraph (2)(A)(ii), an institution of higher education shall be treated as having exceptional mitigating circumstances that make application of that paragraph inequitable if such institution, in the opinion of an independent auditor, meets the following criteria:".

Subsec. (a)(8)(A). Pub. L. 110–315, §436(a)(1)(F), substituted "0.0625" for "0.0375".

Subsec. (d)(1)(A)(ii). Pub. L. 110–315, §436(b), substituted "part, (III)" for "part, or (III)" and inserted ", or (IV) it is a National or State chartered bank, or a credit union, with assets of less than $1,000,000,000" before semicolon at end.

Subsec. (d)(1)(G). Pub. L. 110–315, §438(a)(3), substituted "and 1078–3" for "1078–3, and 1087–2(q)".

Subsec. (d)(5). Pub. L. 110–315, §436(c), amended par. (5) generally. Prior to amendment, par. (5) related to disqualification for use of certain incentives.

Subsec. (d)(8). Pub. L. 110–315, §436(d), added par. (8).

Subsec. (m)(1)(A). Pub. L. 110–315, §436(e)(1)(A)(i), substituted "end of the second fiscal year following the fiscal year in which the students entered repayment" for "end of the following fiscal year" in first sentence.

Subsec. (m)(1)(B). Pub. L. 110–315, §436(e)(1)(A)(ii), substituted "such second fiscal year" for "such fiscal year".

Subsec. (m)(1)(C). Pub. L. 110–315, §436(e)(1)(A)(iii), substituted "end of the second fiscal year following the year in which they entered repayment" for "end of the fiscal year immediately following the year in which they entered repayment".

Subsec. (m)(2)(C). Pub. L. 110–315, §436(e)(1)(B), substituted "end of the second fiscal year following the year in which the loan entered repayment is not considered as in default for purposes of this subsection" for "end of such following fiscal year is not considered as in default for the purposes of this subsection" and "such second fiscal year" for "such following fiscal year".

Subsec. (m)(4). Pub. L. 110–315, §436(e)(1)(C)(i), substituted "Collection and reporting of cohort default rates and life of cohort default rates" for "Collection and reporting of cohort default rates" in heading.

Subsec. (m)(4)(A). Pub. L. 110–315, §436(e)(1)(C)(ii), amended subpar. (A) generally. Prior to amendment, text read as follows: "The Secretary shall collect data from all insurers under this part and shall publish not less often than once every fiscal year a report showing default data for each category of institution, including (i) 4-year public institutions, (ii) 4-year private institutions, (iii) 2-year public institutions, (iv) 2-year private institutions, (v) 4-year proprietary institutions, (vi) 2-year proprietary institutions, and (vii) less than 2-year proprietary institutions."

2007—Subsec. (o)(1)(A)(ii). Pub. L. 110–84, §304(1)(A), substituted "150 percent of the poverty line applicable to the borrower's family size" for "100 percent of the poverty line for a family of 2" and inserted "or" after semicolon at end.

Subsec. (o)(1)(B), (C). Pub. L. 110–84, §304(1)(B), (C), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "such borrower is working full-time and has a Federal educational debt burden that equals or exceeds 20 percent of such borrower's adjusted gross income, and the difference between such borrower's adjusted gross income minus such burden is less than 220 percent of the greater of—

"(i) the annual earnings of an individual earning the minimum wage under section 206 of title 29; or

"(ii) the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 9902(2) of title 42) applicable to a family of two; or".

Subsec. (o)(2). Pub. L. 110–84, §304(2), substituted "(1)(B)" for "(1)(C)".

Subsec. (p). Pub. L. 110–84, §304(3), added subsec. (p).

Subsec. (p)(1)(D). Pub. L. 110–109, §4(1), added subpar. (D) and struck out former subpar. (D) which read as follows: "a trustee acting as an eligible lender on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C)."

Subsec. (p)(2)(A)(i)(II). Pub. L. 110–109, §4(2)(A), added subcl. (II) and struck out former subcl. (II) which read as follows: "is a trustee acting as an eligible lender under this chapter on behalf of such a State, political subdivision, authority, agency, instrumentality, or other entity described in subclause (I) of this clause."

Subsec. (p)(2)(A)(ii). Pub. L. 110–109, §4(2)(B), inserted "of" after "waive the requirements".

Subsec. (p)(2)(B). Pub. L. 110–109, §4(2)(C), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: "No political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) shall be an eligible not-for-profit holder under this chapter if such entity is owned or controlled, in whole or in part, by a for-profit entity."

Subsec. (p)(2)(C). Pub. L. 110–109, §4(2)(D), reenacted heading without change and amended text of subpar. (C) generally. Prior to amendment, text read as follows: "No State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) shall be an eligible not-for-profit holder under this chapter with respect to any loan, or income from any loan, unless the State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) is the sole owner of the beneficial interest in such loan and the income from such loan."

Subsec. (p)(2)(D). Pub. L. 110–109, §4(2)(E), substituted "a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d)," for "an entity described in described in paragraph (1)(A), (B), or (C)".

Subsec. (p)(2)(E). Pub. L. 110–109, §4(2)(F), reenacted heading without change and amended text of subpar. (E) generally. Prior to amendment, text read as follows: "For purposes of subparagraphs (B), (C), and (D) of this paragraph, a State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) shall not—

"(i) be deemed to be owned or controlled, in whole or in part, by a for-profit entity, or

"(ii) lose its status as the sole owner of a beneficial interest in a loan and the income from a loan by that political subdivision, authority, agency, instrumentality, or other entity,

by granting a security interest in, or otherwise pledging as collateral, such loan, or the income from such loan, to secure a debt obligation in the operation of an arrangement described in paragraph (1)(D)."

2006—Subsec. (d)(2). Pub. L. 109–171 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "To be an eligible lender under this part, an eligible institution—

"(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

"(B) shall not be a home study school;

"(C) shall make loans to not more than 50 percent of the undergraduate students at the institution;

"(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

"(E) shall not have a cohort default rate (as defined in subsection (m) of this section) greater than 15 percent; and

"(F) shall use the proceeds from special allowance payments and interest payments from borrowers for need-based grant programs, except for reasonable reimbursement for direct administrative expenses;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after October 17, 1986, and prior to July 1, 1987."

Subsec. (d)(7). Pub. L. 109–292 added par. (7).

2000—Subsec. (a)(2)(D). Pub. L. 106–554, §1(a)(1) [title III, §308(a)], added subpar. (D).

Subsec. (a)(5)(A)(i). Pub. L. 106–554, §1(a)(1) [title III, §312(1)], substituted "July 1, 2004," for "July 1, 2002,".

Subsec. (a)(5)(B). Pub. L. 106–554, §1(a)(1) [title III, §312(2)], substituted "1999 through 2003" for "1999, 2000, and 2001" in introductory provisions.

1998—Subsec. (a)(1). Pub. L. 105–244, §102(b)(2), substituted "section 1002" for "section 1088".

Subsec. (a)(2)(A). Pub. L. 105–244, §429(a)(1)(A)(i), (ii), struck out "or" at end of cl. (i), added cls. (ii) and (iii), and struck out former cl. (ii) which read as follows: "there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable."

Pub. L. 105–244, §429(a)(1)(A)(iii), inserted at end of concluding provisions "If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal."

Subsec. (a)(2)(C). Pub. L. 105–244, §429(a)(1)(B), substituted "July 1, 1999," for "July 1, 1998," in introductory provisions.

Subsec. (a)(2)(C)(ii). Pub. L. 105–244, §901(d), made technical amendment to reference in original act which appears in text as reference to section 1801(a)(4) of title 25.

Subsec. (a)(3). Pub. L. 105–244, §429(a)(2), in concluding provisions, inserted "for a reasonable period of time, not to exceed 30 days," after "access" and substituted "used by a guaranty agency in determining whether to pay a claim on a defaulted loan or by the Department in determining an institution's default rate in the loan program under part C of this subchapter" for "of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days".

Subsec. (a)(4) to (6). Pub. L. 105–244, §429(a)(3), added pars. (4) to (6).

Subsec. (d)(1)(A)(ii)(III). Pub. L. 105–244, §429(b)(1)(A), added subcl. (III).

Subsec. (d)(1)(K). Pub. L. 105–244, §429(b)(1)(B)–(D), added subpar. (K).

Subsec. (d)(5). Pub. L. 105–244, §429(b)(2), inserted concluding provisions.

Subsec. (l). Pub. L. 105–244, §429(c)(1), substituted "270 days" for "180 days" and "330 days" for "240 days".

Subsec. (m)(1)(B). Pub. L. 105–244, §429(d)(1), substituted "insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default," for "insurance, and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, exclude".

Subsec. (m)(2)(C). Pub. L. 105–244, §429(d)(2), inserted at end "The Secretary may require guaranty agencies to collect data with respect to defaulted loans in a manner that will permit the identification of any

defaulted loan for which (i) the borrower is currently making payments and has made not less than 6 consecutive on-time payments by the end of such following fiscal year, and (ii) a guaranty agency has renewed the borrower's title IV eligibility as provided in section 1078–6(b) of this title."

Subsec. (m)(4)(D). Pub. L. 105–244, §429(d)(3), added subpar. (D).

1996—Subsec. (d)(1)(F). Pub. L. 104–208, §101(e) [title VI, §602(b)(1)(A)(i)], inserted "or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title," after "Student Loan Marketing Association".

Subsec. (d)(1)(G). Pub. L. 104–208, §101(e) [title VI, §602(b)(1)(A)(ii)], inserted "or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title" after "Student Loan Marketing Association".

1994—Subsec. (a)(2)(C). Pub. L. 103–235 substituted "July 1, 1998" for "July 1, 1994".

Subsec. (o)(1). Pub. L. 103–382, §357(1)–(3), struck out "or" at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

Subsec. (o)(2). Pub. L. 103–382, §357(4), substituted "(1)(C)" for "(1)(B)".

1993—Subsec. (a)(3). Pub. L. 103–208, §2(c)(55), added par. (3).

Subsec. (d)(1). Pub. L. 103–66, §4106(b)(1), in par. (1) substituted "through (6)" for "through (5)" in introductory provisions.

Subsec. (d)(2). Pub. L. 103–208, §2(c)(57), realigned margins of closing provisions.

Subsec. (d)(2)(D). Pub. L. 103–208, §2(c)(56), substituted "lender;" for "lender; and".

Subsec. (d)(3). Pub. L. 103–208, §2(c)(58), substituted "subsection (m)" for "subsection (o)".

Subsec. (d)(6). Pub. L. 103–66, §4106(b)(2), added par. (6).

Subsec. (m)(1). Pub. L. 103–66, §4046(b)(1)(C), which directed the insertion in par. (1)(D) of "(or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under such section)" after "section 1078–1 of this title" the first place it appears, and "(or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under such section)" after "section 1078–1 of this title" the second place it appears, could not be executed because subsec. (m)(1) does not contain a subpar. (D).

Subsec. (m)(1)(A). Pub. L. 103–208, §2(c)(60)(A), inserted at end "The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate."

Pub. L. 103–208, §2(c)(59), substituted "section 1078, 1078–1, or 1078–8" for "section 1078 or 1078–1".

Pub. L. 103–66, §4046(b)(1)(A), inserted "(or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans)" after "on such loans".

Subsec. (m)(1)(B). Pub. L. 103–208, §2(c)(60)(B), substituted "and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate." for "and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate."

Subsec. (m)(1)(C). Pub. L. 103–66, §4046(b)(1)(B), inserted "(or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans)" after "on such loans".

Subsec. (m)(2)(D). Pub. L. 103–208, §2(c)(61), inserted "(or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under section 1078–1 of this title)" after "in accordance with section 1078–1 of this title", and "(or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under section 1078–1 of this title)" after "a loan made under section 1078–1 of this title".

Subsec. (m)(4). Pub. L. 103–208, §2(c)(62), added par. (4).

1992—Subsec. (a)(1). Pub. L. 102–325, §427(a)(1), added par. (1) and struck out former par. (1) which read as follows: "Subject to subsection (n) of this section, the term 'eligible institution' means—

"(A) an institution of higher education;

"(B) a vocational school; or

"(C) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for the purpose of this part,

except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 1078(a)(1), 1078–1, or 1078–2 of this title at that institution or school."

Subsec. (a)(2). Pub. L. 102–325, §427(a)(3), struck out "and" at end of subpar. (B)(i), substituted "fiscal year 1993; and" for "any succeeding fiscal year." in subpar. (B)(ii), and added subpar. (B)(iii).

Pub. L. 102–325, §427(a)(1), (2), redesignated par. (3) as (2) and struck out former par. (2) which required Secretary to establish criteria for qualifying foreign medical schools as "eligible institutions".

Subsec. (a)(3). Pub. L. 102–325, §427(a)(2), redesignated par. (3) as (2).

Subsec. (b). Pub. L. 102–325, §427(b)(1), struck out subsec. (b) which defined "institution of higher education".

Subsec. (c). Pub. L. 102–325, §427(c), struck out subsec. (c) which defined "vocational school".

Subsec. (d)(1)(A). Pub. L. 102–325, §427(d)(1), in introductory provisions, struck out "a trust company," after "stock savings bank," and in cl. (ii), inserted at end of subcl. (I) "or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to July 23, 1992, or" and substituted a semicolon for "or (III) it is a trust company which makes student loans as a trustee pursuant to an express trust and which operated as a lender under this part prior to January 1, 1981;".

Subsec. (d)(2)(E), (F). Pub. L. 102–325, §427(d)(2), added subpars. (E) and (F).

Subsec. (f). Pub. L. 102–325, §427(e), inserted "servicing and" before "collection practices".

Subsecs. (g), (h). Pub. L. 102–325, §427(f), struck out subsec. (g) which defined "temporarily totally disabled" and subsec. (h) which defined "parental leave".

Subsec. (m). Pub. L. 102–325, §427(g), amended subsec. (m) generally, revising and restating as pars. (1) to (3) provisions formerly contained in a single paragraph.

Subsec. (n). Pub. L. 102–325, §427(f), struck out subsec. (n) which related to impact of loss of accreditation on certification or recertification as an eligible institution.

Subsec. (o). Pub. L. 102–325, §416(e)(2), added subsec. (o).

1991—Subsec. (c)(1). Pub. L. 102–26 substituted "or who are beyond the age of compulsory school attendance in the State in which the institution is located" for "and who have the ability to benefit (as determined by the institution under section 1088(d) of this title) from the training offered by such institution;".

1990—Subsec. (a)(3). Pub. L. 101–508 added par. (3).

Subsec. (l). Pub. L. 101–542, §301(1), substituted "Except as provided in subsection (m) of this section, the term" for "The term".

Subsec. (m). Pub. L. 101–542, §301(2), inserted after first sentence "In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate."

1989—Subsec. (a)(1). Pub. L. 101–239, §2007(a)(1), substituted "Subject to subsection (n) of this section, the term" for "The term".

Subsec. (m). Pub. L. 101–239, §2003(a)(2), added subsec. (m).

Subsec. (n). Pub. L. 101–239, §2007(a)(2), added subsec. (n).

1987—Subsec. (b)(3). Pub. L. 100–50, §10(aa)(1), inserted ", or in the case of a hospital or health care facility, which provides training of not less than one year for graduates of accredited health professions programs, leading to a degree or certificate upon completion of such training" before semicolon at end.

Subsec. (d)(1)(J). Pub. L. 100–50, §10(aa)(2), added subpar. (J).

Subsec. (d)(2). Pub. L. 100–50, §10(aa)(3), added subpars. (C) and (D) and inserted concluding provision that the requirements of subpars. (C) and (D) not apply with respect to loans made, and loan commitments made, after Oct. 17, 1986, and prior to July 1, 1987.

Subsec. (g)(2). Pub. L. 100–50, §10(aa)(4), added par. (2) and struck out former par. (2) which read as follows: "Such term when used with respect to the disabled dependent of a single parent borrower means a dependent who, by reason of injury or illness, cannot be expected to be able to attend school or to be gainfully employed during a period of injury or illness of not less than 3 months and who during such period requires continuous nursing or similar services."

Subsec. (h). Pub. L. 100–50, §10(aa)(5), struck out "Definition of" before "Parental" in heading.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–152 effective July 1, 2010, see section 2101(c) of Pub. L. 111–152, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §436(a)(2), Aug. 14, 2008, 122 Stat. 3254, provided that: "The amendment made by paragraph (1)(F) [amending this section] shall take effect for fiscal years beginning on or after October 1, 2011."

Pub. L. 110–315, title IV, §436(e)(2), Aug. 14, 2008, 122 Stat. 3257, provided that:

"(A) EFFECTIVE DATE.—The amendments made by paragraph (1) [amending this section] shall take effect for purposes of calculating cohort default rates for fiscal year 2009 and succeeding fiscal years.

"(B) TRANSITION.—Notwithstanding subparagraph (A), the method of calculating cohort default rates under section 435(m) of the Higher Education Act of 1965 [20 U.S.C. 1085(m)] as in effect on the day before the date of enactment of this Act [Aug. 14, 2008] shall continue in effect, and the rates so calculated shall be the basis for any sanctions imposed on institutions of higher education because of their cohort default rates, until three consecutive years of cohort default rates calculated in accordance with the amendments made by paragraph (1) are available."

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–292, §3(b), Sept. 30, 2006, 120 Stat. 1341, provided that: "The amendment made by subsection (a) [amending this section] shall not apply with respect to any loan under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) disbursed before January 1, 2007."

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(1) [title III, §308(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–45, provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective for cohort default rate calculations for fiscal years 1997 and 1998."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 102(b)(2) and 429(a), (b), (d) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §429(c)(2), Oct. 7, 1998, 112 Stat. 1708, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to loans for which the first day of delinquency occurs on or after the date of enactment of this Act [Oct. 7, 1998]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective on reorganization effective date as defined in section 1087–3(h) of this title, see section 101(e) [title VI, §602(b)(1)(B)] of Pub. L. 104–208, set out as a note under section 1078–3 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendments by section 2(c)(55), (60)(B) of Pub. L. 103–208 applicable with respect to determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year, amendments by section 2(c)(56)–(58), (61) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, amendment by section 2(c)(59) of Pub. L. 103–208 effective on and after 30 days after Dec. 20, 1993, amendment by section 2(c)(60)(A) of Pub. L. 103–208 effective on and after Oct. 1, 1994, and amendment by section 2(c)(62) effective on and after Dec. 20, 1993, see section 5(a), (b)(2), (3), (7), (8) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by section 4046(b)(1) of Pub. L. 103–66 effective July 1, 1994, see section 4046(c) of Pub. L. 103–66, set out as a note under section 1078–3 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–26, §2(d)(1), Apr. 9, 1991, 105 Stat. 124, provided that: "The amendments made by this

section [amending this section and sections 1078–1, 1088, 1091, 1094, and 1141 of this title] shall apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991."

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–508, title III, §3004(d), Nov. 5, 1990, 104 Stat. 1388–27, provided that: "The amendments made by this section [amending this section, section 1078 of this title, and provisions set out as a note under section 1078–1 of this title] shall be effective July 1, 1991, except that the amendment made by subsection (b) [amending section 1078 of this title] shall be effective upon enactment."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (d)(5) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

DEFINITION OF INSTITUTION OF HIGHER EDUCATION

Pub. L. 102–325, title IV, §427(b)(2), July 23, 1992, 106 Stat. 549, provided that: "With respect to reference in any other provision of law to the definition of institution of higher education contained in section 435(b) of the Act [former 20 U.S.C. 1085(b)], such provision shall be deemed to refer to section 481(a) of the Act [former 20 U.S.C. 1088(a)]."

[1] See References in Text note below.

[2] So in original. Probably should be "with respect to the".

§1086. Delegation of functions

(a) In general

An eligible lender or guaranty agency that contracts with another entity to perform any of the lender's or agency's functions under this subchapter and part C of subchapter I of chapter 34 of title 42, or otherwise delegates the performance of such functions to such other entity—

(1) shall not be relieved of the lender's or agency's duty to comply with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) shall monitor the activities of such other entity for compliance with such requirements.

(b) Special rule

A lender that holds a loan made under this part in the lender's capacity as a trustee is responsible for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.

(Pub. L. 89–329, title IV, §436, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1413; amended Pub. L. 105–244, title IV, §430, Oct. 7, 1998, 112 Stat. 1709.)

PRIOR PROVISIONS

A prior section 1086, Pub. L. 89–329, title IV, §436, as added Pub. L. 89–752, §12, Nov. 3, 1966, 80 Stat. 1244; amended Pub. L. 90–575, title I, §116(b)(5), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2132; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a District of Columbia student loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized establishment of a District of Columbia student loan insurance program.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1087. Repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending schools that fail to provide a refund, attending closed schools, or falsely certified as eligible to borrow

(a) Repayment in full for death and disability

(1) In general

If a student borrower who has received a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), or if a student borrower who has received such a loan is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan. The Secretary may develop such safeguards as the Secretary determines necessary to prevent fraud and abuse in the discharge of liability under this subsection. Notwithstanding any other provision of this subsection, the Secretary may promulgate regulations to reinstate the obligation of, and resume collection on, loans discharged under this subsection in any case in which—

(A) a borrower received a discharge of liability under this subsection and after the discharge the borrower—

(i) receives a loan made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(ii) has earned income in excess of the poverty line; or

(B) the Secretary determines the reinstatement and resumption to be necessary.

(2) Disability determinations

A borrower who has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected condition and who provides documentation of such determination to the Secretary of Education, shall be considered permanently and totally disabled for the purpose of discharging such borrower's loans under this subsection, and such borrower shall not be required to present additional documentation for purposes of this subsection.

(b) Payment of claims on loans in bankruptcy

The Secretary shall pay to the holder of a loan described in section 1078(a)(1)(A) or (B), 1078–1,[1] 1078–2, 1078–3, or 1078–8 of this title, the amount of the unpaid balance of principal and interest owed on such loan—

(1) when the borrower files for relief under chapter 12 or 13 of title 11;

(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.

(c) Discharge

(1) In general

If a borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable to complete the program in which such student is enrolled due to the closure of the

institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution or was falsely certified as a result of a crime of identity theft, or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part G of this subchapter. In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of the loan which should have been refunded. The Secretary shall report to the authorizing committees annually as to the dollar amount of loan discharges attributable to failures to make refunds.

(2) Assignment

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

(3) Eligibility for additional assistance

The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Special rule

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for which the borrower would be otherwise eligible (but for the default on such discharged loan). The amount discharged under this subsection shall be treated the same as loans under section 1087ee(a)(5) of this title.

(5) Reporting

The Secretary shall report to consumer reporting agencies with respect to loans which have been discharged pursuant to this subsection.

(d) Repayment of loans to parents

If a student on whose behalf a parent has received a loan described in section 1078–2 of this title dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(Pub. L. 89–329, title IV, §437, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 102–325, title IV, §428, July 23, 1992, 106 Stat. 551; Pub. L. 103–208, §2(c)(63)–(65), Dec. 20, 1993, 107 Stat. 2469; Pub. L. 105–244, title IV, §431, Oct. 7, 1998, 112 Stat. 1709; Pub. L. 109–171, title VIII, §8012, Feb. 8, 2006, 120 Stat. 166; Pub. L. 110–315, title I, §103(b)(7), title IV, §§432(b)(4), 437(a), (b), Aug. 14, 2008, 122 Stat. 3089, 3246, 3257, 3258; Pub. L. 111–39, title IV, §402(e)(1), July 1, 2009, 123 Stat. 1942.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (b), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1087, Pub. L. 89–329, title IV, §437, as added Pub. L. 90–575, title I, §113(a), Oct. 16, 1968, 82 Stat. 1020; amended Pub. L. 92–318, title I, §132D(a), June 23, 1972, 86 Stat. 263; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2133; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat.

1503, related to repayment of loans by Secretary, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–39 substituted "Secretary), or if" for "Secretary),, or if" in introductory provisions and inserted "the reinstatement and resumption to be" after "determines" in subpar. (B).

2008—Subsec. (a). Pub. L. 110–315, §437(a)(3), which directed insertion of "The Secretary may develop such safeguards as the Secretary determines necessary to prevent fraud and abuse in the discharge of liability under this subsection. Notwithstanding any other provision of this subsection, the Secretary may promulgate regulations to reinstate the obligation of, and resume collection on, loans discharged under this subsection in any case in which—

"(A) a borrower received a discharge of liability under this subsection and after the discharge the borrower—

"(i) receives a loan made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

"(ii) has earned income in excess of the poverty line; or

"(B) the Secretary determines necessary."

at the end of subsec. (a), was executed by making the insertion at the end of par. (1) to reflect the probable intent of Congress, notwithstanding the addition of par. (2) prior to the effective date of this amendment.

Pub. L. 110–315, §437(a)(1), (2), designated existing provisions as par. (1), inserted par. (1) heading, and inserted ", or if a student borrower who has received such a loan is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months" after "of the Secretary),".

Subsec. (a)(2). Pub. L. 110–315, §437(b), added par. (2).

Subsec. (c)(1). Pub. L. 110–315, §103(b)(7), substituted "authorizing committees" for "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate".

Subsec. (c)(5). Pub. L. 110–315, §432(b)(4), substituted "consumer reporting agencies" for "credit bureaus".

2006—Pub. L. 109–171, §8012(1), in section catchline, substituted "schools that fail to provide a refund, attending closed schools, or falsely certified as eligible to borrow" for "closed schools or falsely certified as eligible to borrow".

Subsec. (c)(1). Pub. L. 109–171, §8012(2), inserted "or was falsely certified as a result of a crime of identity theft" after "falsely certified by the eligible institution" in first sentence.

1998—Subsec. (c)(1). Pub. L. 105–244 inserted "or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender," after "falsely certified by the eligible institution," and inserted at end "In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of the loan which should have been refunded. The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate annually as to the dollar amount of loan discharges attributable to failures to make refunds."

1993—Subsec. (b). Pub. L. 103–208, §2(c)(63), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "If the collection of a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title or sections 1078–1, 1078–2, 1078–3, or 1078–8 of this title is stayed in any action under title 11, the Secretary shall repay the unpaid balance of principal and interest owed on the loan."

Subsec. (c)(1). Pub. L. 103–208, §2(c)(64), substituted "If a borrower" for "If a student borrower", "under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable" for "under this part is unable", and "in which such student is enrolled" for "in which the borrower is enrolled".

Subsec. (c)(4). Pub. L. 103–208, §2(c)(65), inserted at end "The amount discharged under this subsection shall be treated the same as loans under section 1087ee(a)(5) of this title."

1992—Pub. L. 102–325 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) and (b) which related to repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–39, title IV, §402(e)(2), July 1, 2009, 123 Stat. 1943, provided that: "The amendments made by paragraph (1) [amending this section] shall be effective as if enacted as part of the amendments in section 437(a) of the Higher Education Opportunity Act (Public Law 110–315) [amending this section], and shall take effect on July 1, 2010."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §437(c), Aug. 14, 2008, 122 Stat. 3258, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on July 1, 2010."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

[1] *See References in Text note below.*

§1087–0. Repealed. Pub. L. 105–244, title IV, §432, Oct. 7, 1998, 112 Stat. 1710

Section, Pub. L. 89–329, title IV, §437A, as added Pub. L. 102–325, title IV, §429, July 23, 1992, 106 Stat. 552; amended Pub. L. 103–208, §2(c)(66)–(68), Dec. 20, 1993, 107 Stat. 2469, related to debt management options.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1087–1. Special allowances

(a) Findings

In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b) Computation and payment

(1) Quarterly payment based on unpaid balance

A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2) Rate of special allowance

(A) Subject to subparagraphs (B), (C), (D), (E), (F), (G), (H), and (I) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month

period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.10 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(i) of this title.

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under title 26 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this clause, subparagraph (A)(iii) shall be applied by substituting "3.5 percent" for "3.10 percent". Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

(ii) The quarterly rate of the special allowance set under clause (i) of this subparagraph shall not be less than 9.5 percent minus the applicable interest rate on such loans, divided by 4.

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, or refunded after September 30, 2004, the income from which is excluded from gross income under title 26, shall be the quarterly rate of the special allowance established under subparagraph (A), (E), (F), (G), (H), or (I) as the case may be. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

(v) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for a holder of loans that—

(I) were made or purchased with funds—

(aa) obtained from the issuance of obligations the income from which is excluded from gross income under title 26 and which obligations were originally issued before October 1, 1993; or

(bb) obtained from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in division (aa), or from income on the investment of such funds; and

(II) are—

(aa) financed by such an obligation that, after September 30, 2004, has matured or been retired or defeased;

(bb) refinanced after September 30, 2004, with funds obtained from a source other than funds described in subclause (I) of this clause; or

(cc) sold or transferred to any other holder after September 30, 2004.

(vi) Notwithstanding clauses (i), (ii), and (v), but subject to clause (vii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, as the case may be, for a holder of loans—

(I) that were made or purchased on or after February 8, 2006; or

(II) that were not earning a quarterly rate of special allowance determined under clauses (i) or (ii) of subparagraph (B) of this paragraph as of February 8, 2006.

(vii) Clause (vi) shall be applied by substituting "December 31, 2010" for "February 8, 2006" in

the case of a holder of loans that—

(I) was, as of February 8, 2006, and during the quarter for which the special allowance is paid, a unit of State or local government or a nonprofit private entity;

(II) was, as of February 8, 2006, and during such quarter, not owned or controlled by, or under common ownership or control with, a for-profit entity; and

(III) held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than $100,000,000 on loans for which special allowances were paid under this subparagraph in the most recent quarterly payment prior to September 30, 2005.

(C)(i) In the case of loans made before October 1, 1992, pursuant to section 1078–1 [1] or 1078–2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12 percent.

(ii) Subject to subparagraphs (G), (H), and (I), in the case of loans disbursed on or after October 1, 1992, pursuant to section 1078–1 [1] or 1078–2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under section 1077a(c)(4)(B) of this title exceeds—

(I) 11 percent in the case of a loan under section 1078–1 [1] of this title; or

(II) 10 percent in the case of a loan under section 1078–2 of this title.

(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting "3.5 percent" for "3.10 percent".

(ii) For the purpose of division (i) of this subparagraph, the term "qualified State obligation" means—

(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

(II) an obligation of the South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(E) In the case of any loan for which the applicable rate of interest is described in section 1077a(g)(2) of this title, subparagraph (A)(iii) shall be applied by substituting "2.5 percent" for "3.10 percent".

(F) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable rate of interest is determined under section 1077a(h) of this title shall be computed (i) by determining the applicable bond equivalent rate of the security with a comparable maturity, as established by the Secretary, (ii) by subtracting the applicable interest rates on such loans from such applicable bond equivalent rate, (iii) by adding 1.0 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(i) of this title.

(G) LOANS DISBURSED BETWEEN JULY 1, 1998, AND OCTOBER 1, 1998.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first

disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 1077a(j)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting "2.2 percent" for "2.8 percent".

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 1077a(j)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting "3.1 percent" for "2.8 percent", subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—This subparagraph shall not apply in the case of any consolidation loan.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 1078–2 of this title and disbursed on or after July 1, 1998, and before October 1, 1998, for which the interest rate is determined under 1077a(j)(3) of this title, a special allowance shall not be paid for such loan for such [2] unless the rate determined under subparagraph (A) of such section (without regard to subparagraph (B) of such section) exceeds 9.0 percent.

(H) LOANS DISBURSED ON OR AFTER OCTOBER 1, 1998, AND BEFORE JANUARY 1, 2000.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting "2.2 percent" for "2.8 percent".

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting "3.1 percent" for "2.8 percent", subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after October 1, 1998, and before January 1, 2000, and for which the applicable interest rate is determined under section 1077a(k)(4) of this title, clause (i)(III) of this subparagraph shall be applied by substituting "3.1 percent" for "2.8 percent", subject to clause (vi) of this subparagraph.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 1078–2 of this title and first disbursed on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 1077a(k)(3) of this title, a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

(II) 3.1 percent,

exceeds 9.0 percent.

(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 1078–3 of this title and for which the application is received on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 1077a(k)(4) of this title, a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

(I) the average of the bond equivalent rate of 91-day Treasury bills auctioned for such 3-month period; plus

(II) 3.1 percent,

exceeds the rate determined under section 1077a(k)(4) of this title.

(I) LOANS DISBURSED ON OR AFTER JANUARY 1, 2000, AND BEFORE JULY 1, 2010.—

(i) IN GENERAL.—Notwithstanding subparagraphs (G) and (H), but subject to paragraph (4) and the following clauses of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after January 1, 2000, and before July 1, 2010, shall be computed—

(I) by determining the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from the rate determined under subclause (I) (in accordance with clause (vii));

(III) by adding 2.34 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan—

(I) for which the first disbursement is made on or after January 1, 2000, and before July 1, 2006, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title; or

(II) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, and for which the applicable rate of interest is described in section 1077a(l)(1) or (l)(4) of this title, but only with respect to (aa) periods prior to the beginning of the repayment period of the loan; or (bb) during the periods in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1077(a)(2)(C) or 1078(b)(1)(M) of this title;

clause (i)(III) of this subparagraph shall be applied by substituting "1.74 percent" for "2.34 percent".

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2010, and for which the applicable rate of interest is described in section 1077a(k)(3) or (l)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting "2.64 percent" for "2.34 percent".

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after January 1, 2000, and that is disbursed before July 1, 2010, and for which the applicable interest rate is determined under section 1077a(k)(4) or (l)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting "2.64 percent" for "2.34 percent".

(v) RECAPTURE OF EXCESS INTEREST.—

(I) EXCESS CREDITED.—With respect to a loan on which the applicable interest rate is determined under subsection (k) or (l) of section 1077a of this title and for which the first disbursement of principal is made on or after April 1, 2006, and before July 1, 2010, if the

applicable interest rate for any 3-month period exceeds the special allowance support level applicable to such loan under this subparagraph for such period, then an adjustment shall be made by calculating the excess interest in the amount computed under subclause (II) of this clause, and by crediting the excess interest to the Government not less often than annually.

(II) CALCULATION OF EXCESS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(aa) the applicable interest rate minus the special allowance support level determined under this subparagraph; multiplied by

(bb) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(cc) four.

(III) SPECIAL ALLOWANCE SUPPORT LEVEL.—For purposes of this clause, the term "special allowance support level" means, for any loan, a number expressed as a percentage equal to the sum of the rates determined under subclauses (I) and (III) of clause (i), and applying any substitution rules applicable to such loan under clauses (ii), (iii), (iv), (vi), and (vii) in determining such sum.

(vi) REDUCTION FOR LOANS DISBURSED ON OR AFTER OCTOBER 1, 2007, AND BEFORE JULY 1, 2010.—With respect to a loan on which the applicable interest rate is determined under section 1077a(l) of this title and for which the first disbursement of principal is made on or after October 1, 2007, and before July 1, 2010, the special allowance payment computed pursuant to this subparagraph shall be computed—

(I) for loans held by an eligible lender not described in subclause (II)—

(aa) by substituting "1.79 percent" for "2.34 percent" each place the term appears in this subparagraph;

(bb) by substituting "1.19 percent" for "1.74 percent" in clause (ii);

(cc) by substituting "1.79 percent" for "2.64 percent" in clause (iii); and

(dd) by substituting "2.09 percent" for "2.64 percent" in clause (iv); and

(II) for loans held by an eligible not-for-profit holder—

(aa) by substituting "1.94 percent" for "2.34 percent" each place the term appears in this subparagraph;

(bb) by substituting "1.34 percent" for "1.74 percent" in clause (ii);

(cc) by substituting "1.94 percent" for "2.64 percent" in clause (iii); and

(dd) by substituting "2.24 percent" for "2.64 percent" in clause (iv).

(vii) REVISED CALCULATION RULE TO REFLECT FINANCIAL MARKET CONDITIONS.—

(I) CALCULATION BASED ON LIBOR.—For the calendar quarter beginning on April 1, 2012 [3] and each subsequent calendar quarter, in computing the special allowance paid pursuant to this subsection with respect to loans described in subclause (II), clause (i)(I) of this subparagraph shall be applied by substituting "of the 1-month London Inter Bank Offered Rate (LIBOR) for United States dollars in effect for each of the days in such quarter as compiled and released by the British Bankers Association" for "of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period".

(II) LOANS ELIGIBLE FOR LIBOR-BASED CALCULATION.—The special allowance paid pursuant to this subsection shall be calculated as described in subclause (I) with respect to special allowance payments for the 3-month period ending June 30, 2012, and each succeeding 3-month period, on loans for which the first disbursement is made on or after January 1, 2000, and before July 1, 2010, if, not later than April 1, 2012, the holder of the loan (or, if the holder acts as eligible lender trustee for the beneficial owner of the loan, the

beneficial owner of the loan), affirmatively and permanently waives all contractual, statutory, or other legal rights to a special allowance paid pursuant to this subsection that is calculated using the formula in effect at the time the loans were first disbursed.

(III) TERMS OF WAIVER.—

(aa) IN GENERAL.—A waiver pursuant to subclause (II) shall be in a form (printed or electronic) prescribed by the Secretary, and shall be applicable to—

(AA) all loans described in such subclause that the lender holds solely in its own right under any lender identification number associated with the holder (pursuant to section 1094b of this title);

(BB) all loans described in such subclause for which the beneficial owner has the authority to make an election of a waiver under such subclause, regardless of the lender identification number associated with the loan or the lender that holds the loan as eligible lender trustee on behalf of such beneficial owner; and

(CC) all future calculations of the special allowance on loans that, on the date of such waiver, are loans described in subitem (AA) or (BB), or that, after such date, become loans described in subitem (AA) or (BB).

(bb) EXCEPTIONS.—Any waiver pursuant to subclause (II) that is elected for loans described in subitem (AA) or (BB) of item (aa) shall not apply to any loan described in such subitem for which the lender or beneficial owner of the loan demonstrates to the satisfaction of the Secretary that—

(AA) in accordance with an agreement entered into before the date of enactment of this section by which such lender or owner is governed and that applies to such loans, such lender or owner is not legally permitted to make an election of such waiver with respect to such loans without the approval of one or more third parties with an interest in the loans, and that the lender or owner followed all available options under such agreement to obtain such approval, and was unable to do so; or

(BB) such lender or beneficial owner presented the proposal of electing such a waiver applicable to such loans associated with an obligation rated by a nationally recognized statistical rating organization (as defined in section 78c(a)(62) of title 15), and such rating organization provided a written opinion that the agency would downgrade the rating applicable to such obligation if the lender or owner elected such a waiver.

(3) Contractual right of holders to special allowance

The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

(4) Penalty for late payment

(A) If payments of the special allowances payable under this section or of interest payments under section 1078(a) of this title with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this

section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) "Eligible loan" defined

As used in this section, the term "eligible loan" means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for the student's account to the holder of the loan under section 1078(a) of this title;

(ii) which is made under section 1078–1,[1] 1078–2, 1078–3, 1078–8, or 1087–2(o) of this title; or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 1078(b) of this title.

(6) Regulation of time and manner of payment

The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(7) Use of average quarterly balance

The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.

(c) Origination fees from students

(1) Deduction from interest and special allowance subsidies

(A) Notwithstanding subsection (b) of this section, the Secretary shall collect the amount the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection—

(i) by reducing the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder; or

(ii) directly from the holder of the loan, if the lender fails or is not required to bill the Secretary for interest and special allowance or withdraws from the program with unpaid loan origination fees.

(B) If the Secretary collects the origination fee under this subsection through the reduction of interest and special allowance, and the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

(2) Amount of origination fees

(A) In general

Subject to paragraph (6) of this subsection, with respect to any loan (including loans made under section 1078–8 of this title, but excluding loans made under sections 1078–3 and 1087–2(o) of this title) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after August 13, 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower. Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers.

(B) Subsequent reductions

Subparagraph (A) shall be applied to loans made under this part (other than loans made under sections 1078–3 and 1087–2(o) of this title)—

(i) by substituting "2.0 percent" for "3.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007;

(ii) by substituting "1.5 percent" for "3.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

(iii) by substituting "1.0 percent" for "3.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009; and

(iv) by substituting "0.5 percent" for "3.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010.

(3) Relation to applicable interest

Such origination fee shall not be taken into account for purposes of determining compliance with section 1077a of this title.

(4) Disclosure required

The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(5) Prohibition on department compelling origination fee collections by lenders

Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 1078(a)(3)(A) of this title or for special allowances under subsection (b) of this section, to collect any origination fee or to submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before October 17, 1986, together with interest thereon.

(6) SLS and PLUS loans

With respect to any loans made under section 1078–1 [1] or 1078–2 of this title on or after October 1, 1992, and first disbursed before July 1, 2010, each eligible lender under this part shall charge the borrower an origination fee of 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

(7) Distribution of origination fees

All origination fees collected pursuant to this section on loans authorized under section 1078–1 [1] or 1078–2 of this title shall be paid to the Secretary by the lender and deposited in the fund authorized under section 1081 of this title.

(8) Exception

Notwithstanding paragraph (2), a lender may assess a lesser origination fee for a borrower demonstrating greater financial need as determined by such borrower's adjusted gross family income.

(d) Loan fees from lenders

(1) Deduction from interest and special allowance subsidies

(A) In general

Notwithstanding subsection (b) of this section, the Secretary shall collect a loan fee in an amount determined in accordance with paragraph (2)—

(i) by reducing the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder of a loan; or

(ii) directly from the holder of the loan, if the lender—

(I) fails or is not required to bill the Secretary for interest and special allowance payments; or

(II) withdraws from the program with unpaid loan fees.

(B) Special rule

If the Secretary collects loan fees under this subsection through the reduction of interest and special allowance payments, and the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount of such loan fees, then the Secretary shall deduct the amount of the loan fee balance from the amount of interest and special allowance payments that would otherwise be payable, in subsequent quarterly increments until the balance has been deducted.

(2) Amount of loan fees

The amount of the loan fee which shall be deducted under paragraph (1), but which may not be collected from the borrower, shall be equal to—

(A) except as provided in subparagraph (B), 0.50 percent of the principal amount of the loan with respect to any loan under this part for which the first disbursement was made on or after October 1, 1993; and

(B) 1.0 percent of the principal amount of the loan with respect to any loan under this part for which the first disbursement was made on or after October 1, 2007, and before July 1, 2010.

(3) Distribution of loan fees

The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 1081 of this title.

(e) Nondiscrimination

In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under title 26, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

(f) Regulations to prevent denial of loans to eligible students

The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

(g) Special Rule

With respect to any loan made under this part for which the interest rate is determined under the Servicemembers Civil Relief Act (50 U.S.C. App. 527) [now 50 U.S.C. 3937],[1] the applicable interest rate to be subtracted in calculating the special allowance for such loan under this section shall be the interest rate determined under that Act for such loan.

(Pub. L. 89–329, title IV, §438, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 100–50, §10(d)(2), (bb), (cc), June 3, 1987, 101 Stat. 342, 347; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, §430, July 23, 1992, 106 Stat. 553; Pub. L. 103–66, title IV, §§4102(a), 4103, 4105, 4111, Aug. 10, 1993, 107 Stat. 366, 367, 368, 370; Pub. L. 105–178, title VIII, §8301(b), June 9, 1998, 112 Stat. 497; Pub. L. 105–244, title IV, §§416(b)(1), (3), 433(a)–(d)(1), Oct. 7, 1998, 112 Stat. 1680, 1682, 1710, 1711; Pub. L. 106–170, title IV, §409(a), Dec. 17, 1999, 113 Stat. 1914; Pub. L. 107–139, §2, Feb. 8, 2002, 116 Stat. 10; Pub. L. 108–409, §2, Oct. 30, 2004, 118 Stat. 2299; Pub. L. 109–150, §2(b), (c)(2), Dec. 30, 2005, 119 Stat. 2884; Pub. L. 109–171, title VIII, §§8006(b)(1), 8008(c)(1), 8013(a)–(c)(1), (d)(1), Feb. 8, 2006, 120 Stat. 159, 162, 166, 167; Pub. L. 110–84, title II, §201(a)(2), title III, §§302(b)(2),

305, Sept. 27, 2007, 121 Stat. 791, 796, 799; Pub. L. 110–315, title IV, §422(g)(2), Aug. 14, 2008, 122 Stat. 3230; Pub. L. 111–39, title IV, §402(f)(11), July 1, 2009, 123 Stat. 1945; Pub. L. 111–152, title II, §2208, Mar. 30, 2010, 124 Stat. 1077; Pub. L. 112–74, div. F, title III, §309(e), Dec. 23, 2011, 125 Stat. 1101.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsecs. (b)(2)(C), (5)(A)(ii) and (c)(6), (7), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

The date of enactment of this section, referred to in subsec. (b)(2)(I)(vii)(III)(bb)(AA), probably means the date of enactment of Pub. L. 112–74, which enacted subsec. (b)(2)(I)(vii) and was approved Dec. 23, 2011.

The Servicemembers Civil Relief Act, referred to in subsec. (g), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, which was classified to section 501 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 50 (§3901 et seq.) of Title 50. The parenthetical reference to "(50 U.S.C. App. 527)" relates to section 207 of the Act, which is now classified to section 3937 of Title 50. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1087–1, Pub. L. 89–329, title IV, §438, as added Pub. L. 92–318, title I, §132E(a), June 23, 1972, 86 Stat. 264; amended Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2133; Pub. L. 95–43, §1(a)(37), June 15, 1977, 91 Stat. 216; Pub. L. 96–49, §5(c)(1), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §§420(a), 451(d), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1425, 1458, 1503; Pub. L. 97–35, title V, §§532(b)(4), 534(b), 536(a), Aug. 13, 1981, 95 Stat. 452, 454, 455; Pub. L. 98–79, §7(a), (c), Aug. 15, 1983, 97 Stat. 482, 483; Pub. L. 99–272, title XVI, §§16013(d), 16017(b)(3), (c), Apr. 7, 1986, 100 Stat. 340, 347, related to special allowances, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1087–1a, Pub. L. 96–374, title IV, §420(b), Oct. 3, 1980, 94 Stat. 1427, related to eligibility for special allowances covering loans made or purchased with funds obtained from Authorities issuing tax exempt obligations, and established requirement relating to plans for doing business, prior to repeal by Pub. L. 98–79, §7(b), Aug. 15, 1983, 97 Stat. 483.

AMENDMENTS

2011—Subsec. (b)(2)(I)(i)(II). Pub. L. 112–74, §309(e)(2)(A), substituted "the rate determined under subclause (I) (in accordance with clause (vii))" for "such average bond equivalent rate".

Subsec. (b)(2)(I)(v)(III). Pub. L. 112–74, §309(e)(2)(B), substituted "(iv), (vi), and (vii)" for "(iv), and (vi)".

Subsec. (b)(2)(I)(vii). Pub. L. 112–74, §309(e)(1), added cl. (vii).

2010—Subsec. (b)(2)(I). Pub. L. 111–152, §2208(1)(A), which directed amendment of subpar. (I) "in the subclause heading" by inserting ", and before july 1, 2010" after "2000", was executed in subpar. (I) heading to reflect the probable intent of Congress.

Subsec. (b)(2)(I)(i). Pub. L. 111–152, §2208(1)(B), inserted "and before July 1, 2010," after "2000," in introductory provisions.

Subsec. (b)(2)(I)(ii)(II). Pub. L. 111–152, §2208(1)(C), inserted "and before July 1, 2010," after "2006,".

Subsec. (b)(2)(I)(iii). Pub. L. 111–152, §2208(1)(D), inserted "and before July 1, 2010," after "2000,".

Subsec. (b)(2)(I)(iv). Pub. L. 111–152, §2208(1)(E), inserted "and that is disbursed before July 1, 2010," after "2000,".

Subsec. (b)(2)(I)(v)(I). Pub. L. 111–152, §2208(1)(F), inserted "and before July 1, 2010," after "2006,".

Subsec. (b)(2)(I)(vi). Pub. L. 111–152, §2208(1)(G), inserted ", and before july 1, 2010" after "2007" in heading and "and before July 1, 2010," after "2007," in introductory provisions.

Subsec. (c)(2)(B)(iii) to (v). Pub. L. 111–152, §2208(2)(A), inserted "and" after semicolon in cl. (iii), substituted period for "; and" at end of cl. (iv), and struck out cl. (v), which read as follows: "by substituting '0.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2010."

Subsec. (c)(6). Pub. L. 111–152, §2208(2)(B), inserted "and first disbursed before July 1, 2010," after "1992,".

Subsec. (d)(2)(B). Pub. L. 111–152, §2208(3), inserted ", and before July 1, 2010" after "2007".

2009—Subsec. (b)(2)(A). Pub. L. 111–39, §402(f)(11)(A), substituted "1077a(i)" for "1077a(f)".

Subsec. (b)(2)(B)(i). Pub. L. 111–39, §402(f)(11)(B), which directed substitution of "1986" for "1954" in

the first sentence, could not be executed because "1954" did not appear in original text subsequent to amendment by Pub. L. 100–369. See 1988 Amendment note below.

Subsec. (b)(2)(F). Pub. L. 111–39, §402(f)(11)(C), substituted "1077a(i)" for "1077a(f)".

2008—Subsec. (g). Pub. L. 110–315 added subsec. (g).

2007—Subsec. (b)(2)(I)(i). Pub. L. 110–84, §305(a)(1), substituted "the following clauses" for "clauses (ii), (iii), and (iv)".

Subsec. (b)(2)(I)(ii)(II). Pub. L. 110–84, §201(a)(2), substituted "section 1077a(l)(1) or (l)(4)" for "section 1077a(l)(1)".

Subsec. (b)(2)(I)(v)(III). Pub. L. 110–84, §305(a)(2), substituted "clauses (ii), (iii), (iv), and (vi)" for "clauses (ii), (iii), and (iv)".

Subsec. (b)(2)(I)(vi). Pub. L. 110–84, §305(a)(3), added cl. (vi).

Subsec. (b)(5). Pub. L. 110–84, §302(b)(2), struck out concluding provisions which read as follows: "As used in this section, the term 'eligible loan' includes all loans subject to section 1078–9 of this title."

Subsec. (d)(2). Pub. L. 110–84, §305(b), amended par. (2) generally. Prior to amendment, text read as follows: "With respect to any loan under this part for which the first disbursement was made on or after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan."

2006—Subsec. (b)(2)(B). Pub. L. 109–171, §8013(d)(1), repealed Pub. L. 109–150, §2(b), (c)(2). See 2005 Amendment note below.

Pub. L. 109–171, §8013(c)(1), amended directory language of Pub. L. 108–409, §2. See 2004 Amendment note below.

Subsec. (b)(2)(B)(iv). Pub. L. 109–171, §8013(a)(1), struck out "and before January 1, 2006," after "September 30, 2004,".

Subsec. (b)(2)(B)(v)(II)(aa), (bb). Pub. L. 109–171, §8013(a)(2)(A), struck out "and before January 1, 2006," after "September 30, 2004,".

Subsec. (b)(2)(B)(v)(II)(cc). Pub. L. 109–171, §8013(a)(2)(B), struck out ", and before January 1, 2006" after "September 30, 2004".

Subsec. (b)(2)(B)(vi), (vii). Pub. L. 109–171, §8013(b), added cls. (vi) and (vii).

Subsec. (b)(2)(I)(iii). Pub. L. 109–171, §8006(b)(1)(A), struck out ", subject to clause (v) of this subparagraph" before period at end.

Subsec. (b)(2)(I)(iv). Pub. L. 109–171, §8006(b)(1)(B), struck out ", subject to clause (vi) of this subparagraph" before period at end.

Subsec. (b)(2)(I)(v) to (vii). Pub. L. 109–171, §8006(b)(1)(C), added cl. (v) and struck out former cls. (v) to (vii), which related to limitation on special allowances for plus loans before July 1, 2006, limitation on special allowances for consolidation loans, and limitation on special allowances for plus loans on or after July 1, 2006, respectively.

Subsec. (c)(2). Pub. L. 109–171, §8008(c)(1), reenacted par. heading, designated existing provisions as subpar. (A), inserted subpar. (A) heading, and added subpar. (B).

2005—Subsec. (b)(2)(B). Pub. L. 109–150, §2(c)(2), which directed amendment of directory language of Pub. L. 108–409, §2, was repealed by Pub. L. 109–171, §8013(d)(1). See 2004 Amendment note and Effective Date of 2006 Amendment note below.

Subsec. (b)(2)(B)(iv), (v)(II). Pub. L. 109–150, §2(b), which directed substitution of "April 1, 2006" for "January 1, 2006" wherever appearing, was repealed by Pub. L. 109–171, §8013(d)(1). See Effective Date of 2006 Amendment note below.

2004—Subsec. (b)(2)(B). Pub. L. 108–409, §2, as amended by Pub. L. 109–171, §8013(c)(1), substituted "this clause" for "this division" in cl. (i) and "clause (i) of this subparagraph" for "division (i) of this subparagraph" in cl. (ii), inserted "or refunded after September 30, 2004, and before January 1, 2006," after "October 1, 1993," in cl. (iv), and added cl. (v). Pub. L. 109–150, §2(c)(2), which made an amendment to directory language of Pub. L. 108–409, §2, identical to that made by Pub. L. 109–171, §8013(c)(1), was repealed by Pub. L. 109–171, §8013(d)(1). See Effective Date of 2006 Amendment note below.

2002—Subsec. (b)(2)(I). Pub. L. 107–139, §2(1), struck out ", AND BEFORE JULY 1, 2003" after " JANUARY 1, 2000" in heading.

Subsec. (b)(2)(I)(i). Pub. L. 107–139, §2(2), struck out "and before July 1, 2003," after "January 1, 2000," in introductory provisions.

Subsec. (b)(2)(I)(ii). Pub. L. 107–139, §2(3), added cl. (ii) and struck out heading and text of former cl. (ii). Text read as follows: "In the case of any loan for which the first disbursement is made on or after January 1,

2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting '1.74 percent' for '2.34 percent'."

Subsec. (b)(2)(I)(iii). Pub. L. 107–139, §2(2), (4), struck out "and before July 1, 2003," after "January 1, 2000," and inserted "or (l)(2)" after "section 1077a(k)(3)".

Subsec. (b)(2)(I)(iv). Pub. L. 107–139, §2(2), (5), inserted "or (l)(3)" after "section 1077a(k)(4)" and struck out "and before July 1, 2003," after "January 1, 2000,".

Subsec. (b)(2)(I)(v). Pub. L. 107–139, §2(6), inserted "BEFORE JULY 1, 2006" after "PLUS LOANS" in heading and substituted "July 1, 2006," for "July 1, 2003," in introductory provisions.

Subsec. (b)(2)(I)(vi). Pub. L. 107–139, §2(2), (7), in introductory provisions, struck out "and before July 1, 2003," after "January 1, 2000," and inserted "or (l)(3)" after "section 1077a(k)(4)", and in concluding provisions, substituted "section 1077a(k)(4) or (l)(3) of this title, whichever is applicable" for "section 1077a(k)(4) of this title".

Subsec. (b)(2)(I)(vii). Pub. L. 107–139, §2(8), added cl. (vii).

1999—Subsec. (b)(2)(A). Pub. L. 106–170, §409(a)(1), substituted "(G), (H), and (I)" for "(G), and (H)" in first sentence.

Subsec. (b)(2)(B)(iv). Pub. L. 106–170, §409(a)(2), substituted "(G), (H), or (I)" for "(G), or (H)" in first sentence.

Subsec. (b)(2)(C)(ii). Pub. L. 106–170, §409(a)(3), substituted "(G), (H), and (I)" for "(G) and (H)" in introductory provisions.

Subsec. (b)(2)(H). Pub. L. 106–170, §409(a)(4), (5), substituted "JANUARY 1, 2000" for "JULY 1, 2003" in subpar. heading and "January 1, 2000" for "July 1, 2003" in text wherever appearing.

Subsec. (b)(2)(I). Pub. L. 106–170, §409(a)(6), added subpar. (I).

1998—Subsec. (b)(2)(A). Pub. L. 105–244, §416(b)(3)(A), substituted "(F), (G), and (H)" for "(F), and (G)".

Pub. L. 105–178, §8301(b)(2)(A), substituted "(E), (F), and (G)" for "(E), and (F)".

Subsec. (b)(2)(B)(iv). Pub. L. 105–244, §416(b)(3)(B), substituted "(F), (G), or (H)" for "(F), or (G)".

Pub. L. 105–178, §8301(b)(2)(B), substituted "(E), (F), or (G)" for "(E), or (F)".

Subsec. (b)(2)(C)(ii). Pub. L. 105–244, §416(b)(3)(C), substituted "subparagraphs (G) and (H)" for "subparagraph (G)".

Pub. L. 105–178, §8301(b)(2)(C), substituted "Subject to subparagraph (G), in the case" for "In the case".

Subsec. (b)(2)(G). Pub. L. 105–178, §8301(b)(1), added subpar. (G).

Subsec. (b)(2)(H). Pub. L. 105–244, §416(b)(1), added subpar. (H).

Subsec. (c)(1). Pub. L. 105–244, §433(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "Notwithstanding subsection (b) of this section, the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted."

Subsec. (c)(2). Pub. L. 105–244, §433(b)(1), substituted "(including loans made under section 1078–8 of this title, but excluding" for "(other than" and inserted at end "Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers."

Subsec. (c)(8). Pub. L. 105–244, §433(b)(2), added par. (8).

Subsec. (d)(1). Pub. L. 105–244, §433(c), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "Notwithstanding subsection (b) of this section, the Secretary shall reduce the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder of a loan by a loan fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount of such loan fee, then the Secretary shall deduct such excess amount from subsequent quarters' payments until the total amount has been deducted."

Subsec. (e). Pub. L. 105–244, §433(d)(1), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) related to lending from proceeds of tax exempt obligations.

1993—Subsec. (b)(2)(A). Pub. L. 103–66, §4111(1), substituted "subparagraphs (B), (C), (D), (E), and (F)" for "subparagraphs (B), (C), and (D)" and "section 1077a(f)" for "section 1077a(e)".

Subsec. (b)(2)(B)(iv). Pub. L. 103–66, §4105, added cl. (iv).

Subsec. (b)(2)(E), (F). Pub. L. 103–66, §4111(2), added subpars. (E) and (F).

Subsec. (c). Pub. L. 103–66, §4102(a)(1), inserted "from students" after "origination fees" in heading.

Subsec. (c)(2). Pub. L. 103–66, §4102(a)(2)(A), substituted "sections 1078–3 and 1087–2(o)" for "sections 1078–1, 1078–2, 1078–3, and 1087–2(o)" and "3.0 percent" for "5 percent".

Subsec. (c)(6). Pub. L. 103–66, §4102(a)(2)(B), substituted "3.0 percent" for "5 percent".

Subsecs. (d) to (f). Pub. L. 103–66, §4103, added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1992—Subsec. (b)(2)(A). Pub. L. 102–325, §430(a)(1), (2), substituted "3.10" for "3.25" and inserted at end "If such computation produces a number less than zero, such loans shall be subject to section 1077a(e) of this title."

Subsec. (b)(2)(B)(i). Pub. L. 102–325, §430(a)(3), substituted "3.10" for "3.25".

Subsec. (b)(2)(B)(ii). Pub. L. 102–325, §430(a)(4), added cl. (ii) and struck out former cl. (ii) which read as follows: "The rate set under division (i) shall not be less than (I) 2.5 percent per year in the case of loans for which the applicable interest rate is 7 percent per year, (II) 1.5 percent per year in the case of loans for which the applicable interest rate is 8 percent per year, or (III) 0.5 percent in the case of loans for which the applicable rate is 9 percent per year."

Subsec. (b)(2)(C). Pub. L. 102–325, §430(a)(5), designated existing provision as cl. (i), inserted "before October 1, 1992," after "made", and added cl. (ii).

Subsec. (b)(2)(D)(i). Pub. L. 102–325, §430(a)(6), substituted "3.10" for "3.25".

Subsec. (b)(5). Pub. L. 102–325, §430(c), inserted closing provision which defined "eligible loan" as used in this section to include all loans subject to section 1078–9 of this title.

Subsec. (b)(5)(A)(ii). Pub. L. 102–325, §430(b), inserted "1078–8," after "1078–3,".

Subsec. (c)(2). Pub. L. 102–325, §430(d)(1), substituted "Subject to paragraph (6) of this subsection, with" for "With".

Subsec. (c)(6), (7). Pub. L. 102–325, §430(d)(2), added pars. (6) and (7).

Subsec. (d)(2)(C). Pub. L. 102–325, §430(e), struck out "or discount" after "premium".

1988—Subsecs. (b)(2)(B)(i), (d)(1), (3). Pub. L. 100–369 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1987—Subsec. (b)(2)(B)(iii). Pub. L. 100–50, §10(bb)(1), substituted "subsection (d) of this section" for "subsection (c) of this section".

Subsec. (b)(2)(C). Pub. L. 100–50, §10(d)(2), substituted "12 percent" for "12.5 percent".

Subsec. (b)(7). Pub. L. 100–50, §10(bb)(2), added par. (7).

Subsec. (d)(4)(C). Pub. L. 100–50, §10(cc), struck out ", as evidenced by the information submitted under paragraph (2)(G) of this subsection" after "fiscal year".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–315 effective for loans for which the first disbursement is made on or after July 1, 2008, see section 422(g)(3) of Pub. L. 110–315, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by sections 201(a)(2) and 305 of Pub. L. 110–84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as a note under section 1070a of this title.

Amendment by section 302(b)(2) of Pub. L. 110–84 effective Oct. 1, 2007, see section 302(c) of Pub. L. 110–84, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Pub. L. 109–171, title VIII, §8006(b)(2), Feb. 8, 2006, 120 Stat. 160, provided that: "The amendments made by this subsection [amending this section] shall not apply with respect to any special allowance payment made under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087–1) before April 1, 2006."

Pub. L. 109–171, title VIII, §8013(c)(3), Feb. 8, 2006, 120 Stat. 167, provided that: "The amendment made by paragraph (1) [amending this section] shall be effective as if enacted on October 30, 2004, and the

amendment made by paragraph (2) [amending provisions set out as a note under section 1078–10 of this title] shall be effective as if enacted on October 1, 2005."

Pub. L. 109–171, title VIII, §8013(d)(2), Feb. 8, 2006, 120 Stat. 167, provided that: "The amendments made by subsections (a) and (c) of this section [amending this section and provisions set out as a note under section 1078–10 of this title] shall be effective as if the amendments made in subsections (b) and (c) of section 2 of the Second Higher Education Extension Act of 2005 [Pub. L. 109–150, amending this section and provisions set out as a note under section 1078–10 of this title] had not been enacted."

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–150, §2(d), Dec. 30, 2005, 119 Stat. 2884, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and provisions set out as notes under sections 1001 and 1078–10 of this title] are effective upon enactment [Dec. 30, 2005].

"(2) EXCEPTION.—The amendment made by subsection (c)(1) [amending provisions set out as a note under section 1078–10 of this title] shall take effect as if enacted on October 1, 2005."

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title IV, §409(b), Dec. 17, 1999, 113 Stat. 1916, provided that: "Subparagraph (I) of section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)) as added by subsection (a) of this section shall apply with respect to any payment pursuant to such section with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(b)(1) and (3) of Pub. L. 105–244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under section 1078–3 of this title for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105–244, set out as a note under section 1077a of this title.

Amendment by section 433(a)–(c) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §433(d)(2), Oct. 7, 1998, 112 Stat. 1711, provided that: "The amendment made by paragraph (1) [amending this section] shall be effective as of the date the plan required by section 438(e)(1) [subsec. (e)(1) of this section] (as such section was in effect prior to such amendment) was approved by the Secretary or the Governor (whichever was the case). No Authority shall have a right or cause of action against the Secretary for any amounts paid to or offset by the Secretary pursuant to a final settlement agreement entered into prior to July 1, 1998, resolving any audit or program review findings alleging violations of any provision of section 438(e) (as in effect prior to such amendment)."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 4102(a) of Pub. L. 103–66 effective July 1, 1994, see section 4102(d) of Pub. L. 103–66, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432(a)(13) of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (b) of this section effective with respect to loans disbursed on or after 30 days after Oct. 17, 1986, or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after Oct. 17, 1986, and subsec. (d) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

[1] *See References in Text note below.*

[2] *So in original.*

[3] *So in original. Probably should be followed by a comma.*

§1087–2. Student Loan Marketing Association

(a) Purpose

The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

(b) Establishment

(1) In general

There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) Exemption from State and local taxes

The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) Appropriations authorized for establishment

There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c) Board of Directors

(1) Composition of Board; Chairman

(A) The Association shall have a Board of Directors which shall consist of 21 persons, 7 of whom shall be appointed by the President and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f) of this section. Commencing with the annual shareholders meeting to be held in 1993—

(i) 7 of the elected directors shall be affiliated with an eligible institution; and

(ii) 7 of the elected directors shall be affiliated with an eligible lender.

(B) The President shall designate 1 of the directors to serve as Chairman.

(2) Terms of appointed and elected members

The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(3) Affiliated members

For the purpose of this subsection, the references to a director "affiliated with the eligible institution" or a director "affiliated with an eligible lender" means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

(A) an eligible institution or an eligible lender;

(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

(4) Meetings and functions of the Board

The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.

(d) Authority of Association

(1) In general

The Association is authorized, subject to the provisions of this section—

(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title;

(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, improvement, or purchase at institutions of higher education of any of the following facilities (including the underlying property) and materials (including related equipment, instrumentation, and furnishings) at an eligible institution of higher education:

(i) educational and training facilities;

(ii) housing for students and faculties, dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and

(iii) library facilities, including the acquisition of library materials at institutions of higher education;

except that not more than 30 percent of the value of transactions entered into under this subparagraph shall involve transactions of the types described in clause (ii);

(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 1078 of this title, and except with respect to loans under subsection (o) of this section or under section 1078–3 of this title, the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students, except that—

(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

(ii) nothing in this subparagraph (E) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this subparagraph (E), the Association shall advise the Chairman and the Ranking Member on the Committee on Labor and Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

(2) Warehousing advances

Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

(3) Perfection of security interests in student loans

Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 1085(a) of this title may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.

(4) Form of securities

Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

(5) Restrictions on facilities and housing activities

Not less than 75 percent of the aggregate dollar amount of obligations bought, sold, held, insured, underwritten, and otherwise supported in accordance with the authority contained in paragraph (1)(C) shall be obligations which are listed by a nationally recognized statistical rating organization at a rating below the second highest rating of such organization.

(e) Advances to lenders that do not discriminate

The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) of this section only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f) Stock of the Association

(1) Voting common stock

The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

(2) Number of shares; transferability

The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(3) Dividends

To the extent that net income is earned and realized, subject to subsection (g)(2) of this section, dividends may be declared on voting common stock by the Board of Directors. Such dividends as may be declared by the Board of Directors shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(4) Single class of voting common stock

As of the effective date of the Higher Education Amendments of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.

(g) Preferred stock

(1) Authority of Board

The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely

transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) Rights of preferred stock

The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) Preference on termination of business

In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h) Debt obligations

(1) Approval by Secretaries of Education and the Treasury

The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the authority contained in subsection (d)(1)(B) and (C) of this section and as to which the income is exempt from taxation under title 26 does not exceed the average stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for the purpose of section 265 of title 26.

(2) Guarantee of debt

The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

(3) Borrowing authority to meet guarantee obligations

To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the

Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(4) Action on request for guarantees

Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than 60 days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

(5) Authority of Treasury to purchase debt

The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(6) Sale of debt to Federal Financing Bank

Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 1078 or 1079 of this title, to the Federal Financing Bank.

(7) Offset fee

(A) The Association shall pay to the Secretary, on a monthly basis, an offset fee calculated on an annual basis in an amount equal to 0.30 percent of the principal amount of each loan made, insured or guaranteed under this part that the Association holds (except for loans made pursuant to section 1078–3 of this title, subsection (o) of this section, or subsection (q) of this section) and that was acquired on or after August 10, 1993.

(B) If the Secretary determines that the Association has substantially failed to comply with subsection (q) of this section, subparagraph (A) shall be applied by substituting "1.0 percent" for "0.3 percent".

(C) The Secretary shall deposit all fees collected pursuant to this paragraph into the insurance fund established in section 1081 of this title.

(i) General corporate powers

The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any

State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) Accounting, auditing, and reporting

The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) Report on audits by Treasury

A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

(l) Lawful investment instruments; effect of and exemptions from other laws

All obligations issued by the Association including those made under subsection (d)(4) of this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 355(2) of title 12, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United

States for the purpose of section 3124 of title 31. For the purpose of the distribution of its property pursuant to section 726 of title 11, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3713 of title 31 shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1992. The Federal Reserve Banks are authorized to act as depositaries, custodians, or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

(m) Preparation of obligations

In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

(n) Report on operations and activities

The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year.

(o) Loan consolidations

(1) In general

The Association or its designated agent may, upon request of a borrower, consolidate loans received under this subchapter and part C of subchapter I of chapter 34 of title 42 in accordance with section 1078–3 of this title.

(2) Use of existing agencies as agent

The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

(p) Advances for direct loans by guaranty agencies

(1) In general

The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 1078(h)(1) [1] of this title which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 1078(h) [1] of this title and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

(2) Limitation

No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

(q) Lender-of-last-resort

(1) Action at request of Secretary

(A) Whenever the Secretary determines that eligible borrowers are seeking and are unable to

obtain loans under this part, the Association or its designated agent shall, not later than 90 days after August 10, 1993, begin making loans to such eligible borrowers in accordance with this subsection at the request of the Secretary. The Secretary may request that the Association make loans to borrowers within a geographic area or for the benefit of students attending institutions of higher education that certify, in accordance with standards established by the Secretary, that their students are seeking and unable to obtain loans.

(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 1079 of this title with a certificate of comprehensive insurance coverage provided for under section 1079(b)(1) of this title or by a guaranty agency under paragraph (2)(A) of this subsection.

(2) Issuance and coverage of loans

(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 1085(d)(1)(D) of this title, determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent shall begin making such loans to borrowers in such State or within an area of such State in accordance with this subsection at the request of the Secretary.

(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 1078(b) of this title. For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

(3) Termination of lending

The Association or its designated agent shall cease making loans under this subsection at such time as the Secretary determines that the conditions which caused the implementation of this subsection have ceased to exist.

(r) Safety and soundness of Association

(1) Reports by the Association

The Association shall promptly furnish to the Secretary of Education and Secretary of the Treasury copies of all—

(A) periodic financial reports publicly distributed by the Association;

(B) reports concerning the Association that are received by the Association and prepared by nationally recognized statistical rating organizations; and

(C)(i) financial statements of the Association within 45 days of the end of each fiscal quarter; and

(ii) reports setting forth the calculation of the capital ratio of the Association within 45 days of the end of each fiscal quarter.

(2) Audit by Secretary of the Treasury

(A) The Secretary of the Treasury may—

(i) appoint and fix the compensation of such auditors and examiners as may be necessary to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing the Association's financial safety and soundness and to determine whether the requirements of this section and section 1087–3 of this title are being met; and

(ii) obtain the services of such experts as the Secretary of the Treasury determines necessary and appropriate, as authorized by section 3109 of title 5, to assist in determining the condition of the Association for the purpose of assessing the Association's financial safety and soundness, and to determine whether the requirements of this section and section 1087–3 of this title are being met.

(B) Each auditor appointed under this paragraph shall conduct an audit of the Association to the extent requested by the Secretary of the Treasury and shall prepare and submit a report to the Secretary of the Treasury concerning the results of such audit. A copy of such report shall be furnished to the Association and the Secretary of Education on the date on which it is delivered to the Secretary of the Treasury.

(C) The Association shall provide full and prompt access to the Secretary of the Treasury to its books and records and other information requested by the Secretary of the Treasury.

(D) ANNUAL ASSESSMENT.—

(i) IN GENERAL.—For each fiscal year beginning on or after October 1, 1996, the Secretary of the Treasury may establish and collect from the Association an assessment (or assessments) in amounts sufficient to provide for reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 1087–3 of this title during such fiscal year. In no event may the total amount so assessed exceed, for any fiscal year, $800,000, adjusted for each fiscal year ending after September 30, 1997, by the ratio of the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the final month of the fiscal year preceding the fiscal year for which the assessment is made to the Consumer Price Index for All Urban Consumers for September 1997.

(ii) DEPOSIT.—Amounts collected from assessments under this subparagraph shall be deposited in an account within the Treasury of the United States as designated by the Secretary of the Treasury for that purpose. The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account the reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 1087–3 of this title. None of the funds deposited into such account shall be available for any purpose other than making payments for such costs and expenses.

(E) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—

(i) IN GENERAL.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(I) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(II) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(ii) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of such information to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and clause (i), require the Association to make reports concerning the activities of any associated person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(iii) DEFINITION.—For purposes of this subparagraph, the term "associated person" means any person, other than a natural person, directly or indirectly controlling, controlled by, or under common control with the Association.

(F) COMPENSATION OF AUDITORS AND EXAMINERS.—

(i) RATES OF PAY.—Rates of basic pay for all auditors and examiners appointed pursuant to subparagraph (A) may be set and adjusted by the Secretary of the Treasury without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5.

(ii) COMPARABILITY.—

(I) IN GENERAL.—Subject to section 5373 of title 5, the Secretary of the Treasury may provide additional compensation and benefits to auditors and examiners appointed pursuant to subparagraph (A) if the same type of compensation or benefits are then being provided by any agency referred to in section 1833b of title 12 or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation.

(II) CONSULTATION.—In setting and adjusting the total amount of compensation and benefits for auditors and examiners appointed pursuant to subparagraph (A), the Secretary of the Treasury shall consult with, and seek to maintain comparability with, the agencies referred to in section 1833b of title 12.

(3) Monitoring of safety and soundness

The Secretary of the Treasury shall conduct such studies as may be necessary to monitor the financial safety and soundness of the Association. In the event that the Secretary of the Treasury determines that the financial safety and soundness of the Association is at risk, the Secretary of the Treasury shall inform the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education of such determination and identify any corrective actions that should be taken to ensure the safety and soundness of the Association.

(4) Capital standard

If the capital ratio is less than 2 percent and is greater than or equal to 1.75 percent at the end of the Association's most recent calendar quarter the Association shall, within 60 days of such occurrence, submit to the Secretary of the Treasury a capital restoration plan, in reasonable detail, that the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 36 months.

(5) Capital restoration plan

(A) Submission, approval, and implementation

The Secretary of the Treasury and the Association shall consult with respect to any capital restoration plan submitted pursuant to paragraph (4) and the Secretary of the Treasury shall approve such plan (or a modification thereof accepted by the Association) or disapprove such plan within 30 days after such plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a capital restoration plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan to the best of its ability.

(B) Disapproval

If the Secretary of the Treasury does not approve a capital restoration plan as provided in subparagraph (A), then not later than the earlier of the date the Secretary of the Treasury disapproves of such plan by written notice to the Association or the expiration of the 30-day consideration period referred to in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall submit the Association's capital restoration plan, in the form most recently proposed to the Secretary of the Treasury by the Association, together with a report on the Secretary of the Treasury's reasons for disapproval of such plan and an alternative capital restoration plan, to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury.

(C) Association implementation and response

Upon receipt of the submission by the Association, the Association shall forthwith proceed

with diligence to implement the most recently proposed capital restoration plan of the Association. The Association, within 30 days after receipt from the Secretary of the Treasury of such submission, shall submit to such Chairmen and ranking minority members a written response to such submission, setting out fully the nature and extent of the Association's agreement or the disagreement with the Secretary of the Treasury with respect to the capital restoration plan submitted to the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(6) Substantial capital ratio reduction

(A) Additional plan required

If the capital ratio is less than 1.75 percent and is greater than or equal to 1 percent at the end of the Association's most recent calendar quarter, the Association shall submit to the Secretary of the Treasury within 60 days after such occurrence a capital restoration plan (or an appropriate modification of any plan previously submitted or approved under paragraph (4)) to increase promptly its capital ratio to equal or exceed 1.75 percent. The Secretary of the Treasury and the Association shall consult with respect to any plan or modified plan submitted pursuant to this paragraph. The Secretary of the Treasury shall approve such plan or modified plan (or a modification thereof accepted by the Association) or disapprove such plan or modified plan within 30 days after such plan or modified plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a plan or modified plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan or modified plan to the best of the Association's ability.

(B) Disapproval

If the Secretary of the Treasury disapproves a capital restoration plan or modified plan submitted pursuant to subparagraph (A), then, not later than the earlier of the date the Secretary of the Treasury disapproves of such plan or modified plan (by written notice to the Association) or the expiration of the 30-day consideration period described in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall prepare and submit an alternative capital restoration plan, together with a report on his reasons for disapproval of the Association's plan or modified plan, to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury. The Association, within 5 days after receipt from the Secretary of the Treasury of such submission, shall submit to the Chairmen and ranking minority members of such Committees, and the Secretary of the Treasury, a written response to such submission, setting out fully the nature and extent of the Association's agreement or disagreement with the Secretary of the Treasury with respect to the disapproved plan and the alternative plan of the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(C) Review by Congress; Association implementation

Congress shall have 60 legislative days after the date on which Congress receives the alternative plan under subparagraph (B) from the Secretary of the Treasury to review such plan. If Congress does not take statutory action with respect to any such plan within such 60-day period, the Association shall immediately proceed with diligence to implement the alternative capital restoration plan of the Secretary of the Treasury under subparagraph (B). If Congress is out of session when any such alternative plan is received, such 60-day period shall begin on the first day of the next session of Congress.

(7) Actions by Secretary of the Treasury

If the capital ratio of the Association does not equal or exceed 1.75 percent at the end of the Association's most recent calendar quarter, the Secretary of the Treasury may, until the capital ratio equals or exceeds 1.75 percent, take any one or more of the following actions:

(A) Limit increase in liabilities

Limit any increase in, or order the reduction of, any liabilities of the Association, except as necessary to fund student loan purchases and warehousing advances.

(B) Restrict growth

Restrict or eliminate growth of the Association's assets, other than student loans purchases and warehousing advances.

(C) Restrict distributions

Restrict the Association from making any capital distribution.

(D) Require issuance of new capital

Require the Association to issue new capital in any form and in any amount sufficient to restore at least a 1.75 percent capital ratio.

(E) Limit executive compensation

Prohibit the Association from increasing for any executive officer any compensation including bonuses at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months and prohibiting the Board from adopting any new employment severance contracts.

(8) Critical capital standard

(A) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has already submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall forthwith proceed with diligence to implement the most recently proposed plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(B) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has not submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall—

(i) within 14 days of such occurrence submit a capital restoration plan to the Secretary of the Treasury which the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 60 months; and

(ii) forthwith proceed with diligence to implement such plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(C) Immediately upon a determination under subparagraph (A) or (B) to implement a capital restoration plan, the Secretary of the Treasury shall submit the capital restoration plan to be implemented to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education.

(9) Additional reports to committees

The Association shall submit a copy of its capital restoration plan, modifications proposed to the Secretary of the Treasury, and proposed modifications received from the Secretary of the Treasury to the Congressional Budget Office and Government Accountability Office upon their submission to the Secretary of the Treasury or receipt from the Secretary of the Treasury. Notwithstanding any other provision of law, the Congressional Budget Office and Government Accountability Office shall maintain the confidentiality of information received pursuant to the previous sentence. In the event that the Secretary of the Treasury does not approve a capital

restoration plan as provided in paragraph (5)(A) or (6)(A), or in the event that a capital restoration plan is modified by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), the Congressional Budget Office and Government Accountability Office shall each submit a report within 30 days of the Secretary of the Treasury's submission to the Chairmen and ranking minority members as required in paragraphs (5)(B), (6)(B), and (8)(C) to such Chairmen and ranking members—

(A) analyzing the financial condition of the Association;

(B) analyzing the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8);

(C) analyzing the impact of the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the impact of the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), and analyzing the impact of the recommendations made pursuant to subparagraph (D) of this paragraph, on—

(i) the ability of the Association to fulfill its purpose and authorized activities as provided in this section, and

(ii) the operation of the student loan programs; and

(D) recommending steps which the Association should take to increase its capital ratio without impairing its ability to perform its purpose and authorized activities as provided in this section.

(10) Review by Secretary of Education

The Secretary of Education shall review the Secretary of the Treasury's submission required pursuant to paragraph (5)(B), (6)(B), or (8) and shall submit a report within 30 days to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor—

(A) describing any administrative or legislative provisions governing the student loan programs which contributed to the decline in the Association's capital ratio; and

(B) recommending administrative and legislative changes in the student loan programs to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities consistent with the capital ratio specified in paragraph (4).

(11) Safe harbor

The Association shall be deemed in compliance with the capital ratios described in paragraphs (4) and (6)(A) if the Association is rated in 1 of the 2 highest full rating categories (such categories to be determined without regard to designations within categories) by 2 nationally recognized statistical rating organizations, determined without regard to the Association's status as a federally chartered corporation.

(12) Treatment of confidential information

Notwithstanding any other provision of law, the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the Government Accountability Office shall not disclose any information treated as confidential by the Association or the Association's associated persons and obtained pursuant to this subsection. Nothing in this paragraph shall authorize the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the Government Accountability Office to withhold information from Congress, or prevent the Secretary of Education, the Congressional Budget Office, and the Government Accountability Office from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States. For

purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3) of such section 552.

(13) Enforcement of safety and soundness requirements

The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(14) Actions by Secretary

(A) In general

For any fiscal quarter ending after January 1, 2000, the Association shall have a capital ratio of at least 2.25 percent. The Secretary of the Treasury may, whenever such capital ratio is not met, take any one or more of the actions described in paragraph (7), except that—

(i) the capital ratio to be restored pursuant to paragraph (7)(D) shall be 2.25 percent; and

(ii) if the relevant capital ratio is in excess of or equal to 2 percent for such quarter, the Secretary of the Treasury shall defer taking any of the actions set forth in paragraph (7) until the next succeeding quarter and may then proceed with any such action only if the capital ratio of the Association remains below 2.25 percent.

(B) Applicability

The provisions of paragraphs (4), (5), (6), (8), (9), (10), and (11) shall be of no further application to the Association for any period after January 1, 2000.

(15) Definitions

As used in this subsection:

(A) The term "nationally recognized statistical rating organization" means any nationally recognized statistical rating organization, as that term is defined in section 78c(a) of title 15.

(B) The term "capital ratio" means the ratio of total stockholders' equity, as shown on the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

(i) the total assets of the Association, as shown on the balance sheet prepared in the ordinary course of its business; and

(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of such balance sheet—

(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap, and collar agreements and similar arrangements.

For purposes of this subparagraph, the calculation of the credit equivalent amount of the items set forth in clause (ii) of this subparagraph, the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal Reserve Board, but without regard to any risk weighting provisions in such measures.

(C) The term "legislative days" means only days on which either House of Congress is in session.

(16) Dividends

The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards set forth in this section.

(17) Certification prior to payment of dividend

Prior to the payment of any dividend under paragraph (16), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (16) and shall provide copies of all calculations needed to make such certification.

(s) Charter sunset

(1) Application of provisions

This subsection applies beginning 18 months and one day after September 30, 1996, if no reorganization of the Association occurs in accordance with the provisions of section 1087–3 of this title.

(2) Sunset plan

(A) Plan submission by the Association

Not later than July 1, 2007, the Association shall submit to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Labor and Human Resources of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives, a detailed plan for the orderly winding up, by July 1, 2013, of business activities conducted pursuant to the charter set forth in this section. Such plan shall—

(i) ensure that the Association will have adequate assets to transfer to a trust, as provided in this subsection, to ensure full payment of remaining obligations of the Association in accordance with the terms of such obligations;

(ii) provide that all assets not used to pay liabilities shall be distributed to shareholders as provided in this subsection; and

(iii) provide that the operations of the Association shall remain separate and distinct from that of any entity to which the assets of the Association are transferred.

(B) Amendment of the plan by the Association

The Association shall from time to time amend such plan to reflect changed circumstances, and submit such amendments to the Secretary of the Treasury and to the Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives. In no case may any amendment extend the date for full implementation of the plan beyond the dissolution date provided in paragraph (3).

(C) Plan monitoring

The Secretary of the Treasury shall monitor the Association's compliance with the plan and shall continue to review the plan (including any amendments thereto).

(D) Amendment of the plan by the Secretary of the Treasury

The Secretary of the Treasury may require the Association to amend the plan (including any amendments to the plan), if the Secretary of the Treasury deems such amendments necessary to ensure full payment of all obligations of the Association.

(E) Implementation by the Association

The Association shall promptly implement the plan (including any amendments to the plan, whether such amendments are made by the Association or are required to be made by the Secretary of the Treasury).

(3) Dissolution of the Association

The Association shall dissolve and the Association's separate existence shall terminate on July 1, 2013, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days of receipt of such notice the Secretary of Education

notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to subsection (q) of this section or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (4)(A). On the dissolution date, the Association shall take the following actions:

(A) Establishment of a trust

The Association shall, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Secretary of the Treasury, the Association, and the appointed trustee, irrevocably transfer all remaining obligations of the Association to a trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms.

(B) Use of trust assets

All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust. Upon the fulfillment of the trustee's duties under the trust, any remaining assets of the trust shall be transferred to the persons who, at the time of the dissolution, were the shareholders of the Association, or to the legal successors or assigns of such persons.

(C) Obligations not transferred to the trust

The Association shall make proper provision for all other obligations of the Association, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding.

(D) Transfer of remaining assets

After compliance with subparagraphs (A) and (C), the Association shall transfer to the shareholders of the Association any remaining assets of the Association.

(4) Restrictions relating to winding up

(A) Restrictions on new business activity or acquisition of assets by the Association

(i) In general

Beginning on July 1, 2009, the Association shall not engage in any new business activities or acquire any additional program assets (including acquiring assets pursuant to contractual commitments) described in subsection (d) of this section other than in connection with the Association—

(I) serving as a lender of last resort pursuant to subsection (q) of this section; and

(II) purchasing loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(ii) Agreement

The Secretary is authorized to enter into an agreement described in subclause (II) of clause (i) with the Association covering such secondary market activities. Any agreement entered into under such subclause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under subsection (h)(7) of this section shall not apply to loans acquired under any such agreement with the Secretary.

(B) Issuance of debt obligations during the wind up period; attributes of debt obligations

The Association shall not issue debt obligations which mature later than July 1, 2013, except in connection with serving as a lender of last resort pursuant to subsection (q) of this section or with purchasing loans under an agreement with the Secretary as described in subparagraph (A). Nothing in this subsection shall modify the attributes accorded the debt obligations of the Association by this section, regardless of whether such debt obligations are transferred to a trust in accordance with paragraph (3).

(C) Use of Association name

The Association may not transfer or permit the use of the name "Student Loan Marketing Association", "Sallie Mae", or any variation thereof, to or by any entity other than a subsidiary of the Association.

(Pub. L. 89–329, title IV, §439, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1418; amended Pub. L. 100–50, §10(dd), June 3, 1987, 101 Stat. 347; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, §431, July 23, 1992, 106 Stat. 554; Pub. L. 103–66, title IV, §§4041(c), 4104, Aug. 10, 1993, 107 Stat. 356, 367; Pub. L. 103–208, §2(c)(69), Dec. 20, 1993, 107 Stat. 2470; Pub. L. 103–382, title III, §358, Oct. 20, 1994, 108 Stat. 3968; Pub. L. 104–208, div. A, title I, §101(e) [title VI, §602(b)(2)–(4), (c)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–284 to 3009–286; Pub. L. 106–554, §1(a)(1) [title III, §309], Dec. 21, 2000, 114 Stat. 2763, 2763A–45; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109–291, §4(b)(5), Sept. 29, 2006, 120 Stat. 1338.)

REPEAL OF SECTION

Pub. L. 104–208, div. A, title I, §101(e) [title VI, §602(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, provided that this section is repealed effective one year after date on which all obligations of trust established under section 1087–3(d)(1) of this title have been extinguished, if reorganization occurs in accordance with section 1087–3 of this title; or date on which all obligations of trust established under subsec. (s)(3)(A) of this section have been extinguished, if reorganization does not occur in accordance with section 1087–3 of this title.

REFERENCES IN TEXT

For the effective date of the Higher Education Amendments of 1992, referred to in subsec. (f)(4), see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

Section 1078(h) of this title, referred to in subsec. (p)(1), was repealed by Pub. L. 110–315, title IV, §438(a)(2)(B), Aug. 14, 2008, 122 Stat. 3258.

CODIFICATION

In subsec. (h)(3) and (5), "chapter 31 of title 31" substituted for "the Second Liberty Bond Act, as amended" and "the Second Liberty Bond Act", and "that chapter" substituted for "that Act, as amended", on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1087–2, Pub. L. 89–329, title IV, §439, as added Pub. L. 92–318, title I, §133(a), June 23, 1972, 86 Stat. 265; amended Pub. L. 94–273, §3(9), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2136; Pub. L. 95–43, §1(a)(38), June 15, 1977, 91 Stat. 217; Pub. L. 96–374, title IV, §421(a)–(e)(1), title XIII, §1391(a)(1), (3), Oct. 3, 1980, 94 Stat. 1427–1430, 1503; Pub. L. 97–35, title V, §538, Aug. 13, 1981, 95 Stat. 457; Pub. L. 97–115, §18, Dec. 29, 1981, 95 Stat. 1610; Pub. L. 97–301, §14, Oct. 13, 1982, 96 Stat. 1405; Pub. L. 98–79, §§2, 8, Aug. 15, 1983, 97 Stat. 476, 483; Pub. L. 99–272, title XVI, §§16017(b)(4), 16018(a)(3), Apr. 7, 1986, 100 Stat. 347, 348, established the Student Loan Marketing Association, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2006—Subsec. (r)(15)(A). Pub. L. 109–291 substituted "means any nationally recognized statistical rating organization, as that term is defined in section 78c(a) of title 15" for "means any entity recognized as such by

the Securities and Exchange Commission".

2004—Subsec. (r)(9), (12). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" wherever appearing.

2000—Subsec. (r)(2)(A)(i). Pub. L. 106–554, §1(a)(1) [title III, §309(1)], which directed amendment of this section by substituting "and fix the compensation of such auditors and examiners as may be necessary" for "auditors and examiners", was executed by making the substitution for "auditors or examiners", to reflect the probable intent of Congress.

Subsec. (r)(2)(F). Pub. L. 106–554, §1(a)(1) [title III, §309(2)], added subpar. (F).

1996—Subsec. (r)(1)(C). Pub. L. 104–208, §101(e) [title VI, §602(b)(3)(A)], added subpar. (C).

Subsec. (r)(2)(A)(i), (ii). Pub. L. 104–208, §101(e) [title VI, §602(b)(3)(B)(i)], added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

"(i) appoint auditors to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing its financial safety and soundness; and

"(ii) enter into contracts to obtain the services of such technical experts as the Secretary of the Treasury determines necessary and appropriate to provide technical assistance to any auditor appointed under this paragraph."

Subsec. (r)(2)(D). Pub. L. 104–208, §101(e) [title VI, §602(b)(3)(B)(ii)], added subpar. (D).

Subsec. (r)(2)(E). Pub. L. 104–208, §101(e) [title VI, §602(b)(4)(A)], added subpar. (E).

Subsec. (r)(12). Pub. L. 104–208, §101(e) [title VI, §602(b)(2)(A)], inserted "or the Association's associated persons" after "by the Association" in first sentence.

Subsec. (r)(13). Pub. L. 104–208, §101(e) [title VI, §602(b)(2)(B), (C)], added par. (13) and redesignated former par. (13) as (15).

Subsec. (r)(14). Pub. L. 104–208, §101(e) [title VI, §602(b)(3)(C)], added par. (14).

Subsec. (r)(15). Pub. L. 104–208, §101(e) [title VI, §602(b)(2)(B)], redesignated par. (13) as (15).

Subsec. (r)(16), (17). Pub. L. 104–208, §101(e), [title VI, §602(b)(4)(B)], added pars. (16) and (17).

Subsec. (s). Pub. L. 104–208, §101(e) [title VI, §602(c)], added subsec. (s).

1994—Subsec. (d)(1)(C). Pub. L. 103–382, §358(1)(A), (D), inserted "(including related equipment, instrumentation, and furnishings)" after "materials" in introductory provisions and substituted "30 percent" for "15 percent" and "types" for "type" in concluding provisions.

Subsec. (d)(1)(C)(ii). Pub. L. 103–382, §358(1)(B), substituted ", dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and" for the semicolon.

Subsec. (d)(1)(C)(iii), (iv). Pub. L. 103–382, §358(1)(C), (E), struck out "and" after the semicolon in cl. (iii) and struck out cl. (iv) which read as follows: "related equipment, instrumentation, and furnishings for facilities and materials described in clause (i) or (iii);".

Subsec. (n). Pub. L. 103–382, §358(2), substituted "a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year" for "a report of its operations and activities during each year".

1993—Subsec. (h)(7). Pub. L. 103–66, §4104, added par. (7).

Subsec. (q). Pub. L. 103–66, §4041(c), amended subsec. (q) generally, substituting present provisions for substantially similar former provisions.

Subsec. (r)(12). Pub. L. 103–208 substituted "section 552" for "section 522".

1992—Subsec. (c). Pub. L. 102–325, §431(a), amended subsec. (c) generally, substituting present provisions consisting of pars. (1) to (4) for former provisions which provided for: in par. (1), Board membership; in par. (2), interim Board; in par. (3), regular Board; in par. (4), succession of regular Board; in par. (5), terms of appointed and elected members; and in par. (6), meetings and functions of Board.

Subsec. (d)(1)(C). Pub. L. 102–325, §431(b), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, or purchase of educational and training facilities and housing for students and faculties (including the underlying real property), and related equipment, instrumentation, and furnishings;".

Subsec. (d)(5). Pub. L. 102–325, §431(c), substituted "second highest rating" for "third highest rating".

Subsec. (f). Pub. L. 102–325, §431(d), amended subsec. (f) generally, substituting present provisions consisting of pars. (1) to (4) for former provisions which provided for: in par. (1), common stock to insured lenders and eligible institutions only; in par. (2), voting rights; in par. (3), number of shares and transferability; in par. (4), dividends; and in par. (5), nonvoting common stock.

Subsec. (r). Pub. L. 102–325, §431(e), added subsec. (r).

1988—Subsec. (h)(1). Pub. L. 100–369 substituted "Internal Revenue Code of 1986" for "Internal Revenue

Code of 1954" in two places, which for purposes of codification was translated as "title 26" thus requiring no change in text.

1987—Subsec. (d)(1)(E)(iii). Pub. L. 100–50 inserted "Labor and" before "Human Resources".

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, §101(e) [title VI, §602(d)(2)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, provided that: "The repeals made by paragraph (1) [repealing this section and section 1087–3 of this title] shall be effective one year after—

"(A) the date on which all of the obligations of the trust established under section 440(d)(1) of the Higher Education Act of 1965 [20 U.S.C. 1087–3(d)(1)] (as added by subsection (a)) have been extinguished, if a reorganization occurs in accordance with section 440 of such Act; or

"(B) the date on which all of the obligations of the trust established under subsection [sic] 439(s)(3)(A) of such Act [20 U.S.C. 1087–2(s)(3)(A)] (as added by subsection (c)) have been extinguished, if a reorganization does not occur in accordance with section 440 of such Act."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes in subsec. (d)(1), relating to facilities loans, applicable with respect to applications received on or after July 1, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsecs. (k) and (n) of this section relating to transmitting annual reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 141 and 206 of House Document No. 103–7.

USE OF ASSOCIATION NAMES UPON DISSOLUTION; ENFORCEMENT

Pub. L. 104–208, div. A, title I, §101(e) [title VI, §602(e), (f)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, 3009–290, provided that:

"(e) ASSOCIATION NAMES.—Upon dissolution in accordance with section 439(s) of the Higher Education Act of 1965 (20 U.S.C. 1087–2[(s)]), the names 'Student Loan Marketing Association', 'Sallie Mae', and any variations thereof may not be used by any entity engaged in any business similar to the business conducted pursuant to section 439 of such Act (as such section was in effect on the date of enactment of this Act [Sept. 30, 1996]) without the approval of the Secretary of the Treasury.

"(f) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of subsection (e), or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with subsection (e)."

[1] *See References in Text note below.*

§1087–3. Reorganization of Student Loan Marketing Association through formation of Holding Company

(a) Actions by Association's Board of Directors

The Board of Directors of the Association shall take or cause to be taken all such action as the Board of Directors deems necessary or appropriate to effect, upon the shareholder approval described in subsection (b) of this section, a restructuring of the common stock ownership of the Association, as set forth in a plan of reorganization adopted by the Board of Directors (the terms of which shall be consistent with this section) so that all of the outstanding common shares of the Association shall be directly owned by a Holding Company. Such actions may include, in the Board of Director's discretion, a merger of a wholly owned subsidiary of the Holding Company with and into the Association, which would have the effect provided in the plan of reorganization and the law of the jurisdiction in which such subsidiary is incorporated. As part of the restructuring, the Board of Directors may cause—

(1) the common shares of the Association to be converted, on the reorganization effective date, to common shares of the Holding Company on a one for one basis, consistent with applicable State or District of Columbia law; and

(2) Holding Company common shares to be registered with the Securities and Exchange Commission.

(b) Shareholder approval

The plan of reorganization adopted by the Board of Directors pursuant to subsection (a) of this section shall be submitted to common shareholders of the Association for their approval. The reorganization shall occur on the reorganization effective date, provided that the plan of reorganization has been approved by the affirmative votes, cast in person or by proxy, of the holders of a majority of the issued and outstanding shares of the Association common stock.

(c) Transition

In the event the shareholders of the Association approve the plan of reorganization under subsection (b) of this section, the following provisions shall apply beginning on the reorganization effective date:

(1) In general

Except as specifically provided in this section, until the dissolution date the Association shall continue to have all of the rights, privileges and obligations set forth in, and shall be subject to all of the limitations and restrictions of, section 1087–2 of this title, and the Association shall continue to carry out the purposes of such section. The Holding Company and any subsidiary of the Holding Company (other than the Association) shall not be entitled to any of the rights, privileges, and obligations, and shall not be subject to the limitations and restrictions, applicable to the Association under section 1087–2 of this title, except as specifically provided in this section. The Holding Company and any subsidiary of the Holding Company (other than the Association or a subsidiary of the Association) shall not purchase loans insured under this chapter and part C of subchapter I of chapter 34 of title 42 until such time as the Association ceases acquiring such loans, except that the Holding Company may purchase such loans if the Association is merely continuing to acquire loans as a lender of last resort pursuant to section 1087–2(q) of this title or under an agreement with the Secretary described in paragraph (6).

(2) Transfer of certain property

(A) In general

Except as provided in this section, on the reorganization effective date or as soon as practicable thereafter, the Association shall use the Association's best efforts to transfer to the Holding Company or any subsidiary of the Holding Company (or both), as directed by the

Holding Company, all real and personal property of the Association (both tangible and intangible) other than the remaining property. Subject to the preceding sentence, such transferred property shall include all right, title, and interest in—

(i) direct or indirect subsidiaries of the Association (excluding special purpose funding companies in existence on September 30, 1996, and any interest in any government-sponsored enterprise);

(ii) contracts, leases, and other agreements of the Association;

(iii) licenses and other intellectual property of the Association; and

(iv) any other property of the Association.

(B) Construction

Nothing in this paragraph shall be construed to prohibit the Association from transferring remaining property from time to time to the Holding Company or any subsidiary of the Holding Company, subject to the provisions of paragraph (4).

(3) Transfer of personnel

On the reorganization effective date, employees of the Association shall become employees of the Holding Company (or any subsidiary of the Holding Company), and the Holding Company (or any subsidiary of the Holding Company) shall provide all necessary and appropriate management and operational support (including loan servicing) to the Association, as requested by the Association. The Association, however, may obtain such management and operational support from persons or entities not associated with the Holding Company.

(4) Dividends

The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards and requirements set forth in section 1087–2(r) of this title. If, at any time after the reorganization effective date, the Association fails to comply with such capital standards, the Holding Company shall transfer with due diligence to the Association additional capital in such amounts as are necessary to ensure that the Association again complies with the capital standards.

(5) Certification prior to dividend

Prior to the payment of any dividend under paragraph (4), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (4) and shall provide copies of all calculations needed to make such certification.

(6) Restrictions on new business activity or acquisition of assets by Association

(A) In general

After the reorganization effective date, the Association shall not engage in any new business activities or acquire any additional program assets described in section 1087–2(d) of this title other than in connection with—

(i) student loan purchases through September 30, 2007;

(ii) contractual commitments for future warehousing advances, or pursuant to letters of credit or standby bond purchase agreements, which are outstanding as of the reorganization effective date;

(iii) the Association serving as a lender-of-last-resort pursuant to section 1087–2(q) of this title; and

(iv) the Association's purchase of loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(B) Agreement

The Secretary is authorized to enter into an agreement described in clause (iv) of subparagraph (A) with the Association covering such secondary market activities. Any agreement entered into under such clause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under section 1087–2(h)(7) of this title shall not apply to loans acquired under any such agreement with the Secretary.

(7) Issuance of debt obligations during the transition period; attributes of debt obligations

After the reorganization effective date, the Association shall not issue debt obligations which mature later than September 30, 2008, except in connection with serving as a lender-of-last-resort pursuant to section 1087–2(q) of this title or with purchasing loans under an agreement with the Secretary as described in paragraph (6). Nothing in this section shall modify the attributes accorded the debt obligations of the Association by section 1087–2 of this title, regardless of whether such debt obligations are incurred prior to, or at any time following, the reorganization effective date or are transferred to a trust in accordance with subsection (d) of this section.

(8) Monitoring of safety and soundness

(A) Obligation to obtain, maintain, and report information

The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(i) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(ii) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(B) Summary reports

The Secretary of the Treasury may require summary reports of the information described in subparagraph (A) to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and subparagraph (A), require the Association to make reports concerning the activities of any associated person whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(C) Separate operation of corporations

(i) In general

The funds and assets of the Association shall at all times be maintained separately from the funds and assets of the Holding Company or any subsidiary of the Holding Company and may be used by the Association solely to carry out the Association's purposes and to fulfill the Association's obligations.

(ii) Books and records

The Association shall maintain books and records that clearly reflect the assets and liabilities of the Association, separate from the assets and liabilities of the Holding Company or any subsidiary of the Holding Company.

(iii) Corporate office

The Association shall maintain a corporate office that is physically separate from any office of the Holding Company or any subsidiary of the Holding Company.

(iv) Director

No director of the Association who is appointed by the President pursuant to section 1087–2(c)(1)(A) of this title may serve as a director of the Holding Company.

(v) One officer requirement

At least one officer of the Association shall be an officer solely of the Association.

(vi) Transactions

Transactions between the Association and the Holding Company or any subsidiary of the Holding Company, including any loan servicing arrangements, shall be on terms no less favorable to the Association than the Association could obtain from an unrelated third party offering comparable services.

(vii) Credit prohibition

The Association shall not extend credit to the Holding Company or any subsidiary of the Holding Company nor guarantee or provide any credit enhancement to any debt obligations of the Holding Company or any subsidiary of the Holding Company.

(viii) Amounts collected

Any amounts collected on behalf of the Association by the Holding Company or any subsidiary of the Holding Company with respect to the assets of the Association, pursuant to a servicing contract or other arrangement between the Association and the Holding Company or any subsidiary of the Holding Company, shall be collected solely for the benefit of the Association and shall be immediately deposited by the Holding Company or such subsidiary to an account under the sole control of the Association.

(D) Encumbrance of assets

Notwithstanding any Federal or State law, rule, or regulation, or legal or equitable principle, doctrine, or theory to the contrary, under no circumstances shall the assets of the Association be available or used to pay claims or debts of or incurred by the Holding Company. Nothing in this subparagraph shall be construed to limit the right of the Association to pay dividends not otherwise prohibited under this subparagraph or to limit any liability of the Holding Company explicitly provided for in this section.

(E) Holding Company activities

After the reorganization effective date and prior to the dissolution date, all business activities of the Holding Company shall be conducted through subsidiaries of the Holding Company.

(F) Confidentiality

Any information provided by the Association pursuant to this section shall be subject to the same confidentiality obligations contained in section 1087–2(r)(12) of this title.

(G) Definition

For purposes of this paragraph, the term "associated person" means any person, other than a natural person, who is directly or indirectly controlling, controlled by, or under common control with, the Association.

(9) Issuance of stock warrants

(A) In general

On the reorganization effective date, the Holding Company shall issue to the District of Columbia Financial Responsibility and Management Assistance Authority a number of stock warrants that is equal to one percent of the outstanding shares of the Association, determined as of the last day of the fiscal quarter preceding September 30, 1996, with each stock warrant entitling the holder of the stock warrant to purchase from the Holding Company one share of the registered common stock of the Holding Company or the Holding Company's successors or assigns, at any time on or before September 30, 2008. The exercise price for such warrants shall be an amount equal to the average closing price of the common stock of the Association for the 20 business days prior to September 30, 1996, on the exchange or market which is then the

primary exchange or market for the common stock of the Association. The number of shares of Holding Company common stock subject to each stock warrant and the exercise price of each stock warrant shall be adjusted as necessary to reflect—

(i) the conversion of Association common stock into Holding Company common stock as part of the plan of reorganization approved by the Association's shareholders; and

(ii) any issuance or sale of stock (including issuance or sale of treasury stock), stock split, recapitalization, reorganization, or other corporate event, if agreed to by the Secretary of the Treasury and the Association.

(B) Authority to sell or exercise stock warrants; deposit of proceeds

The District of Columbia Financial Responsibility and Management Assistance Authority is authorized to sell or exercise the stock warrants described in subparagraph (A). The District of Columbia Financial Responsibility and Management Assistance Authority shall deposit into the account established under section 1155(e) [1] of this title amounts collected from the sale and proceeds resulting from the exercise of the stock warrants pursuant to this subparagraph.

(10) Restrictions on transfer of Association shares and bankruptcy of Association

After the reorganization effective date, the Holding Company shall not sell, pledge, or otherwise transfer the outstanding shares of the Association, or agree to or cause the liquidation of the Association or cause the Association to file a petition for bankruptcy under title 11, without prior approval of the Secretary of the Treasury and the Secretary of Education.

(d) Termination of Association

In the event the shareholders of the Association approve a plan of reorganization under subsection (b) of this section, the Association shall dissolve, and the Association's separate existence shall terminate on September 30, 2008, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days after receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to section 1087–2(q) of this title or continues to be needed to purchase loans under an agreement with the Secretary described in subsection (c)(6) of this section. On the dissolution date, the Association shall take the following actions:

(1) Establishment of a trust

The Association shall, under the terms of an irrevocable trust agreement that is in form and substance satisfactory to the Secretary of the Treasury, the Association and the appointed trustee, irrevocably transfer all remaining obligations of the Association to the trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms. To the extent the Association cannot provide money or qualifying obligations in the amount required, the Holding Company shall be required to transfer money or qualifying obligations to the trust in the amount necessary to prevent any deficiency.

(2) Use of trust assets

All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust.

(3) Obligations not transferred to the trust

The Association shall make proper provision for all other obligations of the Association not transferred to the trust, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding. Any

obligations of the Association which cannot be fully satisfied shall become liabilities of the Holding Company as of the date of dissolution.

(4) Transfer of remaining assets

After compliance with paragraphs (1) and (3), any remaining assets of the trust shall be transferred to the Holding Company or any subsidiary of the Holding Company, as directed by the Holding Company.

(e) Operation of Holding Company

In the event the shareholders of the Association approve the plan of reorganization under subsection (b) of this section, the following provisions shall apply beginning on the reorganization effective date:

(1) Holding Company Board of Directors

The number of members and composition of the Board of Directors of the Holding Company shall be determined as set forth in the Holding Company's charter or like instrument (as amended from time to time) or bylaws (as amended from time to time) and as permitted under the laws of the jurisdiction of the Holding Company's incorporation.

(2) Holding Company name

The names of the Holding Company and any subsidiary of the Holding Company (other than the Association)—

(A) may not contain the name "Student Loan Marketing Association"; and

(B) may contain, to the extent permitted by applicable State or District of Columbia law, "Sallie Mae" or variations thereof, or such other names as the Board of Directors of the Association or the Holding Company deems appropriate.

(3) Use of Sallie Mae name

Subject to paragraph (2), the Association may assign to the Holding Company, or any subsidiary of the Holding Company, the "Sallie Mae" name as a trademark or service mark, except that neither the Holding Company nor any subsidiary of the Holding Company (other than the Association or any subsidiary of the Association) may use the "Sallie Mae" name on, or to identify the issuer of, any debt obligation or other security offered or sold by the Holding Company or any subsidiary of the Holding Company (other than a debt obligation or other security issued to and held by the Holding Company or any subsidiary of the Holding Company). The Association shall remit to the account established under section 1155(e) [2] of this title, $5,000,000, within 60 days of the reorganization effective date as compensation for the right to assign the "Sallie Mae" name as a trademark or service mark.

(4) Disclosure required

Until 3 years after the dissolution date, the Holding Company, and any subsidiary of the Holding Company (other than the Association), shall prominently display—

(A) in any document offering the Holding Company's securities, a statement that the obligations of the Holding Company and any subsidiary of the Holding Company are not guaranteed by the full faith and credit of the United States; and

(B) in any advertisement or promotional materials which use the "Sallie Mae" name or mark, a statement that neither the Holding Company nor any subsidiary of the Holding Company is a government-sponsored enterprise or instrumentality of the United States.

(f) Strict construction

Except as specifically set forth in this section, nothing in this section shall be construed to limit the authority of the Association as a federally chartered corporation, or of the Holding Company as a State or District of Columbia chartered corporation.

(g) Right to enforce

The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the

Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(h) Deadline for reorganization effective date

This section shall be of no further force and effect in the event that the reorganization effective date does not occur on or before 18 months after September 30, 1996.

(i) Definitions

For purposes of this section:

(1) Association

The term "Association" means the Student Loan Marketing Association.

(2) Dissolution date

The term "dissolution date" means September 30, 2008, or such earlier date as the Secretary of Education permits the transfer of remaining obligations in accordance with subsection (d) of this section.

(3) Holding Company

The term "Holding Company" means the new business corporation established pursuant to this section by the Association under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring described in subsection (a) of this section.

(4) Remaining obligations

The term "remaining obligations" means the debt obligations of the Association outstanding as of the dissolution date.

(5) Remaining property

The term "remaining property" means the following assets and liabilities of the Association which are outstanding as of the reorganization effective date:

(A) Debt obligations issued by the Association.

(B) Contracts relating to interest rate, currency, or commodity positions or protections.

(C) Investment securities owned by the Association.

(D) Any instruments, assets, or agreements described in section 1087–2(d) of this title (including, without limitation, all student loans and agreements relating to the purchase and sale of student loans, forward purchase and lending commitments, warehousing advances, academic facilities obligations, letters of credit, standby bond purchase agreements, liquidity agreements, and student loan revenue bonds or other loans).

(E) Except as specifically prohibited by this section or section 1087–2 of this title, any other nonmaterial assets or liabilities of the Association which the Association's Board of Directors determines to be necessary or appropriate to the Association's operations.

(6) Reorganization

The term "reorganization" means the restructuring event or events (including any merger event) giving effect to the Holding Company structure described in subsection (a) of this section.

(7) Reorganization effective date

The term "reorganization effective date" means the effective date of the reorganization as determined by the Board of Directors of the Association, which shall not be earlier than the date that shareholder approval is obtained pursuant to subsection (b) of this section and shall not be later than the date that is 18 months after September 30, 1996.

(8) Subsidiary

The term "subsidiary" means one or more direct or indirect subsidiaries.

(Pub. L. 89–329, title IV, §440, as added Pub. L. 104–208, div. A, title I, §101(e) [title VI, §602(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–275.)

REPEAL OF SECTION

Pub. L. 104–208, div. A, title I, §101(e) [title VI, §602(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, provided that this section is repealed effective one year after date on which all obligations of trust established under subsec. (d)(1) of this section have been extinguished, if reorganization occurs in accordance with this section, or date on which all obligations of trust established under section 1087–2(s)(3)(A) of this title have been extinguished, if reorganization does not occur in accordance with this section.

REFERENCES IN TEXT

Section 1155(e) of this title, referred to in subsecs. (c)(9)(B) and (e)(3), was in the original a reference to section 3(e) of the Student Loan Marketing Association Reorganization Act of 1996, and was translated as reading section 603(e) of that Act, which is Pub. L. 104–208, div. A, title I, §101(e) [title VI, §603(e)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, to reflect the probable intent of Congress, because that Act does not contain a section 3(e), but does contain a section 603(e) which establishes the account referred to in text.

PRIOR PROVISIONS

A prior section 1087–3, Pub. L. 89–329, title IV, §439A, as added Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2141, related to a five-year nondischargeability of certain loan debts, prior to repeal by Pub. L. 95–598, title III, §317, Nov. 6, 1978, 92 Stat. 2678, eff. Nov. 6, 1978.

A prior section 1087–3a, Pub. L. 89–329, title IV, §439B, as added Pub. L. 95–566, §8, Nov. 1, 1978, 92 Stat. 2404, authorized any loan under this part to be counted as part of the expected family contribution in the determination of need, prior to repeal by Pub. L. 97–35, title V, §532(b)(2), Aug. 13, 1981, 95 Stat. 452, applicable to loans for the statement required by section 1078(a)(2)(A) of this title is completed on or after Oct. 1, 1981.

[1] *See References in Text note below.*

[2] *See References in Text note below.*

§1087–4. Discrimination in secondary markets prohibited

The Student Loan Marketing Association (and, if the Association is privatized under section 1087–3 of this title, any successor entity functioning as a secondary market for loans under this part, including the Holding Company described in such section) shall not engage directly or indirectly in any pattern or practice that results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year at an eligible institution.

(Pub. L. 89–329, title IV, §440A, as added Pub. L. 104–208, div. A, title I, §101(e) [title VI, §604], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293.)

PRIOR PROVISIONS

A prior section 1087–4, Pub. L. 89–329, title IV, §440, as added Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2141, provided for criminal penalties, prior to repeal by Pub. L. 96–374, title IV, §451(b), Oct. 3, 1980, 94 Stat. 1458, eff. Oct. 1, 1980. See section 1097 of this title.

PART C—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

CODIFICATION

This part was, in the original, part D of title IV of Pub. L. 89–329, the Higher Education Act of 1965. The

letter designation was changed from "D" to "C" for codification purposes. Part C of title IV of Pub. L. 89–329, consisting of sections 441 to 447, as added by Pub. L. 99–498, title IV, §403(a), Oct. 17, 1986, 100 Stat. 1429, is set out as section 2751 et seq. of Title 42, The Public Health and Welfare, because sections 441 to 446 of Pub. L. 89–329 had originally been enacted as part C of title I of the Economic Opportunity Act of 1964, consisting of sections 121 to 126 of Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 513, prior to the transfer of such sections into Pub. L. 89–329, and had already been classified to section 2751 et seq. of Title 42 at the time of the transfer.

§1087a. Program authority

(a) In general

There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary (1) to make loans to all eligible students (and the eligible parents of such students) in attendance at participating institutions of higher education selected by the Secretary, to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994; and (2) for purchasing loans under section 1087i–1 of this title. Loans made under this part shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

(b) Designation

(1) Program

The program established under this part shall be referred to as the "William D. Ford Federal Direct Loan Program".

(2) Direct loans

Notwithstanding any other provision of this part, loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under section 1078 of this title, shall be known as "Federal Direct Stafford/Ford Loans".

(Pub. L. 89–329, title IV, §451, as added Pub. L. 99–498, title IV, §404, Oct. 17, 1986, 100 Stat. 1437; amended Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, §4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 103–382, title III, §358A, Oct. 20, 1994, 108 Stat. 3968; Pub. L. 110–227, §7(a), May 7, 2008, 122 Stat. 746.)

PRIOR PROVISIONS

A prior section 1087a, Pub. L. 89–329, title IV, §451, as added Pub. L. 90–575, title I, §141, Oct. 16, 1968, 82 Stat. 1031; amended Pub. L. 92–318, title I, §136(a), (b)(1), June 23, 1972, 86 Stat. 272, authorized appropriations for cooperative education programs from the fiscal year ending June 30, 1969, through the fiscal year ending prior to July 1, 1975, prior to repeal by Pub. L. 94–482, title I, §129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–227, in first sentence, inserted "(1)" before "to make loans" and "; and (2) for purchasing loans under section 1087i–1 of this title" before period at end and, in second sentence, substituted "Loans made under this part shall" for "Such loans shall".

1994—Pub. L. 103–382 designated existing provisions as subsec. (a), added heading, and added subsec. (b).

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to program authority for former provisions relating to program and payment authority.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to program and payment authority for Federal direct loan demonstration program for former provisions relating to statement of purpose of income contingent direct loan demonstration project.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

INCOME CONTINGENT LOAN DISTRIBUTION OF FUNDS

Pub. L. 102–325, title IV, §452, July 23, 1992, 106 Stat. 575, provided that:

"(a) IN GENERAL.—After September 30, 1992, and not later than March 31, 1992, the capital balance of the student loan fund established under part D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087a et seq.] (as such Act was in effect on the date of enactment of this Act [July 23, 1992]) shall be distributed by allowing institutions to transfer any remaining funds, including future collections and all other funds at the institution's discretion, to such institution's part E [20 U.S.C. 1087aa et seq.] account, part C [42 U.S.C. 2751 et seq.] fund, or subpart 3 of part A [20 U.S.C. 1070b et seq.] fund under the terms and conditions of the appropriate program.

"(b) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087a et seq.] (as such Act was in effect on such date) to part E [20 U.S.C. 1087aa et seq.] loans, provided that such institution—

"(1) notify the borrower of such conversion;

"(2) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and

"(3) provide the borrower in writing with a description of all terms and conditions of the new loan."

§1087b. Funds for origination of direct student loans

(a) In general

The Secretary shall provide, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans, funds for student and parent loans under this part—

(1) directly to an institution of higher education that has an agreement with the Secretary under section 1087d(a) of this title to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 1087d(b) of this title to originate loans under this part; or

(2) through an alternative originator designated by the Secretary to students (and parents of students) attending institutions of higher education that have an agreement with the Secretary under section 1087d(a) of this title but that do not have an agreement with the Secretary under section 1087d(b) of this title.

(b) No entitlement to participate or originate

No institution of higher education shall have a right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

(c) Delivery of loan funds

Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with payment and delivery of Federal Pell Grants under subpart 1 of part A of this subchapter.

(d) Institutions outside the United States

Loan funds for students (and parents of students) attending institutions outside the United States shall be disbursed through a financial institution located or operating in the United States and designated by the Secretary to serve as the agent of such institutions with respect to the receipt of the disbursements of such loan funds and the transfer of such funds to such institutions. To be eligible to receive funds under this part, an institution outside the United States shall make arrangements with the agent designated by the Secretary under this subsection to receive funds under this part.

(Pub. L. 89–329, title IV, §452, as added Pub. L. 99–498, title IV, §404, Oct. 17, 1986, 100 Stat. 1437; amended Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title

IV, §4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 105–33, title VI, §6102, Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, §401(g)(5), Oct. 7, 1998, 112 Stat. 1652; Pub. L. 111–152, title II, §2209(a), Mar. 30, 2010, 124 Stat. 1077.)

PRIOR PROVISIONS

A prior section 1087b, Pub. L. 89–329, title IV, §452, as added Pub. L. 90–575, title I, §141, Oct. 16, 1968, 82 Stat. 1031, authorized grants for programs of cooperative education, prior to repeal by Pub. L. 94–482, title I, §129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

2010—Subsec. (d). Pub. L. 111–152 added subsec. (d).

1998—Subsec. (c). Pub. L. 105–244 substituted "Federal Pell Grants" for "basic grants".

1997—Subsecs. (b) to (d). Pub. L. 105–33 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which required the Secretary to pay fees to institutions of higher education and alternative loan originators to assist in meeting the cost of loan origination.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to funds for origination of direct student loans for former provisions relating to payment rules.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to payment rules for former provisions authorizing demonstration projects.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§1087c. Selection of institutions for participation and origination

(a) General authority

The Secretary shall enter into agreements pursuant to section 1087d(a) of this title with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 1087d(b) of this title with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 1087f(b) of this title or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

(b) Selection criteria

(1) Application

Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

(2) Selection procedure

The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 1087d(a) of this title, from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe.

(c) Selection criteria for origination

(1) In general

The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

(A) has an agreement under subsection [1] 1087d(a) of this title;

(B) desires to originate loans under this part; and

(C) meets the criteria described in paragraph (2).

(2) Selection criteria

The Secretary may approve an institution to originate loans only if such institution—

(A) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, or part D of this subchapter;

(B) is not overdue on program or financial reports or audits required under this subchapter;

(C) is not subject to an emergency action, or a limitation, suspension, or termination under section 1078(b)(1)(T), 1082(h), or 1094(c) of this title;

(D) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this subchapter, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

(E) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

(F) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

(d) Eligible institutions

The Secretary may not select an institution of higher education for participation under this section unless such institution is an eligible institution under section 1085(a) of this title.

(e) Consortia

Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education (as determined under subsection (d) of this section) with agreements under section 1087d(a) of this title may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Each such institution shall be required to meet the requirements of subsection (c) of this section with respect to loan origination.

(Pub. L. 89–329, title IV, §453, as added Pub. L. 99–498, title IV, §404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, §4021, Aug. 10, 1993, 107 Stat. 342; Pub. L. 103–208, §2(e), Dec. 20, 1993, 107 Stat. 2470; Pub. L. 105–244, title IV, §451, Oct. 7, 1998, 112 Stat. 1715; Pub. L. 111–39, title IV, §404(b)(1), July 1, 2009, 123 Stat. 1946.)

CODIFICATION

Amendment by section 2 of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087c, Pub. L. 89–329, title IV, §453, as added Pub. L. 90–575, title I, §141, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 92–318, title I, §136(b)(2), June 23, 1972, 86 Stat. 272, authorized grants and contracts for training and research in cooperative education programs, prior to repeal by Pub. L. 94–482, title I, §129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

2009—Subsec. (c)(3). Pub. L. 111–39 struck out par. (3). Text read as follows: "The Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 1087g(a)(2) of this title."

1998—Subsec. (a). Pub. L. 105–244, §451(a), amended heading, redesignated par. (1) as entire subsec., and struck out pars. (2) to (4) which provided for transition from loan programs under part B of this subchapter to direct student loan program under this part and defined term "new student loan volume".

Subsec. (b)(2). Pub. L. 105–244, §451(b), substituted "prescribe." for "prescribe, by, to the extent possible—

"(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and

"(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

"(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions."

Subsec. (c)(2). Pub. L. 105–244, §451(c)(1)(A), (B), substituted "Selection criteria" for "Transition selection criteria" in heading and "The Secretary" for "For academic year 1994–1995, the Secretary" in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 105–244, §451(c)(1)(E), redesignated subpar. (B) as (A).

Pub. L. 105–244, §451(c)(1)(C), struck out subpar. (A) which read as follows: "made loans under part D of this subchapter in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 1087bb(g) of this title for the most recent fiscal year for which data are available;".

Subsec. (c)(2)(B) to (D). Pub. L. 105–244, §451(c)(1)(E), redesignated subpars. (C), (D), and (F) as (B) to (D), respectively. Former subpar. (B) redesignated (A).

Subsec. (c)(2)(E). Pub. L. 105–244, §451(c)(1)(E), redesignated subpar. (G) as (E).

Pub. L. 105–244, §451(c)(1)(D), struck out subpar. (E) which read as follows: "in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part G of this subchapter;".

Subsec. (c)(2)(F) to (H). Pub. L. 105–244, §451(c)(1)(E), redesignated subpars. (G) and (H) as (E) and (F), respectively. Former subpar. (F) redesignated (D).

Subsec. (c)(3). Pub. L. 105–244, §451(c)(2), struck out "after transition" after "approval" in heading and substituted "The Secretary" for "For academic year 1995–1996 and subsequent academic years, the Secretary" in text.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to selection of institutions for participation and origination for former provisions relating to selection by Secretary.

Subsec. (b)(2)(B). Pub. L. 103–208 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions." See Codification note above.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to selection by the Secretary for former provisions relating to agreements with institutions of higher education.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

[1] *So in original. Probably should be "section".*

§1087d. Agreements with institutions

(a) Participation agreements

An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

(A) identify eligible students who seek student financial assistance at such institution in accordance with section 1091 of this title;

(B) estimate the need of each such student as required by part E of this subchapter for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 1078–8 of this title (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 1078–2 of this title (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part E of this subchapter), if the reason for such action is documented and provided in written form to such student;

(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title; and

(E) provide timely and accurate information—

(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

(ii) if the institution does not have an agreement with the Secretary under subsection (b) of this section, concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

(4) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

(5) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

(6) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

(b) Origination

An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

(1) supplement the agreement entered into in accordance with subsection (a) of this section;

(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), and (6) of subsection (a) of this section, as modified to relate to the origination of loans by the institution or consortium;

(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

(c) Withdrawal and termination procedures

The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

(Pub. L. 89–329, title IV, §454, as added Pub. L. 99–498, title IV, §404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 100–50, §12, June 3, 1987, 101 Stat. 348; Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 571; Pub. L. 103–66, title IV, §4021, Aug. 10, 1993, 107 Stat. 345; Pub. L. 111–152, title II, §2210(a), Mar. 30, 2010, 124 Stat. 1078.)

AMENDMENTS

2010—Subsec. (a)(4) to (7). Pub. L. 111–152, §2210(a)(1), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out former par. (4), which read as follows: "provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this subchapter at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part, except that a student or parent may not receive loans under both this part and part B of this subchapter for the same period of enrollment;".

Subsec. (b)(2). Pub. L. 111–152, §2210(a)(2), substituted "(5), and (6)" for "(5), (6), and (7)".

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to agreements with institutions, consisting of subsecs. (a) to (c), for former provisions relating to requirements of agreements, consisting of pars. (1) to (7).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to requirements of agreements for former provisions relating to terms of loans under pilot program.

1987—Subsec. (a)(4). Pub. L. 100–50 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The interest rate on all such loans shall be the rate equal to the rate obtained for each calendar year (A) by computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period preceding such year, and (B) by adding 3 percent to the resulting percent."

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–152, title II, §2210(b), Mar. 30, 2010, 124 Stat. 1078, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on July 1, 2010."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1087e. Terms and conditions of loans

(a) In general

(1) Parallel terms, conditions, benefits, and amounts

Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to

borrowers, and first disbursed on June 30, 2010, under sections 1078, 1078–2, 1078–3, and 1078–8 of this title.

(2) Designation of loans

Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

(A) section 1078 of this title shall be known as "Federal Direct Stafford Loans";

(B) section 1078–2 of this title shall be known as "Federal Direct PLUS Loans";

(C) section 1078–3 of this title shall be known as "Federal Direct Consolidation Loans"; and

(D) section 1078–8 of this title shall be known as "Federal Direct Unsubsidized Stafford Loans".

(3) Termination of authority to make interest subsidized loans to graduate and professional students

(A) In general

Subject to subparagraph (B) and notwithstanding any provision of this part or part B, for any period of instruction beginning on or after July 1, 2012—

(i) a graduate or professional student shall not be eligible to receive a Federal Direct Stafford loan under this part; and

(ii) the maximum annual amount of Federal Direct Unsubsidized Stafford loans such a student may borrow in any academic year (as defined in section 1088(a)(2) of this title) or its equivalent shall be the maximum annual amount for such student determined under section 1078–8 of this title, plus an amount equal to the amount of Federal Direct Stafford loans the student would have received in the absence of this subparagraph.

(B) Exception

Subparagraph (A) shall not apply to an individual enrolled in course work specified in paragraph (3)(B) or (4)(B) of section 1091(b) of this title.

(b) Interest rate

(1) Rates for FDSL and FDUSL

For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

(A) Notwithstanding the provisions of paragraph (1), but subject to paragraph (3), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall not exceed the rate determined under subparagraph (B).

(B) For the purpose of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the

preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(ii) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) Out-year rule

Notwithstanding paragraphs (1) and (2), for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(4) Rates for FDPLUS

(A)(i) For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on or before June 30, 2001, be determined on the preceding June 1 and be equal to—

(I) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the applicable rate of interest determined under this subparagraph shall be determined on the preceding June 26 and be equal to—

(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(B) For Federal Direct PLUS loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(ii) 2.1 percent,

except that such rate shall not exceed 9 percent.

(5) Temporary interest rate provision

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) In school and grace period rules

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under subparagraph (A) by substituting "1.7 percent" for "2.3 percent".

(C) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall be determined under subparagraph (A)—

(i) by substituting "3.1 percent" for "2.3 percent"; and

(ii) by substituting "9.0 percent" for "8.25 percent".

(6) Interest rate provision for new loans on or after October 1, 1998, and before July 1, 2006

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) In school and grace period rules

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under subparagraph (A) by substituting "1.7 percent" for "2.3 percent".

(C) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be determined under subparagraph (A)—

(i) by substituting "3.1 percent" for "2.3 percent"; and

(ii) by substituting "9.0 percent" for "8.25 percent".

(D) Consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after February 1, 1999, and before July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

(ii) 8.25 percent.

(E) Temporary rules for consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after October 1, 1998, and before February 1, 1999, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(7) Interest rate provision for new loans on or after July 1, 2006 and before July 1, 2013

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 2006, and before July 1, 2013, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

(B) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct PLUS loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2013, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

(C) Consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after July 1, 2006, and before July 1, 2013, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

(ii) 8.25 percent.

(D) Reduced rates for undergraduate FDSL

Notwithstanding the preceding paragraphs of this subsection and subparagraph (A) of this paragraph, for Federal Direct Stafford Loans made to undergraduate students for which the first disbursement is made on or after July 1, 2006, and before July 1, 2013, the applicable rate of interest shall be as follows:

(i) For a loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2008, 6.8 percent on the unpaid principal balance of the loan.

(ii) For a loan for which the first disbursement is made on or after July 1, 2008, and before July 1, 2009, 6.0 percent on the unpaid principal balance of the loan.

(iii) For a loan for which the first disbursement is made on or after July 1, 2009, and before July 1, 2010, 5.6 percent on the unpaid principal balance of the loan.

(iv) For a loan for which the first disbursement is made on or after July 1, 2010, and before July 1, 2011, 4.5 percent on the unpaid principal balance of the loan.

(v) For a loan for which the first disbursement is made on or after July 1, 2011, and before July 1, 2013, 3.4 percent on the unpaid principal balance of the loan.

(8) Interest rate provisions for new loans on or after July 1, 2013

(A) Rates for undergraduate FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans issued to undergraduate students, for which the first disbursement is made on or after July 1, 2013, the applicable rate of interest shall, for loans disbursed during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

(i) a rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to such June 1 plus 2.05 percent; or

(ii) 8.25 percent.

(B) Rates for graduate and professional FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Unsubsidized Stafford Loans issued to graduate or professional students, for which the first disbursement is made on or after July 1, 2013, the applicable rate of interest shall, for loans disbursed during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

(i) a rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to such June 1 plus 3.6 percent; or

(ii) 9.5 percent.

(C) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct PLUS Loans, for which the first disbursement is made on or after July 1, 2013, the applicable rate of interest shall, for loans disbursed during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

(i) a rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to such June 1 plus 4.6 percent; or

(ii) 10.5 percent.

(D) Consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation Loan for which the application is received on or after July 1, 2013, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent.

(E) Consultation

The Secretary shall determine the applicable rate of interest under this paragraph after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(F) Rate

The applicable rate of interest determined under this paragraph for a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct PLUS Loan shall be fixed for the period of the loan.

(9) Repayment incentives

(A) Incentives for loans disbursed before July 1, 2012

Notwithstanding any other provision of this part [1] with respect to loans for which the first disbursement of principal is made before July 1, 2012,,[2] the Secretary is authorized to prescribe by regulation such reductions in the interest rate or origination fee paid by a borrower of a loan

made under this part as the Secretary determines appropriate to encourage on-time repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the Federal Government. Any increase in subsidy costs resulting from such reductions shall be completely offset by corresponding savings in funds available for the William D. Ford Federal Direct Loan Program in that fiscal year from section 1087h of this title and other administrative accounts.

(B) Accountability

Prior to publishing regulations proposing repayment incentives with respect to loans for which the first disbursement of principal is made before July 1, 2012, the Secretary shall ensure the cost neutrality of such reductions. The Secretary shall not prescribe such regulations in final form unless an official report from the Director of the Office of Management and Budget to the Secretary and a comparable report from the Director of the Congressional Budget Office to the Congress each certify that any such reductions will be completely cost neutral. Such reports shall be transmitted to the authorizing committees not less than 60 days prior to the publication of regulations proposing such reductions.

(C) No repayment incentives for new loans disbursed on or after July 1, 2012

Notwithstanding any other provision of this part, the Secretary is prohibited from authorizing or providing any repayment incentive not otherwise authorized under this part to encourage on-time repayment of a loan under this part for which the first disbursement of principal is made on or after July 1, 2012, including any reduction in the interest or origination fee rate paid by a borrower of such a loan, except that the Secretary may provide for an interest rate reduction for a borrower who agrees to have payments on such a loan automatically electronically debited from a bank account.

(10) Publication

The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(c) Loan fee

(1) In general

The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of loan.

(2) Subsequent reduction

Paragraph (1) shall be applied to loans made under this part, other than Federal Direct Consolidation loans and Federal Direct PLUS loans—

(A) by substituting "3.0 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after February 8, 2006, and before July 1, 2007;

(B) by substituting "2.5 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

(C) by substituting "2.0 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

(D) by substituting "1.5 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

(E) by substituting "1.0 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.

(d) Repayment plans

(1) Design and selection

Consistent with criteria established by the Secretary, the Secretary shall offer a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on

the borrower's loans under this part. The borrower may choose—

(A) a standard repayment plan, consistent with subsection (a)(1) of this section and with section 1078(b)(9)(A)(i) of this title;

(B) a graduated repayment plan, consistent with section 1078(b)(9)(A)(ii) of this title;

(C) an extended repayment plan, consistent with section 1078(b)(9)(A)(iv) of this title, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 1078(b)(1)(L) of this title;

(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time prescribed by the Secretary, not to exceed 25 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan made on behalf of a dependent student; and

(E) beginning on July 1, 2009, an income-based repayment plan that enables borrowers who have a partial financial hardship to make a lower monthly payment in accordance with section 1098e of this title, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS Loan made on behalf of a dependent student or a Federal Direct Consolidation Loan, if the proceeds of such loan were used to discharge the liability on such Federal Direct PLUS Loan or a loan under section 1078–2 of this title made on behalf of a dependent student.

(2) Selection by Secretary

If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

(3) Changes in selections

The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

(4) Alternative repayment plans

The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

(5) Repayment after default

The Secretary may require any borrower who has defaulted on a loan made under this part to—

(A) pay all reasonable collection costs associated with such loan; and

(B) repay the loan pursuant to an income contingent repayment plan.

(e) Income contingent repayment

(1) Information and procedures

The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income contingent repayment, for the purpose of determining the annual repayment obligation of the borrower. Returns and return information (as defined in section 6103 of title 26) may be obtained under the preceding sentence only to the extent authorized by section 6103(l)(13) of title 26. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

(2) Repayment based on adjusted gross income

A repayment schedule for a loan made under this part and repaid pursuant to income contingent repayment shall be based on the adjusted gross income (as defined in section 62 of title 26) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

(3) Additional documents

A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrower's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

(4) Repayment schedules

Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

(5) Calculation of balance due

The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

(6) Notification to borrowers

The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent repayment is notified of the terms and conditions of such plan, including notification of such borrower—

(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of title 26; and

(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

(7) Maximum repayment period

In calculating the extended period of time for which an income contingent repayment plan under this subsection may be in effect for a borrower, the Secretary shall include all time periods during which a borrower of loans under part B, part C, or part D—

(A) is not in default on any loan that is included in the income contingent repayment plan; and

(B)(i) is in deferment due to an economic hardship described in section 1085(o) of this title;

(ii) makes monthly payments under paragraph (1) or (6) of section 1098e(b) of this title;

(iii) makes monthly payments of not less than the monthly amount calculated under section 1078(b)(9)(A)(i) of this title or subsection (d)(1)(A), based on a 10-year repayment period, when the borrower first made the election described in section 1098e(b)(1) of this title;

(iv) makes payments of not less than the payments required under a standard repayment plan under section 1078(b)(9)(A)(i) of this title or subsection (d)(1)(A) with a repayment period of 10 years; or

(v) makes payments under an income contingent repayment plan under subsection (d)(1)(D).

(f) Deferment

(1) Effect on principal and interest

A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

(A) shall not accrue, in the case of a—

(i) Federal Direct Stafford Loan; or

(ii) a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title; or

(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan not described in subparagraph (A)(ii).

(2) Eligibility

A borrower of a loan made under this part shall be eligible for a deferment during any period—

(A) during which the borrower—

(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 1085(a) of this title) the borrower is attending; or

(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(C) during which the borrower—

(i) is serving on active duty during a war or other military operation or national emergency; or

(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency,

and for the 180-day period following the demobilization date for the service described in clause (i) or (ii); or

(D) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 1085(o) of this title, that the borrower has experienced or will experience an economic hardship.

(3) "Borrower" defined

For the purpose of this subsection, the term "borrower" means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

(4) Deferments for previous part B loan borrowers

A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of this subchapter prior to July 1, 1993, shall be eligible for a deferment under section 1077(a)(2)(C) of this title or section 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992.

(g) Federal Direct Consolidation Loans

A borrower of a loan made under this part may consolidate such loan with the loans described in section 1078–3(a)(4) of this title, including any loan made under part B and first disbursed before

July 1, 2010. To be eligible for a consolidation loan under this part, a borrower shall meet the eligibility criteria set forth in section 1078–3(a)(3) of this title.

(h) Borrower defenses

Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

(i) Loan application and promissory note

The common financial reporting form required in section 1090(a)(1) of this title shall constitute the application for loans made under this part (other than a Federal Direct PLUS loan). The Secretary shall develop, print, and distribute to participating institutions a standard promissory note and loan disclosure form.

(j) Loan disbursement

(1) In general

Proceeds of loans to students under this part shall be applied to the student's account for tuition and fees, and, in the case of institutionally owned housing, to room and board. Loan proceeds that remain after the application of the previous sentence shall be delivered to the borrower by check or other means that is payable to and requires the endorsement or other certification by such borrower.

(2) Payment periods

The Secretary shall establish periods for the payments described in paragraph (1) in a manner consistent with payment of Federal Pell Grants under subpart 1 of part A of this subchapter.

(k) Fiscal control and fund accountability

(1) In general

(A) An institution shall maintain financial records in a manner consistent with records maintained for other programs under this subchapter.

(B) Except as otherwise required by regulations of the Secretary [1] an institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

(2) Payments and refunds

Payments and refunds shall be reconciled in a manner consistent with the manner set forth for the submission of a payment summary report required of institutions participating in the program under subpart 1 of part A of this subchapter, except that nothing in this paragraph shall prevent such reconciliations on a monthly basis.

(3) Transaction histories

All transaction histories under this part shall be maintained using the same system designated by the Secretary for the provision of Federal Pell Grants under subpart 1 of part A of this subchapter.

(l) Armed Forces student loan interest payment program

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the Secretary shall grant the borrower forbearance, in the form of a temporary cessation of all payments on the loan other than the payments of interest on the loan that are made under that paragraph.

(m) Repayment plan for public service employees

(1) In general

The Secretary shall cancel the balance of interest and principal due, in accordance with paragraph (2), on any eligible Federal Direct Loan not in default for a borrower who—

(A) has made 120 monthly payments on the eligible Federal Direct Loan after October 1, 2007, pursuant to any one or a combination of the following—

(i) payments under an income-based repayment plan under section 1098e of this title;

(ii) payments under a standard repayment plan under subsection (d)(1)(A), based on a 10-year repayment period;

(iii) monthly payments under a repayment plan under subsection (d)(1) or (g) of not less than the monthly amount calculated under subsection (d)(1)(A), based on a 10-year repayment period; or

(iv) payments under an income contingent repayment plan under subsection (d)(1)(D); and

(B)(i) is employed in a public service job at the time of such forgiveness; and

(ii) has been employed in a public service job during the period in which the borrower makes each of the 120 payments described in subparagraph (A).

(2) Loan cancellation amount

After the conclusion of the employment period described in paragraph (1), the Secretary shall cancel the obligation to repay the balance of principal and interest due as of the time of such cancellation, on the eligible Federal Direct Loans made to the borrower under this part.

(3) Definitions

In this subsection:

(A) Eligible Federal Direct Loan

The term "eligible Federal Direct Loan" means a Federal Direct Stafford Loan, Federal Direct PLUS Loan, or Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan.

(B) Public service job

The term "public service job" means—

(i) a full-time job in emergency management, government (excluding time served as a member of Congress), military service, public safety, law enforcement, public health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics), public education, social work in a public child or family service agency, public interest law services (including prosecution or public defense or legal advocacy on behalf of low-income communities at a nonprofit organization), early childhood education (including licensed or regulated childcare, Head Start, and State funded prekindergarten), public service for individuals with disabilities, public service for the elderly, public library sciences, school-based library sciences and other school-based services, or at an organization that is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of such title; or

(ii) teaching as a full-time faculty member at a Tribal College or University as defined in section 1059c(b) of this title and other faculty teaching in high-needs subject areas or areas of shortage (including nurse faculty, foreign language faculty, and part-time faculty at community colleges), as determined by the Secretary.

(4) Ineligibility for double benefits

No borrower may, for the same service, receive a reduction of loan obligations under both this subsection and section 1078–10, 1078–11, 1078–12, or 1087j of this title.

(n) Identity fraud protection

The Secretary shall take such steps as may be necessary to ensure that monthly Federal Direct Loan statements and other publications of the Department do not contain more than four digits of the Social Security number of any individual.

(o) No accrual of interest for active duty service members

(1) In general

Notwithstanding any other provision of this part and in accordance with paragraphs (2) and (4), interest shall not accrue for an eligible military borrower on a loan made under this part for which the first disbursement is made on or after October 1, 2008.

(2) Consolidation loans

In the case of any consolidation loan made under this part that is disbursed on or after October 1, 2008, interest shall not accrue pursuant to this subsection only on such portion of such loan as was used to repay a loan made under this part for which the first disbursement is made on or after October 1, 2008.

(3) Eligible military borrower

In this subsection, the term "eligible military borrower" means an individual who—

(A)(i) is serving on active duty during a war or other military operation or national emergency; or

(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; and

(B) is serving in an area of hostilities in which service qualifies for special pay under section 310 of title 37.

(4) Limitation

An individual who qualifies as an eligible military borrower under this subsection may receive the benefit of this subsection for not more than 60 months.

(p) Disclosures

Each institution of higher education with which the Secretary has an agreement under section 1087c of this title, and each contractor with which the Secretary has a contract under section 1087f of this title, shall, with respect to loans under this part and in accordance with such regulations as the Secretary shall prescribe, comply with each of the requirements under section 1083 of this title that apply to a lender with respect to a loan under part B.

(q) Eligibility for, and interest charges on, Federal Direct Stafford Loans for new borrowers on or after July 1, 2013

(1) In general

Notwithstanding subsection (a) or any other provision of this subchapter, any borrower who was a new borrower on or after July 1, 2013, shall not be eligible for a Federal Direct Stafford Loan if the period of time for which the borrower has received Federal Direct Stafford Loans, in the aggregate, exceeds the period of enrollment described in paragraph (3). Such borrower may still receive any Federal Direct Unsubsidized Stafford Loan for which such borrower is otherwise eligible.

(2) Accrual of interest on Federal Direct Stafford Loans

Notwithstanding subsection (f)(1)(A) or any other provision of this subchapter and beginning on the date upon which a borrower who is enrolled in a program of education or training (including a course of study or program described in paragraph (3)(B) or (4)(B) of section 1091(b) of this title)

for which borrowers are otherwise eligible to receive Federal Direct Stafford Loans, becomes ineligible for such loan as a result of paragraph (1), interest on all Federal Direct Stafford Loans that were disbursed to such borrower on or after July 1, 2013, shall accrue. Such interest shall be paid or capitalized in the same manner as interest on a Federal Direct Unsubsidized Stafford Loan is paid or capitalized under section 1078–8(e)(2) of this title.

(3) Period of enrollment

(A) In general

The aggregate period of enrollment referred to in paragraph (1) shall not exceed the lesser of—

(i) a period equal to 150 percent of the published length of the educational program in which the student is enrolled; or

(ii) in the case of a borrower who was previously enrolled in one or more other educational programs that began on or after July 1, 2013, and subject to subparagraph (B), a period of time equal to the difference between—

(I) 150 percent of the published length of the longest educational program in which the borrower was, or is, enrolled; and

(II) any periods of enrollment in which the borrower received a Federal Direct Stafford Loan.

(B) Regulations

The Secretary shall specify in regulation—

(i) how the aggregate period described in subparagraph (A) shall be calculated with respect to a borrower who was or is enrolled on less than a full-time basis; and

(ii) how such aggregate period shall be calculated to include a course of study or program described in paragraph (3)(B) or (4)(B) of section 1091(b) of this title, respectively.

(Pub. L. 89–329, title IV, §455, as added Pub. L. 99–498, title IV, §404, Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 572; Pub. L. 103–66, title IV, §4021, Aug. 10, 1993, 107 Stat. 346; Pub. L. 103–382, title III, §359, Oct. 20, 1994, 108 Stat. 3968; Pub. L. 105–178, title VIII, §8301(c), June 9, 1998, 112 Stat. 498; Pub. L. 105–244, title IV, §§401(g)(6), 452(a)(1), (b), (c), Oct. 7, 1998, 112 Stat. 1652, 1715–1717; Pub. L. 106–554, §1(a)(1) [title III, §318(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–49; Pub. L. 107–139, §1(b), (c), Feb. 8, 2002, 116 Stat. 9; Pub. L. 107–314, div. A, title VI, §651(c), Dec. 2, 2002, 116 Stat. 2580; Pub. L. 109–171, title VIII, §§8007(b), 8008(b), (c)(2), (3), 8009(d), Feb. 8, 2006, 120 Stat. 160, 162–164; Pub. L. 110–84, title II, §§201(b), 202(b), 203(b)(3), 205, title IV, §401, Sept. 27, 2007, 121 Stat. 791, 795, 800; Pub. L. 110–315, title I, §103(b)(8), title IV, §§425(b)(3), 451, Aug. 14, 2008, 122 Stat. 3089, 3234, 3261; Pub. L. 111–39, title IV, §404(b)(2), July 1, 2009, 123 Stat. 1946; Pub. L. 111–152, title II, §2211(a), Mar. 30, 2010, 124 Stat. 1078; Pub. L. 112–25, title V, §§502, 503, Aug. 2, 2011, 125 Stat. 266; Pub. L. 112–141, div. F, title III, §§100301, 100302(a), July 6, 2012, 126 Stat. 979; Pub. L. 113–28, §2(a), Aug. 9, 2013, 127 Stat. 506.)

REFERENCES IN TEXT

Sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992, referred to in subsec. (f)(4), means sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title prior to being amended generally by sections 414(b) and 416(e)(1), respectively, of Pub. L. 102–325, title IV, July 23, 1992, 106 Stat. 513, 519.

AMENDMENTS

2013—Subsec. (b)(7). Pub. L. 113–28, §2(a)(1)(A), inserted "and before July 1, 2013" after "on or after July 1, 2006" in heading.

Subsec. (b)(7)(A) to (C). Pub. L. 113–28, §2(a)(1)(B)–(D), inserted "and before July 1, 2013," after "on or after July 1, 2006,".

Subsec. (b)(8) to (10). Pub. L. 113–28, §2(a)(2), (3), added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

2012—Subsec. (b)(7)(D). Pub. L. 112–141, §100301(1), substituted "and before July 1, 2013," for "and

before July 1, 2012," in introductory provisions.

Subsec. (b)(7)(D)(v). Pub. L. 112–141, §100301(2), substituted "and before July 1, 2013," for "and before July 1, 2012,".

Subsec. (q). Pub. L. 112–141, §100302(a), added subsec. (q).

2011—Subsec. (a)(3). Pub. L. 112–25, §502, added par. (3).

Subsec. (b)(8)(A). Pub. L. 112–25, §503(1), substituted "Incentives for loans disbursed before July 1, 2012" for "In general" in heading and inserted "with respect to loans for which the first disbursement of principal is made before July 1, 2012," after "of this part" in text.

Subsec. (b)(8)(B). Pub. L. 112–25, §503(2), inserted "with respect to loans for which the first disbursement of principal is made before July 1, 2012" after "repayment incentives".

Subsec. (b)(8)(C). Pub. L. 112–25, §503(3), added subpar. (C).

2010—Subsec. (a)(1). Pub. L. 111–152, §2211(a)(1), inserted ", and first disbursed on June 30, 2010," before "under sections 1078".

Subsec. (g). Pub. L. 111–152, §2211(a)(2), inserted ", including any loan made under part B and first disbursed before July 1, 2010" after "section 1078–3(a)(4) of this title" and struck out at end "The Secretary, upon application for such a loan, shall comply with the requirements applicable to a lender under section 1078–3(b)(1)(G) of this title."

2009—Subsec. (d)(1)(C). Pub. L. 111–39, §404(b)(2)(A), substituted "1078(b)(9)(A)(iv)" for "1078(b)(9)(A)(v)".

Subsec. (h). Pub. L. 111–39, §404(b)(2)(B), struck out "(except as authorized under section 1087g(a)(1) of this title)" after "regulations".

Subsec. (k)(1)(B). Pub. L. 111–39, §404(b)(2)(C), struck out ", or in a notice under section 1087g(a)(1) of this title," after "regulations of the Secretary".

2008—Subsec. (b)(8)(B). Pub. L. 110–315, §103(b)(8), substituted "authorizing committees" for "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives".

Subsec. (d)(1)(E). Pub. L. 110–315, §451(a), added subpar. (E).

Subsec. (g). Pub. L. 110–315, §425(b)(3), substituted "section 1078–3(b)(1)(G)" for "section 1078–3(b)(1)(F)".

Subsec. (m)(3)(B). Pub. L. 110–315, §451(b)(1), amended subpar. (B) generally. Prior to amendment, text read as follows: "The term 'public service job' means—

"(i) a full-time job in emergency management, government, military service, public safety, law enforcement, public health, public education (including early childhood education), social work in a public child or family service agency, public interest law services (including prosecution or public defense or legal advocacy in low-income communities at a nonprofit organization), public child care, public service for individuals with disabilities, public service for the elderly, public library sciences, school-based library sciences and other school-based services, or at an organization that is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of such title; or

"(ii) teaching as a full-time faculty member at a Tribal College or University as defined in section 1059c(b) of this title and other faculty teaching in high-needs areas, as determined by the Secretary."

Subsec. (m)(4). Pub. L. 110–315, §451(b)(2), added par. (4).

Subsec. (n). Pub. L. 110–315, §451(c), added subsec. (n).

Subsec. (o). Pub. L. 110–315, §451(d), added subsec. (o).

Subsec. (p). Pub. L. 110–315, §451(e), added subsec. (p).

2007—Subsec. (b)(7)(D). Pub. L. 110–84, §201(b), added subpar. (D).

Subsec. (d)(1)(D). Pub. L. 110–84, §203(b)(3), inserted "made on behalf of a dependent student" after "PLUS loan".

Subsec. (e)(7). Pub. L. 110–84, §205, added par. (7).

Subsec. (f)(2)(C). Pub. L. 110–84, §202(b), struck out "not in excess of 3 years" before "during" in introductory provisions, substituted comma for "; or" at end of cl. (ii), and inserted concluding provisions.

Subsec. (m). Pub. L. 110–84, §401, added subsec. (m).

2006—Subsec. (a)(1). Pub. L. 109–171, §8009(d)(1), inserted "1078–3," after "1078–2,".

Subsec. (a)(2)(C), (D). Pub. L. 109–171, §8009(d)(2), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (b)(8)(A). Pub. L. 109–171, §8008(c)(3), inserted "or origination fee" after "reductions in the interest rate".

Subsec. (c). Pub. L. 109–171, §8008(c)(2), designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsec. (d)(1)(A) to (C). Pub. L. 109–171, §8008(b), added subpars. (A) to (C) and struck out former subpars. (A) to (C), which read as follows:

"(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, consistent with subsection (a)(1) of this section;

"(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 1078(b)(1)(L) of this title;

"(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over a fixed or extended period of time, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and".

Subsec. (f)(2)(C), (D). Pub. L. 109–171, §8007(b), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (g). Pub. L. 109–171, §8009(d)(3), substituted "To be eligible for a consolidation loan under this part, a borrower shall meet the eligibility criteria set forth in section 1078–3(a)(3) of this title. The Secretary, upon application for such a loan, shall comply with the requirements applicable to a lender under section 1078–3(b)(1)(F) of this title." for "Loans made under this subsection shall be known as 'Federal Direct Consolidation Loans'."

2002—Subsec. (b)(6) to (9). Pub. L. 107–139, in par. (6) relating to interest rate provision for new loans substituted "2006" for "2003" in heading and "July 1, 2006," for "July 1, 2003," wherever appearing in text, added par. (7), redesignated former par. (7) as (8), and redesignated par. (6) relating to publication of rate in Federal Register as (9).

Subsec. (l). Pub. L. 107–314 added subsec. (l).

2000—Subsec. (b)(4)(A). Pub. L. 106–554 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

"(ii) 3.1 percent,

except that such rate shall not exceed 9 percent."

1998—Subsec. (b)(5). Pub. L. 105–178, §8301(c)(2), which directed amendment of section 455(b) (20 U.S.C. 1087e(b)) by adding par. (5), was executed to this section, which is section 455(b) of Pub. L. 89–329, to reflect the probable intent of Congress. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 105–244, §452(a)(1), added par. (6) relating to interest rate provision for new loans.

Pub. L. 105–178, §8301(c)(1), which directed amendment of section 455(b) (20 U.S.C. 1087e(b)) by redesignating par. (5) as (6), was executed to this section, which is section 455(b) of Pub. L. 89–329, to reflect the probable intent of Congress.

Subsec. (b)(7). Pub. L. 105–244, §452(b), added par. (7).

Subsec. (g). Pub. L. 105–244, §452(c), struck out "only under such terms and conditions as the Secretary shall establish pursuant to section 1087g(a)(1) of this title or regulations promulgated under this part" after "section 1078–3(a)(4) of this title".

Subsecs. (j)(2), (k)(3). Pub. L. 105–244, §401(g)(6), substituted "Federal Pell Grants" for "basic grants".

1994—Subsec. (f)(3), (4). Pub. L. 103–382 added pars. (3) and (4).

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to terms and conditions of loans for former provisions relating to withdrawal and termination procedures.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to withdrawal and termination procedures for former provisions relating to feasibility study.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–28, §2(b), Aug. 9, 2013, 127 Stat. 507, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as if enacted on July 1, 2013."

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–152, title II, §2211(b), Mar. 30, 2010, 124 Stat. 1078, provided that: "The amendment made by subsection (a)(1) [amending this section] shall apply with respect to loans first disbursed under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) on or after July 1, 2010."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by sections 201(b), 202(b), 205, and 401 of Pub. L. 110–84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as a note under section 1070a of this title.

Amendment by section 203(b)(3) of Pub. L. 110–84 effective July 1, 2009, see section 203(c)(1) of Pub. L. 110–84, set out as a note under section 1078–3 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Amendment by section 8007(b) of Pub. L. 109–171 applicable with respect to all loans under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.), see section 8007(f) of Pub. L. 109–171, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–314 applicable with respect to interest, and any special allowance under section 1087–1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107–314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 401(g)(6) and 452(b), (c) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §452(d), Oct. 7, 1998, 112 Stat. 1717, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to any loan made under part D of title IV of the Higher Education Act of 1965 [this part] for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to a Federal Direct Consolidation Loan for which the application is received on or after October 1, 1998, and before July 1, 2003."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

CONSTRUCTION OF 2006 AMENDMENT

Nothing in amendment by section 8007(b) of Pub. L. 109–171 to be construed to authorize any refunding of any repayment of a loan, see section 8007(e) of Pub. L. 109–171, set out as a note under section 1078 of this title.

LIMITATION ON CONSOLIDATION LOANS DURING TEMPORARY INTEREST RATE

Pub. L. 105–244, title IV, §452(a)(2), Oct. 7, 1998, 112 Stat. 1716, provided that: "Notwithstanding section 455(g) of the Higher Education Act of 1965 [subsec. (g) of this section], a borrower who is enrolled or accepted for enrollment in an institution of higher education may not consolidate loans under such section during the period beginning October 1, 1998, and ending February 1, 1999, unless the borrower certifies that the borrower has no outstanding loans made, insured, or guaranteed under title IV of such Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] other than loans made under part D of such title [this part]."

[1] So in original. Probably should be followed by a comma.

[2] So in original. The second comma probably should not appear.

§1087f. Contracts

(a) Contracts for supplies and services

(1) In general

The Secretary shall, to the extent practicable, award contracts for origination, servicing, and collection described in subsection (b) of this section. In awarding such contracts, the Secretary shall ensure that such services and supplies are provided at competitive prices.

(2) Entities

The entities with which the Secretary may enter into contracts shall include only entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the origination, servicing, and collection of loans under this part, the Secretary shall enter into contracts only with entities that have extensive and relevant experience and demonstrated effectiveness. The entities with which the Secretary may enter into such contracts shall include, where practicable, agencies with agreements with the Secretary under sections 1078(b) and (c) of this title, if such agencies meet the qualifications as determined by the Secretary under this subsection and if those agencies have such experience and demonstrated effectiveness. In awarding contracts to such State agencies, the Secretary shall, to the extent practicable and consistent with the purposes of this part, give special consideration to State agencies with a history of high quality performance to perform services for institutions of higher education within their State.

(3) Rule of construction

Nothing in this section shall be construed as a limitation of the authority of any State agency to enter into an agreement for the purposes of this section as a member of a consortium of State agencies.

(b) Contracts for origination, servicing, and data systems

The Secretary may enter into contracts for—

(1) the alternative origination of loans to students attending institutions of higher education with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 1087d(b) of this title;

(2) the servicing and collection of loans made or purchased under this part;

(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made or purchased under this part; and

(4) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

(Pub. L. 89–329, title IV, §456, as added Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103–66, title IV, §4021, Aug. 10, 1993, 107 Stat. 352; Pub. L. 105–244, title IV, §453, Oct. 7, 1998, 112 Stat. 1717; Pub. L. 110–227, §7(c), May 7, 2008, 122 Stat. 747; Pub. L. 111–152, title II, §2212(a), Mar. 30, 2010, 124 Stat. 1078; Pub. L. 113–67, div. A, title V, §502(1), Dec. 26, 2013, 127 Stat. 1187.)

AMENDMENTS

2013—Subsec. (a)(4). Pub. L. 113–67, §502(1)(A), struck out par. (4) which related to servicing by eligible not-for-profit servicers.

Subsec. (c). Pub. L. 113–67, §502(1)(B), struck out subsec. (c) which defined eligible not-for-profit servicer for purposes of this section.

2010—Subsec. (a)(4). Pub. L. 111–152, §2212(a)(1)(A), added par. (4).

Subsec. (c). Pub. L. 111–152, §2212(a)(2), added subsec. (c).

2008—Subsec. (b)(2), (3). Pub. L. 110–227 inserted "or purchased" after "loans made".

1998—Subsec. (b)(3). Pub. L. 105–244, §453(1), inserted "and" after semicolon.

Subsec. (b)(4), (5). Pub. L. 105–244, §453(2), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "services to assist in the orderly transition from the loan programs under part B of this subchapter to the direct student loan program under this part; and".

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to contracts for former

provisions relating to terms and conditions.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§1087g. Repealed. Pub. L. 111–39, title IV, §404(b)(3), July 1, 2009, 123 Stat. 1946

Section, Pub. L. 89–329, title IV, §457, as added Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103–66, title IV, §4021, Aug. 10, 1993, 107 Stat. 352, related to regulatory activities associated with implementation of the first year of the direct student loan program authorized by part C, including establishment of closing date for applications not later than Oct. 1, 1993, and publication of list of selected institutions not later than Jan. 1, 1994.

EFFECTIVE DATE OF REPEAL

Repeal effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as an Effective Date of 2009 Amendment note under section 1001 of this title.

§1087h. Funds for administrative expenses

(a) Administrative expenses

(1) Mandatory funds for fiscal year 2006

For fiscal year 2006, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c),

not to exceed (from such funds not otherwise appropriated) $820,000,000 in fiscal year 2006.

(2) Repealed. Pub. L. 113–67, div. A, title V, §502(2), Dec. 26, 2013, 127 Stat. 1187

(3) Authorization for administrative costs beginning in fiscal years 2007 through 2014

For each of the fiscal years 2007 through 2014, there are authorized to be appropriated such sums as may be necessary for administrative costs under this part and part B, including the costs of the direct student loan programs under this part.

(4) Continuing mandatory funds for account maintenance fees

For each of the fiscal years 2007 through 2016, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b).

(5) Account maintenance fees

Account maintenance fees under paragraph (3) [1] shall be paid quarterly and deposited in the Agency Operating Fund established under section 1072b of this title.

(6) Technical assistance to institutions of higher education

(A) Provision of assistance

The Secretary shall provide institutions of higher education participating, or seeking to

participate, in the loan programs under this part with technical assistance in establishing and administering such programs.

(B) Funds

There are authorized to be appropriated, and there are appropriated, to carry out this paragraph (in addition to any other amounts appropriated to carry out this paragraph and out of any money in the Treasury not otherwise appropriated), $50,000,000 for fiscal year 2010.

(C) Definition

In this paragraph, the term "assistance" means the provision of technical support, training, materials, technical assistance, and financial assistance.

(7) Additional payments

(A) Provision of assistance

The Secretary shall provide payments to loan servicers for retaining jobs at locations in the United States where such servicers were operating under part B on January 1, 2010.

(B) Funds

There are authorized to be appropriated, and there are appropriated, to carry out this paragraph (in addition to any other amounts appropriated to carry out this paragraph and out of any money in the Treasury not otherwise appropriated), $25,000,000 for each of the fiscal years 2010 and 2011.

(8) Carryover

The Secretary may carry over funds made available under this section to a subsequent fiscal year.

(b) Calculation basis

Account maintenance fees payable to guaranty agencies under subsection (a)(4) shall be calculated on the basis of 0.06 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

(c) Budget justification

No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

(Pub. L. 89–329, title IV, §458, as added Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 573; amended Pub. L. 103–66, title IV, §4021, Aug. 10, 1993, 107 Stat. 353; Pub. L. 104–19, title I, §601, July 27, 1995, 109 Stat. 219; Pub. L. 105–33, title VI, §6103, Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–78, title VI, §609(l), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, §454, Oct. 7, 1998, 112 Stat. 1717; Pub. L. 109–171, title VIII, §8015, Feb. 8, 2006, 120 Stat. 172; Pub. L. 109–292, §5, Sept. 30, 2006, 120 Stat. 1341; Pub. L. 110–84, title III, §306, Sept. 27, 2007, 121 Stat. 800; Pub. L. 110–315, title IV, §452, Aug. 14, 2008, 122 Stat. 3263; Pub. L. 111–152, title II, §2212(b), Mar. 30, 2010, 124 Stat. 1080; Pub. L. 113–67, div. A, title V, §502(2), Dec. 26, 2013, 127 Stat. 1187; Pub. L. 114–113, div. H, title III, §310, Dec. 18, 2015, 129 Stat. 2638.)

REFERENCES IN TEXT

Paragraph (3), referred to in subsec. (a)(5), was redesignated par. (4) by Pub. L. 111–152, §2212(b)(1)(B).

AMENDMENTS

2015—Subsec. (a)(4). Pub. L. 114–113 substituted "2016" for "2014".

2013—Subsec. (a)(2). Pub. L. 113–67 struck out par. (2). Text read as follows: "For fiscal years 2010 through 2019, there shall be available to the Secretary, in addition to any other amounts appropriated to carry

out this paragraph and out of any money in the Treasury not otherwise appropriated, funds to be obligated for administrative costs of servicing contracts with eligible not-for-profit servicers as described in section 1087f of this title."

2010—Subsec. (a)(2) to (8). Pub. L. 111–152, §2212(b)(1), added pars. (2), (6), and (7) and redesignated former pars. (2), (3), (4), and (5) as (3), (4), (5), and (8), respectively.

Subsec. (b). Pub. L. 111–152, §2212(b)(2), substituted "subsection (a)(4)" for "subsection (a)(3)".

2008—Subsec. (a)(2). Pub. L. 110–315, §452(1), substituted "2014" for "2011" in heading and text.

Subsec. (a)(3). Pub. L. 110–315, §452(2), substituted "2014" for "2011".

2007—Subsec. (b). Pub. L. 110–84 substituted "0.06 percent" for "0.10 percent".

2006—Pub. L. 109–171 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d) relating to administrative expenses, calculation basis for account maintenance fees payable to guaranty agencies, special rules relating to caps on account maintenance fees and insufficient funding, and budget justification for funds expended, respectively.

Subsec. (b). Pub. L. 109–292 substituted "shall be calculated on" for "shall not exceed".

1998—Subsec. (a). Pub. L. 105–244, §454(1), amended heading and text of subsec. (a) generally. Prior to amendment, subsec. (a) related to availability of funds for administrative costs and cost allowances.

Subsec. (b). Pub. L. 105–244, §454(2), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "Funds made available under subsection (a) of this section shall remain available until expended."

Subsec. (c). Pub. L. 105–244, §454(5), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105–244, §454(4), redesignated subsec. (c) as (d).

Pub. L. 105–244, §454(3), struck out heading and text of subsec. (d). Text read as follows: "In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) of this section to draw funds for administrative expenses from a future year's funds, no funds may be expended under this section unless the Secretary immediately notifies the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action."

1997—Subsec. (a). Pub. L. 105–33 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Each fiscal year, there shall be available to the Secretary of Education from funds available pursuant to section 1072(g) of this title and from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B of this subchapter to the direct student loan programs under this part (including the costs of annually assessing the program under this part and the progress of the transition) and transition support (including administrative costs) for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $284,000,000 in fiscal year 1995, $550,000,000 in fiscal year 1996, $595,000,000 in fiscal year 1997, and $750,000,000 in fiscal year 1998. If in any fiscal year the Secretary determines that additional funds for administrative expenses are needed as a result of such transition or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by the Secretary (from such funds not otherwise appropriated) shall not exceed $2,439,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year."

Subsec. (a)(1). Pub. L. 105–78 substituted "$507,000,000" for "$532,000,000" in closing provisions.

1995—Subsec. (a). Pub. L. 104–19 substituted "$284,000,000 in fiscal year 1995" for "$345,000,000 in fiscal year 1995" and "$2,439,000,000 in fiscal years 1994 through 1998" for "$2,500,000,000 in fiscal years 1994 through 1998".

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to funds for administrative expenses for former provisions relating to reports.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

CONSTRUCTION

Pub. L. 105–78, title VI, §609(m), Nov. 13, 1997, 111 Stat. 1524, provided that: "Nothing in this Act [see Tables for classification] or an amendment made by this Act shall be construed to prohibit the Secretary of Education from using funds that are returned or otherwise recovered by the Secretary under section 422(g) of the Higher Education Act of 1965 (20 U.S.C. 1072(g)) including the balances of returned reserve funds, formerly held by the Higher Education Assistance Foundation, that are currently held in Higher Education Assistance Foundation Claims Reserves, Treasury account number 91X6192, for expenditure for expenses pursuant to section 458 of such Act (20 U.S.C. 1087h)."

USE OF FUNDS FOR ADMINISTRATIVE EXPENSES OF WILLIAM D. FORD DIRECT LOAN PROGRAM PROHIBITED

Pub. L. 104–208, div. A, title I, §101(e) [title III, §304], Sept. 30, 1996, 110 Stat. 3009–233, 3009–261, provided in part that: "Notwithstanding section 458 of the Higher Education Act [of 1965] [20 U.S.C. 1087h], the Secretary may not use funds available under that section or any other section for subsequent fiscal years for administrative expenses of the William D. Ford Direct Loan Program."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–134, title I, §101(d) [title III, §305], Apr. 26, 1996, 110 Stat. 1321–211, 1321–236; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

[1] *See References in Text note below.*

§1087i. Authority to sell loans

The Secretary, in consultation with the Secretary of the Treasury, is authorized to sell loans made under this part on such terms as the Secretary determines are in the best interest of the United States, except that any such sale shall not result in any cost to the Federal Government. Notwithstanding any other provision of law, the proceeds of any such sale may be used by the Secretary to offer reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment in accordance with section 1087e(b)(7) of this title. Such reductions may be offered only if the Secretary determines the reductions are in the best financial interests of the Federal Government.

(Pub. L. 89–329, title IV, §459, as added Pub. L. 105–244, title IV, §455, Oct. 7, 1998, 112 Stat. 1718.)

PRIOR PROVISIONS

A prior section 1087i, Pub. L. 89–329, title IV, §459, as added Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 575, which related to schedule of regulatory activities by Secretary under Federal direct loan demonstration program, was omitted in the general amendment of this part by Pub. L. 103–66.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1087i–1. Temporary authority to purchase student loans

(a) Authority to purchase

(1) Authority; determination required

Upon a determination by the Secretary that there is an inadequate availability of loan capital to meet the demand for loans under sections 1078, 1078–2, or 1078–8 of this title, whether as a result of inadequate liquidity for such loans or for other reasons, the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender, as defined by section 1085(d)(1) of this title, loans first disbursed under sections 1078, 1078–2, or 1078–8 of this title on or after October 1, 2003, and before July 1, 2010, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this section shall not result in any net cost to the Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(2) Federal Register notice

The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall jointly publish a notice in the Federal Register prior to any purchase of loans under paragraph (1) that—

(A) establishes the terms and conditions governing the purchases authorized by paragraph (1);

(B) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, will jointly consider in evaluating the price at which to purchase loans made under section 1078, 1078–2, or 1078–8 of this title; and

(C) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).

(3) Temporary authority to purchase rehabilitated loans

(A) Authority

In addition to the authority described in paragraph (1), the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender (as defined in section 1085(d)(1) of this title), loans that such lender purchased under section 1078–6 of this title on or after October 1, 2003, and before July 1, 2010, and that are not in default, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this paragraph shall not result in any net cost to the Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(B) Federal Register notice

The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget shall jointly publish a notice in the Federal Register prior to any purchase of loans under this paragraph that—

(i) establishes the terms and conditions governing the purchases authorized by this paragraph;

(ii) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget will jointly consider in evaluating the price at which to purchase loans rehabilitated pursuant to section 1078–6(a) of this title; and

(iii) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).

(b) Proceeds

The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section be used—

(1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this subchapter; and

(2)(A) in the case of loans purchased pursuant to subsection (a)(1), to originate new Federal loans to students, as authorized under part B of this subchapter; or

(B) in the case of loans purchased pursuant to subsection (a)(3), to originate such new Federal loans to students, or to purchase loans in accordance with section 1078–6(a) of this title.

(c) Maintaining servicing arrangements

The Secretary may, if agreed upon by an eligible lender selling loans under this section, contract with such lender for the servicing of the loans purchased, provided that—

(1) the cost of such servicing arrangement does not exceed the cost the Federal Government would otherwise incur for the servicing of loans purchased, as determined under subsection (a); and

(2) such servicing arrangement is in the best interest of the borrowers whose loans are purchased.

(d) Guaranty agency responsibilities and payments

Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, beginning on the date on which the Secretary purchases a loan under this section—

(1) the guaranty agency that insured such loan shall cease to have any obligations, responsibilities, or rights (including rights to any payment) under this chapter and part C of subchapter I of chapter 34 of title 42 for any activity related to the administration of such loan that is carried out or required to be carried out on or after the date of such purchase; and

(2) the insurance issued by such agency pursuant to section 1078(b) of this title for such loan shall cease to be effective with respect to any default on such loan that occurs on or after the date of such purchase.

(e) Reports and cost estimates

The Secretary shall prepare, transmit to the authorizing committees, and make available to the public, the following:

(1) Quarterly reports

(A) Contents

Not later than 60 days after the end of each quarter during the period beginning July 1, 2008, and ending September 30, 2010, a quarterly report on—

(i) the number of loans the Secretary has agreed to purchase, or has purchased, using the authority provided under this section, and the total amount of outstanding principal and accrued interest of such loans, during such period; and

(ii) the number of loans in which the Secretary has purchased a participation interest, and the total amount of outstanding principal and accrued interest of such loans, during such period.

(B) Disaggregated information

For each quarterly report, the information described in clauses (i) and (ii) of subparagraph (A) shall be disaggregated by lender and, for each lender, by category of institution (using the categories described in section 1015a(d) of this title) and type of loan.

(2) Estimates of purchase program costs

Not later than February 15, 2011, an estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i) during the period beginning July 1, 2008, and

ending September 30, 2010, and an estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii) during such period. Each such estimate shall—

(A) contain the same level of detail, and be reported in a similar manner, as the budget estimates provided for the loan program under part B and the direct student loan program under this part in the President's annual budget submission to Congress, except that current and future administrative costs shall also be reported;

(B) include an estimate of the gross and net outlays that have been, or will be, incurred by the Federal Government (including subsidy and administrative costs, and any payments made by the Department to lenders, trusts, or other entities related to such activities) in purchasing such loans or purchasing a participation interest in such loans during such period (as applicable); and

(C) include a comparison of—

(i) the average amount of the gross and net outlays (including costs and payments) described in subparagraph (B) for each $100 of loans purchased or for which a participation interest was purchased (as applicable) during such period, disaggregated by type of loan; with

(ii) the average amount of such gross and net outlays (including costs and payments) to the Federal Government for each $100 of comparable loans made under this part and part B during such period, disaggregated by part and by type of loan.

(3) Annual cost estimates

Not later than February 15 of the fiscal year following each of the fiscal years 2008, 2009, 2010, and 2011, an annual estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i), and an annual estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii), that includes the information described in paragraph (2) for such fiscal year.

(f) Expiration of authority

The Secretary's authority to purchase loans under this section shall expire on July 1, 2010.

(Pub. L. 89–329, title IV, §459A, as added Pub. L. 110–227, §7(b), May 7, 2008, 122 Stat. 746; amended Pub. L. 110–315, title IV, §453, Aug. 14, 2008, 122 Stat. 3263; Pub. L. 110–350, §1, Oct. 7, 2008, 122 Stat. 3947; Pub. L. 111–39, title IV, §404(a), July 1, 2009, 123 Stat. 1945.)

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111–39, §404(a)(1)(A), substituted "purchase of loans under paragraph (1)" for "purchase of loans under this section" in introductory provisions.

Subsec. (a)(3). Pub. L. 111–39, §404(a)(1)(B), added par. (3).

Subsec. (b). Pub. L. 111–39, §404(a)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section shall be used: (1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this subchapter; and (2) to originate new Federal loans to students, as authorized under part B of this subchapter."

2008—Subsec. (a)(1). Pub. L. 110–350, §1(1), substituted "July 1, 2010" for "July 1, 2009".

Subsecs. (d), (e). Pub. L. 110–315, §453(2), added subsecs. (d) and (e). Former subsec. (d) redesignated (f).

Subsec. (e)(1)(A). Pub. L. 110–350, §1(2)(A), substituted "September 30, 2010" for "September 30, 2009" in introductory provisions.

Subsec. (e)(2). Pub. L. 110–350, §1(2)(A), (B), substituted "February 15, 2011" for "February 15, 2010" and "September 30, 2010" for "September 30, 2009" in introductory provisions.

Subsec. (e)(3). Pub. L. 110–350, §1(2)(C), substituted "2009, 2010, and 2011" for "2009, and 2010".

Subsec. (f). Pub. L. 110–350, §1(1), substituted "July 1, 2010" for "July 1, 2009".

Pub. L. 110–315, §453(1), redesignated subsec. (d) as (f).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1087i–2. Temporary loan consolidation authority

(a) Temporary loan consolidation authority

(1) In general

A borrower who has 1 or more loans in 2 or more of the categories described in paragraph (2), and who has not yet entered repayment on 1 or more of those loans in any of the categories, may consolidate all of the loans of the borrower that are described in paragraph (2) into a Federal Direct Consolidation Loan during the period described in paragraph (3).

(2) Categories of loans that may be consolidated

The categories of loans that may be consolidated under paragraph (1) are—

(A) loans made under this part;

(B) loans purchased by the Secretary pursuant to section 1087i–1 of this title; and

(C) loans made under part B that are held by an eligible lender, as such term is defined in section 1085(d) of this title.

(3) Time period in which loans may be consolidated

The Secretary may make a Federal Direct Consolidation Loan under this section to a borrower whose application for such Federal Direct Consolidation Loan is received on or after July 1, 2010, and before July 1, 2011.

(b) Terms of loans

A Federal Direct Consolidation Loan made under this section shall have the same terms and conditions as a Federal Direct Consolidation Loan made under section 1087e(g) of this title, except that—

(1) in determining the applicable rate of interest on the Federal Direct Consolidation Loan made under this section (other than on a Federal Direct Consolidation Loan described in paragraph (2)), section 1077a(l)(3) of this title shall be applied without rounding the weighted average of the interest rate on the loans consolidated to the nearest higher one-eighth of 1 percent as described in subparagraph (A) of section 1077a(l)(3) of this title; and

(2) if a Federal Direct Consolidation Loan made under this section that repays a loan which is subject to an interest rate determined under section 1077a(g)(2), (j)(2), or (k)(2) of this title, then the interest rate for such Federal Direct Consolidation Loan shall be calculated—

(A) by using the applicable rate of interest described in section 1077a(g)(2), (j)(2), or (k)(2) of this title, respectively; and

(B) in accordance with section 1077a(l)(3) of this title.

(Pub. L. 89–329, title IV, §459B, as added Pub. L. 111–152, title II, §2206(b), Mar. 30, 2010, 124 Stat. 1075.)

§1087j. Loan cancellation for teachers

(a) Statement of purpose

It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

(b) Program authorized

The Secretary shall carry out a program of canceling the obligation to repay a qualified loan amount in accordance with subsection (c) for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made under this part for any new borrower on or after October 1, 1998, who—

(1) has been employed as a full-time teacher for 5 consecutive complete school years—

(A) in a school or location that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such schools or locations; and

(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 [1] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801], or meets the requirements of subsection (g)(3); and

(2) is not in default on a loan for which the borrower seeks forgiveness.

(c) Qualified loan amounts

(1) In general

The Secretary shall cancel not more than $5,000 in the aggregate of the loan obligation on a Federal Direct Stafford Loan or a Federal Direct Unsubsidized Stafford Loan that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1). No borrower may receive a reduction of loan obligations under both this section and section 1078–10 of this title.

(2) Treatment of consolidation loans

A loan amount for a Federal Direct Consolidation Loan may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 1078 or 1078–8 of this title, for a borrower who meets the requirements of subsection (b), as determined in accordance with regulations prescribed by the Secretary.

(3) Additional amounts for teachers in mathematics, science, or special education

Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall cancel under this section shall be not more than $17,500 in the case of—

(A) a secondary school teacher—

(i) who meets the requirements of subsection (b); and

(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

(B) an elementary school or secondary school teacher—

(i) who meets the requirements of subsection (b);

(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 1401 of this title); and

(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency, is teaching children with disabilities that correspond with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.

(d) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(e) Construction

Nothing in this section shall be construed to authorize any refunding of any canceled loan.

(f) List

If the list of schools in which a teacher may perform service pursuant to subsection (b) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(g) Additional eligibility provisions

(1) Continued eligibility

Any teacher who performs service in a school that—

(A) meets the requirements of subsection (b)(1)(A) in any year during such service; and

(B) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (b).

(2) Prevention of double benefits

No borrower may, for the same voluntary service, receive a benefit under both this section and—

(A) section 1078–11 of this title;

(B) section 1087e(m) of this title; or

(C) subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(3) Private school teachers

An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(B), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 [1] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801], and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.

(h) "Year" defined

For the purpose of this section, the term "year" where applied to service as a teacher means an academic year as defined by the Secretary.

(Pub. L. 89–329, title IV, §460, as added Pub. L. 105–244, title IV, §456, Oct. 7, 1998, 112 Stat. 1719; amended Pub. L. 108–409, §3(a)(1)(B), (b)(2), Oct. 30, 2004, 118 Stat. 2300, 2301; Pub. L. 109–171, title VIII, §8013(e)(2), Feb. 8, 2006, 120 Stat. 167; Pub. L. 110–315, title IV, §454, Aug. 14, 2008, 122 Stat. 3265; Pub. L. 111–39, title IV, §404(b)(4), July 1, 2009, 123 Stat. 1946.)

REFERENCES IN TEXT

Section 9101 of the Elementary and Secondary Education Act of 1965, referred to in subsecs. (b)(1)(B) and (g)(3), was amended by Pub. L. 114–95 and, as so amended, is now section 8101 of the Act and no longer defines "highly qualified". A reference in this section to the term "highly qualified" as defined in section 9101 of the Act is to be treated as a reference to such term under such section 9101 as in effect on the day before the date of enactment of Pub. L. 114–95. See section 9214(a)(1) of Pub. L. 114–95, set out as a Use of the Term "Highly Qualified" in Other Laws note under section 1070g–2 of this title.

The National and Community Service Act of 1990, referred to in subsec. (g)(2)(D), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§12601 et seq.) of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1087j, Pub. L. 89–329, title IV, §459A, as added Pub. L. 102–325, title IV, §451, July 23, 1992, 106 Stat. 575, which related to funds for administrative expenses under Federal direct loan demonstration program, was omitted in the general amendment of this part by Pub. L. 103–66.

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111–39, §404(b)(4)(A), inserted at end "No borrower may receive a reduction of loan obligations under both this section and section 1078–10 of this title."

Subsec. (g)(2). Pub. L. 111–39, §404(b)(4)(B), redesignated subpars. (B) to (D) as (A) to (C), respectively, substituted "12601" for "12571" in subpar. (C), and struck out former subpar. (A) which read as follows:

"section 1078–10 of this title;".

2008—Subsec. (b). Pub. L. 110–315, §454(c), struck out "(1) In general" before "The Secretary shall", redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, and cls. (i) and (ii) of former subpar. (A) as subpars. (A) and (B), respectively, of par. (1), realigned margins, and struck out par. (2). Prior to amendment, text of par. (2) read as follows: "No borrower may obtain a reduction of loan obligations under both this section and section 1078–10 of this title."

Subsec. (b)(1)(A)(i). Pub. L. 110–315, §454(a)(1), inserted "or location" after "a school" and "or locations" after "such schools".

Subsec. (c)(1). Pub. L. 110–315, §454(d)(1), substituted "subsection (b)(1)" for "subsection (b)(1)(A)".

Subsec. (c)(3)(A)(i), (B)(i). Pub. L. 110–315, §454(d)(2), substituted "subsection (b)" for "subsection (b)(1)".

Subsec. (c)(3)(B)(iii). Pub. L. 110–315, §454(a)(2), inserted "or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency," after "borrower is employed,".

Subsec. (g)(2). Pub. L. 110–315, §454(b), amended par. (2) generally. Prior to amendment, text read as follows: "No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.)".

Subsec. (g)(3). Pub. L. 110–315, §454(d)(3), substituted "subsection (b)(1)(B)" for "subsection (b)(1)(A)(ii)".

2006—Subsec. (b)(1)(A)(ii). Pub. L. 109–171, §8013(e)(2)(A), inserted ", or meets the requirements of subsection (g)(3)" before "; and".

Subsec. (g)(3). Pub. L. 109–171, §8013(e)(2)(B), added par. (3).

2004—Subsec. (b)(1)(A). Pub. L. 108–409, §3(a)(1)(B), added cl. (ii) and struck out former cls. (ii) and (iii) which read as follows:

"(ii) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or non-profit private secondary school in which the borrower is employed; and

"(iii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics and other areas of the elementary school curriculum; and".

Subsec. (c)(3). Pub. L. 108–409, §3(b)(2), added par. (3).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT; TRANSITION RULE

Amendment by section 3(b)(2) of Pub. L. 108–409 applicable only with respect to eligible individuals who are new borrowers (as defined in section 1003 of this title) on or after Oct. 1, 1998, see section 3(b)(3) of Pub. L. 108–409, as amended, set out as a note under section 1078–10 of this title.

For transition rules relating to amendments made by section 3(a)(1)(B) of Pub. L. 108–409, see section 3(a)(2) of Pub. L. 108–409, set out as a note under section 1078–10 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

[1] *See References in Text note below.*

PART D—FEDERAL PERKINS LOANS

CODIFICATION

This part was added as part E of title IV of Pub. L. 89–329 by Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 273, and amended by Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1439, without reference to such intervening amendments because of the extensive revision of this part by Pub. L. 99–498. The letter designation of this part was changed from "E" to "D" for codification purposes. See Codification note preceding section 1087a of this title.

§1087aa. Appropriations authorized

(a) Program authority

The Secretary shall carry out a program assisting in the maintenance of funds at institutions of higher education for the making of loans to undergraduate students in need to pursue their courses of study in such institutions or while engaged in programs of study abroad approved for credit by such institutions. Loans made under this part shall be known as "Federal Perkins Loans".

(b) Authority to make loans

(1) In general

(A) Loans for new undergraduate Federal Perkins Loan borrowers

Through September 30, 2017, an institution of higher education may make a loan under this part to an eligible undergraduate student who, on the date of disbursement of a loan made under this part, has no outstanding balance of principal or interest on a loan made under this part from the student loan fund established under this part by the institution, but only if the institution has awarded all Federal Direct Loans, as referenced under subparagraphs (A) and (D) of section 1087e(a)(2) of this title, for which such undergraduate student is eligible.

(B) Loans for current undergraduate Federal Perkins Loan borrowers

Through September 30, 2017, an institution of higher education may make a loan under this part to an eligible undergraduate student who, on the date of disbursement of a loan made under this part, has an outstanding balance of principal or interest on a loan made under this part from the student loan fund established under this part by the institution, but only if the institution has awarded all Federal Direct Stafford Loans as referenced under section 1087e(a)(2)(A) of this title for which such undergraduate student is eligible.

(C) Loans for certain graduate borrowers

Through September 30, 2016, with respect to an eligible graduate student who has received a loan made under this part prior to October 1, 2015, an institution of higher education that has most recently made such a loan to the student for an academic program at such institution may continue making loans under this part from the student loan fund established under this part by the institution to enable the student to continue or complete such academic program.

(2) No additional loans

An institution of higher education shall not make loans under this part after September 30, 2017.

(3) Prohibition on additional appropriations

No funds are authorized to be appropriated under this chapter and part C of subchapter I of chapter 34 of title 42 or any other Act to carry out the functions described in paragraph (1) for any fiscal year following fiscal year 2015.

(Pub. L. 89–329, title IV, §461, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102–325, title IV, §461(a)(2)–(c), July 23, 1992, 106 Stat. 576; Pub. L. 105–244, title IV, §461, Oct. 7, 1998, 112 Stat. 1720; Pub. L. 110–315, title IV, §461, Aug. 14,

2008, 122 Stat. 3265; Pub. L. 114–105, §2(a)(1), Dec. 18, 2015, 129 Stat. 2219.)

PRIOR PROVISIONS

A prior section 1087aa, Pub. L. 89–329, title IV, §461, as added Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 94–482, title I, §130(a), (b), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96–49, §5(d)(1), (2), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §441, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1436, 1503, authorized a program to establish and maintain funds at institutions of higher education for making low-interest loans to students, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 461 of Pub. L. 89–329 amended former section 403 of this title.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–105, §2(a)(1)(A), substituted "assisting in the maintenance of funds at institutions of higher education for the making of loans to undergraduate students in need" for "of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof".

Subsec. (b). Pub. L. 114–105, §2(a)(1)(B), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows:

"(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $300,000,000 for fiscal year 2009 and for each of the five succeeding fiscal years.

"(2) In addition to the funds authorized under paragraph (1), there are hereby authorized to be appropriated such sums for fiscal year 2015 and each of the 5 succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 2015, to continue or complete courses of study."

Subsec. (c). Pub. L. 114–105, §2(a)(1)(C), struck out subsec. (c). Text read as follows: "Any sums appropriated pursuant to subsection (b) of this section for any fiscal year shall be available for apportionment pursuant to section 1087bb of this title and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 1087cc of this title. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds."

2008—Subsec. (b)(1). Pub. L. 110–315, §461(1), substituted "$300,000,000 for fiscal year 2009 and for each of the five succeeding fiscal years" for "$250,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years".

Subsec. (b)(2). Pub. L. 110–315, §461(2), substituted "2015" for "2003" in two places.

1998—Subsec. (b)(1). Pub. L. 105–244, §461(1), substituted "1999" for "1993".

Subsec. (b)(2). Pub. L. 105–244, §461(2), substituted "2003" for "1997" in two places.

1992—Subsec. (a). Pub. L. 102–325, §461(a)(2), (b), inserted "or while engaged in programs of study abroad approved for credit by such institutions" after "in such institutions" and substituted "Federal Perkins Loans" for "Perkins Loans".

Subsec. (b). Pub. L. 102–325, §461(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

"(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $268,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

CONSTRUCTION OF 2015 AMENDMENT

Pub. L. 114–105, §2(a)(2), Dec. 18, 2015, 129 Stat. 2220, provided that: "Notwithstanding the amendments made under paragraph (1) of this subsection [amending this section], an eligible graduate borrower who received a disbursement of a loan under part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.) after June 30, 2016 and before October 1, 2016, for the 2016–2017 award year, may receive a subsequent disbursement of such loan by June 30, 2017, for which the borrower received an initial disbursement after June 30, 2016 and before October 1, 2016."

§1087bb. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1087aa(b) [1] of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year), multiplied by

(B) the institution's default penalty, as determined under subsection (e) of this section,

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the institution may not receive an allocation under this paragraph.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution's default penalty, as determined under subsection (e) of this section,

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the institution may not receive an allocation under this paragraph.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) Allocation of excess based on share of excess eligible amounts

(1) From the remainder of the amount appropriated pursuant to section 1087aa(b) [1] of this title after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1087aa(b) [1] of this title for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section,

except that an eligible institution which has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section may not receive an allocation under this paragraph.

(3) For any eligible institution, the eligible amount of that institution is equal to—

(A) the amount of the institution's self-help need, as determined under subsection (c) of this section; minus

(B) the institution's anticipated collections; multiplied by

(C) the institution's default penalty, as determined under subsection (e) of this section;

except that, if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the eligible amount of that institution is zero.

(c) Determination of institution's self-help need

(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary shall—

(A) establish various income categories for graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

(F) add the amounts determined under subparagraph (E) for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term "average cost of attendance" means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $600.

(d) Anticipated collections

(1) An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low cohort default rates in the program assisted under this part.

(e) Default penalties

(1) Years preceding fiscal year 2000

For any fiscal year preceding fiscal year 2000, any institution with a cohort default rate that—

(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations prescribed by the Secretary, except that such plan shall not be required with respect to an institution that has a default rate of less than 20 percent and that has less than 100 students who have loans under this part in such academic year;

(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

(D) equals or exceeds 30 percent shall have a default penalty of zero.

(2) Years following fiscal year 2000

For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (g) of this section) that equals or exceeds 25 percent shall have a default penalty of zero.

(3) Ineligibility

(A) In general

For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined in subsection (g) of this section) that equals or exceeds 50 percent for each of the 3 most recent years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and the 2 succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after the submission of the appeal. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the calculation of the institution's cohort default rate is not accurate, and that recalculation would reduce the institution's cohort default rate for any of the 3 fiscal years below 50 percent; or

(ii) there are, in the judgment of the Secretary, such a small number of borrowers entering repayment that the application of this subparagraph would be inequitable.

(B) Continued participation

During an appeal under subparagraph (A), the Secretary may permit the institution to continue to participate in a program under this part.

(C) Return of funds

Within 90 days after the date of any termination pursuant to subparagraph (A), or the conclusion of any appeal pursuant to subparagraph (B), whichever is later, the balance of the student loan fund established under this part by the institution that is the subject of the termination shall be distributed as follows:

(i) The Secretary shall first be paid an amount which bears the same ratio to such balance (as of the date of such distribution) as the total amount of Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal capital contributions and the capital contributions to such fund made by the institution.

(ii) The remainder of such student loan fund shall be paid to the institution.

(D) Use of returned funds

Any funds returned to the Secretary under this paragraph shall be reallocated to institutions of higher education pursuant to subsection (i) of this section.

(E) Definition

For the purposes of subparagraph (A), the term "loss of eligibility" shall be defined as the

mandatory liquidation of an institution's student loan fund, and assignment of the institution's outstanding loan portfolio to the Secretary.

(f) Applicable maximum cohort default rate

(1) Award years prior to 2000

For award years prior to award year 2000, the applicable maximum cohort default rate is 30 percent.

(2) Award year 2000 and succeeding award years

For award year 2000 and subsequent years, the applicable maximum cohort default rate is 25 percent.

(g) "Cohort default rate" defined

(1)(A) The term "cohort default rate" means, for any award year in which 30 or more current and former students at the institution enter repayment on loans under this part (received for attendance at the institution), the percentage of those current and former students who enter repayment on such loans (received for attendance at that institution) in that award year who default before the end of the following award year.

(B) For any award year in which less than 30 of the institution's current and former students enter repayment, the term "cohort default rate" means the percentage of such current and former students who entered repayment on such loans in any of the three most recent award years and who default before the end of the award year immediately following the year in which they entered repayment.

(C) A loan on which a payment is made by the institution of higher education, its owner, agency, contractor, employee, or any other entity or individual affiliated with such institution, in order to avoid default by the borrower, is considered as in default for the purposes of this subsection.

(D) In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

(E) In determining the number of students who default before the end of such award year, the institution, in calculating the cohort default rate, shall exclude—

(i) any loan on which the borrower has, after the time periods specified in paragraph (2)—

(I) voluntarily made 6 consecutive payments;

(II) voluntarily made all payments currently due;

(III) repaid in full the amount due on the loan; or

(IV) received a deferment or forbearance, based on a condition that began prior to such time periods;

(ii) any loan which has, after the time periods specified in paragraph (2), been rehabilitated or canceled; and

(iii) any other loan that the Secretary determines should be excluded from such determination.

(F) The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control or other means as determined by the Secretary.

(2) For purposes of calculating the cohort default rate under this subsection, a loan shall be considered to be in default—

(A) 240 days (in the case of a loan repayable monthly), or

(B) 270 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

(h) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(i) Reallocation of excess allocations

(1) In general

(A) If an institution of higher education returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate 80 percent of such returned portions to participating institutions in an amount not to exceed such participating institution's excess eligible amounts as determined under paragraph (2).

(B) For the purpose of this subsection, the term "participating institution" means an institution of higher education that—

(i) was a participant in the program assisted under this part in fiscal year 1999; and

(ii) did not receive an allocation under subsection (a) of this section in the fiscal year for which the reallocation determination is made.

(2) Excess eligible amount

For any participating institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under subsection (b)(3) of this section), divided by (ii) the sum of the eligible amounts of all participating institutions (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

(B) the amount required to be allocated to that institution under subsection (b) of this section.

(3) Remainder

The Secretary shall reallocate the remainder of such returned portions in accordance with regulations of the Secretary.

(4) Allocation reductions

If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.

(Pub. L. 89–329, title IV, §462, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1440; amended Pub. L. 100–50, §13(a)–(d), June 3, 1987, 101 Stat. 348; Pub. L. 102–325, title IV, §462, July 23, 1992, 106 Stat. 576; Pub. L. 103–208, §2(f)(1)–(4), Dec. 20, 1993, 107 Stat. 2470, 2471; Pub. L. 105–244, title IV, §462(a)(1), (2), (b)–(e), Oct. 7, 1998, 112 Stat. 1720–1723; Pub. L. 110–315, title IV, §462, Aug. 14, 2008, 122 Stat. 3266; Pub. L. 111–39, title IV, §405(1), July 1, 2009, 123 Stat. 1947.)

REFERENCES IN TEXT

Section 1087aa of this title, referred to in subsecs. (a)(1) and (b)(1), (2)(A)(i), was amended by Pub. L. 114–105, §2(a)(1)(B), Dec. 18, 2015, 129 Stat. 2219, which struck out subsec. (b) authorizing appropriations and added a new subsec. (b) authorizing institutions of higher education to make loans.

PRIOR PROVISIONS

A prior section 1087bb, Pub. L. 89–329, title IV, §462, as added Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 96–374, title IV, §448(a), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1443, 1503, provided for apportionment of appropriations among States, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (a)(1)(A). Pub. L. 111–39 added subpar. (A) and struck out former subpar. (A), resulting in text identical to that after execution of the amendment by Pub. L. 105–244, §462(a)(1)(A). See 1998 Amendment note below.

2008—Subsec. (c)(4)(D). Pub. L. 110–315 substituted "$600" for "$450".

1998—Subsec. (a)(1). Pub. L. 105–244, §462(e)(1), inserted "cohort" before "default" in two places in

concluding provisions.

Pub. L. 105–244, §462(a)(2)(A)(ii), substituted "subsection (f)" for "subsection (g)" in concluding provisions.

Subsec. (a)(1)(A). Pub. L. 105–244, §462(a)(1)(A), which directed the substitution of "the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)" for "the amount of the Federal capital contribution allocated to such institution under this part for fiscal year 1985", was executed by making the substitution for text which read "amount of Federal capital" rather than "amount of the Federal capital", to reflect the probable intent of Congress.

Subsec. (a)(1)(B). Pub. L. 105–244, §462(a)(2)(A)(i), substituted "subsection (e)" for "subsection (f)".

Subsec. (a)(2)(A), (B). Pub. L. 105–244, §462(a)(1)(B)(i), substituted "1999" for "1985" in introductory provisions.

Subsec. (a)(2)(C)(i). Pub. L. 105–244, §462(a)(1)(B)(ii), substituted "2000" for "1986".

Subsec. (a)(2)(D). Pub. L. 105–244, §462(e)(1), inserted "cohort" before "default" in two places in concluding provisions.

Pub. L. 105–244, §462(a)(2)(A)(iv), substituted "subsection (f)" for "subsection (g)" in concluding provisions.

Subsec. (a)(2)(D)(ii). Pub. L. 105–244, §462(a)(2)(A)(iii), substituted "subsection (e)" for "subsection (f)".

Subsec. (b). Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (c) as (b).

Pub. L. 105–244, §462(a)(2)(B), struck out heading and text of subsec. (b). Text read as follows: "From one-quarter of the remainder of the amount appropriated pursuant to section 1087aa(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as—

"(1) the amount the eligible institution receives for such fiscal year under subsection (a) of this section, bears to

"(2) the amount all such institutions receive under such subsection (a) of this section."

Subsec. (b)(2). Pub. L. 105–244, §462(e)(2), inserted "cohort" before "default" in two places in concluding provisions.

Subsec. (b)(3). Pub. L. 105–244, §462(e)(2), inserted "cohort" before "default" in two places in concluding provisions.

Subsec. (c). Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 105–244, §462(a)(2)(C), substituted "the remainder" for "three-quarters of the remainder".

Subsec. (c)(2). Pub. L. 105–244, §462(a)(2)(D), substituted "subsection (f)" for "subsection (g)" in concluding provisions.

Subsec. (c)(3). Pub. L. 105–244, §462(b), in introductory provisions, struck out "the Secretary, for academic year 1988–1989, shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years," after "professional students,".

Pub. L. 105–244, §462(a)(2)(E)(iii), substituted "subsection (f)" for "subsection (g)" in concluding provisions.

Subsec. (c)(3)(A). Pub. L. 105–244, §462(a)(2)(E)(i), substituted "subsection (c)" for "subsection (d)".

Subsec. (c)(3)(C). Pub. L. 105–244, §462(a)(2)(E)(ii), substituted "subsection (e)" for "subsection (f)".

Subsec. (d). Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(2). Pub. L. 105–244, §462(e)(3), inserted "cohort" before "default".

Subsec. (e). Pub. L. 105–244, §462(c), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

"(1) For any fiscal year prior to fiscal year 1994, any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g) of this section, the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

"(2) For fiscal year 1994 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h) of this section) which—

"(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations issued by the Secretary;

"(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

"(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

"(D) equals or exceeds 30 percent shall have a default penalty of zero."

Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 105–244, §462(c), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows:

"(1) For award years 1992 and 1993, the applicable maximum default rate is 15 percent.

"(2) For award year 1994 and subsequent years, the maximum cohort default rate is 30 percent."

Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 105–244, §462(d)(1), inserted heading and struck out former heading.

Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (g)(1). Pub. L. 105–244, §462(d)(1), (2), redesignated par. (3) as (1), substituted "The term" for "For award year 1994 and any succeeding award year, the term" in subpar. (A), and struck out former par. (1) which read as follows: "For any award year prior to award year 1994, for the purpose of this section, the default rate is computed by dividing—

"(A) the total principal amount of defaulted loans; by

"(B) the total principal amount of loans made under this part, less the principal amount of all loans made to borrowers who are eligible for deferment under section 1087dd(c)(2)(A)(i) of this title or are in a grace period preceding repayment."

Subsec. (g)(1)(B). Pub. L. 105–244, §462(d)(3)(A), (B), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "In determining the number of students who default before the end of such award year, the Secretary shall, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate."

Subsec. (g)(1)(C), (D). Pub. L. 105–244, §462(d)(3)(B), redesignated subpars. (D) and (F) as (C) and (D), respectively. Former subpar. (C) redesignated (B).

Subsec. (g)(1)(E). Pub. L. 105–244, §462(d)(3)(A), (C), added subpar. (E) and struck out former subpar. (E) which read as follows: "Any loan that is in default but on which the borrower has made satisfactory arrangements to resume payment or any loan which has been rehabilitated before the end of such following award year is not considered as in default for purposes of this subsection."

Subsec. (g)(1)(F). Pub. L. 105–244, §462(d)(3)(B), (e)(4), redesignated subpar. (G) as (F) and inserted "cohort" before "default". Former subpar. (F) redesignated (D).

Subsec. (g)(1)(G). Pub. L. 105–244, §462(d)(3)(B), redesignated subpar. (G) as (F).

Subsec. (g)(2). Pub. L. 105–244, §462(d)(4), added par. (2).

Pub. L. 105–244, §462(d)(1), struck out par. (2) which read as follows: "For the purpose of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

"(A) amounts that have been repaid or cancelled on such loans;

"(B) loans discharged in bankruptcy;

"(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 1087cc(a) of this title; and

"(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment."

Subsec. (g)(3). Pub. L. 105–244, §462(d)(2), redesignated par. (3) as (1).

Subsec. (g)(4). Pub. L. 105–244, §462(d)(4), struck out par. (4) which read as follows: "A loan shall be considered to be in default—

"(A) 240 days (in the case of a loan repayable monthly), or

"(B) 270 days (in the case of a loan repayable quarterly), after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note,

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note."

Subsecs. (h), (i). Pub. L. 105–244, §462(a)(2)(H), redesignated subsecs. (i) and (j) as (h) and (i), respectively. Former subsec. (h) redesignated (g).

Subsec. (j). Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (j) as (i).

Subsec. (j)(1)(B)(i). Pub. L. 105–244, §462(a)(2)(F), substituted "1999" for "1985".

Subsec. (j)(2)(A)(i). Pub. L. 105–244, §462(a)(2)(G)(i), substituted "subsection (b)(3)" for "paragraph (3) of subsection (c)".

Subsec. (j)(2)(B). Pub. L. 105–244, §462(a)(2)(G)(ii), substituted "subsection (b)" for "subsection (c)".

1993—Subsec. (a)(1), (2)(D). Pub. L. 103–208, §2(f)(1), substituted "if the institution has" for "if the

institution which has" in closing provisions.

Subsec. (d)(4)(C). Pub. L. 103–208, §2(f)(2), substituted "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college" for "three-fourths in the Pell Grant family size offset".

Subsecs. (e)(2), (h)(4)(B). Pub. L. 103–208, §2(f)(3), (4), realigned margins.

1992—Subsec. (a)(1)(A). Pub. L. 102–325, §462(a), substituted "allocated to such institution" for "such institution received".

Subsec. (e). Pub. L. 102–325, §462(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (f). Pub. L. 102–325, §462(c), substituted "default reduction and default penalties" for "Default penalty" in heading and amended text generally. Prior to amendment, text read as follows: "For any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g) of this section, the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one."

Subsec. (g). Pub. L. 102–325, §462(d), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows:

"(1) For award years 1988, 1989, and 1990, the applicable maximum default rate is 20 percent.

"(2) For award year 1991 and subsequent years, the applicable maximum default rate is 15 percent."

Subsec. (h). Pub. L. 102–325, §462(e), substituted "Definitions of default rate and cohort default rate" for "Definition of default rate" in heading, in par. (1) substituted "For any award year prior to award year 1994, for the purpose" for "For the purpose", added par. (3), redesignated former par. (3) as (4), substituted "240" for "120" in par. (4)(A), and amended par. (4)(B) generally. Prior to amendment, par. (4)(B) read as follows: "180 days (in the case of a loan repayable quarterly),".

Subsec. (j). Pub. L. 102–325, §462(f), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: "If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions."

1987—Subsec. (a)(1)(A). Pub. L. 100–50, §13(a), amended subpar. (A) generally, substituting "of Federal capital contribution such institution received" for "such institution expended".

Subsec. (d)(3), (4). Pub. L. 100–50, §13(b), redesignated par. (3), defining "average cost of attendance" and calculating average undergraduate and graduate and professional tuition and fees, standard living expenses, and allowance for books and supplies, as (4).

Subsec. (e). Pub. L. 100–50, §13(c), struck out "; cash on hand" after "collections" in heading.

Subsec. (f). Pub. L. 100–50, §13(d), substituted "subsection (g) of this section" for "paragraph (2)".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, §462(a)(3), Oct. 7, 1998, 112 Stat. 1721, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to allocations of amounts appropriated pursuant to section 461(b) [20 U.S.C. 1087aa(b)] for fiscal year 2000 or any succeeding fiscal year."

Amendment by section 462(b)–(e) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section applicable with respect to academic year 1988-1989 and succeeding academic years, see section 405(b) of Pub. L. 99–498, as amended, set out as a note under section 1087dd of this title.

[1] *See References in Text note below.*

§1087cc. Agreements with institutions of higher education

(a) Contents of agreements

An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 1087aa of this title;

(B) a capital contribution by an institution in an amount equal to one-third of the Federal capital contributions described in subparagraph (A);

(C) collections of principal and interest on student loans made from deposited funds;

(D) charges collected pursuant to regulations under section 1087dd(c)(1)(H) of this title; and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses, as provided in subsection (b) of this section;

(C) capital distributions, as provided in section 1087ff of this title; and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 1087dd(c)(1)(H) of this title;

(4) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 1087bb of this title; or

(B) if the institution is not one described in subparagraph (A), the Secretary may allow such institution to refer such note or agreement to the Secretary, without recompense, except that, once every six months, any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution and treated as an additional capital contribution under section 1087bb of this title;

(5) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 1087bb of this title;

(6) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be

derived;

(7) provide assurances that the institution will comply with the provisions of section 1087cc–1 of this title;

(8) provide that the institution of higher education will make loans first to students with exceptional need; and

(9) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution, except that nothing in this paragraph shall be construed to permit the Secretary to require the assignment of loans to the Secretary other than as is provided for in paragraphs (4) and (5).

(b) Administrative expenses

An institution which has entered into an agreement under subsection (a) of this section shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 1096 of this title.

(c) Cooperative agreements with consumer reporting agencies

(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary and each institution of higher education participating in the program under this part shall enter into cooperative agreements with consumer reporting agencies to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 1087gg of this title and regarding loans held by the Secretary or an institution.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 1080a of this title except that such agreement shall provide for the disclosure by the Secretary or an institution, as the case may be, to such consumer reporting agencies, with respect to any loan held by the Secretary or the institution, respectively, of—

(A) the date of disbursement and the amount of such loans made to any borrower under this part at the time of disbursement of the loan;

(B) information concerning the repayment and collection of any such loan, including information concerning the status of such loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan, or upon cancellation or discharge of the borrower's obligation on the loan for any reason.

(3) Notwithstanding paragraphs (4) and (5) of subsection (a) of section 1681c of title 15, a consumer reporting agency may make a report containing information received from the Secretary or an institution regarding the status of a borrower's account on a loan made under this part until the loan is paid in full.

(4)(A) Except as provided in subparagraph (B), an institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any consumer reporting agency with which the Secretary has such an agreement the information set forth in paragraph (2), and shall disclose promptly to such consumer reporting agency any changes to the information previously disclosed.

(B) The Secretary may promulgate regulations establishing criteria under which an institution of higher education may cease reporting the information described in paragraph (2) before a loan is paid in full.

(5) Each institution of higher education shall notify the appropriate consumer reporting agencies whenever a borrower of a loan that is made and held by the institution and that is in default makes 6 consecutive monthly payments on such loan, for the purpose of encouraging such consumer reporting agencies to update the status of information maintained with respect to that borrower.

(d) Limitation on use of interest bearing accounts

In carrying out the provisions of subsection (a)(9) of this section, the Secretary may not require

that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

(e) Special due diligence rule

In carrying out the provisions of subsection (a)(5) [1] of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.

(Pub. L. 89–329, title IV, §463, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1444; amended Pub. L. 100–50, §13(e), (f), June 3, 1987, 101 Stat. 349; Pub. L. 102–325, title IV, §463(a), (b), July 23, 1992, 106 Stat. 579; Pub. L. 103–208, §2(f)(5)–(7), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, §463, Oct. 7, 1998, 112 Stat. 1724; Pub. L. 110–315, title IV, §§432(b)(5), 463, Aug. 14, 2008, 122 Stat. 3246, 3266; Pub. L. 111–39, title IV, §405(2), July 1, 2009, 123 Stat. 1947.)

REFERENCES IN TEXT

Subsection (a)(5) of this section relating to due diligence, referred to in subsec. (e), was redesignated subsec. (a)(4), by Pub. L. 105–244, title IV, §463(a)(3), Oct. 7, 1998, 112 Stat. 1724.

PRIOR PROVISIONS

A prior section 1087cc, Pub. L. 89–329, title IV, §463, as added Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 274; amended Pub. L. 94–482, title I, §130(c), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96–374, title IV, §§442(b)(1)–(4), 445(a), (b)(1), 447(a), 448(b), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1439, 1440, 1442, 1443, 1503; Pub. L. 99–272, title XVI, §§16025, 16026, Apr. 7, 1986, 100 Stat. 352, 353, related to agreements with institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (c)(2)(A). Pub. L. 111–39, §405(2)(A)(i), realigned margins.

Subsec. (c)(2)(B). Pub. L. 111–39, §405(2)(A)(ii), added subpar. (B) and struck out former subpar. (B), resulting in text identical to that after execution of the amendment by Pub. L. 105–244, §463(b)(2)(C). See 1998 Amendment note below.

Subsec. (c)(3). Pub. L. 111–39, §405(2)(B), substituted "and (5)" for "and (6)" and made technical amendment to reference in original act which appears in text as reference to section 1681c of title 15.

2008—Subsec. (a)(4)(B). Pub. L. 110–315, §463(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "if the institution is not one described in subparagraph (A), the Secretary may—

"(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 1087bb of this title; or

"(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;".

Subsec. (a)(9). Pub. L. 110–315, §463(b), inserted ", except that nothing in this paragraph shall be construed to permit the Secretary to require the assignment of loans to the Secretary other than as is provided for in paragraphs (4) and (5)" before period.

Subsec. (c). Pub. L. 110–315, §432(b)(5)(A), substituted "consumer reporting agencies" for "credit bureau organizations" in heading.

Subsec. (c)(1). Pub. L. 110–315, §432(b)(5)(B), substituted "consumer reporting agencies" for "credit bureau organizations".

Subsec. (c)(2). Pub. L. 110–315, §432(b)(5)(C), substituted "such consumer reporting agencies" for "such organizations".

Subsec. (c)(4)(A). Pub. L. 110–315, §432(b)(5)(D), substituted "consumer reporting agency" for "credit bureau organization" in two places.

Subsec. (c)(5). Pub. L. 110–315, §432(b)(5)(E), substituted "consumer reporting agencies" for "credit bureau organizations" and "such consumer reporting agencies" for "such organizations".

1998—Subsec. (a)(2)(B). Pub. L. 105–244, §463(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "a capital contribution—

"(i) by an institution that—

"(I) is granted permission by the Secretary to participate in an Expanded Lending Option under the program, and

"(II) has a default rate which does not exceed 7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year,

in an amount not less than the amount of the Federal capital contributions described in subparagraph (A); or

"(ii) by any other institution, in an amount not less than three-seventeenths of such Federal capital contribution in fiscal year 1993, and one-third of such Federal capital contribution in each of the succeeding fiscal years, of the amount of the Federal capital contributions described in subparagraph (A);".

Subsec. (a)(4) to (10). Pub. L. 105–244, §463(a)(2), (3), redesignated pars. (5) to (10) as (4) to (9), respectively, and struck out former par. (4) which read as follows: "provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in an annual report describing the total number of loans from such fund which are in such default;".

Subsec. (c)(1). Pub. L. 105–244, §463(b)(1), substituted "the Secretary and each institution of higher education participating in the program under this part shall" for "the Secretary shall" and inserted "and regarding loans held by the Secretary or an institution" after "section 1087gg of this title".

Subsec. (c)(2). Pub. L. 105–244, §463(b)(2)(A), in introductory provisions, substituted "by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively, of—" for "by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—".

Subsec. (c)(2)(A). Pub. L. 105–244, §463(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the date of disbursement and the amount of any such loan;".

Subsec. (c)(2)(B). Pub. L. 105–244, §463(b)(2)(C), inserted "the repayment and" after "concerning" the first place appearing and substituted "status of such" for "status of any defaulted".

Subsec. (c)(2)(C). Pub. L. 105–244, §463(b)(2)(D), inserted ", or upon cancellation or discharge of the borrower's obligation on the loan for any reason" before period at end.

Subsec. (c)(3). Pub. L. 105–244, §463(b)(3)(A), in introductory provisions, inserted "or an institution" after "from the Secretary" and substituted "until the loan is paid in full." for "until—".

Subsec. (c)(3)(A), (B). Pub. L. 105–244, §463(b)(3)(B), struck out subpars. (A) and (B) which read as follows:

"(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

"(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency."

Subsec. (c)(4). Pub. L. 105–244, §463(b)(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement—

"(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

"(B) the information set forth in section 1080a(a) of this title."

Subsec. (c)(5). Pub. L. 105–244, §463(b)(4), added par. (5).

Subsec. (d). Pub. L. 105–244, §463(c), substituted "subsection (a)(9)" for "subsection (a)(10)".

1993—Subsec. (a)(2)(B)(i)(II). Pub. L. 103–208, §2(f)(5), substituted "7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year" for "7.5 percent".

Subsec. (c)(4). Pub. L. 103–208, §2(f)(6), substituted "shall disclose at least annually" for "shall disclose" in introductory provisions.

Subsecs. (d), (e). Pub. L. 103–208, §2(f)(7), added subsecs. (d) and (e).

1992—Subsec. (a)(2)(B). Pub. L. 102–325, §463(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);".

Subsec. (c)(3)(B). Pub. L. 102–325, §463(b)(1), struck out ", if that account has not been previously reported by any other holder of the note" after "agency".

Subsec. (c)(4). Pub. L. 102–325, §463(b)(2), added par. (4).

1987—Subsec. (a)(4). Pub. L. 100–50, §13(e), substituted "in an annual report" for "in a report" and struck out ", and made to the Secretary at least semiannually" after "in such default".

Subsec. (b). Pub. L. 100–50, §13(f), substituted "section 1096 of this title" for "section 1092 of this title".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (a)(2)(B), relating to the matching of Federal capital contributions, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 468 of Pub. L. 102–325, set out as a note under section 1087dd of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsection (a)(9) of this section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99–498, set out as a note under section 1087dd of this title.

[1] *See References in Text note below.*

§1087cc–1. Student loan information by eligible institutions

(a) Disclosure required prior to disbursement

Each institution of higher education shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may

impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 16302);

(11) a definition of default and the consequences to the borrower if the borrower defaults, together with a statement that the disbursement of, and the default on, a loan under this part, shall be reported to a consumer reporting agency;

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance;

(13) an explanation of any cost the borrower may incur in the making or collection of the loan;

(14) a notice and explanation regarding the end to future availability of loans made under this part;

(15) a notice and explanation that repayment and forgiveness benefits available to borrowers of loans made under part C are not available to borrowers participating in the loan program under this part;

(16) a notice and explanation regarding a borrower's option to consolidate a loan made under this part into a Federal Direct Loan under part C, including any benefit of such consolidation;

(17) with respect to new undergraduate Federal Perkins loan borrowers, as described in section 1087aa(b)(1)(A) of this title, a notice and explanation providing a comparison of the interest rates of loans under this part and part C and informing the borrower that the borrower has reached the maximum annual borrowing limit for which the borrower is eligible as referenced under subparagraphs (A) and (D) of section 1087e(a)(2) of this title; and

(18) with respect to current undergraduate Federal Perkins loan borrowers, as described in section 1087aa(b)(1)(B) of this title, a notice and explanation providing a comparison of the interest rates of loans under this part and part C and informing the borrower that the borrower has reached the maximum annual borrowing limit for which the borrower is eligible on Federal Direct Stafford Loans as referenced under section 1087e(a)(2)(A) of this title.

(b) Disclosure required prior to repayment

Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Costs and effects of disclosures

Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

(Pub. L. 89–329, title IV, §463A, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1446; amended Pub. L. 100–50, §13(g), (h), June 3, 1987, 101 Stat. 349; Pub. L. 102–325, title IV, §463(c), July 23, 1992, 106 Stat. 579; Pub. L. 103–208, §2(f)(8), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 104–106, div. A, title XV, §1501(e)(4), Feb. 10, 1996, 110 Stat. 501; Pub. L. 110–315, title IV, §432(b)(6), Aug. 14, 2008, 122 Stat. 3246; Pub. L. 111–39, title IV, §405(3), July 1, 2009, 123 Stat. 1947; Pub. L. 114–105, §3, Dec. 18, 2015, 129 Stat. 2220.)

PRIOR PROVISIONS

A prior section 1087cc–1, Pub. L. 89–329, title IV, §463A, as added Pub. L. 96–374, title IV, §447(b), Oct. 3, 1980, 94 Stat. 1443; amended Pub. L. 97–301, §13, Oct. 13, 1982, 96 Stat. 1405; Pub. L. 98–79, §3(b), Aug. 15, 1983, 97 Stat. 478; Pub. L. 99–272, title XVI, §16027, Apr. 7, 1986, 100 Stat. 353, related to student loan information to be provided by institutions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2015—Subsec. (a)(14) to (18). Pub. L. 114–105 added pars. (14) to (18).

2009—Subsec. (a). Pub. L. 111–39 struck out ", in order to carry out the provisions of section 1087cc(a)(8) of this title," after "Each institution of higher education" in introductory provisions.

2008—Subsec. (a)(11). Pub. L. 110–315 substituted "consumer" for "credit bureau or credit".

1996—Subsec. (a)(10). Pub. L. 104–106 substituted "(10 U.S.C. 16302)" for "(10 U.S.C. 2172)".

1993—Subsecs. (d), (e). Pub. L. 103–208 struck out subsecs. (d) and (e), which read as follows:

"(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

"(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part."

1992—Subsec. (a)(11). Pub. L. 102–325, §463(c)(1), substituted "together with a statement that the disbursement of, and the default on, a loan under this part, shall be" for "including a statement that the default may be".

Subsecs. (d), (e). Pub. L. 102–325, §463(c)(2), added subsecs. (d) and (e).

1987—Subsec. (a)(8). Pub. L. 100–50, §13(g), added par. (8) and struck out former par. (8) which read as follows: "a statement of the total cumulative balance owed by the student to that institution, the projected level of indebtedness of the student based on a 2- or 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 2-, 4-, or 5-year college career;".

Subsec. (a)(10). Pub. L. 100–50, §13(h), substituted "the Department of Defense educational loan repayment program (10 U.S.C. 2172)" for "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note)".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99–498, as amended, set out as a note under section 1087dd of this title.

§1087dd. Terms of loans

(a) Terms and conditions

(1) Loans from any student loan fund established pursuant to an agreement under section 1087cc of this title to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

(i) $5,500, in the case of a student who has not successfully completed a program of undergraduate education; or

(ii) $8,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(B) Except as provided in paragraph (4), the aggregate unpaid principal amount for all loans made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(i) $60,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary, and including any loans from such funds made to such person before such person became a graduate or professional student);

(ii) $27,500, in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations issued by the Secretary), and including any loans from such funds made to such person before such person became such a student; and

(iii) $11,000, in the case of any other student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the annual and aggregate loan limits for the student may exceed the amounts described in paragraphs (2)(A) and (2)(B) by 20 percent.

(b) Demonstration of need and eligibility required

(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part E of this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan. A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 1087bb(g)(1)(E) of this title.

(2) If the institution's capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, then a reasonable portion of the loans made from the institution's student loan fund containing the contribution shall be made available to such students.

(c) Contents of loan agreement

(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $40 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $40 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (i) prior to the beginning date of repayment determined under paragraph (2)(A)(i), or (ii) during any period in which repayment is suspended by reason of paragraph (2);

(E) shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be cancelled—

(i) upon the death of the borrower;

(ii) if the borrower becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

(iii) if the borrower is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months; or

(iv) if the borrower is determined by the Secretary of Veterans Affairs to be unemployable

due to a service-connected disability;

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 1087cc(a)(6) [1] of this title;

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to consumer reporting agencies under section 1087cc(c) of this title.

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(iii) during which the borrower—

(I) is serving on active duty during a war or other military operation or national emergency; or

(II) is performing qualifying National Guard duty during a war or other military operation or national emergency,

and for the 180-day period following the demobilization date for the service described in subclause (I) or (II);

(iv) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(o) of this title, has caused or will cause the borrower to have an economic hardship; or

(v) during which the borrower is engaged in service described in section 1087ee(a)(2) of this title;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (A) of paragraph (1).

(B) No repayment of principal of, or interest on, any loan for any period described in subparagraph (A) shall begin until 6 months after the completion of such period.

(C) An individual with an outstanding loan balance who meets the eligibility criteria for a deferment described in subparagraph (A) as in effect on October 7, 1998, shall be eligible for deferment under this paragraph notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such deferment.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student

borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation.

(5) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or post-graduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(7) There shall be excluded from the 9-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload (as described in paragraph (1)(A)) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10 is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(d) Availability of loan fund to all eligible students

An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) Forbearance

(1) The Secretary shall ensure that, as documented in accordance with paragraph (2), an institution of higher education shall grant a borrower forbearance of principal and interest or principal only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

(A) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income;

(B) the institution determines that the borrower should qualify for forbearance for other reasons; or

(C) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10 and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j) of this section, except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j) of this section.

(2) For the purpose of paragraph (1), the terms of forbearance agreed to by the parties shall be documented by—

(A) confirming the agreement of the borrower by notice to the borrower from the institution of higher education; and

(B) recording the terms in the borrower's file.

(f) Special repayment rule authority

(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

(A) 90 percent of the loan under this part;
(B) the interest due on such loan; and
(C) any collection fees due on such loan;

in a lump sum payment.

(g) Discharge

(1) In general

If a student borrower who received a loan made under this part on or after January 1, 1986, is unable to complete the program in which such student is enrolled due to the closure of the institution, then the Secretary shall discharge the borrower's liability on the loan (including the interest and collection fees) and shall subsequently pursue any claim available to such borrower against the institution and the institution's affiliates and principals, or settle the loan obligation pursuant to the financial responsibility standards described in section 1099c(c) of this title.

(2) Assignment

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund in an amount that does not exceed the amount discharged against the institution and the institution's affiliates and principals.

(3) Eligibility for additional assistance

The period during which a student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Special rule

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded, because of that discharge, from receiving additional grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for which the borrower would be otherwise eligible (but for the default on the discharged loan). The amount discharged under this subsection shall be treated as an amount canceled under section 1087ee(a) of this title.

(5) Reporting

The Secretary or institution, as the case may be, shall report to consumer reporting agencies with respect to loans that have been discharged pursuant to this subsection.

(h) Rehabilitation of loans

(1) Rehabilitation

(A) In general

If the borrower of a loan made under this part who has defaulted on the loan makes 9 on-time, consecutive, monthly payments of amounts owed on the loan, as determined by the institution, or by the Secretary in the case of a loan held by the Secretary, the loan shall be

considered rehabilitated, and the institution that made that loan (or the Secretary, in the case of a loan held by the Secretary) shall request that any consumer reporting agency to which the default was reported remove the default from the borrower's credit history.

(B) Comparable conditions

As long as the borrower continues to make scheduled repayments on a loan rehabilitated under this paragraph, the rehabilitated loan shall be subject to the same terms and conditions, and qualify for the same benefits and privileges, as other loans made under this part.

(C) Additional assistance

The borrower of a rehabilitated loan shall not be precluded by section 1091 of this title from receiving additional grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (for which the borrower is otherwise eligible) on the basis of defaulting on the loan prior to such rehabilitation.

(D) Limitations

A borrower only once may obtain the benefit of this paragraph with respect to rehabilitating a loan under this part.

(2) Restoration of eligibility

If the borrower of a loan made under this part who has defaulted on that loan makes 6 ontime, consecutive, monthly payments of amounts owed on such loan, the borrower's eligibility for grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be restored to the extent that the borrower is otherwise eligible. A borrower only once may obtain the benefit of this paragraph with respect to restored eligibility.

(i) Incentive repayment program

(1) In general

Each institution of higher education may establish, with the approval of the Secretary, an incentive repayment program designed to reduce default and to replenish student loan funds established under this part. Each such incentive repayment program may—

(A) offer a reduction of the interest rate on a loan on which the borrower has made 48 consecutive, monthly repayments, but in no event may the rate be reduced by more than 1 percent;

(B) provide for a discount on the balance owed on a loan on which the borrower pays the principal and interest in full prior to the end of the applicable repayment period, but in no event may the discount exceed 5 percent of the unpaid principal balance due on the loan at the time the early repayment is made; and

(C) include such other incentive repayment options as the institution determines will carry out the objectives of this subsection.

(2) Limitation

No incentive repayment option under an incentive repayment program authorized by this subsection may be paid for with Federal funds, including any Federal funds from the student loan fund, or with institutional funds from the student loan fund.

(j) Armed Forces student loan interest payment program

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the

institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(1)(C).

(k) Additional safeguards

The Secretary may develop such additional safeguards as the Secretary determines necessary to prevent fraud and abuse in the cancellation of liability under subsection (c)(1)(F). Notwithstanding subsection (c)(1)(F), the Secretary may promulgate regulations to resume collection on loans cancelled under subsection (c)(1)(F) in any case in which—

(1) a borrower received a cancellation of liability under subsection (c)(1)(F) and after the cancellation the borrower—

(A) receives a loan made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(B) has earned income in excess of the poverty line; or

(2) the Secretary determines necessary.

(Pub. L. 89–329, title IV, §464, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1448; amended Pub. L. 100–50, §13(i), June 3, 1987, 101 Stat. 349; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101–239, title II, §2002(a)(3), Dec. 19, 1989, 103 Stat. 2111; Pub. L. 102–325, title IV, §464, July 23, 1992, 106 Stat. 580; Pub. L. 103–208, §2(f)(9)–(11), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, §464, Oct. 7, 1998, 112 Stat. 1725; Pub. L. 107–314, div. A, title VI, §651(d), Dec. 2, 2002, 116 Stat. 2580; Pub. L. 109–171, title VIII, §8007(c), Feb. 8, 2006, 120 Stat. 160; Pub. L. 110–84, title II, §202(c), Sept. 27, 2007, 121 Stat. 792; Pub. L. 110–315, title IV, §§432(b)(7), 464(a), (b)(1), (c), Aug. 14, 2008, 122 Stat. 3246, 3266, 3267; Pub. L. 111–39, title IV, §405(4), July 1, 2009, 123 Stat. 1947.)

REFERENCES IN TEXT

Section 1087cc(a) of this title, referred to in subsec. (c)(1)(G), was amended by Pub. L. 105–244, title IV, §463(a)(3), Oct. 7, 1998, 112 Stat. 1724, which redesignated pars. (6) and (7) as (5) and (6), respectively.

PRIOR PROVISIONS

A prior section 1087dd, Pub. L. 89–329, title IV, §464, as added Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 275; amended Pub. L. 94–482, title I, §130(d)–(g)(1), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95–43, §1(a)(39), June 15, 1977, 91 Stat. 217; Pub. L. 96–374, title IV, §§442(b)(5), 443, 444, 445(b)(2), 446, 448(c), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1440–1443, 1503; Pub. L. 97–35, title V, §539, Aug. 13, 1981, 95 Stat. 458; Pub. L. 99–272, title XVI, §16028, Apr. 7, 1986, 100 Stat. 353, related to terms and conditions of loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–39, §405(4)(A), substituted "(i)" for "(I)" and "(ii)" for "(II)" in par. (1)(D) and realigned margins in par. (2)(A)(iii).

Subsec. (g)(5). Pub. L. 111–39, §405(4)(B), substituted "consumer reporting agencies" for "credit bureaus".

2008—Subsec. (a)(2)(A). Pub. L. 110–315, §464(a)(1), substituted "$5,500" for "$4,000" in cl. (i) and "$8,000" for "$6,000" in cl. (ii).

Subsec. (a)(2)(B). Pub. L. 110–315, §464(a)(2), substituted "$60,000" for "$40,000" in cl. (i), "$27,500" for "$20,000" in cl. (ii), and "$11,000" for "$8,000" in cl. (iii).

Subsec. (c)(1)(F). Pub. L. 110–315, §464(b)(1)(A), substituted "cancelled—" and cls. (i) to (iv) for "canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;".

Subsec. (c)(1)(I). Pub. L. 110–315, §432(b)(7)(A), substituted "consumer reporting agencies" for "credit bureau organizations".

Subsec. (e). Pub. L. 110–315, §464(c)(1), substituted ", as documented in accordance with paragraph (2)," for ", upon written request," in introductory provisions, designated existing text as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Subsec. (h)(1)(A). Pub. L. 110–315, §§432(b)(7)(B), 464(c)(2), substituted "9 on-time" for "12 ontime" and "consumer" for "credit bureau organization or credit".

Subsec. (j)(2). Pub. L. 110–315, §464(c)(3), substituted "subsection (e)(1)(C)" for "subsection (e)(3)".

Subsec. (k). Pub. L. 110–315, §464(b)(1)(B), added subsec. (k).

2007—Subsec. (c)(2)(A)(iii). Pub. L. 110–84 struck out "not in excess of 3 years" before "during" in introductory provisions, substituted comma for semicolon at end of subcl. (II), and inserted concluding provisions.

2006—Subsec. (c)(2)(A)(iii) to (v). Pub. L. 109–171 added cl. (iii) and redesignated former cls. (iii) and (iv) as (iv) and (v), respectively.

2002—Subsec. (e)(3). Pub. L. 107–314, §651(d)(1), added par. (3).

Subsec. (j). Pub. L. 107–314, §651(d)(2), added subsec. (j).

1998—Subsec. (a)(2). Pub. L. 105–244, §464(a), amended par. (2) generally. Prior to amendment, par. (2) related to limitations on the total of loans that could be made to a student by an institution of higher education from a loan fund established pursuant to an agreement under this part.

Subsec. (b)(1). Pub. L. 105–244, §464(b)(1), inserted at end "A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 1087bb(g)(1)(E) of this title."

Subsec. (b)(2). Pub. L. 105–244, §464(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "If the institution's capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, and if the total financial need of all such less than full-time and independent students at the institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of such loans shall be made available to such less than full-time and independent students."

Subsec. (c)(1)(D). Pub. L. 105–244, §464(c)(1), struck out "(i) 3 percent per year, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, or (iii)" after "at the rate of" and substituted "paragraph (2)(A)(i)" for "subparagraph (A)(i)".

Subsec. (c)(2)(A). Pub. L. 105–244, §464(c)(2), substituted "subparagraph (A) of paragraph (1)" for "subparagraph (B)" in concluding provisions.

Subsec. (c)(2)(C). Pub. L. 105–244, §464(c)(3), added subpar. (C).

Subsec. (c)(7). Pub. L. 105–244, §464(c)(4), added par. (7).

Subsecs. (g) to (i). Pub. L. 105–244, §464(d), added subsecs. (g) to (i).

1993—Subsec. (c)(2)(B). Pub. L. 103–208, §2(f)(9), substituted "repayment of" for "repayment or".

Subsec. (c)(6). Pub. L. 103–208, §2(f)(10), substituted "Fulbright" for "Fullbright".

Subsec. (e). Pub. L. 103–208, §2(f)(11), substituted "principal" for "principle" before "only".

1992—Subsec. (a)(2). Pub. L. 102–325, §464(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(A) $18,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(B) $9,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(C) $4,500 in the case of any other student."

Subsec. (a)(4). Pub. L. 102–325, §464(b), added par. (4).

Subsec. (b)(1). Pub. L. 102–325, §464(c)(1), substituted "this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan" for "this subchapter and who meets the requirements of section 1091 of this title".

Subsec. (b)(2). Pub. L. 102–325, §464(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "If the institution's Federal capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the loans under this part shall be made available to such students."

Subsec. (c)(1)(C)(i). Pub. L. 102–325, §464(d), substituted "$40" for "$30" in two places.

Subsec. (c)(1)(E). Pub. L. 102–325, §464(e), struck out "unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation," before "shall provide".

Subsec. (c)(2)(A). Pub. L. 102–325, §464(f), amended subpar. (A) generally, revising and restating as cls. (i) to (iv) provisions formerly contained in cls. (i) to (ix).

Subsec. (c)(2)(B), (C). Pub. L. 102–325, §464(g)(1), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

"(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the 10-year maximum period provided for in subparagraph (A) of paragraph (1).

"(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until 6 months after the completion of such period of study, service, disability, or combination thereof."

Subsec. (c)(4) to (6). Pub. L. 102–325, §464(g)(2)–(4), added par. (4), redesignated former par. (4) as (5), and added par. (6).

Subsecs. (e), (f). Pub. L. 102–325, §464(h), added subsecs. (e) and (f).

1989—Subsec. (c)(2)(A)(i). Pub. L. 101–239 inserted before semicolon at end ", except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program".

1988—Subsec. (c)(2)(A)(v). Pub. L. 100–369 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1987—Subsec. (c)(2)(A)(vi). Pub. L. 100–50 inserted "or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training" before semicolon at end.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §464(b)(2), Aug. 14, 2008, 122 Stat. 3267, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on July 1, 2008."

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Amendment by Pub. L. 109–171 applicable with respect to all loans under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.), see section 8007(f) of Pub. L. 109–171, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–314 applicable with respect to interest, and any special allowance under section 1087–1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107–314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–325, title IV, §468, July 23, 1992, 106 Stat. 585, as amended by Pub. L. 102–394, title III, §307(a), Oct. 6, 1992, 106 Stat. 1820, provided that: "The changes made in part E of title IV of the Act [20 U.S.C. 1087aa et seq.] by the amendments made by this part [part E (§§461–468) of title IV of Pub. L. 102–325, enacting section 1087ii of this title and amending sections 1087aa to 1087gg of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

"(1) the changes in section 463(a)(2)(B) [20 U.S.C. 1087cc(a)(2)(B)], relating to the matching of Federal capital contributions, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993;

"(2) the changes made in section 464(c)(1)(C) [20 U.S.C. 1087dd(c)(1)(C)], relating to minimum monthly payments shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992, to an individual who, on the date the loan is made, has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act;

"(3) the changes made in section 464(c)(2)(A), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

"(4) the changes made in section 467 [20 U.S.C. 1087gg], relating to the creation of a Perkins Loan Revolving Fund, shall take effect on September 15, 1997; and

"(5) the changes in section 464(a)(2)(A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1992 provided that the loan does not result in a violation of section 464(a)(2)(A), (B) and (C) as in effect prior to such date of enactment."

[Pub. L. 102–394, title III, §307(b), Oct. 6, 1992, 106 Stat. 1820, provided that: "The amendments made by subsection (a) [amending section 468 of Pub. L. 102–325, set out above] shall take effect as if enacted on July 23, 1992."]

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to any loan made, insured, or guaranteed under this part or part B of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inapplicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101–239, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Pub. L. 99–498, title IV, §405(b), Oct. 17, 1986, 100 Stat. 1454, as amended by Pub. L. 100–50, §22(d), June 3, 1987, 101 Stat. 361, provided that:

"(1) Section 462 of the Act [20 U.S.C. 1087bb] shall apply with respect to academic year 1988-1989 and succeeding academic years.

"(2) The changes made in sections 464(c)(1)(A), 464(c)(2), and 465(a)(2)(E) of the Act [20 U.S.C. 1087dd(c)(1)(A), (2), 1087ee(a)(2)(E)] shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date.

"(3) Section 463(a)(9) and section 463A of the Act [20 U.S.C. 1087cc(a)(9), 1087cc–1] as amended by this section shall apply only to loans made for periods of enrollment beginning on or after July 1, 1987.

"(4) For the purpose of this subsection, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act [this part]."

CONSTRUCTION OF 2006 AMENDMENT

Nothing in amendment by Pub. L. 109–171 to be construed to authorize any refunding of any repayment of a loan, see section 8007(e) of Pub. L. 109–171, set out as a note under section 1078 of this title.

[1] *See References in Text note below.*

§1087ee. Cancellation of loans for certain public service

(a) Cancellation of percentage of debt based on years of qualifying service

(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each

complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year (including such a teacher employed by an educational service agency)—

(i) in a public or other nonprofit private elementary school or secondary school, which, for the purpose of this paragraph and for that year—

(I) has been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the school is located) to be a school in which the number of children meeting a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6313(a)(5)], exceeds 30 percent of the total number of children enrolled in such school; and

(II) is in the school district of a local educational agency which is eligible in such year for assistance pursuant to part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.]; or

(ii) in one or more public, or nonprofit private, elementary schools or secondary schools or locations operated by an educational service agency that have been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the educational service agency operates) to be a school or location at which the number of children taught who meet a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6313(a)(5)], exceeds 30 percent of the total number of children taught at such school or location;

(B) as a full-time staff member in a preschool program carried on under the Head Start Act [42 U.S.C. 9831 et seq.], or in a prekindergarten or child care program that is licensed or regulated by the State, that is operated for a period which is comparable to a full school year in the locality if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

(C) as a full-time special education teacher, including teachers of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school system, including a system administered by an educational service agency, or as a full-time qualified professional provider of early intervention services in a public or other nonprofit program under public supervision by the lead agency as authorized in section 1435(a)(10) of this title;

(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of title 37 as an area of hostilities;

(E) as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.] or a volunteer under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.];

(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies, or as a full-time attorney employed in a defender organization established in accordance with section 3006A(g)(2) of title 18;

(G) as a full-time teacher of mathematics, science, foreign languages, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

(H) as a full-time nurse or medical technician providing health care services;

(I) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children;

(J) as a full-time fire fighter for service to a local, State, or Federal fire department or fire district;

(K) as a full-time faculty member at a Tribal College or University, as that term is defined in section 1059c of this title;

(L) as a librarian, if the librarian has a master's degree in library science and is employed in—

(i) an elementary school or secondary school that is eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.]; or

(ii) a public library that serves a geographic area that contains one or more schools eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965; or

(M) as a full-time speech language pathologist, if the pathologist has a masters degree and is working exclusively with schools that are eligible for assistance under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

For the purpose of this paragraph, the term "children with disabilities" has the meaning set forth in section 1401 of this title.

(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in subparagraph (A), (C), (D), (F), (G), (H), (I), (J), (K), (L), or (M) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service; or

(iii) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

(4) For the purpose of this subsection, the term "year" where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of title 26.

(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(7) An individual with an outstanding loan obligation under this part who performs service of any type that is described in paragraph (2) as in effect on October 7, 1998, shall be eligible for cancellation under this section for such service notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such service.

(b) Reimbursement for cancellation

The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 1087hh of this title. None of the funds appropriated pursuant to section 1087aa(b) [1] of this title shall be available for payments pursuant to this subsection. To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds.

(c) Special rules

(1) List

If the list of schools in which a teacher may perform service pursuant to subsection (a)(2)(A) of this section is not available before May 1 of any year, the Secretary may use the list for the year

preceding the year for which the determination is made to make such service determination.

(2) Continuing eligibility

Any teacher who performs service in a school which—

(A) meets the requirements of subsection (a)(2)(A) of this section in any year; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) of this section such [2] subsequent years.

(Pub. L. 89–329, title IV, §465, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1451; amended Pub. L. 100–50, §13(j), June 3, 1987, 101 Stat. 349; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101–476, title IX, §901(e), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 101–647, title XXI, §2101(a), (b), Nov. 29, 1990, 104 Stat. 4856; Pub. L. 102–119, §26(h), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–325, title IV, §465(a)–(c), July 23, 1992, 106 Stat. 582, 583; Pub. L. 103–82, title I, §102(c)(3), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, §2(f)(12)–(14), (k)(7), Dec. 20, 1993, 107 Stat. 2471, 2486; Pub. L. 103–382, title III, §391(e)(3), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 105–244, title IV, §465, Oct. 7, 1998, 112 Stat. 1728; Pub. L. 108–446, title III, §305(c)(1), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 110–315, title IV, §465, Aug. 14, 2008, 122 Stat. 3267; Pub. L. 111–39, title IV, §405(5), July 1, 2009, 123 Stat. 1947.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A)(i), (L), (M), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Head Start Act, referred to in subsec. (a)(2)(B), is subchapter B (§§635 to 657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Peace Corps Act, referred to in subsec. (a)(2)(E), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(2)(E), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (a)(6), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§12601 et seq.) of chapter 129 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

Section 1087aa of this title, referred to in subsec. (b), was amended by Pub. L. 114–105, §2(a)(1)(B), Dec. 18, 2015, 129 Stat. 2219, which struck out subsec. (b) authorizing appropriations and added a new subsec. (b) authorizing institutions of higher education to make loans.

CODIFICATION

Amendment by section 2(f)(14) of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087ee, Pub. L. 89–329, title IV, §465, as added Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 277; amended Pub. L. 95–561, title XIII, §1323, Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title IV, §§442(b)(6), 448(d), (e), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1443, 1503, related to cancellation of loans for certain public service, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (a)(6). Pub. L. 111–39 substituted "12601" for "12571".

2008—Subsec. (a)(2)(A). Pub. L. 110–315, §465(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: "as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 percent of the total enrollment of that school;".

Subsec. (a)(2)(B). Pub. L. 110–315, §465(1)(B), substituted "Head Start Act, or in a prekindergarten or child care program that is licensed or regulated by the State, that" for "Head Start Act which".

Subsec. (a)(2)(C). Pub. L. 110–315, §465(1)(C), inserted ", including a system administered by an educational service agency" after "secondary school system".

Subsec. (a)(2)(F). Pub. L. 110–315, §465(1)(D), added subpar. (F) and struck out former subpar. (F) which read as follows: "as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies;".

Subsec. (a)(2)(J) to (M). Pub. L. 110–315, §465(1)(E)–(G), added subpars. (J) to (M).

Subsec. (a)(3)(A)(i). Pub. L. 110–315, §465(2)(A), inserted "(D)," after "(C)," and substituted "(I), (J), (K), (L), or (M)" for "or (I)".

Subsec. (a)(3)(A)(iii), (iv). Pub. L. 110–315, §465(2)(B)–(D), redesignated cl. (iv) as (iii) and struck out former cl. (iii) which read as follows: "in the case of service described in subparagraph (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service; or".

2004—Subsec. (a)(2)(C). Pub. L. 108–446 made technical amendment to reference in original act which appears in text as reference to section 1435(a)(10) of this title.

1998—Subsec. (a)(2). Pub. L. 105–244, §465(1)(B), substituted "section 1401" for "section 1401(a)(1)" in concluding provisions.

Subsec. (a)(2)(C). Pub. L. 105–244, §465(1)(A), substituted "section 1435(a)(10)" for "section 1476(b)(9)".

Subsec. (a)(7). Pub. L. 105–244, §465(1)(C), added par. (7).

Subsec. (b). Pub. L. 105–244, §465(2), inserted at end "To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds."

1994—Subsec. (a)(2)(A). Pub. L. 103–382 substituted "title I of the Elementary and Secondary Education Act of 1965" for "chapter 1 of the Education Consolidation and Improvement Act of 1981".

1993—Subsec. (a)(2)(A). Pub. L. 103–208, §2(k)(7), amended Pub. L. 102–325, §465(a)(1). See 1992 Amendment note below.

Subsec. (a)(2)(D). Pub. L. 103–208, §2(f)(12), substituted "service" for "services".

Subsec. (a)(2)(F). Pub. L. 103–208, §2(f)(13), struck out "or" after semicolon at end.

Subsec. (a)(6). Pub. L. 103–208, §2(f)(14), realigned margin. See Codification note above.

Pub. L. 103–82 added par. (6).

1992—Subsec. (a)(2)(A). Pub. L. 102–325, §465(a)(1), as amended by Pub. L. 103–208, §2(k)(7), struck out before semicolon at end "and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such chapter 1".

Subsec. (a)(2)(C). Pub. L. 102–325, §465(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "as a full-time teacher of children with disabilities in a public or other nonprofit elementary or secondary school system;".

Subsec. (a)(2)(G) to (I). Pub. L. 102–325, §465(a)(3)–(5), added subpars. (G) to (I).

Subsec. (a)(3)(A)(i). Pub. L. 102–325, §465(b), substituted "(A), (C), (F), (G), (H), or (I)" for "(A), (C), or (F)".

Subsec. (c). Pub. L. 102–325, §465(c), added subsec. (c).

1991—Subsec. (a)(2). Pub. L. 102–119 substituted "1401(a)(1)" for "1401(1)" in last sentence. The references to section 1401 include the substitution of "Individuals with Disabilities Education Act" for "Education of the Handicapped Act" in the original.

1990—Subsec. (a)(2). Pub. L. 101–476, §901(e), substituted "children with disabilities" for "handicapped children" in two places.

Subsec. (a)(2)(F). Pub. L. 101–647, §2101(a), which directed amendment of subsec. (a)(2) by adding at the end a new subpar. (F), was executed by adding subpar. (F) after subpar. (E) and before last sentence to reflect

the probable intent of Congress.

Subsec. (a)(3)(A)(i). Pub. L. 101–647, §2101(b), which directed amendment of subsec. (a)(3)(i) by substituting "(A), (C), or (F)" for "(A) or (C)", was executed by making the substitution in subsec. (a)(3)(A)(i) to reflect the probable intent of Congress.

1988—Subsec. (a)(5). Pub. L. 100–369 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1987—Subsec. (a)(2)(A). Pub. L. 100–50, §13(j)(1), (2), substituted "chapter 1 of the Education Consolidation and Improvement Act of 1981" for "title I of the Elementary and Secondary Education Act of 1965" and "such chapter 1" for "such title I".

Subsec. (a)(2)(B). Pub. L. 100–50, §13(j)(3), substituted "the Head Start Act" for "section 2809(a)(1) of title 42".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1990 AMENDMENTS

Pub. L. 101–647, title XXI, §2101(c), Nov. 29, 1990, 104 Stat. 4856, provided that: "The amendments made by this section [amending this section] shall apply only to loans made on or after the date of enactment of this Act [Nov. 29, 1990] under part E of title IV of the Higher Education Act of 1965 [this part]."

Pub. L. 101–476, title X, §1001, Oct. 30, 1990, 104 Stat. 1151, provided that: "The amendments made by this Act [see Short Title of 1990 Amendment note set out under section 1400 of this title] shall take effect October 1, 1990."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsection (a)(2)(E) of this section applicable only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date, see section 405(b) of Pub. L. 99–498, set out as a note under section 1087dd of this title.

[1] See References in Text note below.

[2] So in original. Probably should be "in such".

§1087ff. Distribution of assets from student loan funds

(a) In general

Beginning October 1, 2017, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 2017, as the total amount of the Federal capital contributions to

such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) Distribution of late collections

Beginning October 1, 2017, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 2017, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a) of this section.

(c) Distribution of excess capital

(1) Upon a finding by the institution or the Secretary prior to October 1, 2017, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(A) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(B) The remainder of the capital distribution shall be paid to the institution.

(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 1087bb of this title.

(Pub. L. 89–329, title IV, §466, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102–325, title IV, §466, July 23, 1992, 106 Stat. 584; Pub. L. 103–208, §2(f)(15), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, §466, Oct. 7, 1998, 112 Stat. 1728; Pub. L. 110–84, title V, §501, Sept. 27, 2007, 121 Stat. 801; Pub. L. 114–105, §2(b), Dec. 18, 2015, 129 Stat. 2220.)

PRIOR PROVISIONS

A prior section 1087ff, Pub. L. 89–329, title IV, §466, as added Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 278; amended Pub. L. 94–482, title I, §130(h), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 96–374, title IV, §442(c), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1503, related to distribution of assets from student loan funds, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–105, §2(b)(1)(A), substituted "Beginning October 1, 2017" for "After September 30, 2003, and not later than March 31, 2004" in introductory provisions.

Subsec. (a)(1). Pub. L. 114–105, §2(b)(1)(B), substituted "September 30, 2017" for "September 30, 2003".

Subsec. (b). Pub. L. 114–105, §2(b)(2), substituted "Beginning October 1, 2017" for "After October 1, 2012" and "September 30, 2017" for "September 30, 2003".

Subsec. (c)(1). Pub. L. 114–105, §2(b)(3), substituted "October 1, 2017" for "October 1, 2004" in introductory provisions.

2007—Subsec. (b). Pub. L. 110–84 substituted "October 1, 2012" for "March 31, 2012".

1998—Subsec. (a). Pub. L. 105–244, §466(1)(A), in introductory provisions, substituted "2003" for "1996" and "2004" for "1997".

Subsec. (a)(1). Pub. L. 105–244, §466(1)(B), substituted "2003" for "1996".

Subsec. (b). Pub. L. 105–244, §466(2), substituted "2012" for "2005" and "2003" for "1996".

Subsec. (c)(1). Pub. L. 105–244, §466(3), substituted "2004" for "1997" in introductory provisions.

1993—Subsec. (c)(2). Pub. L. 103–208 realigned margin.

1992—Subsec. (b). Pub. L. 102–325, §466(1), substituted "2005" for "1997".

Subsec. (c). Pub. L. 102–325, §466(2), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1087gg. Collection of defaulted loans: Perkins Loan Revolving Fund

(a) Authority of Secretary to collect referred, transferred, or assigned loans

With respect to any loan—

(1) which was made under this part, and

(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 1087cc(a) of this title,

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

(b) Collection of referred, transferred, or assigned loans

The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (4) or (5) of section 1087cc(a) of this title until all appropriate collection efforts, as determined by the Secretary, have been expended.

(Pub. L. 89–329, title IV, §467, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102–325, title IV, §467, July 23, 1992, 106 Stat. 584; Pub. L. 105–244, title IV, §467(a), Oct. 7, 1998, 112 Stat. 1728; Pub. L. 111–39, title IV, §405(6), July 1, 2009, 123 Stat. 1947.)

PRIOR PROVISIONS

A prior section 1087gg, Pub. L. 89–329, title IV, §467, as added Pub. L. 96–49, §5(d)(3)(A), Aug. 13, 1979, 93 Stat. 352; amended Pub. L. 96–374, title IV, §445(c), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1442, 1503; Pub. L. 99–272, title XVI, §16029, Apr. 7, 1986, 100 Stat. 354, related to collection of defaulted loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–39 substituted "paragraph (4) or (5)" for "paragraph (5)(A), (5)(B)(i), or (6)".

1998—Subsec. (c). Pub. L. 105–244 struck out heading and text of subsec. (c) which established the Perkins Loan Revolving Fund and provided for deposits into and payments from the Fund.

1992—Pub. L. 102–325 amended section catchline generally, inserting ": Perkins Loan Revolving Fund" after "loans" and added subsec. (c).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug.

14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 to this section, relating to creation of Perkins Loan Revolving Fund, effective Sept. 15, 1997, see section 468(4) of Pub. L. 102–325, set out as a note under section 1087dd of this title.

TRANSFER OF BALANCE

Pub. L. 105–244, title IV, §467(b), Oct. 7, 1998, 112 Stat. 1728, provided that: "Any funds in the Perkins Loan Revolving Fund on the date of enactment of this Act [Oct. 7, 1998] shall be transferred to and deposited in the Treasury."

§1087hh. General authority of Secretary

In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 1082(a)(2) of this title; and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

(Pub. L. 89–329, title IV, §468, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1454.)

PRIOR PROVISIONS

A prior section 1087hh, Pub. L. 89–329, title IV, §468, as added Pub. L. 96–374, title IV, §442(a), Oct. 3, 1980, 94 Stat. 1437, related to alternative source of funds, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1087ii, Pub. L. 89–329, title IV, §469, as added Pub. L. 96–374, title IV, §442(a), Oct. 3, 1980, 94 Stat. 1439, related to recapture of current balance of student loan funds, prior to the general revision of this part by Pub. L. 99–498.

§1087ii. Definitions

(a) Low-income communities

For the purpose of this part, the term "low-income communities" means communities in which there is a high concentration of children eligible to be counted under section 6333(c) of this title.

(b) High-risk children

For the purposes of this part, the term "high-risk children" means individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

(c) Infants, toddlers, children, and youth with disabilities

For purposes of this part, the term "infants, toddlers, children, and youth with disabilities" means children with disabilities and infants and toddlers with disabilities as defined in sections 1401 and 1432 of this title, respectively, and the term "early intervention services" has the meaning given the term in section 1432 of this title.

(Pub. L. 89–329, title IV, §469, as added Pub. L. 102–325, title IV, §465(d), July 23, 1992, 106 Stat. 583; amended Pub. L. 103–382, title III, §391(e)(4), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 108–446, title III, §305(c)(2), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 111–39, title IV, §405(7), July 1, 2009, 123 Stat. 1947; Pub. L. 114–95, title IX, §9215(oo)(9), Dec. 10, 2015, 129 Stat. 2180.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95 substituted "eligible to be counted under section 6333(c) of this title" for "eligible to be counted under title I of the Elementary and Secondary Education Act of 1965".

2009—Subsec. (c). Pub. L. 111–39 substituted "and the term 'early intervention services' has the meaning given the term in section 1432 of this title." for "and the term 'qualified professional provider of early intervention services' has the meaning specified in section 1472(2) of this title."

2004—Subsec. (c). Pub. L. 108–446 substituted "sections 1401 and 1432" for "sections 1401(a)(1) and 1472(1)".

1994—Subsec. (a). Pub. L. 103–382 substituted "title I" for "chapter 1 of title I".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART E—NEED ANALYSIS

CODIFICATION

This part was added as part F of title IV of Pub. L. 89–329 by Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1454. The letter designation of this part was changed from "F" to "E" for codification purposes. See Codification note preceding section 1087a of this title.

§1087kk. Amount of need

Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts [1] 1 or 2 of part A of this subchapter) is equal to—

(1) the cost of attendance of such student, minus

(2) the expected family contribution for such student, minus

(3) estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 (as defined in section 1087vv(j) of this title).

(Pub. L. 89–329, title IV, §471, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 585; Pub. L. 105–244, title IV, §480(a), Oct. 7, 1998, 112 Stat. 1732.)

AMENDMENTS

1998—Pub. L. 105–244 substituted "or 2" for "or 4" in introductory provisions.

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: "Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts 1 and 3 of part A of this subchapter) is equal to the cost of attendance of such student minus the expected family contribution for such student."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, §480A, Oct. 7, 1998, 112 Stat. 1732, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part [part F

(§§471–480A) of title IV of Pub. L. 105–244, amending this section and sections 1087ll to 1087tt and 1087vv of this title] are effective on the date of enactment of this Act [Oct. 7, 1998].

"(b) PROVISIONS EFFECTIVE FOR ACADEMIC YEAR 2000–2001, AND THEREAFTER.—The amendments made by sections 472, 473, 474, and 475 [amending sections 1087nn to 1087qq of this title] shall apply with respect to determinations of need under part F of title IV of the Higher Education Act of 1965 [this part] for academic years beginning on or after July 1, 2000."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–325, title IV, §471(b), July 23, 1992, 106 Stat. 609, provided that: "The changes made in part F of title IV of the Act [this part] by the amendment made by this section [amending sections 1087kk to 1087vv of this title] shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993."

EFFECTIVE DATE

Pub. L. 99–498, title IV, §406(b)(1)–(3), Oct. 17, 1986, 100 Stat. 1475, as amended by Pub. L. 100–50, §22(e)(1), (3), June 3, 1987, 101 Stat. 361, provided that:

"(1) Except as provided in paragraphs (2) through (4)—

"(A) part F of title IV of the Act [this part] shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988–1989 and succeeding academic years; and

"(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982 [Pub. L. 97–301, see Short Title of 1982 Amendment note set out under section 1001 of this title].

"(2) With respect to an application filed after the date of enactment of this Act [Oct. 17, 1986] for a loan under part B of such title [part B of this subchapter] for any academic year preceding academic year 1988–1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].

"(3) For purposes of sections 413D(d)(2)(B) [now 413D(c)(2)(B)], 442(d)(2)(B) and 462(d)(2)(B) [20 U.S.C. 1070b–3(c)(2)(B), 42 U.S.C. 2752(d)(2)(B), 20 U.S.C. 1087bb(d)(2)(B)] for any academic year preceding academic year 1988–1989, the Secretary shall, in lieu of average expected family contribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986–1987, adjusted to reflect changes in data.

"(4) Section 479B of the Act [20 U.S.C. 1087uu] (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment [Oct. 17, 1986]."

[References to subpart 2 of part A of title IV of Pub. L. 89–329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102–325, set out as a note under section 1070a–11 of this title.]

SPECIAL STUDY OF SIMPLIFICATION OF NEED ANALYSIS AND APPLICATION FOR TITLE IV AID

Pub. L. 108–199, div. E, title III, §305, Jan. 23, 2004, 118 Stat. 263, provided that:

"(a) STUDY REQUIRED.—The Advisory Committee on Student Financial Assistance established by section 491 of the Higher Education Act of 1965 (20 U.S.C. 1098), hereafter in this section referred to as 'the Advisory Committee', shall conduct a thorough study of the feasibility of simplifying the need analysis methodology for all Federal student financial assistance programs and the process of applying for such assistance.

"(b) REQUIRED SUBJECTS OF STUDY.—In performing the study, the Advisory Committee shall, at a minimum, examine the following:

"(1) whether the methodology used to calculate the expected family contribution can be simplified without significant adverse effects on program intent, costs, integrity, delivery, and distribution of awards;

"(2) whether the number of data elements, and, accordingly, the number and complexity of questions asked of students and families, used to calculate the expected family contribution can be reduced without such adverse effects;

"(3) whether the procedures for determining such data elements, including determining and updating offsets and allowances, is the most efficient, effective, and fair means to determine a family's available income and assets;

"(4) whether the methodology used to calculate the expected family contribution, specifically the

consideration of income earned by a dependent student and its effect on Pell grant eligibility, is an effective and fair means to determine a family's available income and a student's need;

"(5) whether the nature and timing of the application required in section 483 (a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)(1)), eligibility and award determination, financial aid processing, and funds delivery can be streamlined further for students and families, institutions, and States;

"(6) whether it is feasible to allow students to complete only those limited sections of the financial aid application that apply to their specific circumstances and the State in which they reside;

"(7) whether a widely disseminated printed form, or the use of an Internet or other electronic means, can be developed to notify individuals of an estimation of their approximate eligibility for grant, work-study, and loan assistance upon completion and verification of the simplified application form;

"(8) whether information provided on other Federal forms (such as the form applying for supplemental security income under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], the form for applying for food stamps under the Food Stamp Act of 1977 [now the Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq.], and the schedule for applying for the earned income tax credit under section 32 of the Internal Revenue Code of 1986 [26 U.S.C. 32]) that are designed to determine eligibility for various Federal need-based assistance programs could be used to qualify potential students for the simplified needs test; and

"(9) whether any proposed changes to data elements collected, in addition to those used to calculate expected family contribution, or any proposed changes to the form's design or the process of applying for aid, may have adverse effects on program costs, integrity, delivery, or distribution of awards, as well as, application development or application processing.

"(c) ADDITIONAL CONSIDERATIONS.—In conducting the feasibility study, the Advisory Committee's primary objective under this subsection shall be simplifying the financial aid application forms and process and obtaining a substantial reduction in the number of required data items. In carrying out that objective, the Advisory Committee shall pay special attention to the needs of low-income and moderate-income students and families.

"(d) CONSULTATION.—

"(1) IN GENERAL.—The Advisory Committee shall consult with a broad range of interested parties in higher education, including parents and students, high school guidance counselors, financial aid and other campus administrators, appropriate State administrators, administrators of intervention and outreach programs, and appropriate officials from the Department of Education.

"(2) FORMS DESIGN EXPERT.—With the goal of making significant changes to the form to make the questions more easily understandable, the Advisory Committee shall consult a forms design expert to ensure that its recommendations for revision of the application form would assist in making the form easily readable and understood by parents, students, and other members of the public.

"(3) CONGRESSIONAL CONSULTATION.—The Advisory Committee shall consult on a regular basis with the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate in carrying out the feasibility study required by this subsection.

"(4) DEPARTMENTAL CONSULTATION.—The Secretary of Education shall provide such assistance to the Advisory Committee as is requested and practicable in conducting the study required by this subsection.

"(e) REPORTS.—

"(1) INTERIM REPORT.—The Advisory Committee shall, not later than 6 months after the date of enactment of this Act [Jan. 23, 2004], prepare and submit an interim report containing any such legislative changes as the Advisory Committee recommends to reform and simplify the needs analysis under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.) and forms and other requirements under such title to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Secretary of Education.

"(2) FINAL REPORT.—The Advisory Committee shall, not later than 1 year after the date of enactment of this Act, prepare and submit a full final report on the study, including recommendations for regulatory and administrative changes required by this section, to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Secretary of Education.

"(f) IMPLEMENTATION.—The Secretary of Education shall consult with the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate and shall subsequently initiate a redesign of the form required by section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090). Such redesign shall include the testing of alternative simplified versions of the free Federal form. The Secretary shall keep the Committee on Education and the

Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate fully and currently informed on the progress of these efforts.

"(g) POSTPONEMENT OF TAX TABLE UPDATE PENDING REPORT AND IMPLEMENTATION .—The Secretary of Education shall not implement or enforce for the award year 2004–2005 the annual update to the allowances for State and other taxes in the tables used in the Federal needs analysis methodology, as prescribed by the Secretary on May 30, 2003 (68 Fed. Reg. 32473)."

[1] *So in original. Probably should be "subpart".*

§1087*ll*. Cost of attendance

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, the term "cost of attendance" means—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses, including a reasonable allowance for the documented rental or purchase of a personal computer, for a student attending the institution on at least a half-time basis, as determined by the institution;

(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

(A) shall be an allowance determined by the institution for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board;

(C) for students who live in housing located on a military base or for which a basic allowance is provided under section 403(b) of title 37, shall be an allowance based on the expenses reasonably incurred by such students for board but not for room; and

(D) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board;

(4) for less than half-time students (as determined by the institution), tuition and fees and an allowance for only—

(A) books, supplies, and transportation (as determined by the institution);

(B) dependent care expenses (determined in accordance with paragraph (8)); and

(C) room and board costs (determined in accordance with paragraph (3)), except that a student may receive an allowance for such costs under this subparagraph for not more than 3 semesters or the equivalent, of which not more than 2 semesters or the equivalent may be consecutive;

(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(6) for incarcerated students only tuition and fees and, if required, books and supplies;

(7) for a student enrolled in an academic program in a program of study abroad approved for credit by the student's home institution, reasonable costs associated with such study (as determined by the institution at which such student is enrolled);

(8) for a student with one or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that—

(A) such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided; and

(B) the period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;

(9) for a student with a disability, an allowance (as determined by the institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

(10) for a student receiving all or part of the student's instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs;

(11) for a student engaged in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution);

(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be; and

(13) at the option of the institution, for a student in a program requiring professional licensure or certification, the one-time cost of obtaining the first professional credentials (as determined by the institution).

(Pub. L. 89–329, title IV, §472, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 585; Pub. L. 103–208, §2(g)(1), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, §471, Oct. 7, 1998, 112 Stat. 1729; Pub. L. 109–171, title VIII, §8016, Feb. 8, 2006, 120 Stat. 172; Pub. L. 110–315, title IV, §471(a), Aug. 14, 2008, 122 Stat. 3269.)

AMENDMENTS

2008—Par. (3)(C), (D). Pub. L. 110–315 added subpar. (C) and redesignated former subpar. (C) as (D).

2006—Par. (4). Pub. L. 109–171, §8016(1), added par. (4) and struck out former par. (4), which read as follows: "for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (8));".

Par. (13). Pub. L. 109–171, §8016(2)–(4), added par. (13).

1998—Par. (2). Pub. L. 105–244, §471(1), inserted ", including a reasonable allowance for the documented rental or purchase of a personal computer," after "personal expenses".

Par. (3)(A). Pub. L. 105–244, §471(2)(A), substituted "determined by the institution" for "of not less than $1,500".

Par. (3)(C). Pub. L. 105–244, §471(2)(B), struck out ", except that the amount may not be less than $2,500" after "room and board".

Par. (10). Pub. L. 105–244, §471(3), substituted a semicolon for ", but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment;".

Par. (11). Pub. L. 105–244, §471(4), substituted "engaged" for "placed".

1993—Par. (12). Pub. L. 103–208 added par. (12).

1992—Pub. L. 102–325 amended section generally, revising and restating as pars. (1) to (11) provisions formerly contained in pars. (1) to (9).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §471(b), Aug. 14, 2008, 122 Stat. 3269, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on July 1, 2010."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§1087mm. Family contribution

(a) In general

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, other than subpart 2 of part A of this subchapter, and except as provided in subsection (b), the term "family contribution" with respect to any student means the amount which the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

(b) Special rule

(1) In general

Notwithstanding any other provision of this subchapter and part C of subchapter I of chapter 34 of title 42, the family contribution of each student described in paragraph (2) shall be deemed to be zero for the academic year for which the determination is made.

(2) Applicability

Paragraph (1) shall apply to any dependent or independent student with respect to determinations of need for academic year 2009–2010 and succeeding academic years—

(A) who is eligible to receive a Federal Pell Grant for the academic year for which the determination is made;

(B) whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and

(C) who, at the time of the parent or guardian's death, was—

(i) less than 24 years of age; or

(ii) enrolled at an institution of higher education on a part-time or full-time basis.

(3) Information

Notwithstanding any other provision of law, the Secretary of Veterans Affairs and the Secretary of Defense, as appropriate, shall provide the Secretary of Education with information necessary to determine which students meet the requirements of paragraph (2).

(Pub. L. 89–329, title IV, §473, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1455; amended Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 586; Pub. L. 105–244, title IV, §480(b), Oct. 7, 1998, 112 Stat. 1732; Pub. L. 111–39, title IV, §406(a)(1), July 1, 2009, 123 Stat. 1948.)

AMENDMENTS

2009—Pub. L. 111–39 designated existing provisions as subsec. (a), inserted heading, substituted "For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, other than subpart 2 of part A of this subchapter, and except as provided in subsection (b)," for "For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subpart 2 of part A of this subchapter,", and added subsec. (b).

1998—Pub. L. 105–244 substituted "subpart 2" for "subpart 4".

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: "For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subparts 1 and 3 of part A of this subchapter, the term 'family contribution' with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part."

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–39, title IV, §406(b), July 1, 2009, 123 Stat. 1950, provided that: "The amendments made by—

"(1) paragraph (1) of subsection (a) [amending this section] shall take effect on July 1, 2009; and

"(2) paragraph (4) of such subsection [amending section 1087ss of this title] shall be effective as if enacted as part of the amendments in section 602(a) of the College Cost Reduction and Access Act (Public Law 110–84), and shall take effect on July 1, 2009."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§1087nn. Determination of expected family contribution; data elements

(a) General rule for determination of expected family contribution

The expected family contribution—

(1) for a dependent student shall be determined in accordance with section 1087oo of this title;

(2) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 1087pp of this title; and

(3) for an independent student with dependents other than a spouse shall be determined in accordance with section 1087qq of this title.

(b) Data elements

The following data elements are considered in determining the expected family contribution:

(1) the available income of (A) the student and the student's spouse, or (B) the student and the student's parents, in the case of a dependent student;

(2) the number of dependents in the family of the student;

(3) the number of dependents in the family of the student, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title and for whom the family may reasonably be expected to contribute to their postsecondary education;

(4) the net assets of (A) the student and the student's spouse, and (B) the student and the student's parents, in the case of a dependent student;

(5) the marital status of the student;

(6) the age of the older parent, in the case of a dependent student, and the student; and

(7) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when the student is married and the student's spouse is employed, or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of title 26.

(Pub. L. 89–329, title IV, §474, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV,

§471(a), July 23, 1992, 106 Stat. 587; Pub. L. 105–244, title IV, §472, Oct. 7, 1998, 112 Stat. 1729.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–244 inserted ", excluding the student's parents," after "family of the student".

1992—Pub. L. 102–325 substituted "Determination of expected family contribution; data elements" for "Data elements used in determining expected family contribution" in section catchline and amended text generally, adding subsec. (a), designating existing provisions as subsec. (b) and inserting heading, adding the age of the older parent, in the case of a dependent student, and the student as a data element and striking out consideration of any unusual medical and dental expenses and consideration of the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid as data elements.

1988—Par. (8). Pub. L. 100–369 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§1087*oo*. Family contribution for dependent students

(a) Computation of expected family contribution

For each dependent student, the expected family contribution is equal to the sum of—

(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b) of this section);

(2) the student contribution from available income (determined in accordance with subsection (g) of this section); and

(3) the student contribution from assets (determined in accordance with subsection (h) of this section).

(b) Parents' contribution from adjusted available income

The parents' contribution from adjusted available income is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the parents' available income (determined in accordance with subsection (c) of this section); and

(B) the parents' contribution from assets (determined in accordance with subsection (d) of this section);

(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e) of this section; and

(3) dividing the assessment resulting under paragraph (2) by the number of the family members, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested;

except that the amount determined under this subsection shall not be less than zero.

(c) Parents' available income

(1) In general

The parents' available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken by the parents under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000	$15,000 or more
(1)then the percentage is—		
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Income Protection Allowance

Family Size	Number in College

(including student)	1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the parent with the lesser earned income.

(B) If a parent qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of $2,500 or 35 percent of such parent's earned income.

(d) Parents' contribution from assets

(1) In general

The parents' contribution from assets is equal to—

(A) the parental net worth (determined in accordance with paragraph (2)); minus

(B) the education savings and asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Parental net worth

The parental net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value of the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Education savings and asset protection allowance

The education savings and asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Education Savings and Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are	
	two parents	one parent
(1)then the allowance is—		
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500

64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 12 percent.

(e) Assessment schedule

The adjusted available income (as determined under subsection (b)(1) of this section and hereafter in this subsection referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than ^$3,409	^$750
^$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(f) Computations in case of separation, divorce, remarriage, or death

(1) Divorced or separated parents

Parental income and assets for a student whose parents are divorced or separated is determined under the following procedures:

(A) Include only the income and assets of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(B) If the preceding criterion does not apply, include only the income and assets of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(C) If neither of the preceding criteria apply, include only the income and assets of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(2) Death of a parent

Parental income and assets in the case of the death of any parent is determined as follows:

(A) If either of the parents has died, the student shall include only the income and assets of the surviving parent.

(B) If both parents have died, the student shall not report any parental income or assets.

(3) Remarried parents

If a parent whose income and assets are taken into account under paragraph (1) of this subsection, or if a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, the income of that parent's spouse shall be included in determining the parent's adjusted available income only if—

(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

(B) the student is not an independent student.

(g) Student contribution from available income

(1) In general

The student contribution from available income is equal to—

(A) the student's total income (determined in accordance with section 1087vv of this title); minus

(B) the adjustment to student income (determined in accordance with paragraph (2)); multiplied by

(C) the assessment rate as determined in paragraph (5);

except that the amount determined under this subsection shall not be less than zero.

(2) Adjustment to student income

The adjustment to student income is equal to the sum of—

(A) Federal income taxes of the student;

(B) an allowance for State and other income taxes (determined in accordance with paragraph (3));

(C) an allowance for social security taxes determined in accordance with paragraph (4);

(D) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—

(i) for academic year 2009–2010, $3,750;

(ii) for academic year 2010–2011, $4,500;

(iii) for academic year 2011–2012, $5,250; and

(iv) for academic year 2012–2013, $6,000;

(E) the amount of any tax credit taken by the student under section 25A of title 26; and

(F) an allowance for parents' negative available income, determined in accordance with paragraph (6).

(3) Allowance for State and other income taxes

The allowance for State and other income taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8

(4) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(5) Assessment of available income

The student's available income (determined in accordance with paragraph (1) of this subsection) is assessed at 50 percent.

(6) Allowance for parents' negative available income

The allowance for parents' negative available income is the amount, if any, by which the sum of the amounts deducted under subparagraphs (A) through (F) of subsection (c)(1) of this section exceeds the sum of the parents' total income (as defined in section 1087vv of this title) and the parents' contribution from assets (as determined in accordance with subsection (d) of this section).

(h) Student contribution from assets

The student contribution from assets is determined by calculating the net assets of the student and multiplying such amount by 20 percent, except that the result shall not be less than zero.

(i) Adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter

For periods of enrollment other than 9 months, the parents' contribution from adjusted available income (as determined under subsection (b) of this section) is determined as follows for purposes other than subpart 2 of part A of this subchapter:

(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income is divided by 9 and the result multiplied by the number of months enrolled.

(2) For periods of enrollment greater than 9 months—

(A) the parents' adjusted available income (determined in accordance with subsection (b)(1) of this section) is increased by the difference between the income protection allowance (determined in accordance with subsection (c)(4) of this section) for a family of four and a family of five, each with one child in college;

(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) of this section and adjusted according to subsection (b)(3) of this section to determine a revised parents' contribution from adjusted available income;

(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

(j) Adjustments to student's contribution for enrollment periods of less than nine months

For periods of enrollment of less than 9 months, the student's contribution from adjusted available income (as determined under subsection (g) of this section) is determined, for purposes other than subpart 2 of part A of this subchapter, by dividing the amount determined under such subsection by 9, and multiplying the result by the number of months in the period of enrollment.

(Pub. L. 89–329, title IV, §475, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100–50, §14(1)–(12), June 3, 1987, 101 Stat. 349, 350; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 587; Pub. L. 103–208, §2(g)(2)–(5), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, §609(g), Nov. 13, 1997, 111 Stat. 1523; Pub. L. 105–244, title IV, §473, Oct. 7, 1998, 112 Stat. 1729; Pub. L. 109–171, title VIII, §8017(a)(1), Feb. 8, 2006, 120 Stat. 173; Pub. L. 110–84, title VI, §601(a), Sept. 27, 2007, 121 Stat. 801; Pub. L. 111–39, title IV, §406(a)(2), July 1, 2009, 123 Stat. 1948.)

AMENDMENTS

2009—Subsec. (c)(5)(B). Pub. L. 111–39 made technical amendment to reference in original act which appears in text as reference to section 2 of title 26.

2007—Subsec. (g)(2)(D). Pub. L. 110–84 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "an income protection allowance of $3,000 (or a successor amount prescribed by the Secretary under section 1087rr of this title);".

2006—Subsec. (g)(2)(D). Pub. L. 109–171, §8017(a)(1)(A), substituted "$3,000" for "$2,200".

Subsec. (h). Pub. L. 109–171, §8017(a)(1)(B), substituted "20" for "35".

1998—Subsec. (b)(3). Pub. L. 105–244, §473(a), which directed insertion of ", excluding the student's parents," after "number of family members", was executed by making the insertion after "number of the family members" to reflect the probable intent of Congress.

Subsec. (g)(2)(D). Pub. L. 105–244, §473(b)(1)(A), substituted "$2,200 (or a successor amount prescribed by the Secretary under section 1087rr of this title);" for "$1,750; and".

Subsec. (g)(2)(F). Pub. L. 105–244, §473(b)(1)(B), (C), added subpar. (F).

Subsec. (g)(6). Pub. L. 105–244, §473(b)(2), added par. (6).

Subsec. (j). Pub. L. 105–244, §473(c), added subsec. (j).

1997—Subsec. (c)(1)(F). Pub. L. 105–78, §609(g)(1), added subpar. (F).

Subsec. (g)(2)(E). Pub. L. 105–78, §609(g)(2), added subpar. (E).

1993—Subsec. (c)(4). Pub. L. 103–208, §2(g)(2), substituted "$9,510" for "9,510" in table.

Subsec. (f)(3). Pub. L. 103–208, §2(g)(3), in introductory provisions, substituted "If a parent" for "Income in the case of a parent", "(1) of this subsection, or if a parent" for "(1) of this subsection, or a parent", and "the income" for "is determined as follows: The income".

Subsec. (g)(1)(B). Pub. L. 103–208, §2(g)(4), inserted closing parenthesis after "paragraph (2)".

Subsec. (g)(3). Pub. L. 103–208, §2(g)(5), in table added last item relating to Other.

1992—Pub. L. 102–325 amended section generally, making minor changes in subsecs. (a) to (c) and (e) to (g), in subsec. (d) substituting provisions relating to parents' contribution from assets for provisions relating to parents' income supplemental amount from assets, in subsec. (h) substituting provisions relating to student contribution from assets for provisions relating to student and spouse income supplemental amount from assets, and in subsec. (i) substituting provisions relating to adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter for provisions relating to adjustments for enrollment periods other than 9 months.

1987—Subsec. (c)(2), (4). Pub. L. 100–50, §14(1), substituted "section 1087rr of this title" for "section 1087ss of this title".

Subsec. (c)(7). Pub. L. 100–50, §14(2), struck out "National" before "Center".

Subsec. (d)(2)(B). Pub. L. 100–50, §14(3), substituted "displaced homemaker" for "dislocated homemaker".

Subsec. (d)(2)(C). Pub. L. 100–50, §14(1), substituted "section 1087rr of this title" for "section 1087ss of this title".

Pub. L. 100–50, §14(4), added table after subpar. (C) and struck out former table which read as follows:

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000".

Subsec. (d)(4)(B). Pub. L. 100–50, §14(5), substituted "$15,999" for "$15,000".

Subsec. (d)(4)(C). Pub. L. 100–50, §14(6), substituted "$16,000" for "$15,000" in three places.

Subsec. (d)(4)(D). Pub. L. 100–50, §14(7), substituted "income is less than zero" for "income is equal to or less than zero".

Subsec. (e). Pub. L. 100–50, §14(8), inserted a minus sign before "$3,409" in two places in table.

Subsec. (g)(1)(C). Pub. L. 100–50, §14(9), substituted "paragraph (2)" for "paragraph (3)".

Subsec. (g)(3). Pub. L. 100–50, §14(10), inserted "(or a successor table prescribed by the Secretary under section 1087rr of this title)" after "following table".

Subsec. (h). Pub. L. 100–50, §14(11), added subsec. (h) and struck out former subsec. (h) which read as follows: "The student (and spouse) supplemental income amount from assets is determined by multiplying by 35 percent the sum of—

"(1) the current balance of checking and savings accounts and cash on hand; and

"(2) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 1087vv(e) of this title)."

Subsec. (i). Pub. L. 100–50, §14(12), added subsec. (i).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–84, title VI, §601(e), Sept. 27, 2007, 121 Stat. 804, provided that: "The amendments made by this section [amending this section and sections 1087pp, 1087qq, and 1087rr of this title] shall be effective on July 1, 2009."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Pub. L. 109–171, title VIII, §8017(a)(2), Feb. 8, 2006, 120 Stat. 173, provided that: "The amendments made by paragraph (1) [amending this section] shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1087pp. Family contribution for independent students without dependents other than a spouse

(a) Computation of expected family contribution

For each independent student without dependents other than a spouse, the expected family contribution is determined by—

(1) adding—

(A) the family's contribution from available income (determined in accordance with subsection (b) of this section); and

(B) the family's contribution from assets (determined in accordance with subsection (c) of this section);

(2) dividing the sum resulting under paragraph (1) by the number of students who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested; and

(3) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A of this subchapter—

(A) dividing the quotient resulting under paragraph (2) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) Family's contribution from available income

(1) In general

The family's contribution from income is determined by—

(A) deducting from total income (as defined in section 1087vv of this title)—

(i) Federal income taxes;

(ii) an allowance for State and other taxes, determined in accordance with paragraph (2);

(iii) an allowance for social security taxes, determined in accordance with paragraph (3);

(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—

(I) for single or separated students, or married students where both are enrolled pursuant to subsection (a)(2)—

(aa) for academic year 2009–2010, $7,000;

(bb) for academic year 2010–2011, $7,780;

(cc) for academic year 2011–2012, $8,550; and

(dd) for academic year 2012–2013, $9,330; and

(II) for married students where 1 is enrolled pursuant to subsection (a)(2)—

(aa) for academic year 2009–2010, $11,220;

(bb) for academic year 2010–2011, $12,460;

(cc) for academic year 2011–2012, $13,710; and

(dd) for academic year 2012–2013, $14,960;

(v) in the case where a spouse is present, an employment expense allowance, as determined in accordance with paragraph (4); and

(vi) the amount of any tax credit taken under section 25A of title 26; and

(B) assessing such available income in accordance with paragraph (5).

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0

Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student (and spouse, if appropriate), multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Employment expenses allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student is not married, the employment expense allowance is zero.

(5) Assessment of available income

The family's available income (determined in accordance with paragraph (1)(A) of this subsection) is assessed at 50 percent.

(c) Family contribution from assets

(1) In general

The family's contribution from assets is equal to—

(A) the family's net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4));

except that the family's contribution from assets shall not be less than zero.

(2) Family's net worth

The family's net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—

Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
(1)then the allowance is—		
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400

56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 20 percent.

(d) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.

(Pub. L. 89–329, title IV, §476, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1463; amended Pub. L. 100–50, §14(1), (3), (4), (13)–(17), June 3, 1987, 101 Stat. 349, 351; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 594; Pub. L. 103–208, §2(g)(6), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, §609(h), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, §474, Oct. 7, 1998, 112 Stat. 1730; Pub. L. 109–171, title VIII, §8017(b)(1), Feb. 8, 2006, 120 Stat. 173; Pub. L. 110–84, title VI, §601(b), Sept. 27, 2007, 121 Stat. 801.)

AMENDMENTS

2007—Subsec. (b)(1)(A)(iv). Pub. L. 110–84 amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: "an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—

"(I) $6,050 for single students;

"(II) $6,050 for married students where both are enrolled pursuant to subsection (a)(2) of this section; and

"(III) $9,700 for married students where one is enrolled pursuant to subsection (a)(2) of this section;".

2006—Subsec. (b)(1)(A)(iv). Pub. L. 109–171, §8017(b)(1)(A), substituted "$6,050" for "$5,000" in subcls. (I) and (II) and "$9,700" for "$8,000" in subcl. (III).

Subsec. (c)(4). Pub. L. 109–171, §8017(b)(1)(B), substituted "20" for "35".

1998—Subsec. (a)(3). Pub. L. 105–244, §474(a), added par. (3).

Subsec. (b)(1)(A)(iv). Pub. L. 105–244, §474(b)(1), in introductory provisions, substituted "allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—" for "allowance of—".

Subsec. (b)(1)(A)(iv)(I), (II). Pub. L. 105–244, §474(b)(2), substituted "$5,000" for "$3,000".

Subsec. (b)(1)(A)(iv)(III). Pub. L. 105–244, §474(b)(3), substituted "$8,000" for "$6,000".

1997—Subsec. (b)(1)(A)(vi). Pub. L. 105–78 added cl. (vi).

1993—Subsec. (d). Pub. L. 103–208 added subsec. (d).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students without dependents other than a spouse for provisions relating to family contribution for independent students without dependents (including a spouse).

1987—Subsec. (b)(1)(A), (B). Pub. L. 100–50, §14(13)(B), (C), substituted subpar. (A) and introductory provisions of subpar. (B) for introductory provisions of former subpar. (A) which read as follows: "computing the student's available taxable income by deducting from the student's adjusted gross income—". Former subpar. (B) redesignated (C).

Subsec. (b)(1)(C). Pub. L. 100–50, §14(13)(B), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 100–50, §14(15), which directed that subsec. (b)(1)(C) be amended by inserting

"plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28", was executed to subpar. (D) to reflect the probable intent of Congress and the intervening redesignation of subpar. (C) as (D) by section 14(13)(B) of Pub. L. 100–50.

Pub. L. 100–50, §14(13)(A), (B), redesignated subpar. (C) as (D) and substituted "subparagraph (C)" for "subparagraph (B)".

Subsec. (b)(2). Pub. L. 100–50, §14(1), (14), substituted "total income" for "total taxable income" and "section 1087rr of this title" for "section 1087ss of this title".

Subsec. (b)(4)(A). Pub. L. 100–50, §14(16)(A), substituted "$8,600" for "$8,900".

Subsec. (b)(4)(B). Pub. L. 100–50, §14(16), substituted "$8,600" for "$8,900" in two places and "$6,020" for "$6,230".

Subsec. (c)(1). Pub. L. 100–50, §14(17), substituted a semicolon for a period at end of subpar. (C) and inserted, after subpar. (C), provision that the student's income supplemental amount from assets not be less than zero.

Subsec. (c)(2)(B). Pub. L. 100–50, §14(3), substituted "displaced homemaker" for "dislocated homemaker".

Subsec. (c)(2)(C). Pub. L. 100–50, §14(4), added table and struck out former table which read as follows:

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000".

Pub. L. 100–50, §14(1), substituted "section 1087rr of this title" for "section 1087ss of this title".

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective July 1, 2009, see section 601(e) of Pub. L. 110–84, set out as a note under section 1087oo of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Pub. L. 109–171, title VIII, §8017(b)(2), Feb. 8, 2006, 120 Stat. 173, provided that: "The amendments made by paragraph (1) [amending this section] shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1087qq. Family contribution for independent students with dependents other than a spouse

(a) Computation of expected family contribution

For each independent student with dependents other than a spouse, the expected family contribution is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the family's available income (determined in accordance with subsection (b) of this section); and

(B) the family's contribution from assets (determined in accordance with subsection (c) of this section);

(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d) of this section;

(3) dividing the assessment resulting under paragraph (2) by the number of family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested; and

(4) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A of this subchapter—

(A) dividing the quotient resulting under paragraph (3) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) Family's available income

(1) In general

The family's available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And family's total income is—	
	less than $15,000	$15,000 or more
(1)then the percentage is—		

Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount estimated to be earned by the student (and spouse, if appropriate) multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the tables described in subparagraphs (A) through (D) (or a successor table prescribed by the Secretary under section 1087rr of this title).

(A) Academic year 2009–2010

For academic year 2009–2010, the income protection allowance is determined by the following table:

Income Protection Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	$17,720	$14,690				
3	22,060	19,050	$16,020			
4	27,250	24,220	21,210	$18,170		
5	32,150	29,120	26,100	23,070	$20,060	
6	37,600	34,570	31,570	28,520	25,520	$3,020
For each additional add:	4,240	4,240	4,240	4,240	4,240	

(B) Academic year 2010–2011

For academic year 2010–2011, the income protection allowance is determined by the following table:

Income Protection Allowance

Family Size	Number in College

(including student)	1	2	3	4	5	For each additional subtract:
2	$19,690	$16,330				
3	24,510	21,160	$17,800			
4	30,280	26,910	23,560	$20,190		
5	35,730	32,350	29,000	25,640	$22,290	
6	41,780	38,410	35,080	31,690	28,350	$3,350
For each additional add:	4,710	4,710	4,710	4,710	4,710	

(C) Academic year 2011–2012

For academic year 2011–2012, the income protection allowance is determined by the following table:

Income Protection Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	$21,660	$17,960				
3	26,960	23,280	$19,580			
4	33,300	29,600	25,920	$22,210		
5	39,300	35,590	31,900	28,200	$24,520	
6	45,950	42,250	38,580	34,860	31,190	$3,690
For each additional add:	5,180	5,180	5,180	5,180	5,180	

(D) Academic year 2012–2013

For academic year 2012–2013, the income protection allowance is determined by the following table:

Income Protection Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	$23,630	$19,590				
3	29,420	25,400	$21,360			
4	36,330	32,300	28,280	$24,230		
5	42,870	38,820	34,800	30,770	$26,750	
6	50,130	46,100	42,090	38,030	34,020	$4,020
For each additional add:	5,660	5,660	5,660	5,660	5,660	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or a successor table prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which their income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned

income of the student or spouse with the lesser earned income.

(B) If a student qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of $2,500 or 35 percent of the student's earned income.

(c) Family's contribution from assets

(1) In general

The family's contribution from assets is equal to—

(A) the family net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Family net worth

The family net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
(1)then the allowance is—		
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500

32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 7 percent.

(d) Assessment schedule

The adjusted available income (as determined under subsection (a)(1) of this section and hereafter referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than ^$3,409	^$750
^$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over

	$9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(e) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.

(Pub. L. 89–329, title IV, §477, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1465; amended Pub. L. 100–50, §14(1)–(6), (8), (18), (19), June 3, 1987, 101 Stat. 349–351; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 597; Pub. L. 103–208, §2(g)(2), (7), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, §609(i), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, §475, Oct. 7, 1998, 112 Stat. 1730; Pub. L. 109–171, title VIII, §8017(c)(1), Feb. 8, 2006, 120 Stat. 173; Pub. L. 110–84, title VI, §601(c), Sept. 27, 2007, 121 Stat. 802; Pub. L. 111–39, title IV, §406(a)(3), July 1, 2009, 123 Stat. 1948.)

AMENDMENTS

2009—Subsec. (b)(5)(B). Pub. L. 111–39 made technical amendment to reference in original act which appears in text as reference to section 2 of title 26.

2007—Subsec. (b)(4). Pub. L. 110–84 amended par. (4) generally. Prior to amendment, par. (4) consisted of a single table to be used to determine income protection allowances.

2006—Subsec. (c)(4). Pub. L. 109–171 substituted "7" for "12".

1998—Subsec. (a)(4). Pub. L. 105–244 added par. (4).

1997—Subsec. (b)(1)(F). Pub. L. 105–78 added subpar. (F).

1993—Subsec. (b)(4). Pub. L. 103–208, §2(g)(2), substituted "$9,510" for "9,510" in table.

Subsec. (e). Pub. L. 103–208, §2(g)(7), added subsec. (e).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students with dependents other than a spouse for provisions relating to family contribution for independent students with dependents (including a spouse).

1987—Subsec. (a)(1)(C). Pub. L. 100–50, §14(18), added subpar. (C).

Subsec. (b)(2). Pub. L. 100–50, §14(1), substituted "section 1087rr of this title" for "section 1087ss of this title".

Subsec. (b)(5)(A). Pub. L. 100–50, §14(19), substituted "$2,100" for "$2,000".

Subsec. (b)(7). Pub. L. 100–50, §14(2), struck out "National" before "Center".

Subsec. (c)(2)(B). Pub. L. 100–50, §14(3), substituted "displaced homemaker" for "dislocated homemaker".

Subsec. (c)(2)(C). Pub. L. 100–50, §14(1), (4), substituted "section 1087rr of this title" for "section 1087ss of this title" in text, added table, and struck out former table which read as follows:

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000".

Subsec. (c)(4)(B). Pub. L. 100–50, §14(5), substituted "$15,999" for "$15,000".

Subsec. (c)(4)(C). Pub. L. 100–50, §14(6), substituted "$16,000" for "$15,000" in three places.

Subsec. (d). Pub. L. 100–50, §14(1), (8), substituted "section 1087rr of this title" for "section 1087ss of this title" in text and inserted a minus sign before "$3,409" in two places in table.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective July 1, 2009, see section 601(e) of Pub. L. 110–84, set out as a note under section 1087oo of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Pub. L. 109–171, title VIII, §8017(c)(2), Feb. 8, 2006, 120 Stat. 173, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1087rr. Regulations; updated tables

(a) Authority to prescribe regulations restricted

(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

(A) to prescribe updated tables in accordance with subsections (b) through (h) of this section; or

(B) to propose modifications in the need analysis methodology required by this part.

(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (h) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 1089 of this title. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 1089 of this title updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (h) of this section.

(b) Income protection allowance

(1) Revised tables

(A) In general

For each academic year after academic year 2008–2009, the Secretary shall publish in the Federal Register a revised table of income protection allowances for the purpose of sections 1087oo(c)(4) and 1087qq(b)(4) of this title, subject to subparagraphs (B) and (C).

(B) Table for independent students

(i) Academic years 2009–2010 through 2012–2013

For each of the academic years 2009–2010 through 2012–2013, the Secretary shall not develop a revised table of income protection allowances under section 1087qq(b)(4) of this title and the table specified for such academic year under subparagraphs (A) through (D) of such section shall apply.

(ii) Other academic years

For each academic year after academic year 2012–2013, the Secretary shall develop the revised table of income protection allowances by increasing each of the dollar amounts contained in the table of income protection allowances under section 1087qq(b)(4)(D) of this title by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(C) Table for parents

For each academic year after academic year 2008–2009, the Secretary shall develop the revised table of income protection allowances under section 1087oo(c)(4) of this title by increasing each of the dollar amounts contained in the table by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(2) Revised amounts

For each academic year after academic year 2007–2008, the Secretary shall publish in the Federal Register revised income protection allowances for the purpose of sections 1087oo(g)(2)(D) and 1087pp(b)(1)(A)(iv) of this title. Such revised allowances shall be developed for each academic year after academic year 2012–2013, by increasing each of the dollar amounts contained in such section for academic year 2012–2013 by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(c) Adjusted net worth of a farm or business

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for purposes of sections 1087oo(d)(2)(C), 1087pp(c)(2)(C), and 1087qq(c)(2)(C) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such award year, and rounding the result to the nearest $5,000; and

(2) by adjusting the dollar amounts "$30,000", "$105,000", and "$195,000" to reflect the changes made pursuant to paragraph (1).

(d) Education savings and asset protection allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of allowances for the purpose of sections 1087oo(d)(3), 1087pp(c)(3), and 1087qq(c)(3) of this title. Such revised table shall be developed by determining the present value

cost, rounded to the nearest $100, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics), and the current average social security retirement benefits. For each age cohort below 40, the allowance shall be computed by decreasing the allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100. In making such determinations—

(1) inflation shall be presumed to be 6 percent per year;

(2) the rate of return of an annuity shall be presumed to be 8 percent; and

(3) the sales commission on an annuity shall be presumed to be 6 percent.

(e) Assessment schedules and rates

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 1087oo(e) and 1087qq(d) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

(2) by adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1).

(f) "Consumer Price Index" defined

As used in this section, the term "Consumer Price Index" means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

(g) State and other tax allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 1087oo(c)(2), 1087oo(g)(3), 1087pp(b)(2), and 1087qq(b)(2) of this title. The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent.

(h) Employment expense allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of employment expense allowances for the purpose of sections 1087oo(c)(5), 1087pp(b)(4), and 1087qq(b)(5) of this title. Such revised table shall be developed by increasing the dollar amount specified in sections 1087oo(c)(5)(A), 1087oo(c)(5)(B), 1087pp(b)(4)(A), 1087qq (b)(5)(A), and 1087qq(b)(5)(B) of this title to reflect increases in the amount and percent of the Bureau of Labor Statistics budget of the marginal costs for food away from home, apparel, transportation, and household furnishings and operations for a two-worker versus one-worker family.

(Pub. L. 89–329, title IV, §478, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1470; amended Pub. L. 100–50, §14(20)–(22), June 3, 1987, 101 Stat. 351, 352; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 602; Pub. L. 103–208, §2(g)(8), (9), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–244, title IV, §476, Oct. 7, 1998, 112 Stat. 1730; Pub. L. 109–171, title VIII, §8017(d), (e), Feb. 8, 2006, 120 Stat. 173, 174; Pub. L. 110–84, title VI, §601(d), Sept. 27, 2007, 121 Stat. 803.)

AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110–84, §601(d)(1), added par. (1) and struck out former par. (1). Prior to amendment, par. (1) required the Secretary to publish in the Federal Register, for each academic year after academic year 1993–1994, a revised table of income protection allowances for the purpose of sections 1087oo(c)(4) and 1087qq(b)(4) of this title.

Subsec. (b)(2). Pub. L. 110–84, §601(d)(2), substituted "shall be developed for each academic year after academic year 2012–2013, by increasing each of the dollar amounts contained in such section for academic year 2012–2013 by a percentage equal to the estimated percentage increase in the Consumer Price Index (as

determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10." for "shall be developed by increasing each of the dollar amounts contained in such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2006 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10."

2006—Subsec. (b)(1). Pub. L. 109–171, §8017(d)(1), inserted at end "For the 2007–2008 academic year, the Secretary shall revise the tables in accordance with this paragraph, except that the Secretary shall increase the amounts contained in the table in section 1087qq(b)(4) of this title by a percentage equal to the greater of the estimated percentage increase in the Consumer Price Index (as determined under the preceding sentence) or 5 percent."

Subsec. (b)(2). Pub. L. 109–171, §8017(d)(2), substituted "2007–2008" for "2000–2001" and "2006" for "1999".

Subsec. (h). Pub. L. 109–171, §8017(e), struck out "1087pp(b)(4)(B)," after "1087pp(b)(4)(A)," and substituted "food away from home, apparel, transportation, and household furnishings and operations" for "meals away from home, apparel and upkeep, transportation, and housekeeping services".

1998—Subsec. (b). Pub. L. 105–244 designated existing provisions as par. (1), inserted heading, and added par. (2).

1993—Subsec. (b). Pub. L. 103–208, §2(g)(8)(A), substituted "1993–1994" for "1992–1993".

Subsec. (c). Pub. L. 103–208, §2(g)(8), substituted "1993–1994" for "1992–1993" in introductory provisions and inserted "December" before "1992" in par. (1).

Subsecs. (d), (e), (g). Pub. L. 103–208, §2(g)(8)(A), substituted "1993–1994" for "1992–1993".

Subsec. (h). Pub. L. 103–208, §2(g)(8)(A), (9), substituted "1993–1994" for "1992–1993" and "Bureau of Labor Statistics" for "Bureau of Labor Standards".

1992—Pub. L. 102–325 amended section generally, revising and restating as subsecs. (a) to (h) provisions formerly contained in subsecs. (a) to (f).

1987—Subsec. (c)(2). Pub. L. 100–50, §14(21), substituted " '$24,000', '$84,000', and '$156,000' " for " '$26,000', '$91,000', and '$169,000' ".

Subsec. (d). Pub. L. 100–50, §14(20), inserted ", rounded to the nearest $100," after "present value cost" and "of 40 and above" after "each age cohort" in second sentence and, after second sentence, inserted "For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100."

Subsec. (f). Pub. L. 100–50, §14(22), substituted "Consumer Price Index for All Urban Consumers" for "Consumer Price Index for Wage Earners and Clerical Workers".

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective July 1, 2009, see section 601(e) of Pub. L. 110–84, set out as a note under section 1087oo of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of

1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1087ss. Simplified needs test

(a) Simplified application section

(1) In general

The Secretary shall develop and use an easily identifiable simplified application section as part of the common financial reporting form prescribed under section 1090(a) of this title for families described in subsections (b) and (c) of this section.

(2) Reduced data requirements

The simplified application form shall—

(A) in the case of a family meeting the requirements of subsection (b)(1) of this section, permit such family to submit only the data elements required under subsection (b)(2) of this section for the purposes of establishing eligibility for student financial aid under this part; and

(B) in the case of a family meeting the requirements of subsection (c) of this section, permit such family to be treated as having an expected family contribution equal to zero for purposes of establishing such eligibility and to submit only the data elements required to make a determination under subsection (c) of this section.

(b) Simplified needs test

(1) Eligibility

An applicant is eligible to file a simplified form containing the elements required by paragraph (2) if—

(A) in the case of an applicant who is a dependent student—

(i) the student's parents—

(I) file, or are eligible to file, a form described in paragraph (3);

(II) certify that the parents are not required to file a Federal income tax return;

(III) include at least one parent who is a dislocated worker; or

(IV) received, or the student received, benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(ii) the total adjusted gross income of the parents (excluding any income of the dependent student) is less than $50,000; or

(B) in the case of an applicant who is an independent student—

(i) the student (and the student's spouse, if any)—

(I) files, or is eligible to file, a form described in paragraph (3);

(II) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return;

(III) is a dislocated worker or has a spouse who is a dislocated worker; or

(IV) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(ii) the adjusted gross income of the student (and the student's spouse, if any) is less than $50,000.

(2) Simplified test elements

The six elements to be used for the simplified needs analysis are—

(A) adjusted gross income,

(B) Federal taxes paid,

(C) untaxed income and benefits,

(D) the number of family members,

(E) the number of family members in postsecondary education, and

(F) an allowance (A) for State and other taxes, as defined in section 1087oo(c)(2) of this title for dependent students and in section 1087qq(b)(2) of this title for independent students with dependents other than a spouse, or (B) for State and other income taxes, as defined in section 1087pp(b)(2) of this title for independent students without dependents other than a spouse.

(3) Qualifying forms

In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files—

(A) a form 1040A or 1040EZ (including any prepared or electronic version of such form) required pursuant to title 26;

(B) a form 1040 (including any prepared or electronic version of such form) required pursuant to title 26, except that such form shall be considered a qualifying form only if the student or family files such form in order to take a tax credit under section 25A of title 26, and would otherwise be eligible to file a form described in subparagraph (A); or

(C) an income tax return (including any prepared or electronic version of such return) required pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

(c) Zero expected family contribution

The Secretary shall consider an applicant to have an expected family contribution equal to zero if—

(1) in the case of a dependent student—

(A) the student's parents—

(i) file, or are eligible to file, a form described in subsection (b)(3);

(ii) certify that the parents are not required to file a Federal income tax return;

(iii) include at least one parent who is a dislocated worker; or

(iv) received, or the student received, benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(B) the sum of the adjusted gross income of the parents is less than or equal to $23,000; or

(2) in the case of an independent student with dependents other than a spouse—

(A) the student (and the student's spouse, if any)—

(i) files, or is eligible to file, a form described in subsection (b)(3);

(ii) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return;

(iii) is a dislocated worker or has a spouse who is a dislocated worker; or

(iv) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $23,000.

An individual is not required to qualify or file for the earned income credit in order to be eligible under this subsection. The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 1087rr(f) of this title.

(d) Definitions

In this section:

(1) Dislocated worker

The term "dislocated worker" has the meaning given the term in section 3102 of title 29.

(2) Means-tested Federal benefit program

The term "means-tested Federal benefit program" means a mandatory spending program of the Federal Government, other than a program under this subchapter and part C of subchapter I of chapter 34 of title 42, in which eligibility for the program's benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as—

(A) the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

(B) the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(C) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(D) the program of block grants for States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(E) the special supplemental nutrition program for women, infants, and children established by section 1786 of title 42; and

(F) other programs identified by the Secretary.

(Pub. L. 89–329, title IV, §479, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100–50, §14(23)–(25), June 3, 1987, 101 Stat. 352; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–26, §11, Apr. 9, 1991, 105 Stat. 129; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 604; Pub. L. 103–208, §2(g)(10)–(15), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–244, title IV, §477, Oct. 7, 1998, 112 Stat. 1731; Pub. L. 109–171, title VIII, §8018(a), Feb. 8, 2006, 120 Stat. 174; Pub. L. 110–84, title VI, §602(a), Sept. 27, 2007, 121 Stat. 804; Pub. L. 110–234, title IV, §4002(b)(1)(A), (B), (2)(N), May 22, 2008, 122 Stat. 1095–1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(A), (B), (2)(N), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 111–39, title IV, §406(a)(4), July 1, 2009, 123 Stat. 1948; Pub. L. 112–74, div. F, title III, §309(b), Dec. 23, 2011, 125 Stat. 1100; Pub. L. 113–128, title V, §512(n)(2), July 22, 2014, 128 Stat. 1710.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(2)(A), (D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Title XVI of the Act is classified generally to subchapter XVI (§1381 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (d)(2)(B), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (d)(2)(C), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2014—Subsec. (d)(1). Pub. L. 113–128 substituted "The term 'dislocated worker' has the meaning given the term in section 3102 of title 29" for "The term 'dislocated worker' has the meaning given the term in section 2801 of title 29".

2011—Subsec. (c)(1)(B). Pub. L. 112–74, §309(b)(1), substituted "$23,000" for "$30,000".

Subsec. (c)(2)(B). Pub. L. 112–74, §309(b)(2), substituted "$23,000" for "$30,000".

2009—Subsec. (b)(1)(A)(i)(III). Pub. L. 111–39, §406(a)(4)(A)(i), amended subcl. (III) generally. Prior to amendment, subcl. (III) read as follows: "1 of whom is a dislocated worker; or".

Subsec. (b)(1)(B)(i)(III). Pub. L. 111–39, §406(a)(4)(A)(ii), amended subcl. (III) generally. Prior to amendment, subcl. (III) read as follows: "1 of whom is a dislocated worker; or".

Subsec. (c)(1)(A)(iii). Pub. L. 111–39, §406(a)(4)(B)(i), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: "1 of whom is a dislocated worker; or".

Subsec. (c)(2)(A)(iii). Pub. L. 111–39, §406(a)(4)(B)(ii), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: "1 of whom is a dislocated worker; or".

2008—Subsec. (d)(2). Pub. L. 110–246, §4002(b)(1)(A), (B), (2)(N), substituted "supplemental nutrition assistance program" for "food stamp program" and "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

2007—Subsec. (b)(1)(A)(i), (B)(i). Pub. L. 110–84, §602(a)(1), added subcl. (III), redesignated former subcl. (III) as (IV), and, in subcl. (IV), substituted "24-month" for "12-month".

Subsec. (c). Pub. L. 110–84, §602(a)(2)(C), inserted at end of concluding provisions "The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 1087rr(f) of this title."

Subsec. (c)(1)(A). Pub. L. 110–84, §602(a)(2)(A)(i), added cl. (iii), redesignated former cl. (iii) as (iv), and, in cl. (iv), substituted "24-month" for "12-month".

Subsec. (c)(1)(B). Pub. L. 110–84, §602(a)(2)(A)(ii), substituted "$30,000" for "$20,000".

Subsec. (c)(2)(A). Pub. L. 110–84, §602(a)(2)(B)(i), added cl. (iii), redesignated former cl. (iii) as (iv), and, in cl. (iv), substituted "24-month" for "12-month".

Subsec. (c)(2)(B). Pub. L. 110–84, §602(a)(2)(B)(ii), substituted "$30,000" for "$20,000".

Subsec. (d). Pub. L. 110–84, §602(a)(3), substituted "Definitions" for "Definition of means-tested Federal benefit program" in heading, added par. (1), designated existing provisions as par. (2) and substituted "The term" for "In this section, the term" in introductory provisions, redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (2), and realigned margins.

2006—Subsec. (b)(1)(A)(i). Pub. L. 109–171, §8018(a)(1)(A)(i), added cl. (i) and struck out former cl. (i) which read as follows: "the student's parents file or are eligible to file a form described in paragraph (3) or certify that they are not required to file an income tax return and the student files or is eligible to file such a form or certifies that the student is not required to file an income tax return; and".

Subsec. (b)(1)(B)(i). Pub. L. 109–171, §8018(a)(1)(A)(ii), added cl. (i) and struck out former cl. (i) which read as follows: "the student (and the student's spouse, if any) files or is eligible to file a form described in paragraph (3) or certifies that the student (and the student's spouse, if any) is not required to file an income tax return; and".

Subsec. (b)(3). Pub. L. 109–171, §8018(a)(1)(B), in introductory provisions substituted "In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files" for "A student or family files a form described in this subsection, or subsection (c) of this section, as the case may be, if the student or family, respectively, files".

Subsec. (c)(1)(A). Pub. L. 109–171, §8018(a)(2)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: "the student's parents file, or are eligible to file, a form described in subsection (b)(3) of this section, or certify that the parents are not required to file an income tax return and the student files, or is eligible to file, such a form, or certifies that the student is not required to file an income tax return; and".

Subsec. (c)(1)(B). Pub. L. 109–171, §8018(a)(2)(A)(ii), added subpar. (B) and struck out former subpar. (B) which read as follows: "the sum of the adjusted gross income of the parents is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit; or".

Subsec. (c)(2)(A). Pub. L. 109–171, §8018(a)(2)(B)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: "the student (and the student's spouse, if any) files, or is eligible to file, a form described in subsection (b)(3) of this section, or certifies that the student (and the student's spouse, if any) is not required to file an income tax return; and".

Subsec. (c)(2)(B). Pub. L. 109–171, §8018(a)(2)(B)(ii), added subpar. (B) and struck out former subpar. (B) which read as follows: "the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit."

Subsec. (d). Pub. L. 109–171, §8018(a)(3), added subsec. (d).

1998—Subsec. (b)(3). Pub. L. 105–244, §477(1)(A), substituted "this subsection, or subsection (c) of this section, as the case may be," for "this paragraph" in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 105–244, §477(1)(B), struck out "or" at end.

Subsec. (b)(3)(B), (C). Pub. L. 105–244, §477(1)(C), (D), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c)(1)(A). Pub. L. 105–244, §477(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the student's parents were not required to file an income tax return under section 6012(a)(1) of title 26; and".

Subsec. (c)(2)(A). Pub. L. 105–244, §477(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the student (and the student's spouse, if any) was not required to file an income tax return under section 6012(a)(1) of title 26; and".

1993—Subsec. (a)(1). Pub. L. 103–208, §2(g)(10), inserted "of" after "(c)".

Subsec. (b)(1)(B)(i). Pub. L. 103–208, §2(g)(11), inserted "(and the student's spouse, if any)" after "student" in two places and struck out "such" before "an income tax return".

Subsec. (b)(2). Pub. L. 103–208, §2(g)(12), (13), substituted "six elements" for "five elements" in introductory provisions and a comma for semicolon in subpar. (E).

Subsec. (b)(3)(A). Pub. L. 103–208, §2(g)(14)(A), inserted "(including any prepared or electronic version of such form)" before "required".

Subsec. (b)(3)(B). Pub. L. 103–208, §2(g)(14)(B), inserted "(including any prepared or electronic version of such return)" before "required".

Subsec. (c)(1)(A). Pub. L. 103–208, §2(g)(15)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the student's parents did not file, and were not required to file, a form 1040 required pursuant to title 26; and".

Subsec. (c)(1)(B). Pub. L. 103–208, §2(g)(15)(C), inserted "in 1992 or the current year, whichever is higher," after "that may be earned".

Subsec. (c)(2)(A). Pub. L. 103–208, §2(g)(15)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the student (and the student's spouse, if any) did not file, and was not required to file, a form 1040 required pursuant to title 26; and".

Subsec. (c)(2)(B). Pub. L. 103–208, §2(g)(15)(C), inserted "in 1992 or the current year, whichever is higher," after "that may be earned".

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), analysis applicable to all title IV programs; in subsec. (b), elements in tests; and in subsec. (c), simplified application form.

1991—Subsec. (a). Pub. L. 102–26 inserted before period at end ", or who file an income tax return pursuant to the tax code of the Commonwealth of Puerto Rico or who are not required to file pursuant to that tax code".

1988—Subsec. (a). Pub. L. 100–369 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1987—Subsec. (a). Pub. L. 100–50, §14(23), substituted "subsection (b) of this section" for "paragraph (2)", "families (1) who" for "families which", and "and (2) who file a form 1040A or 1040EZ pursuant to title 26, or are not required to file pursuant to such title" for "and which file a form 1040A pursuant to title 26".

Subsec. (b)(2). Pub. L. 100–50, §14(24)(A), struck out "and State" after "Federal".

Subsec. (b)(6). Pub. L. 100–50, §14(24)(B)–(D), added par. (6).

Subsec. (c). Pub. L. 100–50, §14(25), added subsec. (c).

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–74 effective July 1, 2012, see section 309(g) of Pub. L. 112–74, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted as part of amendments made by section 602(a) of Pub. L. 110–84 and effective July 1, 2009, see section 406(b)(2) of Pub. L. 111–39, set out as a note under section 1087mm of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(N) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–84, title VI, §602(b), Sept. 27, 2007, 121 Stat. 805, provided that: "The amendments made by this section [amending this section] shall be effective on July 1, 2009."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EVALUATION OF SIMPLIFIED NEEDS TEST

Pub. L. 109–171, title VIII, §8018(b), Feb. 8, 2006, 120 Stat. 175, provided that:

"(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

"(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—For each 3-year period, the Secretary of Education shall evaluate the impact of including the receipt of benefits by a student or parent under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d))[)] as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c))."

§1087tt. Discretion of student financial aid administrators

(a) In general

Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. Special circumstances may include tuition expenses at an elementary or secondary school, medical, dental, or nursing home expenses not covered by insurance, unusually high child care or dependent care costs, recent unemployment of a family member or an independent student, a student or family member who is a dislocated worker (as defined in section 3102 of title 29), the number of parents enrolled at least

half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, a change in housing status that results in an individual being homeless (as defined in section 11302 of title 42), or other changes in a family's income, a family's assets, or a student's status. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42, or (2) to offer a dependent student financial assistance under section 1078–8 of this title or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under section 1090 of this title if the student financial aid administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.

(b) Adjustments to assets taken into account

A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) of this section if—

(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

(c) Refusal or adjustment of loan certifications

On a case-by-case basis, an eligible institution may refuse to certify a statement that permits a student to receive a loan under part B or C of this subchapter, or may certify a loan amount or make a loan that is less than the student's determination of need (as determined under this part), if the reason for the action is documented and provided in written form to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.

(Pub. L. 89–329, title IV, §479A, as added Pub. L. 100–50, §14(26), June 3, 1987, 101 Stat. 352; amended Pub. L. 101–239, title II, §2009, Dec. 19, 1989, 103 Stat. 2122; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 605; Pub. L. 103–208, §2(g)(16), Dec. 20, 1993, 107 Stat. 2473; Pub. L. 105–244, title IV, §478, Oct. 7, 1998, 112 Stat. 1731; Pub. L. 110–84, title VI, §603(a), Sept. 27, 2007, 121 Stat. 805; Pub. L. 110–315, title IV, §472(a), Aug. 14, 2008, 122 Stat. 3269; Pub. L. 113–128, title V, §512(n)(3), July 22, 2014, 128 Stat. 1710.)

PRIOR PROVISIONS

A prior section 1087tt, Pub. L. 89–329, title IV, §479A, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1472, related to discretion of student financial aid administrators under this part, prior to repeal by section 14(26) of Pub. L. 100–50.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–128 substituted "a dislocated worker (as defined in section 3102 of title 29)" for "a dislocated worker (as defined in section 2801 of title 29)".

2008—Subsec. (a). Pub. L. 110–315 substituted "medical, dental, or nursing home expenses" for "medical or dental expenses", inserted "or dependent care" after "child care" and "student or" before "family member who is a dislocated worker", and substituted "In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal

circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42, or (2) to offer a dependent student financial assistance under section 1078–8 of this title or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under section 1090 of this title if the student financial aid administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form." for "In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42."

2007—Subsec. (a). Pub. L. 110–84, in third sentence, substituted "family member or an independent student, a family member who is a dislocated worker (as defined in section 2801 of title 29), the number of parents" for "family member, the number of parents" and inserted "a change in housing status that results in an individual being homeless (as defined in section 11302 of title 42)," after "under section 1094 of this title,".

1998—Subsec. (a). Pub. L. 105–244, §478(1), inserted after second sentence "Special circumstances may include tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance, unusually high child care costs, recent unemployment of a family member, the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, or other changes in a family's income, a family's assets, or a student's status."

Subsec. (c). Pub. L. 105–244, §478(2), amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) related to student financial aid administrators making adjustments for special circumstances.

1993—Subsec. (c). Pub. L. 103–208 added subsec. (c).

1992—Pub. L. 102–325 amended section generally, revising and restating provisions of subsecs. (a) and (b) and striking out former subsec. (c) which related to asset adjustment as example.

1989—Subsec. (a). Pub. L. 101–239 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42."

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–84, title VI, §603(b), Sept. 27, 2007, 121 Stat. 806, as amended by Pub. L. 110–315, title IV, §472(b), Aug. 14, 2008, 122 Stat. 3270, provided that: "The amendments made by this section [amending this section] shall take effect on the date of enactment of the Higher Education Opportunity Act [Aug. 14, 2008]."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(a) of Pub. L. 102–325, set out as a note under section

1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

§1087uu. Disregard of student aid in other Federal programs

Notwithstanding any other provision of law, student financial assistance received under this subchapter and part C of subchapter I of chapter 34 of title 42, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

(Pub. L. 89–329, title IV, §479B, as added Pub. L. 100–50, §14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 606.)

PRIOR PROVISIONS

A prior section 1087uu, Pub. L. 89–329, title IV, §479B, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1472, related to exclusion of student financial assistance for attendance costs in determining student eligibility for assistance under any other program funded in whole or part with Federal funds, prior to repeal by section 14(27) of Pub. L. 100–50.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, revising and restating as a single paragraph provisions formerly contained in subsec. (a) which proscribed consideration of aid for attendance costs as income or resources, and in subsec. (b) which delineated elements of attendance costs.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

Section applicable with respect to financial assistance provided for any academic year beginning after Oct. 17, 1986, see section 406(b)(4) of Pub. L. 99–498, as amended, set out as a note under section 1087kk of this title.

§1087uu–1. Native American students

In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under Public Law 98–64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the "Per Capita Act") or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and

(2) any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) or the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721 et seq.).

(Pub. L. 89–329, title IV, §479C, as added Pub. L. 100–50, §14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 606; Pub. L. 111–39, title IV, §406(a)(5), July 1, 2009, 123 Stat. 1949.)

REFERENCES IN TEXT

Public Law 98–64, referred to in par. (1), is Pub. L. 98–64, Aug. 2, 1983, 97 Stat. 365, commonly known as the Per Capita Act, which enacted sections 117a to 117c of Title 25, Indians, and repealed section 117 of Title 25. For complete classification of this Act to the Code, see Tables.

The Indian Tribal Judgment Funds Use or Distribution Act, referred to in par. (1), is Pub. L. 93–134, Oct. 19, 1973, 87 Stat. 466, which is classified generally to chapter 16 (§1401 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see section 1401(c) of Title 25 and Tables.

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

The Maine Indian Claims Settlement Act of 1980, referred to in par. (2), is Pub. L. 96–420, Oct. 10, 1980, 94 Stat. 1785, which is classified generally to subchapter II (§1721 et seq.) of chapter 19 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1721 of Title 25 and Tables.

AMENDMENTS

2009—Par. (1). Pub. L. 111–39, §406(a)(5)(A), substituted "under Public Law 98–64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the 'Per Capita Act') or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and" for "under the Per Capita Act or the Distribution of Judgment Funds Act; and".

Par. (2). Pub. L. 111–39, §406(a)(5)(B), substituted "Alaska" for "Alaskan" and inserted "(43 U.S.C. 1601 et seq.)" after "Native Claims Settlement Act" and "of 1980 (25 U.S.C. 1721 et seq.)" after "Maine Indian Claims Settlement Act".

1992—Pub. L. 102–325 amended section generally, reenacting provisions without change.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

§1087vv. Definitions

As used in this part:

(a) Total income

(1)(A) Except as provided in subparagraph (B) and paragraph (2), the term "total income" is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e) of this section).

(B) Notwithstanding section 1087rr(a) of this title, the Secretary may provide for the use of data from the second preceding tax year when and to the extent necessary to carry out the simplification of applications (including simplification for a subset of applications) used for the estimation and determination of financial aid eligibility. Such simplification may include the sharing of data between the Internal Revenue Service and the Department, pursuant to the consent of the taxpayer.

(2) No portion of any student financial assistance received from any program by an individual, no portion of veterans' education benefits received by an individual, no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.), no portion of any tax credit taken under section 25A of title 26, and no distribution from any qualified education benefit described in

subsection (f)(3) that is not subject to Federal income tax, shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Untaxed income and benefits

(1) The term "untaxed income and benefits" means—

(A) child support received;

(B) workman's compensation;

(C) veteran's benefits such as death pension, dependency, and indemnity compensation, but excluding veterans' education benefits as defined in subsection (c);

(D) interest on tax-free bonds;

(E) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits), except that the value of on-base military housing or the value of basic allowance for housing determined under section 403(b) of title 37 received by the parents, in the case of a dependent student, or the student or student's spouse, in the case of an independent student, shall be excluded;

(F) cash support or any money paid on the student's behalf, except, for dependent students, funds provided by the student's parents;

(G) untaxed portion of pensions;

(H) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

(I) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, or railroad retirement benefits, or benefits received through participation in employment and training activities under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.].

(2) The term "untaxed income and benefits" shall not include—

(A) the amount of additional child tax credit claimed for Federal income tax purposes;

(B) welfare benefits, including assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] and aid to dependent children;

(C) the amount of earned income credit claimed for Federal income tax purposes;

(D) the amount of credit for Federal tax on special fuels claimed for Federal income tax purposes;

(E) the amount of foreign income excluded for purposes of Federal income taxes; or

(F) untaxed social security benefits.

(c) Veteran and veterans' education benefits

(1) The term "veteran" means any individual who—

(A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and

(B) was released under a condition other than dishonorable.

(2) The term "veterans' education benefits" means veterans' benefits the student will receive during the award year, including but not limited to benefits under the following provisions of law:

(A) Chapter 103 of title 10 (Senior Reserve Officers' Training Corps).

(B) Chapter 106A of title 10 (Educational Assistance for Persons Enlisting for Active Duty).

(C) Chapter 1606 of title 10 (Selected Reserve Educational Assistance Program).

(D) Chapter 1607 of title 10 (Educational Assistance Program for Reserve Component Members Supporting Contingency Operations and Certain Other Operations).

(E) Chapter 30 of title 38 (All-Volunteer Force Educational Assistance Program, also known as the "Montgomery GI Bill—active duty").

(F) Chapter 31 of title 38 (Training and Rehabilitation for Veterans with Service-Connected Disabilities).

(G) Chapter 32 of title 38 (Post-Vietnam Era Veterans' Educational Assistance Program).

(H) Chapter 33 of title 38 (Post-9/11 Educational Assistance).

(I) Chapter 35 of title 38 (Survivors' and Dependents' Educational Assistance Program).

(J) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note) (Educational Assistance Pilot Program).

(K) Section 156(b) of the "Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes" (42 U.S.C. 402 note) (Restored Entitlement Program for Survivors, also known as "Quayle benefits").

(L) The provisions of chapter 3 of title 37, related to subsistence allowances for members of the Reserve Officers Training Corps.

(d) Independent student

(1) Definition

The term "independent", when used with respect to a student, means any individual who—

(A) is 24 years of age or older by December 31 of the award year;

(B) is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;

(C) is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;

(D) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of this section) or is currently serving on active duty in the Armed Forces for other than training purposes;

(E) is a graduate or professional student;

(F) is a married individual;

(G) has legal dependents other than a spouse;

(H) has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a]), or as unaccompanied, at risk of homelessness, and self-supporting, by—

(i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11432(g)(1)(J)(ii)];

(ii) the director of a program funded under the Runaway and Homeless Youth Act [42 U.S.C. 5701 et seq.] or a designee of the director;

(iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11371 et seq.] (relating to emergency shelter grants) or a designee of the director; or

(iv) a financial aid administrator; or

(I) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(2) Simplifying the dependency override process

A financial aid administrator may make a determination of independence under paragraph (1)(I) based upon a documented determination of independence that was previously made by another financial aid administrator under such paragraph in the same award year.

(e) Excludable income

The term "excludable income" means—

(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of subchapter I of chapter 34 of title 42;

(2) any income earned from work under a cooperative education program offered by an institution of higher education;

(3) any living allowance received by a participant in a program established under the National

and Community Service Act of 1990 [42 U.S.C. 12501 et seq.];

(4) child support payments made by the student or parent;

(5) payments made and services provided under part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.]; and

(6) special combat pay.

(f) Assets

(1) The term "assets" means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, qualified education benefits (except as provided in paragraph (3)), and the net value of real estate, income producing property, and business and farm assets.

(2) With respect to determinations of need under this subchapter and part C of subchapter I of chapter 34 of title 42, other than for subpart 4 of part A of this subchapter, the term "assets" shall not include the net value of—

(A) the family's principal place of residence;

(B) a family farm on which the family resides; or

(C) a small business with not more than 100 full-time or full-time equivalent employees (or any part of such a small business) that is owned and controlled by the family.

(3) A qualified education benefit shall be considered an asset of—

(A) the student if the student is an independent student; or

(B) the parent if the student is a dependent student, regardless of whether the owner of the account is the student or the parent.

(4) In determining the value of assets in a determination of need under this subchapter and part C of subchapter I of chapter 34 of title 42 (other than for subpart 4 of part A of this subchapter), the value of a qualified education benefit shall be—

(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

(5) In this subsection:

(A) The term "qualified education benefit" means—

(i) a qualified tuition program (as defined in section 529(b)(1)(A) of title 26) or other prepaid tuition plan offered by a State; and

(ii) a Coverdell education savings account (as defined in section 530(b)(1) of title 26).

(B) The term "qualified higher education expenses" has the meaning given the term in section 529(e) of title 26.

(g) Net assets

The term "net assets" means the current market value at the time of application of the assets (as defined in subsection (f) of this section), minus the outstanding liabilities or indebtedness against the assets.

(h) Treatment of income taxes paid to other jurisdictions

(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

(2) References in this part to title 26, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding

laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

(i) Current balance

The term "current balance of checking and savings accounts" does not include any funds over which an individual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

(j) Other financial assistance

(1) For purposes of determining a student's eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made, including national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.), but excluding veterans' education benefits as defined in subsection (c).

(2) Notwithstanding paragraph (1), a tax credit taken under section 25A of title 26, or a distribution that is not includable in gross income under section 529 of such title, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such title, shall not be treated as estimated financial assistance for purposes of section 1087kk(3) of this title.

(3) Notwithstanding paragraph (1) and section 1087ll of this title, assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.

(4) Notwithstanding paragraph (1), special combat pay shall not be treated as estimated financial assistance for purposes of section 1087kk(3) of this title.

(k) Dependents

(1) Except as otherwise provided, the term "dependent of the parent" means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this subchapter and part C of subchapter I of chapter 34 of title 42, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

(2) Except as otherwise provided, the term "dependent of the student" means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

(l) Family size

(1) In determining family size in the case of a dependent student—

(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

(2) In determining family size in the case of an independent student—

(A) family members include the student, the student's spouse, and the dependents of the student; and

(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

(m) Business assets

The term "business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(n) Special combat pay

The term "special combat pay" means pay received by a member of the Armed Forces because of exposure to a hazardous situation.

(Pub. L. 89–329, title IV, §480, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100–50, §14(28), June 3, 1987, 101 Stat. 353; Pub. L. 100–369, §7(b), July 18, 1988, 102 Stat. 837; Pub. L. 101–610, title I, §185(3), (4), Nov. 16, 1990, 104 Stat. 3168; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 606; Pub. L. 103–82, title I, §102(c)(4), (5), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, §2(g)(17)–(20), Dec. 20, 1993, 107 Stat. 2474; Pub. L. 104–193, title I, §110(h)(2), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 105–78, title VI, §609(j), (k), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, §479, Oct. 7, 1998, 112 Stat. 1732; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(15)(B), (f)(12)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–421, 2681–431; Pub. L. 109–171, title VIII, §8019, Feb. 8, 2006, 120 Stat. 176; Pub. L. 110–84, title VI, §604(a), Sept. 27, 2007, 121 Stat. 806; Pub. L. 110–153, §1(a), Dec. 21, 2007, 121 Stat. 1824; Pub. L. 110–315, title IV, §473(a)–(e), Aug. 14, 2008, 122 Stat. 3270, 3271; Pub. L. 111–39, title IV, §406(a)(6)–(8), July 1, 2009, 123 Stat. 1949, 1950; Pub. L. 113–128, title V, §512(n)(4), July 22, 2014, 128 Stat. 1710.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsecs. (a)(2), (e)(3), and (j)(1), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to chapter 129 (§12501 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act enacted subchapter I (§12511 et seq.) of chapter 129 of Title 42 and amended this section and section 1070a–6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (b)(1)(I), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Social Security Act, referred to in subsecs. (b)(2)(B) and (e)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A and E of title IV of the Act are classified generally to parts A (§601 et seq.) and E (§670 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 903 of the Department of Defense Authorization Act, 1981, referred to in subsec. (c)(2)(J), is section 903 of Pub. L. 96–342, which is set out as a note under section 2141 of Title 10, Armed Forces.

Section 156(b) of the "Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes", referred to in subsec. (c)(2)(K), is section 156(b) of Pub. L. 97–377, which is set out as a note under section 402 of Title 42, The Public Health and Welfare.

The Runaway and Homeless Youth Act, referred to in subsec. (d)(1)(H)(ii), is title III of Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1129, which is classified generally to subchapter III (§5701 et seq.) of chapter 72 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (d)(1)(H)(iii), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482. Subtitle B of title IV of the Act is classified generally to part B (§11371 et seq.) of subchapter IV of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

CODIFICATION

Amendment by section 2(g)(19) of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–82, to reflect the

probable intent of Congress.

AMENDMENTS

2014—Subsec. (b)(1)(I). Pub. L. 113–128 substituted "benefits received through participation in employment and training activities under title I of the Workforce Innovation and Opportunity Act" for "benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

2009—Subsec. (a)(2). Pub. L. 111–39, §406(a)(6), substituted "12511" for "12571".

Subsec. (c)(2). Pub. L. 111–39, §406(a)(7), substituted "benefits under the following provisions of law" for "the following" in introductory provisions, added subpars. (A) to (L), and struck out former subpars. (A) to (J) which listed, respectively, the following provisions of law: title 10, chapter 2; title 10, chapter 106; title 10, chapter 107; title 37, chapter 2; title 38, chapter 30; title 38, chapter 31; title 38, chapter 32; title 38, chapter 35; Public Law 97–376, section 156; and Public Law 96–342, section 903.

Subsec. (j)(1). Pub. L. 111–39, §406(a)(8), substituted "12511" for "12571".

2008—Subsec. (a)(1). Pub. L. 110–315, §473(a)(1), designated existing provisions as subpar. (A), inserted "subparagraph (B) and" after "provided in", and added subpar. (B).

Subsec. (a)(2). Pub. L. 110–315, §473(a)(2), inserted "no portion of veterans' education benefits received by an individual," after "any program by an individual,".

Subsec. (b)(1)(E). Pub. L. 110–315, §473(b), inserted ", except that the value of on-base military housing or the value of basic allowance for housing determined under section 403(b) of title 37 received by the parents, in the case of a dependent student, or the student or student's spouse, in the case of an independent student, shall be excluded" before semicolon.

Subsec. (d)(1)(B), (C). Pub. L. 110–315, §473(c), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

"(B) is an orphan, in foster care, or a ward of the court, at any time when the individual is 13 years of age or older;

"(C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;".

Subsec. (e)(2) to (6). Pub. L. 110–315, §473(d), added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

Subsec. (j)(1). Pub. L. 110–315, §473(e), struck out "veterans' education benefits as defined in subsection (c) of this section, and" before "national service educational awards" and inserted ", but excluding veterans' education benefits as defined in subsection (c)" before period at end.

2007—Subsec. (a)(2). Pub. L. 110–84, §604(a)(1), substituted "no portion of any" for "and no portion of any" and inserted "and no distribution from any qualified education benefit described in subsection (f)(3) that is not subject to Federal income tax," after "section 25A of title 26,".

Subsec. (b). Pub. L. 110–84, §604(a)(2), added subsec. (b) and struck out former subsec. (b) which defined "untaxed income and benefits".

Subsec. (b)(2). Pub. L. 110–153 added par. (2) and struck out former par. (2) which read as follows: "The term 'untaxed income and benefits' shall not include the amount of additional child tax credit claimed for Federal income tax purposes."

Subsec. (d). Pub. L. 110–84, §604(a)(3)(A), (B), designated existing provisions as par. (1), inserted par. heading, redesignated former pars. (1), (2), (3) to (6), and (7) as subpars. (A), (B), (D) to (G), and (I), respectively, and realigned margins.

Subsec. (d)(1)(B), (C). Pub. L. 110–84, §604(a)(3)(C), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: "is an orphan or ward of the court or was a ward of the court until the individual reached the age of 18;".

Subsec. (d)(1)(H). Pub. L. 110–84, §604(a)(3)(D), (E), added subpar. (H).

Subsec. (d)(2). Pub. L. 110–84, §604(a)(3)(F), added par. (2).

Subsec. (e)(5). Pub. L. 110–84, §604(a)(4), added par. (5).

Subsec. (f)(3). Pub. L. 110–84, §604(a)(5), added par. (3) and struck out former par. (3) which read as follows: "A qualified education benefit shall not be considered an asset of a student for purposes of section 1087oo of this title."

Subsec. (j)(2). Pub. L. 110–84, §604(a)(6)(A), inserted ", or a distribution that is not includable in gross income under section 529 of such title, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such title," after "title 26".

Subsec. (j)(4). Pub. L. 110–84, §604(a)(6)(B), added par. (4).

Subsec. (n). Pub. L. 110–84, §604(a)(7), added subsec. (n).

2006—Subsec. (d)(3). Pub. L. 109–171, §8019(a), inserted "or is currently serving on active duty in the Armed Forces for other than training purposes" before semicolon at end.

Subsec. (f)(1). Pub. L. 109–171, §8019(b), inserted "qualified education benefits (except as provided in paragraph (3))," after "tax shelters,".

Subsec. (f)(2)(C). Pub. L. 109–171, §8019(c), added subpar. (C).

Subsec. (f)(3) to (5). Pub. L. 109–171, §8019(d), added pars. (3) to (5).

Subsec. (j). Pub. L. 109–171, §8019(e)(1), struck out "; tuition prepayment plans" at end of heading.

Subsec. (j)(2), (3). Pub. L. 109–171, §8019(e)(2)–(4), struck out par. (2), redesignated par. (3) as (2), and added par. (3). Prior to amendment, par. (2) read as follows:

"(2)(A) Except as provided in subparagraph (B), for purposes of determining a student's eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, tuition prepayment plans shall reduce the cost of attendance (as determined under section 1087ll of this title) by the amount of the prepayment, and shall not be considered estimated financial assistance.

"(B) If the institutional expense covered by the prepayment must be part of the student's cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance."

1998—Subsec. (b)(14). Pub. L. 105–277, §101(f) [title VIII, §405(f)(12)(B)], struck out "Job Training Partnership Act noneducational benefits or" after "railroad retirement benefits, or".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(15)(B)], substituted "Job Training Partnership Act noneducational benefits or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998" for "Job Training Partnership Act noneducational benefits".

Subsec. (j)(1). Pub. L. 105–244, §479(1), inserted before period at end ", and national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990".

Subsec. (j)(3), (4). Pub. L. 105–244, §479(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "Notwithstanding paragraph (1), a national service educational award or post-service benefit under title I of the National and Community Service Act of 1990 shall not be treated as financial assistance for purposes of section 1087kk(3) of this title."

1997—Subsec. (a)(2). Pub. L. 105–78, §609(j), substituted "program by an individual, no" for "program by an individual, and no" and inserted "and no portion of any tax credit taken under section 25A of title 26," before "shall be included".

Subsec. (j)(4). Pub. L. 105–78, §609(k), added par. (4).

1996—Subsec. (b)(2). Pub. L. 104–193 substituted "assistance under a State program funded" for "aid to families with dependent children under a State plan approved".

1993—Subsec. (a)(2). Pub. L. 103–82, §102(c)(4), inserted ", and no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990," after "by an individual".

Subsec. (c)(2). Pub. L. 103–208, §2(g)(17), made technical amendment to references to titles of the United States Code in subpars. (A) to (H).

Subsec. (d)(2). Pub. L. 103–208, §2(g)(18), inserted before semicolon "or was a ward of the court until the individual reached the age of 18".

Subsec. (j)(3). Pub. L. 103–208, §2(g)(19), realigned margin. See Codification note above.

Pub. L. 103–82, §102(c)(5), added par. (3).

Subsecs. (k) to (m). Pub. L. 103–208, §2(g)(20), added subsecs. (k) to (m).

1992—Pub. L. 102–325 amended section generally, substituting subsecs. (a) to (j) for former subsecs. (a) to (i).

1990—Subsec. (d)(2)(F). Pub. L. 101–610, §185(4), inserted "and living allowances as a result of participation in a program established under the National and Community Service Act of 1990)" after "other than parents".

Subsec. (f)(3). Pub. L. 101–610, §185(3), added par. (3).

1988—Subsec. (i). Pub. L. 100–369 added subsec. (i).

1987—Subsec. (a)(1). Pub. L. 100–50, §14(28)(A), (B), substituted "paragraphs (2) through (4)" for "paragraphs (2) and (3)" and inserted "minus excludable income (as defined in subsection (f) of this section)" before period at end.

Subsec. (a)(2). Pub. L. 100–50, §14(28)(C), added par. (2) and struck out former par. (2) which read as follows: "The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42 for any academic year the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy."

Subsec. (a)(4). Pub. L. 100–50, §14(28)(D), added par. (4).

Subsecs. (b), (c). Pub. L. 100–50, §14(28)(E), substituted subsec. (b) consisting of pars. (1) to (14) for former subsec. (b) consisting of pars. (1) to (19), and substituted subsec. (c) consisting of pars. (1) to (14) for former subsec. (c) consisting of pars. (1) to (16).

Subsec. (d)(2)(F). Pub. L. 100–50, §14(28)(F), substituted "annual total resources (including all sources of resources other than parents)" for "an annual total income".

Subsecs. (f) to (h). Pub. L. 100–50, §14(28)(G), added subsecs. (f) to (h).

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §473(f), Aug. 14, 2008, 122 Stat. 3271, as amended by Pub. L. 111–39, title IV, §406(c), July 1, 2009, 123 Stat. 1950, provided that: "The amendments made by this section [amending this section] shall take effect on July 1, 2010, except that the amendments made in subsection (e) [amending this section] shall take effect on July 1, 2009."

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–153, §1(b), Dec. 21, 2007, 121 Stat. 1824, provided that: "This section [amending this section] and the amendment made by this section shall take effect on July 1, 2009."

Pub. L. 110–84, title VI, §604(b), Sept. 27, 2007, 121 Stat. 808, provided that: "The amendments made by this section [amending this section] shall be effective on July 1, 2009."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

Amendment by section 101(f) [title VIII, §405(d)(15)(B)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(12)(B)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DEFINITION OF "INDEPENDENT STUDENT"; APPLICATION TO SPECIFIED PERIODS OF ENROLLMENT

Pub. L. 99–498, title IV, §406(b)(5), formerly §406(b)(4), Oct. 17, 1986, 100 Stat. 1475; renumbered §406(b)(5), Pub. L. 100–50, §22(e)(2), June 3, 1987, 101 Stat. 361, provided that: "The definition of independent student contained in section 480(d) of the Act [20 U.S.C. 1087vv(d)] as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987, in the case of programs operated under part B of title IV of the Act [part B of this subchapter], or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter]."

[References to subpart 2 of part A of title IV of Pub. L. 89–329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102–325, set out as a note under section 1070a–11 of this title.]

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

CODIFICATION

This part was originally added as part E of title IV of Pub. L. 89–329 by Pub. L. 90–575, title I, §151, Oct. 16, 1968, 82 Stat. 1032, and subsequently redesignated part F of said title IV by Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 273, and then part G of said title IV by Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1454. For codification purposes, the letter designation of this part was originally changed from "E" to "D." It was subsequently rechanged to "E" when this part was redesignated "F", and then to "F" when this part was redesignated "G". See Codification notes preceding sections 1087a and 1087aa of this title.

Part G of title IV of the Higher Education Act of 1965, comprising this part which was editorially designated as part F of this subchapter, see Codification note above, was originally enacted by Pub. L. 89–329, title IV, §§461 to 464 and 469, as added by Pub. L. 90–575, title I, §§151, 152, Oct. 16, 1968, 82 Stat. 1032, 1033; amended Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1475, without reference to such intervening amendments because of the extensive revision of the part's provisions by Pub. L. 99–498.

§1088. Definitions

(a) Academic and award year

(1) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term "award year" shall be defined as the period beginning July 1 and ending June 30 of the following year.

(2)(A) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term "academic year" shall—

(i) require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours; or

(ii) require a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and

(iii) require an undergraduate course of study to contain an amount of instructional time whereby a full-time student is expected to complete at least—

(I) 24 semester or trimester hours or 36 quarter credit hours in a course of study that measures its program length in credit hours; or

(II) 900 clock hours in a course of study that measures its program length in clock hours.

(B) The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree and that measures program length in credit hours or clock hours.

(b) Eligible program

(1) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term "eligible program" means a program of at least—

(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

(ii) admits students who have not completed the equivalent of an associate degree; or

(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or

(ii) a graduate or professional program.

(2)(A) A program is an eligible program for purposes of part B of this subchapter if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.

(3) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for the purposes of this subchapter and part C of subchapter I of chapter 34 of title 42 if the program is offered by an institution, other than a foreign institution, that has been evaluated and determined (before or after February 8, 2006) to have the capability to effectively deliver distance education programs by an accrediting agency or association that—

(A) is recognized by the Secretary under subpart 2 of part G of this subchapter; and

(B) has evaluation of distance education programs within the scope of its recognition, as described in section 1099b(n)(3) of this title.

(4) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term

"eligible program" includes an instructional program that, in lieu of credit hours or clock hours as the measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment. In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to be an eligible program.

(c) Third party servicer

For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term "third party servicer" means any individual, any State, or any private, for-profit or nonprofit organization, which enters into a contract with—

(1) any eligible institution of higher education to administer, through either manual or automated processing, any aspect of such institution's student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(2) any guaranty agency, or any eligible lender, to administer, through either manual or automated processing, any aspect of such guaranty agency's or lender's student loan programs under part B of this subchapter, including originating, guaranteeing, monitoring, processing, servicing, or collecting loans.

(d) Definitions for military deferments

For purposes of parts B, C, and D of this subchapter:

(1) Active duty

The term "active duty" has the meaning given such term in section 101(d)(1) of title 10, except that such term does not include active duty for training or attendance at a service school.

(2) Military operation

The term "military operation" means a contingency operation as such term is defined in section 101(a)(13) of title 10.

(3) National emergency

The term "national emergency" means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

(4) Serving on active duty

The term "serving on active duty during a war or other military operation or national emergency" means service by an individual who is—

(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10 or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

(5) Qualifying National Guard duty

The term "qualifying National Guard duty during a war or other military operation or national emergency" means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32 in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.

(e) Consumer reporting agency

For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term

"consumer reporting agency" has the meaning given the term "consumer reporting agency that compiles and maintains files on consumers on a nationwide basis" in Section [1] 1681a(p) of title 15.

(f) Definition of educational service agency

For purposes of parts B, C, and D, the term "educational service agency" has the meaning given the term in section 7801 of this title.

(Pub. L. 89–329, title IV, §481, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1476; amended Pub. L. 100–50, §15(1), June 3, 1987, 101 Stat. 355; Pub. L. 101–239, title II, §2007(b), (c), Dec. 19, 1989, 103 Stat. 2120, 2121; Pub. L. 101–508, title III, §3005(b), Nov. 5, 1990, 104 Stat. 1388–28; Pub. L. 102–26, §2(a)(2), (3), (d)(2)(A), Apr. 9, 1991, 105 Stat. 123, 124; Pub. L. 102–325, title IV, §481, July 23, 1992, 106 Stat. 609; Pub. L. 103–208, §2(h)(1)–(6), Dec. 20, 1993, 107 Stat. 2475, 2476; Pub. L. 105–216, §12, July 29, 1998, 112 Stat. 908; Pub. L. 105–244, title I, §101(c), Oct. 7, 1998, 112 Stat. 1617; Pub. L. 109–171, title VIII, §§8007(d), 8020(a), (b), Feb. 8, 2006, 120 Stat. 161, 177; Pub. L. 110–315, title IV, §481, Aug. 14, 2008, 122 Stat. 3271; Pub. L. 111–39, title IV, §407(b)(1), July 1, 2009, 123 Stat. 1950; Pub. L. 114–95, title IX, §9215(oo)(10), Dec. 10, 2015, 129 Stat. 2180.)

PRIOR PROVISIONS

A prior section 1088, Pub. L. 89–329, title IV, §481, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1443, defined "institution of higher education" for this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, prior to the general amendment of this part by Pub. L. 99–498.

Another prior section 1088, Pub. L. 89–329, title IV, §491, formerly §461, as added Pub. L. 90–575, title I, §151, Oct. 16, 1968, 82 Stat. 1032, renumbered §491 and amended Pub. L. 92–318, title I, §§131(c), 137(b), title X, §1001(c)(3), June 23, 1972, 86 Stat. 259, 272, 381; amended Pub. L. 95–180, §1(b), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95–566, §6, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–49, §5(e), Aug. 13, 1979, 93 Stat. 352, defined terms for this subchapter and part C of subchapter I of chapter 34 of title 42, prior to the general revision of this part by Pub. L. 96–374.

AMENDMENTS

2015—Subsec. (f). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

2009—Subsec. (c). Pub. L. 111–39 substituted "any State, or any private, for-profit or nonprofit organization," for "or any State, or private, profit or nonprofit organization" in introductory provisions.

2008—Subsec. (a)(2)(B). Pub. L. 110–315, §481(1), inserted "and that measures program length in credit hours or clock hours" after "baccalaureate degree".

Subsecs. (e), (f). Pub. L. 110–315, §481(2), added subsecs. (e) and (f).

2006—Subsec. (a)(2). Pub. L. 109–171, §8020(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term 'academic year' shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock hours at an institution that measures program length in clock hours. The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree."

Subsec. (b)(3), (4). Pub. L. 109–171, §8020(b), added pars. (3) and (4).

Subsec. (d). Pub. L. 109–171, §8007(d), added subsec. (d).

1998—Pub. L. 105–244 redesignated subsecs. (d) to (f) as (a) to (c), respectively, and struck out former subsecs. (a) to (c) which defined the terms "institution of higher education", "proprietary institution of higher education", and "postsecondary vocational institution". See section 1002 of this title.

Subsec. (a)(4). Pub. L. 105–216, which directed the amendment of par. (4), effective 1 year after July 29, 1998, by designating existing provisions as subpar. (A), redesignating former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and by adding subpar. (B) to read as follows: "Subparagraph (A)(i) shall not apply to a nonprofit institution whose primary function is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the

direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, and December 31, 1998.", could not be executed because subsec. (a) did not contain a par. (4) subsequent to amendment by Pub. L. 105–244. See above.

1993—Subsec. (a)(3)(B). Pub. L. 103–208, §2(h)(1), inserted before semicolon at end ", except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree".

Subsec. (a)(3)(D). Pub. L. 103–208, §2(h)(2), substituted "do not have a high school diploma or its recognized equivalent" for "are admitted pursuant to section 1091(d) of this title" and inserted before period at end ", except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent".

Subsec. (a)(4)(A). Pub. L. 103–208, §2(h)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "such institution has filed for bankruptcy; or".

Subsec. (d)(2). Pub. L. 103–208, §2(h)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term 'academic year' shall require a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution which measures program length in credit hours or at least 900 clock hours at an institution which measures program length in clock hours."

Subsec. (e)(2). Pub. L. 103–208, §2(h)(5), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary shall develop regulations to determine the quality of programs of less than 600 clock hours in length. Such regulations shall require, at a minimum, that the programs have a verified rate of completion of at least 70 percent and a verified rate of placement of at least 70 percent. Pursuant to these regulations and notwithstanding paragraph (1), the Secretary shall allow programs of less than 600 clock hours, but greater than 300 clock hours, in length to be eligible to participate in the programs authorized under part B of this subchapter."

Subsec. (f). Pub. L. 103–208, §2(h)(6), substituted "individual, or any State," for "State" in introductory provisions.

1992—Pub. L. 102–325, §481(a), amended section catchline.

Subsec. (a). Pub. L. 102–325, §481(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) and (2) defining "institution of higher education" and "accredited" and par. (3) which related to recognition of accreditation of eligible institutions of higher education.

Subsec. (b). Pub. L. 102–325, §481(b)(4), struck out at end "For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered."

Subsec. (b)(1). Pub. L. 102–325, §481(b)(1), substituted "an eligible program" for "not less than a 6-month program".

Subsec. (b)(4). Pub. L. 102–325, §481(b)(2), substituted "pursuant to part G of this subchapter," for "for this purpose, and".

Subsec. (b)(5), (6). Pub. L. 102–325, §481(b)(3), substituted "years, and" for "years." in cl. (5) and added cl. (6).

Subsec. (c)(1). Pub. L. 102–325, §481(c), substituted "an eligible program" for "not less than a six-month program".

Subsec. (d). Pub. L. 102–325, §481(d), inserted "and award" after "Academic" in heading and amended text generally. Prior to amendment, text read as follows: "For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term 'academic year' shall be defined by the Secretary by regulation."

Subsec. (e). Pub. L. 102–325, §481(e), amended subsec. (e) generally, substituting provisions relating to eligible program for provisions relating to impact of loss of accreditation.

Subsec. (f). Pub. L. 102–325, §481(f), added subsec. (f).

1991—Subsec. (b). Pub. L. 102–26, §2(d)(2)(A), repealed Pub. L. 101–508, §3005(b). See 1990 Amendment note below.

Pub. L. 102–26, §2(a)(2), struck out "and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution" before period at end of second sentence, and struck out at end "The Secretary shall not promulgate regulations defining the admissions

procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and shall not, as a condition of recognition under section 413(e) of this Act, impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this subsection."

Subsec. (c). Pub. L. 102–26, §2(a)(3), struck out before period at end "and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution".

1990—Subsec. (b). Pub. L. 101–508, which inserted ", except in accordance with section 1091(d) of this title," after "shall not" in fourth sentence, was repealed by Pub. L. 102–26, §2(d)(2)(A). See Construction of 1991 Amendment note below.

1989—Subsec. (a)(1). Pub. L. 101–239, §2007(b)(1), substituted "Subject to subsection (e) of this section, for the purpose" for "For the purpose".

Subsec. (a)(3). Pub. L. 101–239, §2007(c), added par. (3).

Subsec. (e). Pub. L. 101–239, §2007(b)(2), added subsec. (e).

1987—Subsec. (c). Pub. L. 100–50 substituted "section 1091(d) of this title" for "subsection (d) of this section".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Amendment by section 8007(d) of Pub. L. 109–171 applicable with respect to all loans under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.), see section 8007(f) of Pub. L. 109–171, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Amendment by Pub. L. 105–216 effective 1 year after July 29, 1998, see section 13 of Pub. L. 105–216, set out as an Effective Date note under section 4901 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–325, title IV, §498, July 23, 1992, 106 Stat. 634, provided that: "The changes made in part G of title IV of the Act [20 U.S.C. 1088 et seq.] by the amendments made by this part [part G (§§481–498) of title IV of Pub. L. 102–325, enacting sections 1091b, 1092c, 1094a, 1094b, 1098a, and 1098b of this title, amending sections 1088 to 1091, 1092, 1092b, 1093, 1094, 1095, 1096, 1097, and 1098 of this title, and repealing section 1096a of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

"(1) as otherwise provided in such part G;

"(2) the changes in section 481(a) [20 U.S.C. 1088(a)], relating to the definition of institution of higher education, other than paragraph (4) of such section, shall be effective on and after October 1, 1992;

"(3) section 481(e) as added by such amendments, relating to the definition of eligible program, shall be effective on and after July 1, 1993;

"(4) section 484(m)(1) [20 U.S.C. 1091(m)(1)], relating to proportion of courses permitted to be correspondence courses, as added by such amendments shall be effective on and after October 1, 1992;

"(5) the changes in section 485 [20 U.S.C. 1092], relating to disclosures, shall be effective with respect

to periods of enrollment beginning on or after July 1, 1993;

"(6) the changes in section 488 [20 U.S.C. 1095], relating to transfers of allotments, shall apply with respect to funds provided for award years beginning on or after July 1, 1993; and

"(7) the changes in section 489 [20 U.S.C. 1096], relating to payments for administrative expenses, shall apply with respect to funds provided for award years beginning on or after July 1, 1993."

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3005(c) of Pub. L. 101–508, which provided that the amendments made by section 3005 (amending this section and section 1091 of this title) were to apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1991, was repealed by section 2(d)(2)(A) of Pub. L. 102–26. See Construction of 1991 Amendment note below.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

CONSTRUCTION OF 2006 AMENDMENT

Nothing in amendment by section 8007(d) of Pub. L. 109–171 to be construed to authorize any refunding of any repayment of a loan, see section 8007(e) of Pub. L. 109–171, set out as a note under section 1078 of this title.

CONSTRUCTION OF 1991 AMENDMENT

Pub. L. 102–26, §2(d)(2)(A), Apr. 9, 1991, 105 Stat. 124, provided that: "Section 3005 of the Omnibus Reconciliation Act of 1990 [Pub. L. 101–508, amending this section and section 1091 of this title and enacting provisions set out as a note above] is repealed. Sections 484(d) and 481(b) of the Act [20 U.S.C. 1091(d), 1088(b)] shall be applied as if such section 3005 had not been enacted."

NEED-BASED AID

Pub. L. 102–325, title XV, §1544, July 23, 1992, 106 Stat. 837, authorized institutions of higher education to voluntarily agree with other such institutions to award financial aid not awarded under this chapter to students attending such institutions only on basis of demonstrated financial need for such aid, and to discuss and adopt principles of professional judgment for determining student financial need for such aid, with exceptions for cases pending on July 23, 1992, and for discussions or agreements on prospective financial aid awards to specific common applicants, and provided that such authorization was to expire on Sept. 30, 1994, prior to repeal by Pub. L. 103–382, title V, §568(e)(2), Oct. 20, 1994, 108 Stat. 4061. See section 568(a)–(d) of Pub. L. 103–382, set out as a note under section 1 of Title 15, Commerce and Trade.

[1] *So in original. Probably should not be capitalized.*

§1088a. Clock and credit hour treatment of diploma nursing schools

Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.

(Pub. L. 89–329, title IV, §481A, as added Pub. L. 103–382, title III, §360(a), Oct. 20, 1994, 108 Stat. 3969.)

PRIOR PROVISIONS

Prior sections 1088a to 1088g were omitted in the general amendment of this part by Pub. L. 96–374.

Section 1088a, Pub. L. 89–329, title IV, §492, formerly §462, as added Pub. L. 90–575, title I, §151, Oct. 16, 1968, 82 Stat. 1032; renumbered §492, Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272, related to the eligibility of residents of the Trust Territory of the Pacific Islands. See section 1091(b) of this title.

Section 1088b, Pub. L. 89–329, title IV, §493, formerly §463, as added Pub. L. 90–575, title I, §152, Oct. 16, 1968, 82 Stat. 1033; renumbered §493, Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272; amended Pub. L. 94–482, title I, §131(a), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95–43, §1(a)(40), June 15, 1977, 91 Stat. 217, related to administration expenses. See section 1096 of this title.

Section 1088b–1, Pub. L. 89–329, title IV, §493A, as added Pub. L. 94–482, title I, §131(b), Oct. 12, 1976, 90 Stat. 2148, related to institutional and financial assistance information for students. See section 1092 of this title.

Section 1088b–2, Pub. L. 89–329, title IV, §493B, as added Pub. L. 94–482, title I, §131(b), Oct. 12, 1976, 90 Stat. 2149, related to student aid information services.

Section 1088b–3, Pub. L. 89–329, title IV, §493C, as added Pub. L. 94–482, title I, §131(b), Oct. 12, 1976, 90 Stat. 2149, related to the student financial assistance training program.

Section 1088c, Pub. L. 89–329, title IV, §494, formerly §464, as added Pub. L. 90–575, title I, §152, Oct. 16, 1968, 82 Stat. 1033; renumbered §494 and amended Pub. L. 92–318, title I, §§137(b), 138(a), June 23, 1972, 86 Stat. 272, 280, related to maintenance of effort requirement.

Section 1088d, Pub. L. 89–329, title IV, §495, as added Pub. L. 92–318, title I, §139, June 23, 1972, 86 Stat. 280; amended S. Res. 4, Feb. 4, 1977; S. Res. 30, Mar. 7, 1979, related to requirement that copies of rules, regulations, instructions, and application forms be supplied to Congressional committees. See section 1090(b) of this title.

Section 1088e, Pub. L. 89–329, title IV, §496, as added Pub. L. 92–318, title I, §139A(a), June 23, 1972, 86 Stat. 281, related to transfer of funds between programs. See section 1095 of this title.

Section 1088f, Pub. L. 89–329, title IV, §497, as added Pub. L. 92–318, title I, §139B(a), June 23, 1972, 86 Stat. 281; amended Pub. L. 94–482, title I, §132, Oct. 12, 1976, 90 Stat. 2150; Pub. L. 95–566, §7, Nov. 1, 1978, 92 Stat. 2404, related to eligibility for student assistance. See section 1091 of this title.

Section 1088f–1, Pub. L. 89–329, title IV, §497A, as added Pub. L. 94–482, title I, §133(a), Oct. 12, 1976, 90 Stat. 2150; amended Pub. L. 95–43, §1(a)(41), June 15, 1977, 91 Stat. 217; Pub. L. 95–561, title XII, §1231(b), Nov. 1, 1978, 92 Stat. 2346, related to fiscal eligibility of institutions.

Section 1088g, Pub. L. 89–329, title IV, §498, as added Pub. L. 92–318, title I, §139C(a), June 23, 1972, 86 Stat. 282, related to requirement of an affidavit of educational purpose.

EFFECTIVE DATE

Pub. L. 103–382, title III, §360(b), Oct. 20, 1994, 108 Stat. 3969, provided that: "Subsection (a) [enacting this section] and the amendment made by subsection (a) shall take effect on July 1, 1994."

§1089. Master calendar

(a) Secretary required to comply with schedule

To assure adequate notification and timely delivery of student aid funds under this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

(1) Development and distribution of Federal and multiple data entry forms—

(A) by February 1: first meeting of the technical committee on forms design of the Department;

(B) by March 1: proposed modifications, updates, and notices pursuant to sections 1087rr and 1090(a)(5) of this title published in the Federal Register;

(C) by June 1: final modifications, updates, and notices pursuant to sections 1087rr and 1090(a)(5) of this title published in the Federal Register;

(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

(E) by August 30: final approved forms delivered to servicers and printers;

(F) by October 1: Federal and multiple data entry forms and instructions printed; and

(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

(2) Allocations of campus-based and Pell Grant funds—

(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

(B) by October 1: final date for submission of FISAP by institutions to the Department;

(C) by November 15: edited FISAP and computer printout received by institutions;

(D) by December 1: appeals procedures received by institutions;

(E) by December 15: edits returned by institutions to the Department;

(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

(G) by February 15: closing date for receipt of institutional appeals by the Department;

(H) by March 1: appeals process completed;

(I) by April 1: final award notifications sent to institutions; and

(J) by June 1: Pell Grant authorization levels sent to institutions.

(3) The Secretary shall, to the extent practicable, notify eligible institutions, guaranty agencies, lenders, interested software providers, and, upon request, other interested parties, by December 1 prior to the start of an award year of minimal hardware and software requirements necessary to administer programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) The Secretary shall attempt to conduct training activities for financial aid administrators and others in an expeditious and timely manner prior to the start of an award year in order to ensure that all participants are informed of all administrative requirements.

(b) Timing for reallocations

With respect to any funds reallocated under section 1070b–3(d) of this title, section 2752(d) of title 42, or section 1087bb(i) of this title, the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, and part D of this subchapter, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

(c) Delay of effective date of late publications

(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary affecting the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

(2)(A) The Secretary may designate any regulatory provision that affects the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and is published in final form after November 1 as one that an entity subject to the provision may, in the entity's discretion, choose to implement prior to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the Federal Register.

(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary's designation.

(d) Notice to Congress

The Secretary shall notify the authorizing committees when a deadline included in the calendar described in subsection (a) of this section is not met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

(e) Compliance calendar

Prior to the beginning of each award year, the Secretary shall provide to institutions of higher

education a list of all the reports and disclosures required under this chapter and part C of subchapter I of chapter 34 of title 42. The list shall include—

(1) the date each report or disclosure is required to be completed and to be submitted, made available, or disseminated;

(2) the required recipients of each report or disclosure;

(3) any required method for transmittal or dissemination of each report or disclosure;

(4) a description of the content of each report or disclosure sufficient to allow the institution to identify the appropriate individuals to be assigned the responsibility for such report or disclosure;

(5) references to the statutory authority, applicable regulations, and current guidance issued by the Secretary regarding each report or disclosure; and

(6) any other information which is pertinent to the content or distribution of the report or disclosure.

(Pub. L. 89–329, title IV, §482, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1477; amended Pub. L. 100–50, §15(2), June 3, 1987, 101 Stat. 355; Pub. L. 102–325, title IV, §482, July 23, 1992, 106 Stat. 612; Pub. L. 103–208, §2(h)(7), Dec. 20, 1993, 107 Stat. 2476; Pub. L. 104–66, title I, §1042(b), Dec. 21, 1995, 109 Stat. 715; Pub. L. 105–244, title IV, §481, Oct. 7, 1998, 112 Stat. 1732; Pub. L. 110–315, title I, §103(b)(9), title IV, §482(a), Aug. 14, 2008, 122 Stat. 3089, 3271; Pub. L. 111–39, title IV, §407(b)(2), July 1, 2009, 123 Stat. 1950.)

PRIOR PROVISIONS

A prior section 1089, Pub. L. 89–329, title IV, §482, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1445; amended Pub. L. 97–35, title V, §533(a)(1), (2), (b), Aug. 13, 1981, 95 Stat. 453; Pub. L. 99–272, title XVI, §16031, Apr. 7, 1986, 100 Stat. 354, related to analysis of student's need for financial assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1089, Pub. L. 89–329, title IV, §499, formerly §469, as added Pub. L. 90–575, title I, §151, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174; renumbered Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272, related to the Advisory Council on Financial Aid to Students, prior to the general revision of this part by Pub. L. 96–374.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–39 substituted "section 1070b–3(d) of this title, section 2752(d) of title 42, or section 1087bb(i) of this title" for "section 1070b–3(e) of this title, section 2752(e) of title 42, or section 1087bb(j) of this title".

2008—Subsec. (a)(1)(B), (C). Pub. L. 110–315, §482(a)(1), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

"(B) by March 1: proposed modifications and updates pursuant to section 1087rr of this title published in the Federal Register;

"(C) by June 1: final modifications and updates pursuant to section 1087rr of this title published in the Federal Register;".

Subsec. (d). Pub. L. 110–315, §103(b)(9), substituted "authorizing committees" for "Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives".

Subsec. (e). Pub. L. 110–315, §482(a)(2), added subsec. (e).

1998—Subsec. (a)(3), (4). Pub. L. 105–244, §481(a), added pars. (3) and (4).

Subsec. (c). Pub. L. 105–244, §481(b), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: "Any regulatory changes initiated by the Secretary affecting the programs pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date. For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994."

1995—Subsec. (d). Pub. L. 104–66, in first sentence substituted "a deadline included in the calendar described in subsection (a) of this section is not met" for "the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice" and after first sentence struck out "When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of

the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met."

1993—Subsec. (c). Pub. L. 103–208 inserted at end "For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994."

1992—Subsec. (a)(1)(B), (C). Pub. L. 102–325, §482(b)(1), substituted "section 1087rr" for "sections 1070a–5 and 1087rr".

Subsec. (b). Pub. L. 102–325, §482(b)(2), substituted "subpart 3" for "subpart 2".

Subsec. (c). Pub. L. 102–325, §482(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date."

1987—Subsec. (b). Pub. L. 100–50 inserted reference to section 1087bb(j) of this title and part D of this subchapter.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §482(b), Aug. 14, 2008, 122 Stat. 3272, provided that: "The amendment made by subsection (a)(1) [amending this section] shall take effect on July 1, 2010."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

INAPPLICABILITY OF MASTER CALENDAR AND NEGOTIATED RULEMAKING REQUIREMENTS

Pub. L. 112–141, div. F, title III, §100302(b), July 6, 2012, 126 Stat. 980, provided that: "Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the amendment made by subsection (a) [amending section 1087e of this title], or to any regulations promulgated under such amendment."

Pub. L. 112–74, div. F, title III, §309(h), Dec. 23, 2011, 125 Stat. 1103, provided that: "Sections 482(c) and 492 of the HEA (20 U.S.C. 1089(c), 1098a) shall not apply to the amendments made by this section [amending sections 1001, 1070a, 1078, 1087–1, 1087ss, and 1091 of this title and enacting provisions set out as notes under sections 1001, 1078, and 1091 of this title], or to any regulations promulgated under those amendments."

Pub. L. 112–25, title V, §504, Aug. 2, 2011, 125 Stat. 267, provided that: "Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the amendments made by this title [amending sections 1070a and 1087e of this title], or to any regulations promulgated under those amendments."

Pub. L. 112–10, div. B, title VIII, §1860(c), Apr. 15, 2011, 125 Stat. 170, provided that: "Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the amendments made by subsection (a)(2) [amending section 1070a of this title], or to any regulations promulgated under those amendments."

Pub. L. 111–39, title IV, §409, July 1, 2009, 123 Stat. 1953, provided that: "Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to the amendments made by this title [see Tables for classification], or to any regulations promulgated under those amendments."

Pub. L. 110–315, title IV, §402(b), Aug. 14, 2008, 122 Stat. 3191, provided that: "Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to the amendments made by subsection (a) [amending section 1070a–1 of this title], or to any regulations promulgated under those amendments."

Pub. L. 110–227, §11, May 7, 2008, 122 Stat. 752, as amended by Pub. L. 110–315, title IV, §402(c)(1), Aug. 14, 2008, 122 Stat. 3191, provided that: "Sections 482 and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089, 1098a) shall not apply to amendments made by this Act [see Tables for classification], or to any regulations promulgated under such amendments."

[Pub. L. 110–315, title IV, §402(c)(2), Aug. 14, 2008, 122 Stat. 3191, provided that: "The amendment made by paragraph (1) [amending section 11 of Pub. L. 110–227, set out above] shall take effect as if enacted as part of the Ensuring Continued Access to Student Loans Act of 2008 [Pub. L. 110–227]."]

ESTABLISHMENT OF SEPARATE SYSTEMS OF NEED ANALYSIS FOR ACADEMIC YEARS 1983–1984 THROUGH 1987–1988

Pub. L. 97–301, §4, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98–79, §4(a), Aug. 15, 1983, 97 Stat. 480; Pub. L. 98–511, title VII, §707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99–498, title IV, §408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which required Secretary of Education to establish or approve separate systems of need analysis for the academic years 1983–1984, 1984–1985, 1985–1986, 1986–1987, and 1987–1988 for the programs authorized under subpart 2 [now 3] of part A [20 U.S.C. 1070b et seq.], part C [42 U.S.C. 2751 et seq.], and part E [20 U.S.C. 1087aa et seq.] of title IV of the Higher Education Act of 1965, was repealed by Pub. L. 99–498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

DETERMINATION OF INDEPENDENT STUDENT STATUS FOR ACADEMIC YEARS 1982–1983 THROUGH 1987–1988

Pub. L. 97–301, §6, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98–79, §4(a), Aug. 15, 1983, 97 Stat. 481; Pub. L. 98–516, title VII, §707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99–498, title IV, §408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which provided that notwithstanding any rule or regulation, the criteria for the determination of independent student status, prescribed under subsec. (c)(2) of this section, in effect for academic year 1982–1983, was to be the criteria for such determinations for each of the academic years 1983–1984, 1984–1985, 1985–1986, 1986–1987, and 1987–1988, was repealed by Pub. L. 99–498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

§1090. Forms and regulations

(a) Common financial aid form development and processing

(1) In general

The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter). The forms shall be made available to applicants in both paper and electronic formats and shall be referred to as the "Free Application for Federal Student Aid" or the "FAFSA". The Secretary shall work to make the FAFSA consumer-friendly and to make questions on the FAFSA easy for students and families to read and understand, and shall ensure that the FAFSA is available in formats accessible to individuals with disabilities.

(2) Paper format

(A) In general

The Secretary shall develop, make available, and process—

(i) a paper version of EZ FAFSA, as described in subparagraph (B); and

(ii) a paper version of the other forms described in this subsection, in accordance with subparagraph (C), for any applicant who does not meet the requirements of or does not wish

to use the process described in subparagraph (B).

(B) EZ FAFSA

(i) In general

The Secretary shall develop and use, after appropriate field testing, a simplified paper form, to be known as the EZ FAFSA, to be used for applicants meeting the requirements of subsection (b) or (c) of section 1087ss of this title.

(ii) Reduced data requirements

The EZ FAFSA shall permit an applicant to submit, for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 1087ss of this title.

(iii) State data

The Secretary shall include on the EZ FAFSA such data items as may be necessary to award State financial assistance, as provided under paragraph (5), except that the Secretary shall not include a State's data if that State does not permit the State's resident applicants to use the EZ FAFSA for State assistance.

(iv) Free availability and processing

The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (10).

(C) Promoting the use of electronic FAFSA

(i) In general

The Secretary shall make all efforts to encourage all applicants to utilize the electronic version of the forms described in paragraph (3).

(ii) Maintenance of the FAFSA in a printable electronic file

The Secretary shall maintain a version of the paper forms described in subparagraphs (A) and (B) in a printable electronic file that is easily portable, accessible, and downloadable to students on the same website used to provide students with the electronic version of the forms described in paragraph (3).

(iii) Requests for printed copy

The Secretary shall provide a printed copy of the full paper version of FAFSA upon request.

(iv) Reporting requirement

The Secretary shall maintain data, and periodically report to Congress, on the impact of the digital divide on students completing applications for aid under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall report on the steps taken to eliminate the digital divide and reduce production of the paper form described in subparagraph (A). The Secretary's report shall specifically address the impact of the digital divide on the following student populations:

(I) Independent students.

(II) Traditionally underrepresented students.

(III) Dependent students.

(3) Electronic format

(A) In general

The Secretary shall produce, distribute, and process forms in electronic format to meet the requirements of paragraph (1). The Secretary shall develop an electronic version of the forms for applicants who do not meet the requirements of subsection (b) or (c) of section 1087ss of this title.

(B) Simplified applications: FAFSA on the web

(i) In general

The Secretary shall develop and use a simplified electronic version of the form to be used by applicants meeting the requirements under subsection (b) or (c) of section 1087ss of this title.

(ii) Reduced data requirements

The simplified electronic version of the forms shall permit an applicant to submit, for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 1087ss of this title.

(iii) Use of forms

Nothing in this subsection shall be construed to prohibit the use of the forms developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software provider, a consortium thereof, or such other entities as the Secretary may designate.

(C) State data

The Secretary shall include on the electronic version of the forms such items as may be necessary to determine eligibility for State financial assistance, as provided under paragraph (5), except that the Secretary shall not require an applicant to enter data pursuant to this subparagraph that are required by any State other than the applicant's State of residence.

(D) Availability and processing

The data collected by means of the simplified electronic version of the forms shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (10).

(E) Privacy

The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5 and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the forms. Data collected by such electronic version of the forms shall be used only for the application, award, and administration of aid awarded under this subchapter and part C of subchapter I of chapter 34 of title 42, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the forms shall be used for making final aid awards under this subchapter and part C of subchapter I of chapter 34 of title 42 until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(F) Signature

Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, the Secretary may continue to permit an electronic version of the form under this paragraph to be submitted without a signature, if a signature is subsequently submitted by the applicant or if the applicant uses a personal identification number provided by the Secretary under subparagraph (G).

(G) Personal identification numbers authorized

The Secretary may continue to assign to an applicant a personal identification number—

(i) to enable the applicant to use such number as a signature for purposes of completing an electronic version of a form developed under this paragraph; and

(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this subchapter and part C of subchapter I of chapter 34 of title 42.

(H) Personal identification number improvement

The Secretary shall continue to work with the Commissioner of Social Security to minimize the time required for an applicant to obtain a personal identification number when applying for aid under this subchapter and part C of subchapter I of chapter 34 of title 42 through an electronic version of a form developed under this paragraph.

(4) Streamlining

(A) Streamlined reapplication process

(i) In general

The Secretary shall continue to streamline reapplication forms and processes for an applicant who applies for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 in the next succeeding academic year subsequent to an academic year for which such applicant applied for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(ii) Updating of data elements

The Secretary shall determine, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, the data elements that may be transferred from the previous academic year's application and those data elements that shall be updated.

(iii) Reduced data authorized

Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

(iv) Zero family contribution

Applicants determined to have a zero family contribution pursuant to section 1087ss(c) of this title shall not be required to provide any financial data in a reapplication form, except data that are necessary to determine eligibility under such section.

(B) Reduction of data elements

(i) Reduction encouraged

Of the number of data elements on the FAFSA used for the 2009–2010 award year, the Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance and consistent with efforts under subsection (c), shall continue to reduce the number of such data elements required to be entered by all applicants, with the goal of reducing such number by 50 percent.

(ii) Report

The Secretary shall submit a report on the process of this reduction to each of the authorizing committees by June 30, 2011.

(5) State requirements

(A) In general

Except as provided in paragraphs (2)(B)(iii), (3)(B), and (4)(A)(ii), the Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with State agencies in order to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such

data items shall not be less than the number included on the form for the 2008–2009 award year unless a State notifies the Secretary that the State no longer requires those data items for the distribution of State need-based aid.

(B) Annual review

The Secretary shall conduct an annual review to determine—

(i) which data items each State requires to award need-based State aid; and

(ii) if the State will permit an applicant to file a form described in paragraph (2)(B) or (3)(B).

(C) Federal register notice

Beginning with the forms developed under paragraphs (2)(B) and (3)(B) for the award year 2010–2011, the Secretary shall publish on an annual basis a notice in the Federal Register requiring State agencies to inform the Secretary—

(i) if the State agency is unable to permit applicants to utilize the simplified forms described in paragraphs (2)(B) and (3)(B); and

(ii) of the State-specific nonfinancial data that the State agency requires for delivery of State need-based financial aid.

(D) Use of simplified forms encouraged

The Secretary shall encourage States to take such steps as are necessary to encourage the use of simplified forms under this subsection, including those forms described in paragraphs (2)(B) and (3)(B), for applicants who meet the requirements of subsection (b) or (c) of section 1087ss of this title.

(E) Consequences if State does not accept simplified forms

If a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based financial aid, the Secretary may determine that State-specific questions for such State will not be included on a form described in paragraph (2)(B) or (3)(B). If the Secretary makes such determination, the Secretary shall advise the State of the Secretary's determination.

(F) Lack of State response to request for information

If a State does not respond to the Secretary's request for information under subparagraph (B), the Secretary shall—

(i) permit residents of that State to complete simplified forms under paragraphs (2)(B) and (3)(B); and

(ii) not require any resident of such State to complete any data items previously required by that State under this section.

(G) Restriction

The Secretary shall, to the extent practicable, not require applicants to complete any financial or nonfinancial data items that are not required—

(i) by the applicant's State; or

(ii) by the Secretary.

(6) Charges to students and parents for use of forms prohibited

The need and eligibility of a student for financial assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter) may be determined only by using a form developed by the Secretary under this subsection. Such forms shall be produced, distributed, and processed by the Secretary, and no parent or student shall be charged a fee by the Secretary, a contractor, a third-party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. No data collected on a form for which a fee is charged shall be used to complete the form prescribed under this section, except that a Federal or State income tax form prepared by a paid income tax preparer or preparer service for

the primary purpose of filing a Federal or State income tax return may be used to complete the form prescribed under this section.

(7) Restrictions on use of PIN

No person, commercial entity, or other entity may request, obtain, or utilize an applicant's personal identification number assigned under paragraph (3)(G) for purposes of submitting a form developed under this subsection on an applicant's behalf.

(8) Application processing cycle

The Secretary shall enable students to submit forms developed under this subsection and initiate the processing of such forms under this subsection, as early as practicable prior to January 1 of the student's planned year of enrollment.

(9) Early estimates

The Secretary shall continue to—

(A) permit applicants to enter data in such forms as described in this subsection in the years prior to enrollment in order to obtain a non-binding estimate of the applicant's family contribution (as defined in section 1087mm of this title);

(B) permit applicants to update information submitted on forms described in this subsection, without needing to re-enter previously submitted information;

(C) develop a means to inform applicants, in the years prior to enrollment, of student aid options for individuals in similar financial situations;

(D) develop a means to provide a clear and conspicuous notice that the applicant's expected family contribution is subject to change and may not reflect the final expected family contribution used to determine Federal student financial aid award amounts under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(E) consult with representatives of States, institutions of higher education, and other individuals with experience or expertise in student financial assistance application processes in making updates to forms used to provide early estimates under this paragraph.

(10) Distribution of data

Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using a form developed under this subsection for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.

(11) Third party servicers and private software providers

To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by institutions of higher education for the administration of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) to be so used. The specifications shall contain record layouts for required data. The Secretary shall develop in advance of each processing cycle an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use multiple means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

(12) Parent's social security number and birth date

The Secretary is authorized to include space on the forms developed under this subsection for the social security number and birth date of parents of dependent students seeking financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Information to committees of Congress

Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 shall be provided to the authorizing committees at least 45 days prior to their effective date.

(c) Toll-free information

The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education or other appropriate provider of technical assistance and information on postsecondary educational services for individuals with disabilities, including the National Technical Assistance Center under section 1140q of this title. The Secretary shall continue to implement, to the extent practicable, a toll-free telephone based system to permit applicants who meet the requirements of subsection (b) or (c) of section 1087ss of this title to submit an application over such system.

(d) Assistance in preparation of financial aid application

(1) Preparation authorized

Notwithstanding any provision of this chapter, an applicant may use a preparer for consultative or preparation services for the completion of a form developed under subsection (a) if the preparer satisfies the requirements of this subsection.

(2) Preparer identification required

If an applicant uses a preparer for consultative or preparation services for the completion of a form developed under subsection (a), and for which a fee is charged, the preparer shall—

(A) include, at the time the form is submitted to the Department, the name, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer on the applicant's form; and

(B) be subject to the same penalties as an applicant for purposely giving false or misleading information in the application.

(3) Additional requirements

A preparer that provides consultative or preparation services pursuant to this subsection shall—

(A) clearly inform each individual upon initial contact, including contact through the Internet or by telephone, that the FAFSA and EZ FAFSA are free forms that may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

(B) include in any advertising clear and conspicuous information that the FAFSA and EZ FAFSA are free forms that may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

(C) if advertising or providing any information on a website, or if providing services through a website, include on the website a link to the website that provides the electronic version of the forms developed under subsection (a); and

(D) not produce, use, or disseminate any other form for the purpose of applying for Federal student financial aid other than the form developed by the Secretary under subsection (a).

(4) Special rule

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall be construed to limit preparers of the forms required under this subchapter and part C of subchapter I of chapter 34 of title 42 that meet the requirements of this subsection from collecting source information from a student or parent, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

(e) Early application and estimated award demonstration program

(1) Purpose and objectives

The purpose of the demonstration program under this subsection is to measure the benefits, in terms of student aspirations and plans to attend an institution of higher education, and any adverse effects, in terms of program costs, integrity, distribution, and delivery of aid under this subchapter and part C of subchapter I of chapter 34 of title 42, of implementing an early application system for all dependent students that allows dependent students to apply for financial aid using information from two years prior to the year of enrollment. Additional objectives associated with implementation of the demonstration program are the following:

(A) To measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in their junior year of secondary school, using information from two years prior to the year of enrollment, by completing any of the forms under this subsection.

(B) To identify whether receiving final financial aid award estimates not later than the fall of the senior year of secondary school provides students with additional time to compete for the limited resources available for State and institutional financial aid and positively impacts the college aspirations and plans of these students.

(C) To measure the impact of using income information from the years prior to enrollment on—

(i) eligibility for financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42 and for other State and institutional aid; and

(ii) the cost of financial aid programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(D) To effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of financial aid.

(2) Program authorized

Not later than two years after August 14, 2008, the Secretary shall implement an early application demonstration program enabling dependent students who wish to participate in the program—

(A) to complete an application under this subsection during the academic year that is two years prior to the year such students plan to enroll in an institution of higher education; and

(B) based on the application described in subparagraph (A), to obtain, not later than one year prior to the year of the students' planned enrollment, information on eligibility for Federal Pell Grants, Federal student loans under this subchapter and part C of subchapter I of chapter 34 of title 42, and State and institutional financial aid for the student's first year of enrollment in the institution of higher education.

(3) Early application and estimated award

For all dependent students selected for participation in the demonstration program who submit a completed FAFSA, or, as appropriate, an EZ FAFSA, two years prior to the year such students plan to enroll in an institution of higher education, the Secretary shall, not later than one year prior to the year of such planned enrollment—

(A) provide each student who completes an early application with an estimated determination of such student's—

(i) expected family contribution for the first year of the student's enrollment in an institution of higher education; and

(ii) Federal Pell Grant award for the first such year, based on the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student is eligible at the time of application; and

(B) remind the students of the need to update the students' information during the calendar year of enrollment using the expedited reapplication process provided for in subsection

(a)(4)(A).

(4) Participants

The Secretary shall include as participants in the demonstration program—

(A) States selected through the application process described in paragraph (5);

(B) institutions of higher education within the selected States that are interested in participating in the demonstration program, and that can make estimates or commitments of institutional student financial aid, as appropriate, to students the year before the students' planned enrollment date; and

(C) secondary schools within the selected States that are interested in participating in the demonstration program, and that can commit resources to—

(i) advertising the availability of the program;

(ii) identifying students who might be interested in participating in the program;

(iii) encouraging such students to apply; and

(iv) participating in the evaluation of the program.

(5) Applications

Each State that is interested in participating in the demonstration program shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require. The application shall include—

(A) information on the amount of the State's need-based student financial assistance available, and the eligibility criteria for receiving such assistance;

(B) a commitment to make, not later than the year before the dependent students participating in the demonstration program plan to enroll in an institution of higher education, an estimate of the award of State financial aid to such dependent students;

(C) a plan for recruiting institutions of higher education and secondary schools with different demographic characteristics to participate in the program;

(D) a plan for selecting institutions of higher education and secondary schools to participate in the program that—

(i) demonstrate a commitment to encouraging students to submit a FAFSA, or, as appropriate, an EZ FAFSA, two years before the students' planned date of enrollment in an institution of higher education;

(ii) serve different populations of students;

(iii) in the case of institutions of higher education—

(I) to the extent possible, are of varying types and sectors; and

(II) commit to making, not later than the year prior to the year that dependent students participating in the demonstration program plan to enroll in the institution—

(aa) estimated institutional awards to participating dependent students; and

(bb) estimated grants or other financial aid available under this subchapter and part C of subchapter I of chapter 34 of title 42 (including supplemental grants under subpart 3 of part A of this subchapter), for all participating dependent students, along with information on State awards, as provided to the institution by the State;

(E) a commitment to participate in the evaluation conducted by the Secretary; and

(F) such other information as the Secretary may require.

(6) Special provisions

(A) Discretion of student financial aid administrators

A financial aid administrator at an institution of higher education participating in a demonstration program under this subsection may use the discretion provided under section 1087tt of this title as necessary for students participating in the demonstration program.

(B) Waivers

The Secretary is authorized to waive, for an institution of higher education participating in

the demonstration program, any requirements under this subchapter and part C of subchapter I of chapter 34 of title 42, or regulations prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, that will make the demonstration program unworkable, except that the Secretary shall not waive any provisions with respect to the maximum award amounts for grants and loans under this subchapter and part C of subchapter I of chapter 34 of title 42.

(7) Outreach

The Secretary shall make appropriate efforts to notify States of the demonstration program under this subsection. Upon determination of participating States, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within participating States of the opportunity to participate in the demonstration program and of the participation requirements.

(8) Evaluation

The Secretary shall conduct a rigorous evaluation of the demonstration program to measure the program's benefits and adverse effects, as the benefits and effects relate to the purpose and objectives of the program described in paragraph (1). In conducting the evaluation, the Secretary shall—

(A) determine whether receiving financial aid estimates one year prior to the year in which the student plans to enroll in an institution of higher education, has a positive impact on the higher education aspirations and plans of such student;

(B) measure the extent to which using a student's income information from the year that is two years prior to the student's planned enrollment date had an impact on the ability of States and institutions of higher education to make financial aid awards and commitments;

(C) determine what operational changes are required to implement the program on a larger scale;

(D) identify any changes to Federal law that are necessary to implement the program on a permanent basis;

(E) identify the benefits and adverse effects of providing early estimates on program costs, program operations, program integrity, award amounts, distribution, and delivery of aid; and

(F) examine the extent to which estimated awards differ from actual awards made to students participating in the program.

(9) Consultation

The Secretary shall consult, as appropriate, with the Advisory Committee on Student Financial Assistance established under section 1098 of this title on the design, implementation, and evaluation of the demonstration program.

(f) Reduction of income and asset information to determine eligibility for student financial aid

(1) Continuation of current FAFSA simplification efforts

The Secretary shall continue to examine—

(A) how the Internal Revenue Service can provide to the Secretary income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

(B) whether data provided by the Internal Revenue Service can be used to—

(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

(ii) generate an expected family contribution without additional action on the part of the student and taxpayer; and

(C) whether the data elements collected on the FAFSA that are needed to determine eligibility for student aid, or to administer the Federal student financial aid programs under this subchapter and part C of subchapter I of chapter 34 of title 42, but are not needed to compute an

expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

(2) Report on FAFSA simplification efforts to date

Not later than 90 days after August 14, 2008, the Secretary shall provide a written report to the authorizing committees on the work the Department has done with the Secretary of the Treasury regarding—

(A) how the expected family contribution of a student can be calculated using substantially less income and asset information than was used on March 31, 2008;

(B) the extent to which the reduced income and asset information will result in a redistribution of Federal grants and subsidized loans under this subchapter and part C of subchapter I of chapter 34 of title 42, State aid, or institutional aid, or in a change in the composition of the group of recipients of such aid, and the amount of such redistribution;

(C) how the alternative approaches for calculating the expected family contribution will—

(i) rely mainly, in the case of students and parents who file income tax returns, on information available on the 1040, 1040EZ, and 1040A; and

(ii) include formulas for adjusting income or asset information to produce similar results to the existing approach with less data;

(D) how the Internal Revenue Service can provide to the Secretary of Education income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

(E) whether data provided by the Internal Revenue Service can be used to—

(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

(ii) generate an expected family contribution without additional action on the part of the student and taxpayer;

(F) the extent to which the use of income data from two years prior to a student's planned enrollment date will change the expected family contribution computed in accordance with part E, and potential adjustments to the need analysis formula that will minimize the change; and

(G) the extent to which the data elements collected on the FAFSA on March 31, 2008, that are needed to determine eligibility for student aid or to administer the Federal student financial aid programs, but are not needed to compute an expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

(3) Study

(A) Formation of study group

Not later than 90 days after August 14, 2008, the Comptroller General shall convene a study group the membership of which shall include the Secretary of Education, the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, representatives of institutions of higher education with expertise in Federal and State financial aid assistance, State chief executive officers of higher education with a demonstrated commitment to simplifying the FAFSA, and such other individuals as the Comptroller General and the Secretary of Education may designate.

(B) Study required

The Comptroller General, in consultation with the study group convened under subparagraph (A) shall—

(i) review and build on the work of the Secretary of Education and the Secretary of the Treasury, and individuals with expertise in analysis of financial need, to assess alternative approaches for calculating the expected family contribution under the statutory need analysis

formula in effect on the day before August 14, 2008, and under a new calculation that will use substantially less income and asset information than was used for the 2008–2009 FAFSA;

(ii) conduct an additional analysis if necessary; and

(iii) make recommendations to the authorizing committees.

(C) Objectives of study

The objectives of the study required under subparagraph (B) are—

(i) to determine methods to shorten the FAFSA and make the FAFSA easier and less time-consuming to complete, thereby increasing higher education access for low-income students;

(ii) to identify changes to the statutory need analysis formula that will be necessary to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid without causing significant redistribution of Federal grants and subsidized loans under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(iii) to review State and institutional needs and uses for data collected on the FAFSA, and to determine the best means of addressing such needs in the case of modification of the FAFSA as described in clause (i), or modification of the need analysis formula as described in clause (ii).

(D) Required subjects of study

The study required under subparagraph (B) shall examine—

(i) with respect to simplification of the financial aid application process using the statutory requirements for need analysis—

(I) additional steps that can be taken to simplify the financial aid application process for students who (or, in the case of dependent students, whose parents) are not required to file a Federal income tax return for the prior taxable year;

(II) information on State use of information provided on the FAFSA, including—

(aa) whether a State uses, as of the time of the study, or can use, a student's expected family contribution based on data from two years prior to the student's planned enrollment date;

(bb) the extent to which States and institutions will accept the data provided by the Internal Revenue Service to prepopulate the electronic version of the FAFSA to determine the distribution of State and institutional student financial aid funds;

(cc) what data are used by States, as of the time of the study, to determine eligibility for State student financial aid, and whether the data are used for merit- or need-based aid;

(dd) whether State data are required by State law, State regulations, or policy directives; and

(ee) the extent to which any State-specific information requirements can be met by completion of a State application linked to the electronic version of the FAFSA; and

(III) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

(ii) ways to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid, taking into account—

(I) the amount of redistribution of Federal grants and subsidized loans under this subchapter and part C of subchapter I of chapter 34 of title 42 caused by such a reduction, and the benefits to be gained by having an application process that will be easier for students and their families;

(II) students and families who do not file income tax returns;

(III) the extent to which the full array of income and asset information collected on the FAFSA, as of the time of the study, plays an important role in the awarding of need-based State financial aid, and whether the State can use an expected family contribution generated by the FAFSA, instead of income and asset information or a calculation with reduced data elements, to support determinations of eligibility for such State aid programs and, if not, what additional information will be needed or what changes to the FAFSA will be required; and

(IV) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

(V) changes to this chapter and part C of subchapter I of chapter 34 of title 42 or other laws that will be required to implement a modified need analysis system.

(4) Consultation

The Secretary shall consult with the Advisory Committee on Student Financial Assistance established under section 1098 of this title as appropriate in carrying out this subsection.

(5) Reports

(A) Reports on study

The Secretary shall prepare and submit to the authorizing committees—

(i) not later than one year after August 14, 2008, an interim report on the progress of the study required under paragraph (3) that includes any preliminary recommendations by the study group established under such paragraph; and

(ii) not later than two years after August 14, 2008, a final report on the results of the study required under paragraph (3) that includes recommendations by the study group established under such paragraph.

(B) Reports on FAFSA simplification efforts

The Secretary shall report to the authorizing committees, from time to time, on the progress of the simplification efforts under this subsection.

(g) Addressing the digital divide

The Secretary shall utilize savings accrued by moving more applicants to the electronic version of the forms described in subsection (a)(3) to improve access to the electronic version of the forms described in such subsection for applicants meeting the requirements of subsection (b) or (c) of section 1087ss of this title.

(h) Adjustments

The Secretary shall disclose, on the form notifying a student of the student's expected family contribution, that the student may, on a case-by-case basis, qualify for an adjustment under section 1087tt of this title to the cost of attendance or the values of the data items required to calculate the expected contribution for the student or parent. Such disclosure shall specify—

(1) the special circumstances under which a student or family member may qualify for such adjustment; and

(2) additional information regarding the steps a student or family member may take in order to seek an adjustment under section 1087tt of this title.

(Pub. L. 89–329, title IV, §483, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1478; amended Pub. L. 100–50, §15(3)–(6), June 3, 1987, 101 Stat. 356; Pub. L. 102–325, title IV, §483, July 23, 1992, 106 Stat. 612; Pub. L. 103–208, §2(h)(8)–(12), Dec. 20, 1993, 107 Stat. 2476; Pub. L. 105–244, title IV, §482, Oct. 7, 1998, 112 Stat. 1733; Pub. L. 110–315, title I, §103(b)(10), title IV, §483(a), Aug. 14, 2008, 122 Stat. 3090, 3272; Pub. L. 111–39, title IV, §407(b)(3), July 1, 2009, 123 Stat. 1950; Pub. L. 111–152, title II, §2101(b)(4), Mar. 30, 2010, 124 Stat. 1073.)

PRIOR PROVISIONS

A prior section 1090, Pub. L. 89–329, title IV, §483, as added Pub. L. 96–374, title IV, §451(a), Oct. 3,

1980, 94 Stat. 1448, related to forms and regulations for student assistance programs, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2010—Subsec. (e)(3)(A)(ii). Pub. L. 111–152 substituted "based on the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student is eligible at the time of application" for "based on the maximum Federal Pell Grant award at the time of application".

2009—Subsec. (a)(3)(C). Pub. L. 111–39, §407(b)(3)(A), inserted "that" after "except".

Subsec. (e)(8)(A). Pub. L. 111–39, §407(b)(3)(B), substituted "determine" for "identify".

2008—Subsec. (a). Pub. L. 110–315, §483(a)(1), added pars. (1) to (12) and struck out former pars. (1) to (7), which related to forms required, charges for forms, distribution of data, contracts for collection and processing, electronic forms, third party servicers and private software providers, and parents' social security numbers and birth dates.

Subsec. (b). Pub. L. 110–315, §483(a)(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to streamlined reapplication process.

Subsec. (c). Pub. L. 110–315, §483(a)(4), substituted "or other appropriate provider of technical assistance and information on postsecondary educational services for individuals with disabilities, including the National Technical Assistance Center under section 1140q of this title. The Secretary shall continue to implement, to the extent practicable, a toll-free telephone based system to permit applicants who meet the requirements of subsection (b) or (c) of section 1087ss of this title to submit an application over such system" for "that is authorized under section 1485(d)(2)(C) of this title".

Pub. L. 110–315, §483(a)(3), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Pub. L. 110–315, §103(b)(10), substituted "authorizing committees" for "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives".

Subsec. (d). Pub. L. 110–315, §483(a)(5), added subsec. (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 110–315, §483(a)(2), (5), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "Any financial aid application required to be made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such financial aid application."

Subsecs. (f) to (h). Pub. L. 110–315, §483(a)(5), added subsecs. (f) to (h).

1998—Subsec. (a). Pub. L. 105–244, §482(a)(1), substituted "form development" for "form" in heading.

Subsec. (a)(1). Pub. L. 105–244, §482(a)(2)(D), struck out at end "For the purpose of collecting eligibility and other data for the purpose of part B of this subchapter, the Secretary shall develop a separate, identifiable loan application document (pursuant to section 1082(m) of this title) that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to eligible lenders and on which the applicant shall clearly indicate a choice of a lender."

Pub. L. 105–244, §482(a)(2)(C), substituted "The Secretary shall include on the form developed under this subsection such data items as the Secretary determines are appropriate for inclusion. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance. In no case shall the number of such data items be less than the number included on the form on October 7, 1998." for "The Secretary may include on the form developed pursuant to this paragraph not more than eight nonfinancial data items selected in consultation with the States to assist the States in awarding State student financial assistance."

Pub. L. 105–244, §482(a)(2)(A), (B), substituted "A through D" for "A, C, and D" and struck out "and to determine the need of a student for the purpose of part B of this subchapter" after "part A of this subchapter)".

Subsec. (a)(2). Pub. L. 105–244, §482(a)(3), substituted "A through D" for "A, C, and D" in two places and struck out "and the need of a student for the purpose of part B of this subchapter," before "may only be determined" and "or have the student's need established for the purpose of part B of this subchapter" before ", except by use of".

Subsec. (a)(3). Pub. L. 105–244, §482(a)(4), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: "Institutions of higher education and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary."

Subsec. (a)(5) to (7). Pub. L. 105–244, §482(a)(5), added pars. (5) to (7).

Subsec. (b)(1). Pub. L. 105–244, §482(b), struck out ", within 240 days after July 23, 1992," after "The Secretary shall".

Subsec. (c). Pub. L. 105–244, §482(c), substituted "and the Workforce" for "and Labor".

Subsec. (d). Pub. L. 105–244, §482(d), substituted "section 1485(d)(2)(C)" for "section 1433(c)".

Subsec. (f). Pub. L. 105–244, §482(e), struck out heading and text of subsec. (f). Text read as follows: "Nothing in section 1544 of the Higher Education Amendments of 1992 shall relieve processors or institutions of higher education of any or all obligations under this section."

1993—Subsec. (a)(1). Pub. L. 103–208, §2(h)(8), made technical amendment to reference to section 1070a(d) of this title to correct reference to corresponding section of original act.

Subsec. (a)(2). Pub. L. 103–208, §2(h)(9), inserted at end "No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1)."

Subsec. (a)(3). Pub. L. 103–208, §2(h)(10), inserted at end "Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary."

Subsecs. (d), (e). Pub. L. 103–208, §2(h)(12), redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Subsec. (f). Pub. L. 103–208, §2(h)(12), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Pub. L. 103–208, §2(h)(11), substituted "address or employer's address, social security number or employer identification number," for "address, social security number,".

Subsec. (g). Pub. L. 103–208, §2(h)(12), redesignated subsec. (g) as (f).

1992—Subsec. (a). Pub. L. 102–325, §483(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) to (5) relating to a common financial aid form and processing of financial aid applications.

Subsec. (b). Pub. L. 102–325, §483(a), added subsec. (b) and struck out former subsec. (b) which related to certifications of capability of systems for determining expected family contributions.

Subsec. (d). Pub. L. 102–325, §483(b)(1), struck out subsec. (d) which related to provision of early notice to students of their potential eligibility for financial aid.

Subsec. (e). Pub. L. 102–325, §483(b)(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing application forms for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42."

Subsecs. (f), (g). Pub. L. 102–325, §483(b)(1), (3), added subsecs. (f) and (g) and struck out former subsec. (f) which related to notice of student aid receipt.

1987—Subsec. (a)(1). Pub. L. 100–50, §15(3), (4), inserted in second sentence "or institutions in which the students are enrolled or accepted for enrollment" after "that applicants" and "and on which the applicant shall clearly indicate a choice of lender" before period at end.

Subsec. (a)(2). Pub. L. 100–50, §15(5), substituted "not less than 5" for "not less than 3" and inserted sentence at end providing that the Secretary not select new multiple data entry processors until certain examinations and recommendations are made by the Advisory Commission on Student Financial Assistance.

Subsecs. (b) to (f). Pub. L. 100–50, §15(6), added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–152 effective July 1, 2010, see section 2101(c) of Pub. L. 111–152, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (e) of this section applicable to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

IDENTIFICATION OF FOSTER YOUTH ON FAFSA

Pub. L. 113–235, div. G, title III, §308, Dec. 16, 2014, 128 Stat. 2504, provided that: "The Secretary of Education shall—

"(1) modify the Free Application for Federal Student Aid described in section 483 of the HEA [Higher Education Act of 1965, 20 U.S.C. 1090] so that the Free Application for Federal Student Aid contains an individual box for the purpose of identifying students who are foster youth or were in the foster care system; and

"(2) utilize such identification as a tool to notify students who are foster youth or were in the foster care system of their potential eligibility for Federal student aid, including postsecondary education programs through the John H. Chafee Foster Care Independence Program and any other Federal programs under which such students may be eligible to receive assistance."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 113–76, div. H, title III, §310, Jan. 17, 2014, 128 Stat. 400.

DELAYED IMPLEMENTATION OF EZ FAFSA

Pub. L. 111–39, title IV, §407(a), July 1, 2009, 123 Stat. 1950, provided that: "Notwithstanding any other provision of law, the Secretary of Education shall be required to carry out the requirements under the following provisions of section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) only for academic year 2010–2011 and subsequent academic years:

"(1) In subsection (a) of such section—

"(A) subparagraphs (A)(i) and (B) of paragraph (2);

"(B) in paragraph (3)—

"(i) the second sentence of subparagraph (A);

"(ii) clauses (i) and (ii) of subparagraph (B); and

"(iii) subparagraph (C);

"(C) paragraph (4)(A)(iv); and

"(D) paragraph (5)(E).

"(2) Subsection (h) of such section."

§1091. Student eligibility

(a) In general

In order to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, a student must—

(1) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title, except as provided in subsections (b)(3) and (b)(4) of this section, and not be enrolled in an elementary or secondary school;

(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c) of this section;

(3) not owe a refund on grants previously received at any institution under this subchapter and part C of subchapter I of chapter 34 of title 42, or be in default on any loan from a student loan

fund at any institution provided for in part D of this subchapter, or a loan made, insured, or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 for attendance at any institution;

(4) file with the Secretary, as part of the original financial aid application process, a certification, which need not be notarized, but which shall include—

(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

(B) such student's social security number;

(5) be a citizen or national of the United States, a permanent resident of the United States, or able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; and

(6) if the student has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this subchapter and part C of subchapter I of chapter 34 of title 42, have completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this subchapter and part C of subchapter I of chapter 34 of title 42 obtained by fraud.

(b) Eligibility for student loans

(1) In order to be eligible to receive any loan under this subchapter and part C of subchapter I of chapter 34 of title 42 (other than a loan under section 1078–2 or 1078–3 of this title, or under section 1078–8 of this title pursuant to an exercise of discretion under section 1087tt of this title) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this subchapter, shall—

(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or

(B) have (i) filed an application with the Pell Grant processor for such institution for such enrollment period, and (ii) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

(2) In order to be eligible to receive any loan under section 1078–1 [1] of this title for any period of enrollment, a student shall—

(A) have received a determination of need for a loan under section 1078(a)(2)(B) of this title;

(B) if determined to have need for a loan under section 1078 of this title, have applied for such a loan; and

(C) has applied for a loan under section 1078–8 of this title, if such student is eligible to apply for such a loan.

(3) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B or C of this subchapter. The eligibility described in this paragraph shall be restricted to one 12-month period.

(4) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42.

(5) Notwithstanding any other provision of this subsection, no incarcerated student is eligible to receive a loan under this subchapter and part C of subchapter I of chapter 34 of title 42.

(c) Satisfactory progress

(1) For the purpose of subsection (a)(2) of this section, a student is maintaining satisfactory progress if—

(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) of this section as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) of this section for a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

(A) the death of a relative of the student,

(B) the personal injury or illness of the student, or

(C) special circumstances as determined by the institution.

(d) Students who are not high school graduates

(1) Student eligibility

In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 3, and 4 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall meet the requirements of one of the following subparagraphs:

(A) The student is enrolled in an eligible career pathway program and meets one of the following standards:

(i) The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that such student can benefit from the education or training being offered. Such examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

(ii) The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves such process. In determining whether to approve or disapprove such process, the Secretary shall take into account the effectiveness of such process in enabling students without secondary school

diplomas or the equivalent thereof to benefit from the instruction offered by institutions utilizing such process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

(iii) The student shall be determined by the institution of higher education as having the ability to benefit from the education or training offered by the institution of higher education upon satisfactory completion of 6 credit hours or the equivalent coursework that are applicable toward a degree or certificate offered by the institution of higher education.

(B) The student has completed a secondary school education in a home school setting that is treated as a home school or private school under State law.

(2) Eligible career pathway program

In this subsection, the term "eligible career pathway program" means a program that combines rigorous and high-quality education, training, and other services that—

(A) aligns with the skill needs of industries in the economy of the State or regional economy involved;

(B) prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this chapter and part C of subchapter I of chapter 34 of title 42 as an "apprenticeship", except in section 171); [1]

(C) includes counseling to support an individual in achieving the individual's education and career goals;

(D) includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(E) organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(F) enables an individual to attain a secondary school diploma or its recognized equivalent, and at least 1 recognized postsecondary credential; and

(G) helps an individual enter or advance within a specific occupation or occupational cluster.

(e) Certification for GSL eligibility

Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this subchapter prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this subchapter and part C of subchapter I of chapter 34 of title 42, if—

(1) checks for the loans are mailed to the eligible institution prior to disbursements;

(2) the disbursement is not made until the review is complete; and

(3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

(f) Loss of eligibility for violation of loan limits

(1) No student shall be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the eligible institution determines that the student fraudulently borrowed in violation of the annual loan limits under part B, part C, or part D of this subchapter in the same academic year, or if the student fraudulently borrowed in excess of the aggregate maximum loan limits under such part B, part C, or part D.

(2) If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(g) Verification of immigration status

(1) In general

The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) of this section shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(2) Special rule

The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 1324a(b)(1)(B) of title 8 to verify eligibility to participate in work-study programs under part C of subchapter I of chapter 34 of title 42.

(3) Verification mechanisms

The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

(4) Review

In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitute reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(h) Limitations of enforcement actions against institutions

The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (g)(4)(A)(i) of this section, was required to provide a reasonable opportunity to submit documentation, or

(3) because the institution, under subsection (g)(4)(B)(i) of this section, was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student.

(i) Validity of loan guarantees for loan payments made before immigration status verification

completed

Notwithstanding subsection (h) [1] of this section, if—

(1) a guaranty is made under this subchapter and part C of subchapter I of chapter 34 of title 42 for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h) [1] of this section had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.

(j) Repealed. Pub. L. 110–315, title IV, §485(a)(4), Aug. 14, 2008, 122 Stat. 3288

(k) Special rule for correspondence courses

A student shall not be eligible to receive grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

(l) Courses offered through distance education

(1) Relation to correspondence courses

(A) In general

A student enrolled in a course of instruction at an institution of higher education that is offered principally through distance education and leads to a recognized certificate, or recognized associate, recognized baccalaureate, or recognized graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses.

(B) Exception

An institution of higher education referred to in subparagraph (A) shall not include an institution or school described in section 2302(3)(C) of this title.

(2) Reductions of financial aid

A student's eligibility to receive grants, loans, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be reduced if a financial aid officer determines under the discretionary authority provided in section 1087tt of this title that distance education results in a substantially reduced cost of attendance to such student.

(3) Special rule

For award years beginning prior to July 1, 2008, the Secretary shall not take any compliance, disallowance, penalty, or other action based on a violation of this subsection against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

(m) Students with a first baccalaureate or professional degree

A student shall not be ineligible for assistance under parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42 because such student has previously received a baccalaureate or professional degree.

(n) Data base matching

To enforce the Selective Service registration provisions of section 3811(f) of title 50, the Secretary shall conduct data base matches with the Selective Service, using common demographic data

elements. Appropriate confirmation, through an application output document or through other means, of any person's registration shall fulfill the requirement to file a separate statement of compliance. In the absence of a confirmation from such data matches, an institution may also use data or documents that support either the student's registration, or the absence of a registration requirement for the student, to fulfill the requirement to file a separate statement of compliance. The mechanism for reporting the resolution of nonconfirmed matches shall be prescribed by the Secretary in regulations.

(o) Study abroad

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, without regard to whether such study abroad program is required as part of the student's degree program.

(p) Verification of social security number

The Secretary of Education, in cooperation with the Commissioner of the Social Security Administration, shall verify any social security number provided by a student to an eligible institution under subsection (a)(4) of this section and shall enforce the following conditions:

(1) Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this part because social security number verification is pending.

(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student under part B of this subchapter, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, but such guaranty shall not be voided or otherwise nullified with respect to such disbursements made before the date that the lender and the guaranty agency receives such notice.

(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

(A) any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution; or

(B) any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.

(q) Use of income data

(1) Matching with IRS

The Secretary, in cooperation with the Secretary of the Treasury, is authorized to obtain from the Internal Revenue Service such information reported on Federal income tax returns by applicants, or by any other person whose financial information is required to be provided on the Federal student financial aid application, as the Secretary determines is necessary for the purpose of—

(A) prepopulating the Federal student financial aid application described in section 1090 of this title; or

(B) verifying the information reported on such student financial aid applications.

(2) Consent

The Secretary may require that applicants for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 provide a consent to the disclosure of the data described in paragraph (1) as a condition of the student receiving assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. The parents of an applicant, in the case of a dependent student, or the spouse of an applicant, in the case of an applicant who is married but files separately, may also be required to provide consent as a condition of the student receiving assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(r) Suspension of eligibility for drug-related offenses

(1) In general

A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall not be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 from the date of that conviction for the period of time specified in the following table:

If convicted of an offense involving:	
The possession of a controlled substance:	**Ineligibility period is:**
First offense	1 year
Second offense	2 years
Third offense	Indefinite.
The sale of a controlled substance:	**Ineligibility period is:**
First offense	2 years
Second offense	Indefinite.

(2) Rehabilitation

A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if—

(A) the student satisfactorily completes a drug rehabilitation program that—

(i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and

(ii) includes two unannounced drug tests;

(B) the student successfully passes two unannounced drug tests conducted by a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe in regulations for purposes of subparagraph (A)(i); or

(C) the conviction is reversed, set aside, or otherwise rendered nugatory.

(3) Definitions

In this subsection, the term "controlled substance" has the meaning given the term in section 802(6) of title 21.

(s) Students with intellectual disabilities

(1) Definitions

In this subsection the terms "comprehensive transition and postsecondary program for students

with intellectual disabilities" and "student with an intellectual disability" have the meanings given the terms in section 1140 of this title.

(2) Requirements

Notwithstanding subsections (a), (c), and (d), in order to receive any grant or work assistance under section 1070a of this title, subpart 3 of part A of this subchapter, or part C of subchapter I of chapter 34 of title 42, a student with an intellectual disability shall—

(A) be enrolled or accepted for enrollment in a comprehensive transition and postsecondary program for students with intellectual disabilities at an institution of higher education;

(B) be maintaining satisfactory progress in the program as determined by the institution, in accordance with standards established by the institution; and

(C) meet the requirements of paragraphs (3), (4), (5), and (6) of subsection (a).

(3) Authority

Notwithstanding any other provision of law unless such provision is enacted with specific reference to this section, the Secretary is authorized to waive any statutory provision applicable to the student financial assistance programs under section 1070a of this title, subpart 3 of part A of this subchapter, or part C of subchapter I of chapter 34 of title 42 (other than a provision of part E of this subchapter related to such a program), or any institutional eligibility provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, as the Secretary determines necessary to ensure that programs enrolling students with intellectual disabilities otherwise determined to be eligible under this subsection may receive such financial assistance.

(4) Regulations

Notwithstanding regulations applicable to grant or work assistance awards made under section 1070a of this title, subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 (other than a regulation under part E of this subchapter related to such an award), including with respect to eligible programs, instructional time, credit status, and enrollment status as described in section 1088 of this title, the Secretary shall promulgate regulations allowing programs enrolling students with intellectual disabilities otherwise determined to be eligible under this subsection to receive such awards.

(t) Data analysis on access to Federal student aid for certain populations

(1) Development of the system

Within one year of August 14, 2008, the Secretary shall analyze data from the FAFSA containing information regarding the number, characteristics, and circumstances of students denied Federal student aid based on a drug conviction while receiving Federal aid.

(2) Results from analysis

The results from the analysis of such information shall be made available on a continuous basis via the Department website and the Digest of Education Statistics.

(3) Data updating

The data analyzed under this subsection shall be updated at the beginning of each award year and at least one additional time during such award year.

(4) Report to Congress

The Secretary shall prepare and submit to the authorizing committees, in each fiscal year, a report describing the results obtained by the establishment and operation of the data system authorized by this subsection.

(Pub. L. 89–329, title IV, §484, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1479; amended Pub. L. 99–603, title I, §121(a)(3), Nov. 6, 1986, 100 Stat. 3388; Pub. L. 100–50, §15(7)–(9), June 3, 1987, 101 Stat. 356, 357; Pub. L. 100–369, §§1, 2, 6, July 18, 1988, 102 Stat. 835, 836; Pub. L. 100–525, §2(g), Oct. 24, 1988, 102 Stat. 2611; Pub. L. 101–508, title III, §3005(a), Nov. 5, 1990, 104 Stat. 1388–27; Pub. L. 102–26, §2(b), (c)(2), (d)(2)(A), Apr. 9, 1991, 105 Stat.

123, 124; Pub. L. 102–73, title VIII, §801(a), July 25, 1991, 105 Stat. 359; Pub. L. 102–325, title IV, §484(a), (b)(1), (c)–(h), July 23, 1992, 106 Stat. 615–619; Pub. L. 103–208, §2(h)(13)–(25), Dec. 20, 1993, 107 Stat. 2476, 2477; Pub. L. 103–382, title III, §360A, Oct. 20, 1994, 108 Stat. 3969; Pub. L. 104–208, div. C, title V, §507(b), Sept. 30, 1996, 110 Stat. 3009–673; Pub. L. 105–244, title IV, §483(a)–(f)(1), Oct. 7, 1998, 112 Stat. 1735, 1736; Pub. L. 109–171, title VIII, §§8020(c), 8021, Feb. 8, 2006, 120 Stat. 178; Pub. L. 109–270, §2(c)(2), Aug. 12, 2006, 120 Stat. 746; Pub. L. 110–315, title IV, §485(a), Aug. 14, 2008, 122 Stat. 3287; Pub. L. 111–39, title IV, §407(b)(4), July 1, 2009, 123 Stat. 1950; Pub. L. 112–74, div. F, title III, §309(c)(1), Dec. 23, 2011, 125 Stat. 1100; Pub. L. 113–235, div. G, title III, §309(a)(1), Dec. 16, 2014, 128 Stat. 2504; Pub. L. 114–113, div. H, title III, §313(1), Dec. 18, 2015, 129 Stat. 2638.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

Act of August 16, 1937, commonly known as the National Apprenticeship Act, referred to in subsec. (d)(2)(B), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, which is classified generally to chapter 4C (§50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

Section 171, referred to in subsec. (d)(2)(B), may have been intended as a reference to section 171 of the Workforce Innovation and Opportunity Act, Pub. L. 113–128, which is classified to section 3226 of Title 29, Labor. Neither the National Apprenticeship Act nor the Higher Education Act of 1965 contains a section 171.

Subsection (h) of this section, referred to in subsec. (i), was redesignated subsec. (g) of this section by Pub. L. 103–208, §2(h)(25), Dec. 20, 1993, 107 Stat. 2477.

PRIOR PROVISIONS

A prior section 1091, Pub. L. 89–329, title IV, §484, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1448; Pub. L. 99–272, title XVI, §16032(a), (b), Apr. 7, 1986, 100 Stat. 354, related to student eligibility for assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1091, Pub. L. 89–329, title V, §501, Nov. 8, 1965, 79 Stat. 1254; Pub. L. 90–35, §2(c), June 29, 1967, 81 Stat. 82; Pub. L. 92–318, title I, §141(b)(1), June 23, 1972, 86 Stat. 285, set forth statement of purpose and authorization of appropriations for education professions development program, prior to repeal effective Sept. 30, 1976, by Pub. L. 94–482, title I, §151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

2015—Subsec. (d)(2). Pub. L. 114–113 amended par. (2) generally. Prior to amendment, par. (2) contained a different definition of "eligible career pathway program".

2014—Subsec. (d). Pub. L. 113–235 amended subsec. (d) generally. Prior to amendment, text read as follows: "In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 3, and 4 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall have completed a secondary school education in a home school setting that is treated as a home school or private school under State law."

2011—Subsec. (d). Pub. L. 112–74 struck out "meet one of the following standards:" after "the student shall", substituted "have completed" for "(3) The student has completed", and struck out pars. (1), (2) and (4), which required students to take an independently administered examination, required a State process, or required an institution of higher education, respectively, to determine ability of students to benefit from education or training.

2009—Subsec. (a)(4). Pub. L. 111–39, §407(b)(4)(A), substituted "certification," for "certification,," in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 111–39, §407(b)(4)(B), substituted "have (i)" for "have (A)" and "and (ii)" for "and (B)".

Subsec. (f)(1). Pub. L. 111–39, §407(b)(4)(C), amended references in original which appear in text as references to part B, part C, or part D, resulting in text identical to that after execution of Pub. L. 103–208, §2(h)(18). See 1993 Amendment note for subsec. (g) below.

Subsec. (h)(2), (3). Pub. L. 111–39, §407(b)(4)(D), substituted "(g)(4)(A)(i)" for "(h)(4)(A)(i)" in par. (2) and "(g)(4)(B)(i)" for "(h)(4)(B)(i)" in par. (3).

Subsec. (n). Pub. L. 111–39, §407(b)(4)(E), substituted "section 3811(f) of title 50" for "section 1113 of Public Law 97–252".

2008—Subsec. (a)(4)(B). Pub. L. 110–315, §485(a)(1)(A), substituted "number;" for "number, except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;".

Subsec. (a)(5). Pub. L. 110–315, §485(a)(1)(B), inserted "or" after "a permanent resident of the United States," and substituted "citizen or permanent resident;" for "citizen or permanent resident, a citizen of any one of the Freely Associated States;".

Subsec. (b)(1). Pub. L. 110–315, §485(a)(2), inserted ", or under section 1078–8 of this title pursuant to an exercise of discretion under section 1087tt of this title" after "1078–3 of this title".

Subsec. (d)(4). Pub. L. 110–315, §485(a)(3), added par. (4).

Subsec. (j). Pub. L. 110–315, §485(a)(4), struck out subsec. (j). Text read as follows: "Notwithstanding any other provision of law, a student shall be eligible until September 30, 2004, for assistance under subparts 1 and 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42, if the student is otherwise qualified and—

"(1) is a citizen of any one of the Freely Associated States and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Freely Associated States; or

"(2) meets the requirements of subsection (a)(5) of this section and attends a public or nonprofit private institution of higher education in any one of the Freely Associated States."

Subsec. (l). Pub. L. 110–315, §485(a)(5), added subsec. (l) and struck out former subsec. (l) which related to courses offered through telecommunications.

Subsec. (q). Pub. L. 110–315, §485(a)(6), added subsec. (q) and struck out former subsec. (q) which related to verification of income data.

Subsec. (r)(2)(B), (C). Pub. L. 110–315, §485(a)(7), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (s). Pub. L. 110–315, §485(a)(8), added subsec. (s).

Subsec. (t). Pub. L. 110–315, §485(a)(9), added subsec. (t).

2006—Subsec. (a)(6). Pub. L. 109–171, §8021(a), added par. (6).

Subsec. (l)(1)(A). Pub. L. 109–171, §8020(c)(1), struck out "for a program of study of 1 year or longer" after "recognized certificate" and "unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of the total amount of all courses at the institution" before period at end.

Subsec. (l)(1)(B). Pub. L. 109–171, §8020(c)(2), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: "An institution of higher education referred to in subparagraph (A) is an institution of higher education—

"(i) that is not an institute or school described in section 2471(4)(C) of this title; and

"(ii) for which at least 50 percent of the programs of study offered by the institution lead to the award of a recognized associate, baccalaureate, or graduate degree."

Subsec. (l)(1)(B)(i). Pub. L. 109–270, which directed substitution of reference to section 2302(C) of this title for reference to section 2471(4)(C) of this title in cl. (i), could not be executed due to general amendment of subpar. (B) by Pub. L. 109–171. See above.

Subsec. (q)(1). Pub. L. 109–171, §8021(b), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the adjusted gross income, Federal income taxes paid, filing status, and exemptions reported by applicants (including parents) under this subchapter and part C of subchapter I of chapter 34 of title 42 on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications."

Subsec. (r)(1). Pub. L. 109–171, §8021(c), amended heading and text of introductory provisions generally. Prior to amendment, text of introductory provisions read as follows: "A student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 during the period beginning on the date of such conviction and ending after the interval specified in the following table:".

1998—Subsec. (a)(4). Pub. L. 105–244, §483(a)(1), substituted "the Secretary, as part of the original financial aid application process, a certification," for "the institution of higher education which the student

intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a document" in introductory provisions.

Subsec. (a)(5). Pub. L. 105–244, §483(a)(2), substituted "a citizen of any one of the Freely Associated States" for "or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands".

Subsec. (d). Pub. L. 105–244, §483(b), struck out "either" after "shall meet" in introductory provisions and added par. (3).

Subsec. (j). Pub. L. 105–244, §483(c), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: "Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 3, and 6, and division 1 of subpart 2, of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42, if the student is otherwise qualified and—

"(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

"(2) meets the requirements of subsection (a)(5) of this section and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau."

Subsec. (l)(1). Pub. L. 105–244, §483(d), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "A student enrolled in a course of instruction at an eligible institution of higher education (other than an institution that meets the definition in section 2471(4)(C) of this title) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by such institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of such courses."

Subsec. (q). Pub. L. 105–244, §483(e), added subsec. (q).

Subsec. (r). Pub. L. 105–244, §483(f)(1), added subsec. (r).

1996—Subsec. (g)(4)(B)(i). Pub. L. 104–208 amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,".

1994—Subsec. (j). Pub. L. 103–382 amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: "Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42."

1993—Subsec. (a)(4)(B). Pub. L. 103–208, §2(h)(13), inserted ", except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau" after "number".

Subsec. (a)(5). Pub. L. 103–208, §2(h)(14), substituted "able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident" for "in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident".

Subsec. (b)(2)(C). Pub. L. 103–208, §2(h)(15), added subpar. (C).

Subsec. (b)(3). Pub. L. 103–208, §2(h)(16), substituted "part B or C of this subchapter" for "part B of this subchapter" in closing provisions.

Subsec. (f). Pub. L. 103–208, §2(h)(17), (25), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: "Notwithstanding any other provision of law, the Secretary may not require, or prescribe regulations that require, institutions to verify the accuracy of data used to determine the eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 for more than 30 percent of the applicants in any award year. In carrying out the provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applicants in any award year. Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency."

Subsec. (g). Pub. L. 103–208, §2(h)(25), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Pub. L. 103–208, §2(h)(18), which directed insertion of a comma after ", Part C" wherever appearing, was

executed by inserting a comma after ", part C" wherever appearing, to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 103–208, §2(h)(25), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Pub. L. 103–208, §2(h)(19), substituted "constitute" for "constitutes" in introductory provisions of par. (4)(B).

Subsec. (i). Pub. L. 103–208, §2(h)(25), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Pub. L. 103–208, §2(h)(22), struck out par. (4) which read as follows: "because of a fair hearing process described in subsection (h)(5)(B) of this section."

Pub. L. 103–208, §2(h)(21), substituted "(h)(4)(B)(i)" for "(h)(4)(B)(ii)" and "student." for "student, or" in par. (3).

Pub. L. 103–208, §2(h)(20), inserted "or" after "documentation," and substituted "(h)(4)(A)(i)" for "(h)(4)(A)(ii)" in par. (2).

Subsecs. (j) to (m). Pub. L. 103–208, §2(h)(25), redesignated subsecs. (k) to (n) as (j) to (m), respectively. Former subsec. (j) redesignated (i).

Subsec. (n). Pub. L. 103–208, §2(h)(25), redesignated subsec. (o) as (n). Former subsec. (n) redesignated (m).

Pub. L. 103–208, §2(h)(23), substituted "parts B, C," for "part B, C,".

Subsecs. (o), (p). Pub. L. 103–208, §2(h)(25), redesignated subsecs. (p) and (q) as (o) and (p), respectively. Former subsec. (o) redesignated (n).

Subsec. (q). Pub. L. 103–208, §2(h)(25), redesignated subsec. (q) as (p).

Pub. L. 103–208, §2(h)(24), substituted "documented evidence of a social security number that is determined by the institution to be correct" for "a correct social security number" in par. (2).

1992—Subsec. (a)(1). Pub. L. 102–325, §484(a)(1), inserted "(including a program of study abroad approved for credit by the eligible institution at which such student is enrolled)" after "or other program".

Subsec. (a)(4). Pub. L. 102–325, §484(a)(2), added par. (4) and struck out former par. (4) which read as follows: "file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and".

Subsec. (b)(4)(B). Pub. L. 102–325, §484(b)(1)(A), substituted "part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42" for "part B of this subchapter" in concluding provisions.

Subsec. (b)(5). Pub. L. 102–325, §484(b)(1)(B), added par. (5).

Subsec. (d). Pub. L. 102–325, §484(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 2, and 3 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall pass an independently administered examination approved by the Secretary."

Subsec. (f). Pub. L. 102–325, §484(d), inserted at end "Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency."

Subsec. (g). Pub. L. 102–325, §484(e), designated existing provisions as par. (1), inserted ", part C" after "part B" in two places and "fraudulently" before "borrowed" in two places, and added par. (2).

Subsec. (h). Pub. L. 102–325, §484(f), amended subsec. (h) generally. Prior to amendment, subsec. (h) contained pars. (1) to (6) relating to requirements for verification of student immigration status.

Subsec. (k). Pub. L. 102–325, §484(h), made technical amendment to directory language of Pub. L. 102–73, §801(a). See 1991 Amendment note below.

Subsecs. (l) to (q). Pub. L. 102–325, §484(g), added subsecs. (l) to (q).

1991—Subsec. (a)(1). Pub. L. 102–26, §2(c)(2), inserted before semicolon at end ", and not be enrolled in an elementary or secondary school".

Subsec. (d). Pub. L. 102–26, §2(d)(2)(A), repealed Pub. L. 101–508, §3005(a). See 1990 Amendment note below.

Pub. L. 102–26, §2(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "A student who is admitted on the basis of the ability to benefit from the education or training in order to remain eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall—

"(1) receive the general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier;

"(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

"(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

"(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.

In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school."

Subsec. (k). Pub. L. 102–73, as amended by Pub. L. 102–325, §484(h), added subsec. (k).

1990—Subsec. (d). Pub. L. 101–508, which amended subsec. (d) generally to read: "In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.", was repealed by Pub. L. 102–26, §2(d)(2)(A). See Construction of 1991 Amendment note below.

1988—Subsec. (a)(1). Pub. L. 100–369, §6(1), substituted "subsections (b)(3) and (b)(4)" for "subsection (b)(2)".

Subsec. (b)(1). Pub. L. 100–369, §1(1), substituted "section 1078–2 or 1078–3" for "section 1078–1, 1078–2, or 1078–3".

Subsec. (b)(1)(A). Pub. L. 100–369, §1(2), added subpar. (A) and struck out former subpar. (A) which read as follows: "have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or".

Subsec. (b)(2), (3). Pub. L. 100–369, §2, added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(4). Pub. L. 100–369, §6(2), added par. (4).

Subsecs. (c) to (e), (h) to (j). Pub. L. 100–525 redesignated subsecs. (c) to (e) enacted by Pub. L. 99–603 as (h) to (j), respectively, and inserted headings, substituted references to subsec. (h) for references to subsec. (c) wherever appearing, and in closing provisions of subsec. (j) substituted "date" for "date of".

1987—Subsec. (a)(1). Pub. L. 100–50, §15(7)(A), inserted ", except as provided in subsection (b)(2) of this section" before semicolon at end.

Subsec. (b). Pub. L. 100–50, §15(7)(B)–(D), designated existing provision as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (d). Pub. L. 100–50, §15(8), added pars. (2) and (3) and last sentence relating to ineligibility for assistance if a student is enrolled in either an elementary or a secondary school, and struck out former par. (2) which read as follows:

"(A) be counseled prior to admissions or be administered a nationally recognized standardized or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which he has applied; and

"(B) with respect to applicants who are unable to satisfy the institution's admissions testing requirements specified in subparagraph (A), be enrolled in an institutionally prescribed program or course of remedial or developmental education, not to exceed one academic year or its equivalent."

Subsec. (f). Pub. L. 100–50, §15(9), inserted at end "In carrying out provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applications in any award year."

1986—Subsec. (c). Pub. L. 99–603 added subsec. (c) requiring immigration status verification.

Subsec. (d). Pub. L. 99–603 added subsec. (d) limiting enforcement actions against institutions.

Subsec. (e). Pub. L. 99–603 added subsec. (e) relating to validity of loan guarantees for loan payments made before completion of immigration status verification.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–235, div. G, title III, §309(a)(2), Dec. 16, 2014, 128 Stat. 2506, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if such amendment was enacted on June 30, 2014, and shall apply to students who are enrolled or who first enroll in an eligible program of study on or after July 1, 2014."

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–74, div. F, title III, §309(c)(2), Dec. 23, 2011, 125 Stat. 1100, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to students who first enroll in a program of study on or after July 1, 2012."

Amendment by Pub. L. 112–74 effective July 1, 2012, see section 309(g) of Pub. L. 112–74, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §485(b), Aug. 14, 2008, 122 Stat. 3290, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on July 1, 2010, except that the amendments made by paragraphs (3), (4), and (8) of such subsection shall take effect on the date of enactment of this Act [August 14, 2008]."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 483(a)–(e) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §483(f)(2), Oct. 7, 1998, 112 Stat. 1737, provided that: "The amendment made by paragraph (1) [amending this section], regarding suspension of eligibility for drug-related offenses, shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act [Oct. 7, 1998]."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 484(a), (b)(1)(B), and (c) to (h) of Pub. L. 102–325 effective July 23, 1992, except that subsec. (m)(1) of this section, relating to proportion of courses permitted to be correspondence courses, as added by such amendment, effective on and after Oct. 1, 1992, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title, and subsec. (n) of this section, relating to eligibility of students with first baccalaureate or professional degree for assistance, as added by such amendment, effective on and after Dec. 1, 1987, see section 484(i) of Pub. L. 102–325, set out below.

Pub. L. 102–325, title IV, §484(b)(2), July 23, 1992, 106 Stat. 615, provided that: "The amendments made by paragraph (1)(A) of this subsection [amending this section] shall be effective on and after December 1, 1987."

Section 484(i) of Pub. L. 102–325, as added by Pub. L. 103–208, §2(k)(8), Dec. 20, 1993, 107 Stat. 2486, provided that: "The amendments made by subsection (g) [section 484(g) of Pub. L. 102–325] with respect to the addition of subsection (n) [adding subsec. (n) of this section] shall be effective on and after December 1, 1987."

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99–603, see section 2(s) of Pub. L. 100–525, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Pub. L. 100–369, §13, July 18, 1988, 102 Stat. 838, provided that:

"(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act to title IV of the Higher Education Act of 1965 [amending this section and section 1078–1 of this title] shall be effective for

any loan for which the eligibility of the borrower is certified by the institution 30 days after the date of enactment of this Act [July 18, 1988].

"(b) SPECIAL RULES.—(1) The amendments made by section 5 [amending this section and sections 1077 and 1078 of this title] shall be effective with respect to loans made on or after October 1, 1988.

"(2) The amendments made by sections 6, 7, 8, 9, 10, 11, and 12 [amending this section, sections 1058, 1061, 1062, 1070a–1, 1070a–3, 1070a–4, 1070a–6, 1071, 1077, 1078, 1087–2, 1087dd, 1087ee, 1087nn, 1087ss, 1087vv, 1132d–1, 1132g–1, and 1134m of this title, and section 1905 of Title 48, Territories and Insular Possessions] shall take effect on the date of enactment of this Act [July 18, 1988]."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective Oct. 1, 1988, with certain exceptions and qualifications, see section 121(c)(3), (4) of Pub. L. 99–603, set out as a note under section 1320b–7 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Pub. L. 99–498, title IV, §407(b), Oct. 17, 1986, 100 Stat. 1494, provided that:

"(1) Sections 483(e) and 484(d) of the Act [20 U.S.C. 1090(e), 1091(d)] as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

"(2) The changes made in section 484(a)(1) of the Act [20 U.S.C. 1091(a)(1)] shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

"(3) Section 484(c) of the Act [20 U.S.C. 1091(c)] as amended by this section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

"(4) Sections 484(f), 485(b), and 487(a)(10) of the Act [20 U.S.C. 1091(f), 1092(b), 1094(a)(10)] as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987."

CONSTRUCTION OF 1991 AMENDMENT

For repeal of section 3005 of Pub. L. 101–508 and application of subsec. (d) of this section as if such section 3005 had not been enacted, see section 2(d)(2)(A) of Pub. L. 102–26, set out as a note under section 1088 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

SATISFACTORY PROGRESS

Pub. L. 99–498, title XIII, §1301, Oct. 17, 1986, 100 Stat. 1579, as amended by Pub. L. 100–50, §23(1), June 3, 1987, 101 Stat. 362, directed Secretary, through the Office of Educational Research and Improvement, to conduct survey over 5-year period ending Sept. 30, 1991, on impact on grades of students of amendments made by Pub. L. 99–498 to subsec. (c) of this section and to submit annual reports to Congress of survey, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

DENIAL OF STUDENT ASSISTANCE TO CERTAIN NONCITIZENS

Pub. L. 99–498, title XIII, §1361, Oct. 17, 1986, 100 Stat. 1588, established in Department of Education the Alien Youth Education Opportunity Panel and provided for Panel's composition, duties, reports, administrative and clerical support, compensation and expenses, and access to information, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

FINANCIAL AID TO STUDENTS NOT DEEMED INCOME OR RESOURCES FOR PURPOSES OF CERTAIN SOCIAL SECURITY ACT PROGRAMS

Pub. L. 90–575, title V, §507, Oct. 16, 1968, 82 Stat. 1063, as amended by Pub. L. 96–88, title III, §301(a)(1), Oct. 17, 1979, 93 Stat. 677, provided that: "For the purpose of any program assisted under title I, IV, X, XIV, XVI, or XIX of the Social Security Act [subchapters I, IV, X, XIV, XVI, or XIX of chapter 7 of

Title 42, The Public Health and Welfare], no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Secretary of Education shall be considered to be income or resources."

[1] *See References in Text note below.*

§1091a. Statute of limitations, and State court judgments

(a) In general

(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by—

(A) an institution that receives funds under this subchapter and part C of subchapter I of chapter 34 of title 42 that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) a guaranty agency that has an agreement with the Secretary under section 1078(c) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part B of this subchapter after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(C) an institution that has an agreement with the Secretary pursuant to section 1087c or 1087cc(a) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part C or D of this subchapter after the default of the borrower on such loan; or

(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made under this subchapter and part C of subchapter I of chapter 34 of title 42, or for the repayment of the amount due from a borrower on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Assessment of costs and other charges

Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be required to pay, in addition to other charges specified in this subchapter and part C of subchapter I of chapter 34 of title 42 reasonable collection costs;

(2) in collecting any obligation arising from a loan made under part B of this subchapter, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy; and

(3) in collecting any obligation arising from a loan made under part D, an institution of higher education that has an agreement with the Secretary pursuant to section 1087cc(a) of this title shall not be subject to a defense raised by any borrower based on a claim of infancy.

(c) State court judgments

A judgment of a State court for the recovery of money provided as grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned or transferred to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 may be registered in any district court of the United States by filing a certified copy of the judgment and a copy of the assignment or transfer. A judgment so registered shall have the same force and effect, and may be enforced in the same manner, as a judgment of the district court of the district in which the judgment is registered.

(d) Special rule

This section shall not apply in the case of a student who is deceased, or to a deceased student's estate or the estate of such student's family. If a student is deceased, then the student's estate or the estate of the student's family shall not be required to repay any financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, including interest paid on the student's behalf, collection costs, or other charges specified in this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, §484A, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 102–26, §3(a), Apr. 9, 1991, 105 Stat. 124; Pub. L. 105–244, title IV, §484, Oct. 7, 1998, 112 Stat. 1737; Pub. L. 110–315, title IV, §486, Aug. 14, 2008, 122 Stat. 3290.)

PRIOR PROVISIONS

A prior section 1091a, Pub. L. 89–329, title IV, §484A, as added Pub. L. 99–272, title XVI, §16033, Apr. 7, 1986, 100 Stat. 355, related to statute of limitations, collection costs, and defense of infancy, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1091a, Pub. L. 89–329, title V, §502, as added Pub. L. 90–35, §2(c), June 29, 1967, 81 Stat. 82; amended Pub. L. 91–230, title IV, §401(h)(4), title VIII, §802, Apr. 13, 1970, 84 Stat. 174, 190; Pub. L. 92–318, title I, §141(c)(1)(A), June 23, 1972, 86 Stat. 285, established the National Advisory Council on Education Professions Development and set forth functions, composition, etc., of the Council, prior to repeal by Pub. L. 94–482, title I, §151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151, effective Sept. 30, 1976.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110–315, §486(1), added par. (3).

Subsec. (d). Pub. L. 110–315, §486(2), added subsec. (d).

1998—Pub. L. 105–244, §484(1), inserted ", and State court judgments" after "limitations" in section catchline.

Subsec. (c). Pub. L. 105–244, §484(2), added subsec. (c).

1991—Subsec. (a). Pub. L. 102–26 amended subsec. (a) generally, substituting provisions eliminating statute of limitations for student loan collections for provisions establishing six year limitations period for collection of such loans.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–26, §3(c), Apr. 9, 1991, 105 Stat. 125, as amended by Pub. L. 102–325, title XV, §1551, July 23, 1992, 105 Stat. 838, provided that: "The amendments made by this section [amending this section] shall be effective as if enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272), and shall apply to any actions pending on or after the date of enactment of the Higher Education Technical Amendments of 1991 [Apr. 9, 1991]."

§1091b. Institutional refunds

(a) Return of title IV funds

(1) In general

If a recipient of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the amount of grant or loan assistance (other than assistance received under part C of subchapter I of chapter 34 of title 42) to be returned to the title IV programs is calculated according to paragraph (3) and returned in accordance with subsection (b) of this section.

(2) Leave of absence

(A) Leave not treated as withdrawal

In the case of a student who takes 1 or more leaves of absence from an institution for not

more than a total of 180 days in any 12-month period, the institution may consider the student as not having withdrawn from the institution during the leave of absence, and not calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 that is to be returned in accordance with this section if—

(i) the institution has a formal policy regarding leaves of absence;

(ii) the student followed the institution's policy in requesting a leave of absence; and

(iii) the institution approved the student's request in accordance with the institution's policy.

(B) Consequences of failure to return

If a student does not return to the institution at the expiration of an approved leave of absence that meets the requirements of subparagraph (A), the institution shall calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 that is to be returned in accordance with this section based on the day the student withdrew (as determined under subsection (c) of this section).

(3) Calculation of amount of title IV assistance earned

(A) In general

The amount of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that is earned by the recipient for purposes of this section is calculated by—

(i) determining the percentage of grant and loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student, as described in subparagraph (B); and

(ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment for which the assistance was awarded, as of the day the student withdrew.

(B) Percentage earned

For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student is—

(i) equal to the percentage of the payment period or period of enrollment for which assistance was awarded that was completed (as determined in accordance with subsection (d) of this section) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period or period of enrollment; or

(ii) 100 percent, if the day the student withdrew occurs after the student has completed (as determined in accordance with subsection (d)) 60 percent of the payment period or period of enrollment.

(C) Percentage and amount not earned

For purposes of subsection (b) of this section, the amount of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student shall be calculated by—

(i) determining the complement of the percentage of grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, C, and D, that has been earned by the student described in subparagraph (B); and

(ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment, as of the day the student withdrew.

(4) Differences between amounts earned and amounts received

(A) In general

After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.

(B) Return

If the student has received more grant or loan assistance than the amount earned as calculated under paragraph (3)(A), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b) of this section, to the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 in the order specified in subsection (b)(3) of this section.

(b) Return of title IV program funds

(1) Responsibility of the institution

The institution shall return not later than 45 days from the determination of withdrawal, in the order specified in paragraph (3), the lesser of—

(A) the amount of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as calculated under subsection (a)(3)(C) of this section; or

(B) an amount equal to—

(i) the total institutional charges incurred by the student for the payment period or period of enrollment for which such assistance was awarded; multiplied by

(ii) the percentage of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as described in subsection (a)(3)(C)(i) of this section.

(2) Responsibility of the student

(A) In general

The student shall return assistance that has not been earned by the student as described in subsection (a)(3)(C)(ii) of this section in the order specified in paragraph (3) minus the amount the institution is required to return under paragraph (1).

(B) Special rule

The student (or parent in the case of funds due to a loan borrowed by a parent under part B or C of this subchapter) shall return or repay, as appropriate, the amount determined under subparagraph (A) to—

(i) a loan program under this subchapter and part C of subchapter I of chapter 34 of title 42 in accordance with the terms of the loan; and

(ii) a grant program under this subchapter and part C of subchapter I of chapter 34 of title 42, as an overpayment of such grant and shall be subject to—

(I) repayment arrangements satisfactory to the institution; or

(II) overpayment collection procedures prescribed by the Secretary.

(C) Grant overpayment requirements

(i) In general

Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

(II) 50 percent of the total grant assistance received by the student under this subchapter and part C of subchapter I of chapter 34 of title 42 for the payment period or period of

enrollment.

(ii) Minimum

A student shall not be required to return amounts of $50 or less.

(D) Waivers of Federal Pell Grant repayment by students affected by disasters

The Secretary may waive the amounts that students are required to return under this section with respect to Federal Pell Grants if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 5170 of title 42;

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(E) Waivers of grant assistance repayment by students affected by disasters

In addition to the waivers authorized by subparagraph (D), the Secretary may waive the amounts that students are required to return under this section with respect to any other grant assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 5170 of title 42;

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(3) Order of return of title IV funds

(A) In general

Excess funds returned by the institution or the student, as appropriate, in accordance with paragraph (1) or (2), respectively, shall be credited to outstanding balances on loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 to the student or on behalf of the student for the payment period or period of enrollment for which a return of funds is required. Such excess funds shall be credited in the following order:

(i) To outstanding balances on loans made under section 1078–8 of this title for the payment period or period of enrollment for which a return of funds is required.

(ii) To outstanding balances on loans made under section 1078 of this title for the payment period or period of enrollment for which a return of funds is required.

(iii) To outstanding balances on unsubsidized loans (other than parent loans) made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(iv) To outstanding balances on subsidized loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(v) To outstanding balances on loans made under part D of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(vi) To outstanding balances on loans made under section 1078–2 of this title for the payment period or period of enrollment for which a return of funds is required.

(vii) To outstanding balances on parent loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(B) Remaining excesses

If excess funds remain after repaying all outstanding loan amounts, the remaining excess

shall be credited in the following order:

(i) To awards under subpart 1 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(ii) To awards under subpart 3 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(iii) To other assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 for which a return of funds is required.

(c) Withdrawal date

(1) In general

In this section, the term "day the student withdrew"—

(A) is the date that the institution determines—

(i) the student began the withdrawal process prescribed by the institution;

(ii) the student otherwise provided official notification to the institution of the intent to withdraw; or

(iii) in the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that is the mid-point of the payment period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 was disbursed or a later date documented by the institution; or

(B) for institutions required to take attendance, is determined by the institution from such attendance records.

(2) Special rule

Notwithstanding paragraph (1), if the institution determines that a student did not begin the withdrawal process, or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student's control, the institution may determine the appropriate withdrawal date.

(d) Percentage of the payment period or period of enrollment completed

For purposes of subsection (a)(3)(B) of this section, the percentage of the payment period or period of enrollment for which assistance was awarded that was completed, is determined—

(1) in the case of a program that is measured in credit hours, by dividing the total number of calendar days comprising the payment period or period of enrollment for which assistance is awarded into the number of calendar days completed in that period as of the day the student withdrew; and

(2) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period or period of enrollment for which assistance is awarded into the number of clock hours scheduled to be completed by the student in that period as of the day the student withdrew.

(e) Effective date

The provisions of this section shall take effect 2 years after October 7, 1998. An institution of higher education may choose to implement such provisions prior to that date.

(Pub. L. 89–329, title IV, §484B, as added Pub. L. 102–325, title IV, §485(a), July 23, 1992, 106 Stat. 619; amended Pub. L. 103–208, §2(h)(26), (27), Dec. 20, 1993, 107 Stat. 2477; Pub. L. 105–244, title IV, §485, Oct. 7, 1998, 112 Stat. 1737; Pub. L. 109–66, §2, Sept. 21, 2005, 119 Stat. 1999; Pub. L. 109–67, §2, Sept. 21, 2005, 119 Stat. 2001; Pub. L. 109–171, title VIII, §8022, Feb. 8, 2006, 120 Stat. 178.)

REFERENCES IN TEXT

Title IV, referred to in subsecs. (a) and (b), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1091b, Pub. L. 89–329, title V, §503, as added Pub. L. 90–35, §2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 92–318, title IV, §451(a), June 23, 1972, 86 Stat. 344, authorized the Commissioner to appraise and annually report on existing and future education personnel needs, prior to repeal, effective Sept. 30, 1976, by Pub. L. 94–482, title I, §151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

2006—Subsec. (a)(2)(A). Pub. L. 109–171, §8022(1), substituted "1 or more leaves of" for "a leave of" in introductory provisions.

Subsec. (a)(3)(B)(ii). Pub. L. 109–171, §8022(2), inserted "(as determined in accordance with subsection (d))" after "student has completed".

Subsec. (a)(3)(C)(i). Pub. L. 109–171, §8022(3), substituted "grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, C, and D," for "grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42".

Subsec. (a)(4)(A). Pub. L. 109–171, §8022(4), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: "If the student has received less grant or loan assistance than the amount earned as calculated under subparagraph (A) of paragraph (3), the institution of higher education shall comply with the procedures for late disbursement specified by the Secretary in regulations."

Subsec. (b)(1). Pub. L. 109–171, §8022(5), inserted "not later than 45 days from the determination of withdrawal" after "return" in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 109–171, §8022(6), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: "Notwithstanding subparagraphs (A) and (B), a student shall not be required to return 50 percent of the grant assistance received by the student under this subchapter and part C of subchapter I of chapter 34 of title 42, for a payment period or period of enrollment, that is the responsibility of the student to repay under this section."

Subsec. (d). Pub. L. 109–171, §8022(7), (8), in introductory provisions, substituted "(a)(3)(B)" for "(a)(3)(B)(i)" and, in par. (2), substituted "clock hours scheduled to be completed by the student in that period as of the day the student withdrew." for "clock hours—

"(A) completed by the student in that period as of the day the student withdrew; or

"(B) scheduled to be completed as of the day the student withdrew, if the clock hours completed in the period are not less than a percentage, to be determined by the Secretary in regulations, of the hours that were scheduled to be completed by the student in the period."

2005—Subsec. (b)(2)(D). Pub. L. 109–66 added subpar. (D).

Subsec. (b)(2)(E). Pub. L. 109–67 added subpar. (E).

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (c) requiring each institution of higher education participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 to have in effect a fair and equitable refund policy for refunding unearned tuition, fees, room and board, and other charges to students or parents who received grant or loan assistance under this subchapter or part C of subchapter I of chapter 34 of title 42.

1993—Subsec. (a). Pub. L. 103–208, §2(h)(26), substituted "grant or loan assistance" for "grant, loan, or work assistance" in introductory provisions.

Subsec. (b)(3). Pub. L. 103–208, §2(h)(27), substituted "subsection (c) of this section" for "subsection (d) of this section".

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1091c. Readmission requirements for servicemembers

(a) Definition of service in the uniformed services

In this section, the term "service in the uniformed services" means service (whether voluntary or involuntary) on active duty in the Armed Forces, including such service by a member of the National Guard or Reserve, for a period of more than 30 days under a call or order to active duty of more than 30 days.

(b) Discrimination against students who serve in the uniformed services prohibited

A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform, service in the uniformed services shall not be denied readmission to an institution of higher education on the basis of that membership, application for membership, performance of service, application for service, or obligation.

(c) Readmission procedures

(1) In general

Any student whose absence from an institution of higher education is necessitated by reason of service in the uniformed services shall be entitled to readmission to the institution of higher education if—

(A) the student (or an appropriate officer of the Armed Forces or official of the Department of Defense) gives advance written or verbal notice of such service to the appropriate official at the institution of higher education;

(B) the cumulative length of the absence and of all previous absences from that institution of higher education by reason of service in the uniformed services does not exceed five years; and

(C) except as otherwise provided in this section, the student submits a notification of intent to reenroll in the institution of higher education in accordance with the provisions of paragraph (4).

(2) Exceptions

(A) Military necessity

No notice is required under paragraph (1)(A) if the giving of such notice is precluded by military necessity, such as—

(i) a mission, operation, exercise, or requirement that is classified; or

(ii) a pending or ongoing mission, operation, exercise, or requirement that may be compromised or otherwise adversely affected by public knowledge.

(B) Failure to give advance notice

Any student (or an appropriate officer of the Armed Forces or official of the Department of Defense) who did not give advance written or verbal notice of service to the appropriate official at the institution of higher education in accordance with paragraph (1)(A) may meet the notice requirement by submitting, at the time the student seeks readmission, an attestation to the student's institution of higher education that the student performed service in the uniformed services that necessitated the student's absence from the institution of higher education.

(3) Applicability

This section shall apply to a student who is absent from an institution of higher education by reason of service in the uniformed services if such student's cumulative period of service in the Armed Forces (including the National Guard or Reserve), with respect to the institution of higher education for which a student seeks readmission, does not exceed five years, except that any such period of service shall not include any service—

(A) that is required, beyond five years, to complete an initial period of obligated service;

(B) during which such student was unable to obtain orders releasing such student from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such student; or

(C) performed by a member of the Armed Forces (including the National Guard and

Reserves) who is—

(i) ordered to or retained on active duty under section 688, 12301(a), 12301(g), 12302, 12304, or 12305 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

(ii) ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

(iii) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 12304 of title 10;

(iv) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the Armed Forces (including the National Guard or Reserve); or

(v) called into Federal service as a member of the National Guard under chapter 15 of title 10 or section 12406 of title 10.

(4) Notification of intent to return

(A) In general

Except as provided in subparagraph (B), a student referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the institution of higher education of the student's intent to return to the institution not later than three years after the completion of the period of service.

(B) Hospitalization or convalescence

A student who is hospitalized for or convalescing from an illness or injury incurred in or aggravated during the performance of service in the uniformed services shall notify the institution of higher education of the student's intent to return to the institution not later than two years after the end of the period that is necessary for recovery from such illness or injury.

(C) Special rule

A student who fails to apply for readmission within the period described in this section shall not automatically forfeit such eligibility for readmission to the institution of higher education, but shall be subject to the institution of higher education's established leave of absence policy and general practices.

(5) Documentation

(A) In general

A student who submits an application for readmission to an institution of higher education under this section shall provide to the institution of higher education documentation to establish that—

(i) the student has not exceeded the service limitations established under this section; and

(ii) the student's eligibility for readmission has not been terminated due to an exception in subsection (d).

(B) Prohibited documentation demands

An institution of higher education may not delay or attempt to avoid a readmission of a student under this section by demanding documentation that does not exist, or is not readily available, at the time of readmission.

(6) No change in academic status

A student who is readmitted to an institution of higher education under this section shall be readmitted with the same academic status as such student had when such student last attended the institution of higher education.

(d) Exception from readmission eligibility

A student's eligibility for readmission to an institution of higher education under this section by

reason of such student's service in the uniformed services terminates upon the occurrence of any of the following events:

(1) A separation of such person from the Armed Forces (including the National Guard and Reserves) with a dishonorable or bad conduct discharge.

(2) A dismissal of such person permitted under section 1161(a) of title 10.

(3) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

(Pub. L. 89–329, title IV, §484C, as added Pub. L. 110–315, title IV, §487, Aug. 14, 2008, 122 Stat. 3290.)

PRIOR PROVISIONS

Prior sections 1091c to 1091f were repealed, effective Sept. 30, 1976, by Pub. L. 94–482, title I, §151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

Section 1091c, Pub. L. 89–329, title V, §504, as added Pub. L. 90–35, §2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 90–575, title II, §231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §141(a)(1)(B), (c)(1)(B), June 23, 1972, 86 Stat. 284, 285, authorized the Commissioner to make grants or contracts with State or local educational agencies for attracting qualified persons to the field of education.

Section 1091d, Pub. L. 89–329, title V, §505, as added Pub. L. 90–35, §2(c), June 29, 1967, 81 Stat. 84, required the Commissioner to consult with the National Science Foundation and the National Foundation on the Arts and the Humanities in development and review of programs.

Section 1091e, Pub. L. 89–329, title V, §506, as added Pub. L. 90–35, §2(c), June 29, 1967, 81 Stat. 84, authorized transfer of funds for programs for education professions development.

Section 1091f, Pub. L. 89–329, title V, §507, as added Pub. L. 90–35, §2(c), June 29, 1967, 81 Stat. 84, authorized employment of experts and consultants and set forth provisions for compensation and travel expenses.

§1092. Institutional and financial assistance information for students

(a) Information dissemination activities

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. The information required by this section shall be produced and be made readily available upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student. Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 444 of the General Education Provisions Act [20 U.S.C. 1232g] (commonly known as the "Family Educational Rights and Privacy Act of 1974"), together with a statement of the procedures required to obtain such information. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of—

(i) the requirements of any refund policy with which the institution is required to comply;

(ii) the requirements under section 1091b of this title for the return of grant or loan assistance

provided under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(iii) the requirements for officially withdrawing from the institution;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, (iii) the faculty and other instructional personnel, and (iv) any plans by the institution for improving the academic program of the institution;

(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to students with disabilities;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing;

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 1091(a)(2) of this title;

(L) the completion or graduation rate of certificate- or degree-seeking, full-time, undergraduate students entering such institutions;

(M) the terms and conditions of the loans that students receive under parts B, C, and D;

(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance;

(O) the campus crime report prepared by the institution pursuant to subsection (f) of this section, including all required reporting categories;

(P) institutional policies and sanctions related to copyright infringement, including—

(i) an annual disclosure that explicitly informs students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;

(ii) a summary of the penalties for violation of Federal copyright laws; and

(iii) a description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in unauthorized distribution of copyrighted materials using the institution's information technology system;

(Q) student body diversity at the institution, including information on the percentage of enrolled, full-time students who—

(i) are male;

(ii) are female;

(iii) receive a Federal Pell Grant; and

(iv) are a self-identified member of a major racial or ethnic group;

(R) the placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, State data systems, or other relevant sources;

(S) the types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, State data systems, or other relevant sources;

(T) the fire safety report prepared by the institution pursuant to subsection (i);

(U) the retention rate of certificate- or degree-seeking, first-time, full-time, undergraduate students entering such institution; and

(V) institutional policies regarding vaccinations.

(2) For the purpose of this section, the term "prospective student" means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(3) In calculating the completion or graduation rate under subparagraph (L) of paragraph (1) of this subsection or under subsection (e) of this section, a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

(A) shall be made available by July 1 each year to enrolled students and prospective students prior to the students enrolling or entering into any financial obligation; and

(B) shall cover the one-year period ending on August 31 of the preceding year.

(4) For purposes of this section, institutions may—

(A) exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, recalculate the completion or graduation rates of such students by excluding from the calculation described in paragraph (3) the time period during which such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government.

(5) The Secretary shall permit any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection, to use such data to satisfy the requirements of this subsection.

(6) Each institution may provide supplemental information to enrolled and prospective students showing the completion or graduation rate for students described in paragraph (4) or for students transferring into the institution or information showing the rate at which students transfer out of the institution.

(7)(A)(i) Subject to clause (ii), the information disseminated under paragraph (1)(L), or reported under subsection (e), shall be disaggregated by gender, by each major racial and ethnic subgroup, by recipients of a Federal Pell Grant, by recipients of a loan made under part B or C (other than a loan made under section 1078–8 of this title or a Federal Direct Unsubsidized Stafford Loan) who did not receive a Federal Pell Grant, and by recipients of neither a Federal Pell Grant nor a loan made under part B or C (other than a loan made under section 1078–8 of this title or a Federal Direct Unsubsidized Stafford Loan), if the number of students in such subgroup or with such status is sufficient to yield statistically reliable information and reporting will not reveal personally identifiable information about an individual student. If such number is not sufficient for such purposes, then the institution shall note that the institution enrolled too few of such students to so disclose or report with confidence and confidentiality.

(ii) The requirements of clause (i) shall not apply to two-year, degree-granting institutions of higher education until academic year 2011-2012.

(B)(i) In order to assist two-year degree-granting institutions of higher education in meeting the requirements of paragraph (1)(L) and subsection (e), the Secretary, in consultation with the Commissioner for Education Statistics, shall, not later than 90 days after August 14, 2008, convene a group of representatives from diverse institutions of higher education, experts in the field of higher education policy, state [1] higher education officials, students, and other stakeholders in the higher

education community, to develop recommendations regarding the accurate calculation and reporting of the information required to be disseminated or reported under paragraph (1)(L) and subsection (e) by two-year, degree-granting institutions of higher education. In developing such recommendations, the group of representatives shall consider the mission and role of two-year degree-granting institutions of higher education, and may recommend additional or alternative measures of student success for such institutions in light of the mission and role of such institutions.

(ii) The Secretary shall widely disseminate the recommendations required under this subparagraph to two-year, degree-granting institutions of higher education, the public, and the authorizing committees not later than 18 months after the first meeting of the group of representatives convened under clause (i).

(iii) The Secretary shall use the recommendations from the group of representatives convened under clause (i) to provide technical assistance to two-year, degree-granting institutions of higher education in meeting the requirements of paragraph (1)(L) and subsection (e).

(iv) The Secretary may modify the information required to be disseminated or reported under paragraph (1)(L) or subsection (e) by a two-year, degree-granting institution of higher education—

(I) based on the recommendations received under this subparagraph from the group of representatives convened under clause (i);

(II) to include additional or alternative measures of student success if the goals of the provisions of paragraph (1)(L) and subsection (e) can be met through additional means or comparable alternatives; and

(III) during the period beginning on August 14, 2008, and ending on June 30, 2011.

(b) Exit counseling for borrowers

(1)(A) Each eligible institution shall, through financial aid offices or otherwise, provide counseling to borrowers of loans that are made, insured, or guaranteed under part B (other than loans made pursuant to section 1078–3 of this title or loans under section 1078–2 of this title made on behalf of a student) or made under part C (other than Federal Direct Consolidation Loans or Federal Direct PLUS Loans made on behalf of a student) or made under part D of this subchapter prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

(i) information on the repayment plans available, including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments, under each plan;

(ii) debt management strategies that are designed to facilitate the repayment of such indebtedness;

(iii) an explanation that the borrower has the options to prepay each loan, pay each loan on a shorter schedule, and change repayment plans;

(iv) for any loan forgiveness or cancellation provision of this subchapter and part C of subchapter I of chapter 34 of title 42, a general description of the terms and conditions under which the borrower may obtain full or partial forgiveness or cancellation of the principal and interest, and a copy of the information provided by the Secretary under section 1092(d) of this title;

(v) for any forbearance provision of this subchapter and part C of subchapter I of chapter 34 of title 42, a general description of the terms and conditions under which the borrower may defer repayment of principal or interest or be granted forbearance, and a copy of the information provided by the Secretary under section 1092(d) of this title;

(vi) the consequences of defaulting on a loan, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

(vii) information on the effects of using a consolidation loan under section 1078–3 of this title or a Federal Direct Consolidation Loan to discharge the borrower's loans under parts B, C, and D, including at a minimum—

(I) the effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(II) the effects of consolidation on a borrower's underlying loan benefits, including grace

periods, loan forgiveness, cancellation, and deferment opportunities;

(III) the option of the borrower to prepay the loan or to change repayment plans; and

(IV) that borrower benefit programs may vary among different lenders;

(viii) a general description of the types of tax benefits that may be available to borrowers; and

(ix) a notice to borrowers about the availability of the National Student Loan Data System and how the system can be used by a borrower to obtain information on the status of the borrower's loans; and

(B) In the case of borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information described in subparagraph (A) to the student in writing.

(2)(A) Each eligible institution shall require that the borrower of a loan made under part B, C, or D of this subchapter submit to the institution, during the exit interview required by this subsection—

(i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);

(ii) the name and address of the borrower's expected employer after leaving the institution;

(iii) the address of the borrower's next of kin; and

(iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the borrower to the guaranty agency indicated on the borrower's student aid records.

(C) Nothing in this subsection shall be construed to prohibit an institution of higher education from utilizing electronic means to provide personalized exit counseling.

(c) Financial assistance information personnel

Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a) of this section. The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(d) Departmental publication of descriptions of assistance programs

(1) The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (A) assist students in gaining information through institutional sources, and (B) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this subchapter and part C of subchapter I of chapter 34 of title 42. Such information shall also include information on the various payment options available for student loans, including income-sensitive and income-based repayment plans for loans made, insured, or guaranteed under part B and income-contingent and income-based repayment plans for loans made under part C. In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences. The Secretary shall

provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization. The Secretary shall also provide information on loan forbearance, including the increase in debt that results from capitalization of interest. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

(2) The Secretary, to the extent the information is available, shall compile information describing State and other prepaid tuition programs and savings programs and disseminate such information to States, eligible institutions, students, and parents in departmental publications.

(3) The Secretary, to the extent practicable, shall update the Department's Internet site to include direct links to databases that contain information on public and private financial assistance programs. The Secretary shall only provide direct links to databases that can be accessed without charge and shall make reasonable efforts to verify that the databases included in a direct link are not providing fraudulent information. The Secretary shall prominently display adjacent to any such direct link a disclaimer indicating that a direct link to a database does not constitute an endorsement or recommendation of the database, the provider of the database, or any services or products of such provider. The Secretary shall provide additional direct links to information resources from which students may obtain information about fraudulent and deceptive practices in the provision of services related to student financial aid.

(4) The Secretary shall widely publicize the location of the information described in paragraph (1) among the public, eligible institutions, and eligible lenders, and promote the use of such information by prospective students, enrolled students, families of prospective and enrolled students, and borrowers.

(e) Disclosures required with respect to athletically related student aid

(1) Each institution of higher education which participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

(A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

(B) the number of students at the institution of higher education, broken down by race and sex;

(C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;

(D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;

(E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

(F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

(2) When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and the student's parents, guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1). If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association's member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall

fulfill the responsibility of the institution to provide information to a prospective student athlete's guidance counselor and coach.

(3) For purposes of this subsection, institutions may—

(A) exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, calculate the completion or graduation rates of such students by excluding from the calculations described in paragraph (1) the time period during which such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government.

(4) Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Secretary showing the completion or graduation rate when such completion or graduation rate includes students transferring into and out of such institution.

(5) The Secretary, using the reports submitted under this subsection, shall compile and publish a report containing the information required under paragraph (1) broken down by—

(A) individual institutions of higher education; and

(B) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(6) The Secretary shall waive the requirements of this subsection for any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

(7) The Secretary, in conjunction with the National Junior College Athletic Association, shall develop and obtain data on completion or graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in this section.

(8) For purposes of this subsection, the term "athletically related student aid" means any scholarship, grant, or other form of financial assistance the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive such assistance.

(9) The reports required by this subsection shall be due each July 1 and shall cover the 1-year period ending August 31 of the preceding year.

(f) Disclosure of campus security policy and campus crime statistics

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education, shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including—

(i) the law enforcement authority of campus security personnel;

(ii) the working relationship of campus security personnel with State and local law enforcement agencies, including whether the institution has agreements with such agencies, such as written memoranda of understanding, for the investigation of alleged criminal offenses; and

(iii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies, when the victim of such crime elects or is unable to make such a report.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

(i) of the following criminal offenses reported to campus security authorities or local police agencies:

(I) murder;

(II) sex offenses, forcible or nonforcible;

(III) robbery;

(IV) aggravated assault;

(V) burglary;

(VI) motor vehicle theft;

(VII) manslaughter;

(VIII) arson;

(IX) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and

(ii) of the crimes described in subclauses (I) through (VIII) of clause (i), of larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of other crimes involving bodily injury to any person, in which the victim is intentionally selected because of the actual or perceived race, gender, religion, national origin, sexual orientation, gender identity,,[2] ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice; and

(iii) of domestic violence, dating violence, and stalking incidents that were reported to campus security authorities or local police agencies.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1011i of this title.

(I) A statement advising the campus community where law enforcement agency information provided by a State under section 14071(j) [3] of title 42, concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

(J) A statement of current campus policies regarding immediate emergency response and

evacuation procedures, including the use of electronic and cellular communication (if appropriate), which policies shall include procedures to—

(i) immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus, as defined in paragraph (6), unless issuing a notification will compromise efforts to contain the emergency;

(ii) publicize emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff; and

(iii) test emergency response and evacuation procedures on an annual basis.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education, shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely, that withholds the names of victims as confidential, and that will aid in the prevention of similar occurrences.

(4)(A) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education, that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

(i) the nature, date, time, and general location of each crime; and

(ii) the disposition of the complaint, if known.

(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within two business days of the initial report being made to the department or a campus security authority.

(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police or security department.

(iii) If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

(5) On an annual basis, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education, shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(F). The Secretary shall—

(A) review such statistics and report to the authorizing committees on campus crime statistics by September 1, 2000;

(B) make copies of the statistics submitted to the Secretary available to the public; and

(C) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(6)(A) In this subsection:

(i) The terms "dating violence", "domestic violence", and "stalking" have the meaning given such terms in section 13925(a) of title 42.

(ii) The term "campus" means—

(I) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(II) property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

(iii) The term "noncampus building or property" means—

(I) any building or property owned or controlled by a student organization recognized by the institution; and

(II) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

(iv) The term "public property" means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

(v) The term "sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(7) The statistics described in clauses (i) and (ii) of paragraph (1)(F) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act. For the offenses of domestic violence, dating violence, and stalking, such statistics shall be compiled in accordance with the definitions used in section 13925(a) of title 42. Such statistics shall not identify victims of crimes or persons accused of crimes.

(8)(A) Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and title IV of the Economic Opportunity Act of 1964, [3] other than a foreign institution of higher education, shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

(i) such institution's programs to prevent domestic violence, dating violence, sexual assault, and stalking; and

(ii) the procedures that such institution will follow once an incident of domestic violence, dating violence, sexual assault, or stalking has been reported, including a statement of the standard of evidence that will be used during any institutional conduct proceeding arising from such a report.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, which shall include—

(I) primary prevention and awareness programs for all incoming students and new employees, which shall include—

(aa) a statement that the institution of higher education prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking;

(bb) the definition of domestic violence, dating violence, sexual assault, and stalking in the

applicable jurisdiction;

(cc) the definition of consent, in reference to sexual activity, in the applicable jurisdiction;

(dd) safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual;

(ee) information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and

(ff) the information described in clauses (ii) through (vii); and

(II) ongoing prevention and awareness campaigns for students and faculty, including information described in items (aa) through (ff) of subclause (I).

(ii) Possible sanctions or protective measures that such institution may impose following a final determination of an institutional disciplinary procedure regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking.

(iii) Procedures victims should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about—

(I) the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order;

(II) to whom the alleged offense should be reported;

(III) options regarding law enforcement and campus authorities, including notification of the victim's option to—

(aa) notify proper law enforcement authorities, including on-campus and local police;

(bb) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

(cc) decline to notify such authorities; and

(IV) where applicable, the rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

(iv) Procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault, or stalking, which shall include a clear statement that—

(I) such proceedings shall—

(aa) provide a prompt, fair, and impartial investigation and resolution; and

(bb) be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;

(II) the accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice; and

(III) both the accuser and the accused shall be simultaneously informed, in writing, of—

(aa) the outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking;

(bb) the institution's procedures for the accused and the victim to appeal the results of the institutional disciplinary proceeding;

(cc) of any change to the results that occurs prior to the time that such results become final; and

(dd) when such results become final.

(v) Information about how the institution will protect the confidentiality of victims, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law.

(vi) Written notification of students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.

(vii) Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

(C) A student or employee who reports to an institution of higher education that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee's rights and options, as described in clauses (ii) through (vii) of subparagraph (B).

(9) The Secretary, in consultation with the Attorney General of the United States, shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.

(10) Nothing in this section shall be construed to require the reporting or disclosure of privileged information.

(11) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

(12) For purposes of reporting the statistics with respect to crimes described in paragraph (1)(F), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

(A) on campus;

(B) in or on a noncampus building or property;

(C) on public property; and

(D) in dormitories or other residential facilities for students on campus.

(13) Upon a determination pursuant to section 1094(c)(3)(B) of this title that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 1094(c)(3)(B) of this title.

(14)(A) Nothing in this subsection may be construed to—

(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(ii) establish any standard of care.

(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(15) The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary's monitoring of such compliance.

(16)(A) The Secretary shall seek the advice and counsel of the Attorney General of the United States concerning the development, and dissemination to institutions of higher education, of best practices information about campus safety and emergencies.

(B) The Secretary shall seek the advice and counsel of the Attorney General of the United States and the Secretary of Health and Human Services concerning the development, and dissemination to

institutions of higher education, of best practices information about preventing and responding to incidents of domestic violence, dating violence, sexual assault, and stalking, including elements of institutional policies that have proven successful based on evidence-based outcome measurements.

(17) No officer, employee, or agent of an institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision of this subsection.

(18) This subsection may be cited as the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act".

(g) Data required

(1) In general

Each coeducational institution of higher education that participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report that contains the following information regarding intercollegiate athletics:

(A) The number of male and female full-time undergraduates that attended the institution.

(B) A listing of the varsity teams that competed in intercollegiate athletic competition and for each such team the following data:

(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

(ii) Total operating expenses attributable to such teams, except that an institution may also report such expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

(iii) Whether the head coach is male or female and whether the head coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

(I)(i) The total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, derived by the institution from the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), revenues from intercollegiate athletics activities allocable to a sport shall include (without limitation) gate receipts, broadcast revenues, appearance

guarantees and options, concessions, and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only.

(J)(i) The total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, made by the institution for the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), expenses for intercollegiate athletics activities allocable to a sport shall include (without limitation) grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

(2) Special rule

For the purposes of paragraph (1)(G), if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(3) Disclosure of information to students and public

An institution of higher education described in paragraph (1) shall make available to students and potential students, upon request, and to the public, the information contained in the report described in paragraph (1), except that all students shall be informed of their right to request such information.

(4) Submission; report; information availability

(A) On an annual basis, each institution of higher education described in paragraph (1) shall provide to the Secretary, within 15 days of the date that the institution makes available the report under paragraph (1), the information contained in the report.

(B) The Secretary shall ensure that the reports described in subparagraph (A) are made available to the public within a reasonable period of time.

(C) Not later than 180 days after October 7, 1998, the Secretary shall notify all secondary schools in all States regarding the availability of the information made available under paragraph (1), and how such information may be accessed.

(5) "Operating expenses" defined

For the purposes of this subsection, the term "operating expenses" means expenditures on lodging and meals, transportation, officials, uniforms and equipment.

(h) Transfer of credit policies

(1) Disclosure

Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall publicly disclose, in a readable and comprehensible manner, the transfer of credit policies established by the institution which shall include a statement of the institution's current transfer of credit policies that includes, at a minimum—

(A) any established criteria the institution uses regarding the transfer of credit earned at another institution of higher education; and

(B) a list of institutions of higher education with which the institution has established an articulation agreement.

(2) Rule of construction

Nothing in this subsection shall be construed to—

(A) authorize the Secretary or the National Advisory Committee on Institutional Quality and Integrity to require particular policies, procedures, or practices by institutions of higher education with respect to transfer of credit;

(B) authorize an officer or employee of the Department to exercise any direction, supervision,

or control over the curriculum, program of instruction, administration, or personnel of any institution of higher education, or over any accrediting agency or association;

(C) limit the application of the General Education Provisions Act [20 U.S.C. 1221 et seq.]; or

(D) create any legally enforceable right on the part of a student to require an institution of higher education to accept a transfer of credit from another institution.

(i) Disclosure of fire safety standards and measures

(1) Annual fire safety reports on student housing required

Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 that maintains on-campus student housing facilities shall, on an annual basis, publish a fire safety report, which shall contain information with respect to the campus fire safety practices and standards of that institution, including—

(A) statistics concerning the following in each on-campus student housing facility during the most recent calendar years for which data are available:

(i) the number of fires and the cause of each fire;

(ii) the number of injuries related to a fire that result in treatment at a medical facility;

(iii) the number of deaths related to a fire; and

(iv) the value of property damage caused by a fire;

(B) a description of each on-campus student housing facility fire safety system, including the fire sprinkler system;

(C) the number of regular mandatory supervised fire drills;

(D) policies or rules on portable electrical appliances, smoking, and open flames (such as candles), procedures for evacuation, and policies regarding fire safety education and training programs provided to students, faculty, and staff; and

(E) plans for future improvements in fire safety, if determined necessary by such institution.

(2) Report to the Secretary

Each institution described in paragraph (1) shall, on an annual basis, submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(A).

(3) Current information to campus community

Each institution described in paragraph (1) shall—

(A) make, keep, and maintain a log, recording all fires in on-campus student housing facilities, including the nature, date, time, and general location of each fire; and

(B) make annual reports to the campus community on such fires.

(4) Responsibilities of the Secretary

The Secretary shall—

(A) make the statistics submitted under paragraph (1)(A) to the Secretary available to the public; and

(B) in coordination with nationally recognized fire organizations and representatives of institutions of higher education, representatives of associations of institutions of higher education, and other organizations that represent and house a significant number of students—

(i) identify exemplary fire safety policies, procedures, programs, and practices, including the installation, to the technical standards of the National Fire Protection Association, of fire detection, prevention, and protection technologies in student housing, dormitories, and other buildings;

(ii) disseminate the exemplary policies, procedures, programs and practices described in clause (i) to the Administrator of the United States Fire Administration;

(iii) make available to the public information concerning those policies, procedures, programs, and practices that have proven effective in the reduction of fires; and

(iv) develop a protocol for institutions to review the status of their fire safety systems.

(5) Rules of construction

Nothing in this subsection shall be construed to—

(A) authorize the Secretary to require particular policies, procedures, programs, or practices by institutions of higher education with respect to fire safety, other than with respect to the collection, reporting, and dissemination of information required by this subsection;

(B) affect section 444 of the General Education Provisions Act [20 U.S.C. 1232g] (commonly known as the "Family Educational Rights and Privacy Act of 1974") or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note);

(C) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(D) establish any standard of care.

(6) Compliance report

The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary's monitoring of such compliance.

(7) Evidence

Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(j) Missing person procedures

(1) Option and procedures

Each institution of higher education that provides on-campus housing and participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall—

(A) establish a missing student notification policy for students who reside in on-campus housing that—

(i) informs each such student that such student has the option to identify an individual to be contacted by the institution not later than 24 hours after the time that the student is determined missing in accordance with official notification procedures established by the institution under subparagraph (B);

(ii) provides each such student a means to register confidential contact information in the event that the student is determined to be missing for a period of more than 24 hours;

(iii) advises each such student who is under 18 years of age, and not an emancipated individual, that the institution is required to notify a custodial parent or guardian not later 24 hours after the time that the student is determined to be missing in accordance with such procedures;

(iv) informs each such residing student that the institution will notify the appropriate law enforcement agency not later than 24 hours after the time that the student is determined missing in accordance with such procedures; and

(v) requires, if the campus security or law enforcement personnel has been notified and makes a determination that a student who is the subject of a missing person report has been missing for more than 24 hours and has not returned to the campus, the institution to initiate the emergency contact procedures in accordance with the student's designation; and

(B) establish official notification procedures for a missing student who resides in on-campus housing that—

(i) includes procedures for official notification of appropriate individuals at the institution that such student has been missing for more than 24 hours;

(ii) requires any official missing person report relating to such student be referred immediately to the institution's police or campus security department; and

(iii) if, on investigation of the official report, such department determines that the missing student has been missing for more than 24 hours, requires—

(I) such department to contact the individual identified by such student under subparagraph (A)(i);

(II) if such student is under 18 years of age, and not an emancipated individual, the institution to immediately contact the custodial parent or legal guardian of such student; and

(III) if subclauses (I) or (II) do not apply to a student determined to be a missing person, inform the appropriate law enforcement agency.

(2) Rule of construction

Nothing in this subsection shall be construed—

(A) to provide a private right of action to any person to enforce any provision of this subsection; or

(B) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability.

(k) Notice to students concerning penalties for drug violations

(1) Notice upon enrollment

Each institution of higher education shall provide to each student, upon enrollment, a separate, clear, and conspicuous written notice that advises the student of the penalties under section 1091(r) of this title.

(2) Notice after loss of eligibility

An institution of higher education shall provide in a timely manner to each student who has lost eligibility for any grant, loan, or work-study assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 as a result of the penalties listed under section 1091(r)(1) of this title a separate, clear, and conspicuous written notice that notifies the student of the loss of eligibility and advises the student of the ways in which the student can regain eligibility under section 1091(r)(2) of this title.

(l) Entrance counseling for borrowers

(1) Disclosure required prior to disbursement

(A) In general

Each eligible institution shall, at or prior to the time of a disbursement to a first-time borrower of a loan made, insured, or guaranteed under part B (other than a loan made pursuant to section 1078–3 of this title or a loan made on behalf of a student pursuant to section 1078–2 of this title) or made under part C (other than a Federal Direct Consolidation Loan or a Federal Direct PLUS loan made on behalf of a student), ensure that the borrower receives comprehensive information on the terms and conditions of the loan and of the responsibilities the borrower has with respect to such loan in accordance with paragraph (2). Such information—

(i) shall be provided in a simple and understandable manner; and

(ii) may be provided—

(I) during an entrance counseling session conduction in person;

(II) on a separate written form provided to the borrower that the borrower signs and returns to the institution; or

(III) online, with the borrower acknowledging receipt of the information.

(B) Use of interactive programs

The Secretary shall encourage institutions to carry out the requirements of subparagraph (A) through the use of interactive programs that test the borrower's understanding of the terms and conditions of the borrower's loans under part B or C, using simple and understandable language and clear formatting.

(2) Information to be provided

The information to be provided to the borrower under paragraph (1)(A) shall include the following:

(A) To the extent practicable, the effect of accepting the loan to be disbursed on the eligibility of the borrower for other forms of student financial assistance.

(B) An explanation of the use of the master promissory note.

(C) Information on how interest accrues and is capitalized during periods when the interest is not paid by either the borrower or the Secretary.

(D) In the case of a loan made under section 1078–2 or 1078–8 of this title, a Federal Direct PLUS Loan, or a Federal Direct Unsubsidized Stafford Loan, the option of the borrower to pay the interest while the borrower is in school.

(E) The definition of half-time enrollment at the institution, during regular terms and summer school, if applicable, and the consequences of not maintaining half-time enrollment.

(F) An explanation of the importance of contacting the appropriate offices at the institution of higher education if the borrower withdraws prior to completing the borrower's program of study so that the institution can provide exit counseling, including information regarding the borrower's repayment options and loan consolidation.

(G) Sample monthly repayment amounts based on—

(i) a range of levels of indebtedness of—

(I) borrowers of loans under section 1078 or 1078–8 of this title; and

(II) as appropriate, graduate borrowers of loans under section 1078, 1078–2, or 1078–8 of this title; or

(ii) the average cumulative indebtedness of other borrowers in the same program as the borrower at the same institution.

(H) The obligation of the borrower to repay the full amount of the loan, regardless of whether the borrower completes or does not complete the program in which the borrower is enrolled within the regular time for program completion.

(I) The likely consequences of default on the loan, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation.

(J) Information on the National Student Loan Data System and how the borrower can access the borrower's records.

(K) The name of and contact information for the individual the borrower may contact if the borrower has any questions about the borrower's rights and responsibilities or the terms and conditions of the loan.

(m) Disclosures of reimbursements for service on advisory boards

(1) Disclosure

Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall report, on an annual basis, to the Secretary, any reasonable expenses paid or provided under section 1650(d) of title 15 to any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans or other financial aid of the institution. Such reports shall include—

(A) the amount for each specific instance of reasonable expenses paid or provided;

(B) the name of the financial aid official, other employee, or agent to whom the expenses were paid or provided;

(C) the dates of the activity for which the expenses were paid or provided; and

(D) a brief description of the activity for which the expenses were paid or provided.

(2) Report to Congress

The Secretary shall summarize the information received from institutions of higher education under paragraph (1) in a report and transmit such report annually to the authorizing committees.

(Pub. L. 89–329, title IV, §485, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat.

1482; amended Pub. L. 100–50, §15(10), (11), June 3, 1987, 101 Stat. 357; Pub. L. 101–542, title I, §§103(a), (b), 104(a), title II, §204(a), Nov. 8, 1990, 104 Stat. 2381–2385; Pub. L. 101–610, title II, §§201–203, Nov. 16, 1990, 104 Stat. 3171, 3172; Pub. L. 102–26, §10(a)–(d), Apr. 9, 1991, 105 Stat. 128; Pub. L. 102–164, title VI, §603, Nov. 15, 1991, 105 Stat. 1066; Pub. L. 102–325, title IV, §486(a)–(c)(2), July 23, 1992, 106 Stat. 620, 621; Pub. L. 103–208, §2(h)(28)–(37), (k)(9), Dec. 20, 1993, 107 Stat. 2477, 2486; Pub. L. 103–382, title III, §360B(c), Oct. 20, 1994, 108 Stat. 3970; Pub. L. 104–208, div. A, title I, §101(e) [title III, §308], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262; Pub. L. 105–18, title VI, §60001(a), June 12, 1997, 111 Stat. 214; Pub. L. 105–244, title I, §102(b)(3), title IV, §486, Oct. 7, 1998, 112 Stat. 1622, 1741; Pub. L. 106–386, div. B, title VI, §1601(c)(1), Oct. 28, 2000, 114 Stat. 1537; Pub. L. 110–315, title I, §103(b)(11), title IV, §488, title X, §1011(c), Aug. 14, 2008, 122 Stat. 3090, 3293, 3482; Pub. L. 111–39, title IV, §407(b)(5), July 1, 2009, 123 Stat. 1951; Pub. L. 113–4, title III, §304(a), Mar. 7, 2013, 127 Stat. 89.)

REFERENCES IN TEXT

Section 14071 of title 42, referred to in subsec. (f)(1)(I), was repealed by Pub. L. 109–248, title I, §129(a), July 27, 2006, 120 Stat. 600.

The Hate Crime Statistics Act, referred to in subsec. (f)(7), is Pub. L. 101–275, Apr. 23, 1990, 104 Stat. 140, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure.

Title IV of the Economic Opportunity Act of 1964, referred to in subsec. (f)(8)(A), is title IV of Pub. L. 88–452, which was classified to subchapter IV (§2901 et seq.) of chapter 34 of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

The General Education Provisions Act, referred to in subsec. (h)(2)(C), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (i)(5)(B), is section 264 of title II of Pub. L. 104–191, Aug. 21, 1996, 110 Stat. 2033, which is set out as a note under section 1320d–2 of Title 42, The Public Health and Welfare.

PRIOR PROVISIONS

A prior section 1092, Pub. L. 89–329, title IV, §485, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1449, related to provision of institutional and financial assistance information for students, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1092, Pub. L. 89–329, title V, §508, formerly §502, Nov. 8, 1965, 79 Stat. 1255; renumbered §508 and amended Pub. L. 90–35, §§2(b), 7, June 29, 1967, 81 Stat. 82, 93, prohibited the making of payments for religious purposes for authorized programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(2), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

2013—Subsec. (f)(1)(C)(iii). Pub. L. 113–4, §304(a)(1)(A), substituted ", when the victim of such crime elects or is unable to make such a report." for period at end.

Subsec. (f)(1)(F)(i)(VIII). Pub. L. 113–4, §304(a)(1)(B)(i), struck out "and" after semicolon.

Subsec. (f)(1)(F)(ii). Pub. L. 113–4, §304(a)(1)(B)(ii)(I), substituted "national origin, sexual orientation, gender identity," for "sexual orientation".

Subsec. (f)(1)(F)(iii). Pub. L. 113–4, §304(a)(1)(B)(ii)(II), (iii), added cl. (iii).

Subsec. (f)(3). Pub. L. 113–4, §304(a)(2), inserted ", that withholds the names of victims as confidential," after "that is timely".

Subsec. (f)(6)(A). Pub. L. 113–4, §304(a)(3), added cls. (i) and (v) and redesignated former cls. (i) to (iii) as (ii) to (iv), respectively.

Subsec. (f)(7). Pub. L. 113–4, §304(a)(4), substituted "clauses (i) and (ii) of paragraph (1)(F)" for "paragraph (1)(F)" and inserted "For the offenses of domestic violence, dating violence, and stalking, such statistics shall be compiled in accordance with the definitions used in section 13925(a) of title 42." after "Hate Crime Statistics Act."

Subsec. (f)(8). Pub. L. 113–4, §304(a)(5), added par. (8) and struck out former par. (8) which related to development of statements of policy regarding campus sexual assault programs by institutions of higher education.

Subsec. (f)(9). Pub. L. 113–4, §304(a)(6), substituted "The Secretary, in consultation with the Attorney General of the United States," for "The Secretary".

Subsec. (f)(16). Pub. L. 113–4, §304(a)(7), added par. (16) and struck out former par. (16) which read as

follows: "The Secretary may seek the advice and counsel of the Attorney General concerning the development, and dissemination to institutions of higher education, of best practices information about campus safety and emergencies."

Subsec. (f)(17). Pub. L. 113–4, §304(a)(8), added par. (17) and struck out former par. (17) which read as follows: "Nothing in this subsection shall be construed to permit an institution, or an officer, employee, or agent of an institution, participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 to retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual with respect to the implementation of any provision of this subsection."

2009—Subsec. (a)(1). Pub. L. 111–39, §407(b)(5)(A)(i)(I), substituted "commonly known as the 'Family Educational Rights and Privacy Act of 1974' " for "also referred to as the Family Educational Rights and Privacy Act of 1974" in introductory provisions.

Subsec. (a)(1)(I). Pub. L. 111–39, §407(b)(5)(A)(i)(II), substituted "students with disabilities" for "handicapped students".

Subsec. (a)(4)(B). Pub. L. 111–39, §407(b)(5)(A)(ii), inserted "during which" after "time period".

Subsec. (a)(7)(B)(iv). Pub. L. 111–39, §407(b)(5)(A)(iii), inserted "education" after "higher" in introductory provisions.

Subsec. (e)(3)(B). Pub. L. 111–39, §407(b)(5)(B), inserted "during which" after "time period".

Subsec. (f)(1). Pub. L. 111–39, §407(b)(5)(C), inserted "of" after "foreign institution" in introductory provisions.

Subsec. (f)(3), (4)(A), (5), (8)(A). Pub. L. 111–39, §407(b)(5)(C)(ii), substituted "under this subchapter and part C of subchapter I of chapter 34 of title 42, other than a foreign institution of higher education," for "under this subchapter and part C of subchapter I of chapter 34 of title 42".

Subsec. (g)(2). Pub. L. 111–39, §407(b)(5)(D), substituted "paragraph (1)(G)" for "subparagraph (G)".

Subsec. (i)(2), (3). Pub. L. 111–39, §407(b)(5)(E)(i), (ii), substituted "institution described in paragraph (1)" for "eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42".

Subsec. (i)(5)(B). Pub. L. 111–39, §407(b)(5)(E)(iii), substituted "commonly known as the 'Family Educational Rights and Privacy Act of 1974' " for "the Family Educational Rights and Privacy Act of 1974".

Subsec. (k)(2). Pub. L. 111–39, §407(b)(5)(F), inserted "section" before "1091(r)(1)".

Subsec. (l)(1)(A). Pub. L. 111–39, §407(b)(5)(G), substituted "paragraph (2)" for "subparagraph (B)" in introductory provisions.

2008—Subsec. (a)(1)(G)(iv). Pub. L. 110–315, §488(a)(1)(A), added cl. (iv).

Subsec. (a)(1)(M). Pub. L. 110–315, §488(a)(1)(B), added subpar. (M) and struck out former subpar. (M) which read as follows: "the terms and conditions under which students receiving guaranteed student loans under part B of this subchapter or direct student loans under part D of this subchapter, or both, may—

"(i) obtain deferral of the repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) or under the Domestic Volunteer Service Act of 1973, or for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service, and

"(ii) obtain partial cancellation of the student loan for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) under the Domestic Volunteer Service Act of 1973 or, for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service;".

Subsec. (a)(1)(P) to (V). Pub. L. 110–315, §488(a)(1)(C)–(E), added subpars. (P) to (V).

Subsec. (a)(4). Pub. L. 110–315, §488(a)(2), added par. (4) and struck out former par. (4) which read as follows: "For purposes of this section, institutions may exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government."

Subsec. (a)(7). Pub. L. 110–315, §488(a)(3), added par. (7).

Subsec. (b)(1)(A). Pub. L. 110–315, §488(b), which directed the general amendment of subpar. (A), with the new subpar. (A) including a subsec. (b) designation and heading and par. (1) designation, was executed by substituting the new subpar. (A) without the added subsec. (b) designation and heading and par. (1) designation for the existing subpar. (A), to reflect the probable intent of Congress. Prior to amendment, subpar. (A) read as follows: "Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers of loans which are made, insured, or guaranteed under part B (other than

loans made pursuant to section 1078–2 of this title) of this subchapter or made under part C or D of this subchapter prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

"(i) the average anticipated monthly repayments, a review of the repayment options available, and such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness; and

"(ii) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest pursuant to sections 1078(b), 1087dd(c)(2), and 1087ee of this title."

Subsec. (d)(1). Pub. L. 110–315, §488(c)(1), inserted "Such information shall also include information on the various payment options available for student loans, including income-sensitive and income-based repayment plans for loans made, insured, or guaranteed under part B and income-contingent and income-based repayment plans for loans made under part C." before "In addition, such information" and "The Secretary shall also provide information on loan forbearance, including the increase in debt that results from capitalization of interest." before "Such information shall be provided".

Subsec. (d)(4). Pub. L. 110–315, §488(c)(2), added par. (4).

Subsec. (e)(3). Pub. L. 110–315, §488(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "For purposes of this subsection, institutions may exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government."

Subsec. (f)(1). Pub. L. 110–315, §488(e)(1)(A), inserted ", other than a foreign institution higher education," after "chapter 34 of title 42" in introductory provisions.

Subsec. (f)(1)(C)(i) to (iii). Pub. L. 110–315, §488(e)(1)(B), added cls. (i) to (iii) and struck out former cls. (i) and (ii) which read as follows:

"(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

"(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies."

Subsec. (f)(1)(F)(ii). Pub. L. 110–315, §488(e)(1)(C), substituted "clause (i), of larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of" for "clause (i), and" and inserted a comma after "any person".

Subsec. (f)(1)(J). Pub. L. 110–315, §488(e)(1)(D), added subpar. (J).

Subsec. (f)(5)(A). Pub. L. 110–315, §103(b)(11), substituted "authorizing committees" for "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate".

Subsec. (f)(15) to (18). Pub. L. 110–315, §488(e)(2), (3), added pars. (15) to (17) and redesignated former par. (15) as (18).

Subsec. (g)(4)(B) to (D). Pub. L. 110–315, §488(f), redesignated subpars. (C) and (D) as (B) and (C), respectively, struck out "and the report to Congress described in subparagraph (B)" after "subparagraph (A)" in subpar. (B) and "the information reported under subparagraph (B) and" after "availability of" in subpar. (C), and struck out former subpar. (B) which read as follows: "The Secretary shall prepare a report regarding the information received under subparagraph (A) and submit such report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate by April 1, 2000. The report shall—

"(i) summarize the information and identify trends in the information;

"(ii) aggregate the information by divisions of the National Collegiate Athletic Association; and

"(iii) contain information on each individual institution of higher education."

Subsecs. (h) to (l). Pub. L. 110–315, §488(g), added subsecs. (h) to (l).

Subsec. (m). Pub. L. 110–315, §1011(c), added subsec. (m).

2000—Subsec. (f)(1)(I). Pub. L. 106–386 added subpar. (I).

1998—Subsec. (a)(1). Pub. L. 105–244, §486(a)(1)(B), in introductory provisions, inserted after second sentence "Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 1232g of this title, together with a statement of the procedures required to obtain such information."

Pub. L. 105–244, §486(a)(1)(A), in introductory provisions, substituted "upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student" for ", through appropriate publications and mailings, to all current students, and to any prospective student upon request".

Subsec. (a)(1)(F). Pub. L. 105–244, §486(a)(1)(C), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "a statement of the refund policy of the institution, as determined under section 1091b of this title, for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph, which refunds shall be credited in the following order:

"(i) to outstanding balances on loans under part B of this subchapter for the period of enrollment for which a refund is required,

"(ii) to outstanding balances on loans under part C of this subchapter for the period of enrollment for which a refund is required,

"(iii) to outstanding balances on loans under part D of this subchapter for the period of enrollment for which a refund is required,

"(iv) to awards under subpart 1 of part A of this subchapter,

"(v) to awards under subpart 3 of part A of this subchapter,

"(vi) to other student assistance, and

"(vii) to the student;".

Subsec. (a)(1)(O). Pub. L. 105–244, §486(a)(1)(D)–(F), added subpar. (O).

Subsec. (a)(3)(A). Pub. L. 105–244, §486(a)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation; and".

Subsec. (a)(6). Pub. L. 105–244, §486(a)(3), added par. (6).

Subsec. (b)(1)(A). Pub. L. 105–244, §486(b)(1), struck out "(individually or in groups)" after "counseling to borrowers" in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 105–244, §486(b)(2), added subpar. (C).

Subsec. (d). Pub. L. 105–244, §486(c), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added pars. (2) and (3).

Subsec. (e)(2). Pub. L. 105–244, §486(d)(1), substituted "the student's parents, guidance" for "his parents, his guidance" and inserted at end "If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association's member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall fulfill the responsibility of the institution to provide information to a prospective student athlete's guidance counselor and coach."

Subsec. (e)(9). Pub. L. 105–244, §486(d)(2), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending August 31 of the preceding year."

Subsec. (f)(1)(F). Pub. L. 105–244, §486(e)(1)(A), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) sex offenses, forcible or nonforcible;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft."

Subsec. (f)(1)(H). Pub. L. 105–244, §486(e)(1)(B), (C), redesignated subpar. (I) as (H) and struck out former subpar. (H) which read as follows: "Statistics concerning the number of arrests for the following crimes occurring on campus:

"(i) liquor law violations;

"(ii) drug abuse violations; and

"(iii) weapons possessions."

Subsec. (f)(1)(I). Pub. L. 105–244, §486(e)(1)(C), redesignated subpar. (I) as (H).

Pub. L. 105–244, §102(b)(3), substituted "section 1011i" for "section 1145g".

Subsec. (f)(4). Pub. L. 105–244, §486(e)(6), added par. (4). Former par. (4) redesignated (5).

Pub. L. 105–244, §486(e)(2)(A), which directed the substitution of "On an annual basis, each" for "Upon request of the Secretary, each" was executed by making the substitution for "Upon the request of the Secretary, each" to reflect the probable intent of Congress.

Pub. L. 105–244, §486(e)(2)(B), substituted "paragraph (1)(F)" for "paragraphs (1)(F) and (1)(H)".

Subsec. (f)(4)(A). Pub. L. 105–244, §486(e)(2)(C)–(E), substituted "and the Workforce" for "and Labor" and "2000" for "1995" and struck out "and" at end.

Subsec. (f)(4)(B), (C). Pub. L. 105–244, §486(e)(2)(F), (G), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (f)(5). Pub. L. 105–244, §486(e)(5), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (f)(5)(A). Pub. L. 105–244, §486(e)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "For purposes of this subsection, the term 'campus' includes—

"(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

"(ii) any building or property owned or controlled by student organizations recognized by the institution."

Subsec. (f)(6). Pub. L. 105–244, §486(e)(5), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pub. L. 105–244, §486(e)(4), substituted "paragraph (1)(F)" for "paragraphs (1)(F) and (1)(H)" and inserted at end "Such statistics shall not identify victims of crimes or persons accused of crimes."

Subsec. (f)(7), (8). Pub. L. 105–244, §486(e)(5), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (f)(9) to (15). Pub. L. 105–244, §486(e)(7), added pars. (9) to (15).

Subsec. (g)(1)(I), (J). Pub. L. 105–244, §486(f)(1), added subpars. (I) and (J).

Subsec. (g)(4), (5). Pub. L. 105–244, §486(f)(2)–(4), added par. (4), redesignated former par. (4) as (5), and struck out heading and text of former par. (5). Text read as follows: "The Secretary shall issue final regulations to implement the requirements of this subsection not later than 180 days following October 20, 1994. Each institution described in paragraph (1) shall make available its first report pursuant to this section not later than October 1, 1996."

1997—Subsec. (a)(3)(B). Pub. L. 105–18, §60001(a)(1), substituted "August 31" for "June 30".

Subsec. (e)(9). Pub. L. 105–18, §60001(a)(2), substituted "August 31" for "August 30".

1996—Subsec. (e)(9). Pub. L. 104–208 substituted "August 30" for "June 30".

1994—Subsec. (g). Pub. L. 103–382 added subsec. (g).

1993—Subsec. (a)(1)(F)(i) to (iii). Pub. L. 103–208, §2(h)(28), inserted before comma at end "for the period of enrollment for which a refund is required".

Subsec. (a)(1)(F)(iv). Pub. L. 103–208, §2(h)(29), inserted "under" after "awards".

Subsec. (a)(1)(F)(vi). Pub. L. 103–208, §2(h)(32), redesignated cl. (vii) as (vi) and struck out former cl. (vi) which read as follows: "to awards under part C of subchapter I of chapter 34 of title 42,".

Subsec. (a)(1)(F)(vii). Pub. L. 103–208, §2(h)(32), redesignated cl. (viii) as (vii). Former cl. (vii) redesignated (vi).

Pub. L. 103–208, §2(h)(30), struck out "provided under this subchapter and part C of subchapter I of chapter 34 of title 42" after "student assistance".

Subsec. (a)(1)(F)(viii). Pub. L. 103–208, §2(h)(32), redesignated cl. (viii) as (vii).

Pub. L. 103–208, §2(h)(31), struck out period after "student".

Subsec. (a)(1)(L). Pub. L. 103–208, §2(k)(9), amended directory language of Pub. L. 102–325, §486(a)(3). See 1992 Amendment note below.

Pub. L. 103–208, §2(h)(33), inserted comma after "full-time".

Subsec. (a)(3)(A). Pub. L. 103–208, §2(h)(34), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "shall be available beginning on July 1, 1993, and each year thereafter to current and prospective students prior to enrolling or entering into any financial obligation; and".

Subsec. (b)(1)(A), (2)(A). Pub. L. 103–208, §2(h)(35), substituted "under part" for "under parts".

Subsec. (d). Pub. L. 103–208, §2(h)(36), inserted period at end of penultimate sentence.

Subsec. (e)(9). Pub. L. 103–208, §2(h)(37), added subpar. (9).

1992—Subsec. (a)(1)(F). Pub. L. 102–325, §486(a)(1), inserted ", as determined under section 1091b of this title," after "of the institution" and ", which refunds shall be credited in the following order:" after "of this paragraph" and added cls. (i) to (viii).

Subsec. (a)(1)(K). Pub. L. 102–325, §486(a)(2), struck out "and" at end.

Subsec. (a)(1)(L). Pub. L. 102–325, §486(a)(4), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M).

Pub. L. 102–325, §486(a)(3), as amended by Pub. L. 103–208, §2(k)(9), amended subpar. (L), relating to completion or graduation rate, by substituting semicolon for period at end.

Subsec. (a)(1)(M). Pub. L. 102–325, §486(a)(4), (5), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M) and substituted "; and" for period at end.

Subsec. (a)(1)(N). Pub. L. 102–325, §486(a)(6), added subpar. (N).

Subsec. (b). Pub. L. 102–325, §486(b), amended subsec. (b) generally, making changes in substance and structure of former text which related to exit counseling for borrowers and borrower information.

Subsec. (f)(1)(F). Pub. L. 102–325, §486(c)(1), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft."

Subsec. (f)(7). Pub. L. 102–325, §486(c)(2), added par. (7).

1991—Subsec. (a)(1)(L). Pub. L. 102–26, §10(a), which directed the insertion of "undergraduate" after "full-time" in subpar. (L), was executed to the subpar. (L) added by Pub. L. 101–542, §103(a), relating to completion or graduation rate, to reflect the probable intent of Congress.

Subsec. (a)(3)(A) to (C). Pub. L. 102–26, §10(b), inserted "and" at end of subpar. (A), substituted a period for "; and" at end of subpar. (B), and struck out subpar. (C) which read as follows: "shall be updated not less than biennially."

Subsec. (a)(5). Pub. L. 102–26, §10(c), added par. (5).

Subsec. (b). Pub. L. 102–164 substituted "Exit counseling for borrowers; borrower information" for "Exit counseling for borrowers" in heading and inserted at end "Each eligible institution shall require that the borrower of a loan made under part B, part C, or part D of this subchapter submit to the institution, during the exit interview required by this subsection, the borrower's expected permanent address after leaving the institution, regardless of the reason for leaving; the name and address of the borrower's expected employer after leaving the institution; and the address of the borrower's next of kin. In the case of a loan made under part B of this subchapter, the institution shall then submit this information to the holder of the loan."

Subsec. (f)(1). Pub. L. 102–26, §10(d), substituted "August 1, 1991," for "September 1, 1991," in introductory provisions, and in subpar. (F) substituted "calendar year" and "calendar years" for "school year" and "school years", respectively.

1990—Subsec. (a)(1)(L). Pub. L. 101–610, §201, added subpar. (L) relating to deferral or partial cancellation of student loans.

Pub. L. 101–542, §103(a), added subpar. (L) relating to completion or graduation rate.

Subsec. (a)(3), (4). Pub. L. 101–542, §103(b), added pars. (3) and (4).

Subsec. (b)(3). Pub. L. 101–610, §202, added par. (3).

Subsec. (d). Pub. L. 101–610, §203, inserted before last sentence "The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization".

Subsec. (e). Pub. L. 101–542, §104(a), added subsec. (e).

Subsec. (f). Pub. L. 101–542, §204(a), added subsec. (f).

1987—Subsec. (b). Pub. L. 100–50, §15(10), inserted "(other than loans made pursuant to section 1078–2 of this title)" after "part B of this subchapter".

Subsec. (d). Pub. L. 100–50, §15(11), inserted after second sentence "In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences."

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–4, title III, §304(b), Mar. 7, 2013, 127 Stat. 92, provided that: "The amendments made by this section [amending this section] shall take effect with respect to the annual security report under section 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)) prepared by an institution of higher education 1 calendar year after the date of enactment of this Act [Mar. 7, 2013], and each subsequent calendar year."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–386, div. B, title VI, §1601(c)(2), Oct. 28, 2000, 114 Stat. 1538, provided that: "The amendment made by this subsection [amending this section] shall take effect 2 years after the date of the enactment of this Act [Oct. 28, 2000]."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–18, title VI, §60001(b), June 12, 1997, 111 Stat. 214, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] are effective upon enactment [June 12, 1997].

"(2) INFORMATION DISSEMINATION.—No institution shall be required to comply with the amendment made by subsection (a)(1) [amending this section] before July 1, 1998."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 486(a), (b), and (c)(2) of Pub. L. 102–325 effective July 23, 1992, except that changes relating to disclosures effective with respect to periods of enrollment beginning on or after July 1, 1993, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title.

Pub. L. 102–325, title IV, §486(c)(3), July 23, 1992, 106 Stat. 622, provided that: "The amendment made by this subsection to subparagraph (F)(ii) of section 485(f)(1) of the Act [20 U.S.C. 1092(f)(1)(F)(ii)] shall be effective with respect to reports made pursuant to such section on or after September 1, 1993. The statistics required by subparagraph (F) of such section shall—

"(A) in the report required on September 1, 1992, include statistics concerning the occurrence on campus of offenses during the period from August 1, 1991, to July 31, 1992;

"(B) in the report required on September 1, 1993, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar year 1992;

"(C) in the report required on September 1, 1994, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar years 1992 and 1993; and

"(D) in the report required on September 1 of 1995 and each succeeding year, include statistics concerning the occurrence on campus of offenses during the three calendar years preceding the year in which the report is made."

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–542, title I, §104(b), Nov. 8, 1990, 104 Stat. 2384, as amended by Pub. L. 102–26, §10(e), Apr. 9, 1991, 105 Stat. 128, provided that: "The report to the Secretary of Education required by the amendments made by this section [amending this section] shall be due on July 1, 1993, and annually thereafter, and shall cover the one-year period ending on June 30 of the preceding year."

Pub. L. 101–542, title II, §204(c), Nov. 8, 1990, 104 Stat. 2387, provided that: "The amendments made by this section [amending this section] shall take effect on September 1, 1991, except that the requirement of section 485(f)(1)(F) and (H) of the Higher Education Act of 1965 [subsec. (f)(1)(F), (H) of this section] (as added by this section) shall be applied to require statistics with respect to school years preceding the date of enactment of this Act [Nov. 8, 1990] only to the extent that data concerning such years is reasonably available."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (b) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

REGULATIONS

Pub. L. 101–542, title IV, §401(a), Nov. 8, 1990, 104 Stat. 2388, provided that: "The Secretary is authorized to issue regulations to carry out the provisions of this Act [amending this section and sections 1085, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1001 of this title]."

MODEL INSTITUTION FINANCIAL AID OFFER FORM

Pub. L. 110–315, title IV, §484, Aug. 14, 2008, 122 Stat. 3286, provided that:

"(a) MODEL FORMAT.—The Secretary of Education shall—

"(1) not later than six months after the date of enactment of the Higher Education Opportunity Act [Aug. 14, 2008], convene a group of students, families of students, secondary school guidance counselors, representatives of institutions of higher education (including financial aid administrators, registrars, and business officers), and nonprofit consumer groups for the purpose of offering recommendations for improvements that—

"(A) can be made to financial aid offer forms; and

"(B) include the information described in subsection (b);

"(2) develop a model format for financial aid offer forms based on the recommendations of the group; and

"(3) not later than one year after the date of enactment of the Higher Education Opportunity Act—

"(A) submit recommendations to the authorizing committees (as defined in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003); and

"(B) make the recommendations and model format widely available.

"(b) CONTENTS.—The recommendations developed under subsection (a) for model financial aid offer forms shall include, in a consumer-friendly manner that is simple and understandable, the following:

"(1) Information on the student's cost of attendance, including the following:

"(A) Tuition and fees.

"(B) Room and board costs.

"(C) Books and supplies.

"(D) Transportation.

"(2) The amount of financial aid that the student does not have to repay, such as scholarships, grants, and work-study assistance, offered to the student for such year, and the conditions of such financial aid.

"(3) The types and amounts of loans under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.) for which the student is eligible for such year, and the applicable terms and conditions of such loans.

"(4) The net amount that the student, or the student's family on behalf of the student, will have to pay for the student to attend the institution for such year, equal to—

"(A) the cost of attendance for the student for such year; minus

"(B) the amount of financial aid described in paragraphs (2) and (3) that is offered in the financial aid offer form.

"(5) Where a student or the student's family can seek additional information regarding the financial aid offered.

"(6) Any other information the Secretary of Education determines necessary so that students and parents can make informed student loan borrowing decisions."

CONGRESSIONAL FINDINGS

Pub. L. 103–382, title III, §360B(b), Oct. 20, 1994, 108 Stat. 3969, provided that: "The Congress finds that—

"(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

"(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

"(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

"(4) a recent study by the National Collegiate Athletic Association found that in Division I–A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

"(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

"(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

"(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

"(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students."

Pub. L. 101–542, title I, §102, Nov. 8, 1990, 104 Stat. 2381, provided that: "The Congress finds that—

"(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

"(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of students at institutions of higher education;

"(3) a recent study by the National Institute of Independent Colleges and Universities found that just 43 percent of students attending 4-year public colleges and universities and 54 percent of students entering private institutions graduated within 6 years of enrolling;

"(4) the academic performance of student athletes, especially student athletes receiving football and basketball scholarships, has been a source of great concern in recent years;

"(5) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

"(6) prospective students and prospective student athletes should be aware of the educational commitments of an institution of higher education; and

"(7) knowledge of graduation rates would help prospective students and prospective student athletes make an informed judgment about the educational benefits available at a given institution of higher education."

Pub. L. 101–542, title II, §202, Nov. 8, 1990, 104 Stat. 2384, provided that: "The Congress finds that—

"(1) the reported incidence of crime, particularly violent crime, on some college campuses has steadily risen in recent years;

"(2) although annual 'National Campus Violence Surveys' indicate that roughly 80 percent of campus crimes are committed by a student upon another student and that approximately 95 percent of the campus crimes that are violent are alcohol- or drug-related, there are currently no comprehensive data on campus crimes;

"(3) out of 8,000 postsecondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime statistics directly through the Uniform Crime Report of the Federal Bureau of Investigation, and other institutions report data indirectly, through local police agencies or States, in a manner that does not permit campus statistics to be separated;

"(4) several State legislatures have adopted or are considering legislation to require reporting of campus crime statistics and dissemination of security practices and procedures, but the bills are not uniform in their requirements and standards;

"(5) students and employees of institutions of higher education should be aware of the incidence of crime on campus and policies and procedures to prevent crime or to report occurrences of crime;

"(6) applicants for enrollment at a college or university, and their parents, should have access to information about the crime statistics of that institution and its security policies and procedures; and

"(7) while many institutions have established crime preventive measures to increase the safety of campuses, there is a clear need—

"(A) to encourage the development on all campuses of security policies and procedures;

"(B) for uniformity and consistency in the reporting of crimes on campus; and

"(C) to encourage the development of policies and procedures to address sexual assaults and racial violence on college campuses."

IMPROVING REPAYMENT OPTIONS FOR FEDERAL STUDENT LOAN BORROWERS

Memorandum of President of the United States, June 7, 2012, 77 F.R. 35241, provided:

Memorandum for the Secretary of Education [and] the Secretary of the Treasury

More individuals than ever before are using student loans to finance college. Nearly two-thirds of college graduates borrow to pay for college, with an average debt upon graduation of about $26,300. While a college education remains an excellent investment, this debt can be overly burdensome, especially for recent graduates during the first few years of their careers.

The Income-Based Repayment (IBR) plan for Federal student loans currently allows former students to cap their student loan payments at 15 percent of their current discretionary income. This plan can be an effective tool for helping individuals to manage their debt, especially during challenging economic times.

Over the past several years, my Administration has worked to improve repayment options available to borrowers, including through passage of an enhanced Income-Based Repayment plan, which will cap a Federal student loan borrower's monthly payments at 10 percent of his or her discretionary income starting in 2014. And we are pursuing administrative action that may extend these lower payments to some students as soon as the end of this calendar year.

However, too few borrowers are aware of the options available to them to help manage their student loan debt, including reducing their monthly payment through IBR. Additionally, too many borrowers have had difficulties navigating and completing the IBR application process once they have started it.

For many borrowers, the most significant challenge in completing the IBR application has been the income-verification process, which, until recently, required borrowers to provide a signed copy of their income tax return. Although the Department of Education has recently removed some of the hurdles to completing the process, too many borrowers are still struggling to access this important repayment option due to difficulty in applying.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. *Streamlined Application Process for Income-Based Repayment Plans*. By September 30, 2012, the Secretary of Education, in coordination with the Commissioner of Internal Revenue, shall create a streamlined online application process for IBR that allows student loan borrowers with federally held loans to import their Internal Revenue Service income data directly into the IBR application. This process will allow income information to be seamlessly transmitted so that borrowers can complete the application at one sitting. Federal direct student loan borrowers shall no longer be required to contact their loan servicer as the first step to apply.

SEC. 2. *Integrated Online and Mobile Resources for Loan Repayment Options and Debt Management*. By July 15, 2012, the Secretary of Education shall:

(a) create integrated online and mobile resources for students and former students to use in learning about Federal student aid, including an explanation of (1) the current IBR plan, which allows student loan borrowers to cap their monthly loan payments at 15 percent of their discretionary income and be eligible to have their remaining loan balances forgiven after 25 years of responsible payments; and (2) the proposed Pay As You Earn plan, which will allow many students to cap their monthly loan repayments at 10 percent of their discretionary income and be eligible for loan forgiveness after 20 years of responsible repayment; and

(b) develop and make available to borrowers an online tool to help students make better financial decisions, including understanding their loan debt and its impact on their everyday lives. This tool should incorporate key elements of best practices in financial literacy and link to students' actual Federal loan data to help them understand their individual circumstances and options for repayment.

SEC. 3. *Improved Notification of the Income-Based Repayment Plan*. The Secretary of Education shall instruct Federal direct student loan servicers to make borrowers aware of the option to participate in IBR before a student leaves school and upon entering repayment. Within 1 year of the date of this memorandum, the Department of Education shall make available, for institutions of higher education, a model exit counseling module that will enable students to understand their repayment options before leaving school and to choose a repayment plan for their student loans that best meets their needs.

SEC. 4. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of Education is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

ESTABLISHING A WHITE HOUSE TASK FORCE TO PROTECT STUDENTS FROM SEXUAL ASSAULT

Memorandum for the Heads of Executive Departments and Agencies

Memorandum of President of the United States, Jan. 22, 2014, 79 F.R. 4385, provided:

The prevalence of rape and sexual assault at our Nation's institutions of higher education is both deeply troubling and a call to action. Studies show that about one in five women is a survivor of attempted or completed sexual violence while in college. In addition, a substantial number of men experience sexual violence during college. Although schools have made progress in addressing rape and sexual assault, more needs to be done to ensure safe, secure environments for students of higher education.

There are a number of Federal laws aimed at making our campuses safer, and the Departments of Education and Justice have been working to enforce them. Among other requirements, institutions of higher education participating in Federal student financial assistance programs (institutions), including colleges, universities, community colleges, graduate and professional schools, for-profit schools, trade schools, and career and technical schools, must provide students with information on programs aimed at preventing rape and sexual assault, and on procedures for students to reporting rape and sexual assault. Institutions must also adopt and publish grievance procedures that provide for the prompt and equitable resolution of rape and sexual assault complaints, and investigate reports of rape and sexual assault and take swift action to prevent their recurrence. Survivors of rape and sexual assault must also be provided with information on how to access the support and services they need. Reports show, however, that institutions' compliance with these Federal laws is uneven and, in too many cases, inadequate. Building on existing enforcement efforts, we must strengthen and address compliance issues and provide institutions with additional tools to respond to and address rape and sexual assault.

Therefore, I am directing the Office of the Vice President and the White House Council on Women and Girls to lead an interagency effort to address campus rape and sexual assault, including coordinating Federal enforcement efforts by executive departments and agencies (agencies) and helping institutions meet their obligations under Federal law. To these ends, it is hereby ordered as follows:

SECTION 1. *Establishment of the White House Task Force to Protect Students from Sexual Assault*. There is established a White House Task Force to Protect Students from Sexual Assault (Task Force). The Task Force shall be co-chaired by designees of the Office of the Vice President and the White House Council on Women and Girls.

(a) Membership of the Task Force. In addition to the Co-Chairs, the Task Force shall consist of the following members:

(i) the Attorney General;

(ii) the Secretary of the Interior;

(iii) the Secretary of Health and Human Services;

(iv) the Secretary of Education;

(v) the Director of the Office of Science and Technology Policy;

(vi) the Director of the Domestic Policy Council;

(vii) the Cabinet Secretary; and

(viii) the heads of agencies or offices as the Co-Chairs may designate.

(b) A member of the Task Force may designate, to perform the Task Force functions of the member, senior officials who are part of the member's agency or office, and who are full-time officers or employees of the Federal Government.

SEC. 2. *Mission and Function of the Task Force*. (a) The Task Force shall work with agencies to develop a coordinated Federal response to campus rape and sexual assault. The functions of the Task Force are advisory only and shall include making recommendations to meet the following objectives:

(i) providing institutions with evidence-based best and promising practices for preventing and responding to rape and sexual assault;

(ii) building on the Federal Government's existing enforcement efforts to ensure that institutions comply fully with their legal obligations to prevent and respond to rape and sexual assault;

(iii) increasing the transparency of the Federal Government's enforcement activities concerning rape and sexual assault, consistent with applicable law and the interests of affected students;

(iv) broadening the public's awareness of individual institutions' compliance with their legal obligation to address rape and sexual assault; and

(v) facilitating coordination among agencies engaged in addressing rape and sexual assault and those charged with helping bring institutions into compliance with the law.

(b) In accordance with applicable law and in addition to regular meetings, the Task Force shall consult with external stakeholders, including institution officials, student groups, parents, athletic and educational associations, local rape crisis centers, and law enforcement agencies.

(c) Because rape and sexual assault also occur in the elementary and secondary school context, the Task Force shall evaluate how its proposals and recommendations may apply to, and may be implemented by, schools, school districts, and other elementary and secondary educational entities receiving Federal financial assistance.

SEC. 3. *Action Plan*. (a) Within 90 days of the date of this memorandum, the Task Force shall develop and submit proposals and recommendations to the President for:

(i) providing examples of instructions, policies, and protocols for institutions, including: rape and sexual assault policies; prevention programs; crisis intervention and advocacy services; complaint and grievance procedures; investigation protocols; adjudicatory procedures; disciplinary sanctions; and training and orientation modules for students, staff, and faculty;

(ii) measuring the success of prevention and response efforts at institutions, whether through compliance with individual policies or through broader assessments of campus climate, attitudes and safety, and providing the public with this information;

(iii) maximizing the Federal Government's effectiveness in combatting campus rape and sexual assault by, among other measures, making its enforcement activities transparent and accessible to students and prospective students nationwide; and

(iv) promoting greater coordination and consistency among the agencies and offices that enforce the Federal laws addressing campus rape and sexual assault and support improved campus responses to sexual violence.

(b) Within 1 year of the date of this memorandum, and then on an annual basis, the Task Force shall provide a report to the President on implementation efforts with respect to this memorandum.

SEC. 4. *General Provisions*. (a) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) The heads of agencies and offices shall assist and provide information to the Task Force, consistent with applicable law, as may be necessary to carry out the functions of the Task Force. Each agency and office shall bear its own expenses of participating in the Task Force.

(d) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(e) The Secretary of Education is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

HELPING STRUGGLING FEDERAL STUDENT LOAN BORROWERS MANAGE THEIR DEBT

Memorandum of President of the United States, June 9, 2014, 79 F.R. 33843, provided:

Memorandum for the Secretary of the Treasury[, and] the Secretary of Education

A college education is the single most important investment that Americans can make in their futures. College remains a good investment, resulting in higher earnings and a lower risk of unemployment. Unfortunately, for many low- and middle-income families, college is slipping out of reach. Over the past three decades, the average tuition at a public four-year college has more than tripled, while a typical family's income has increased only modestly. More students than ever are relying on loans to pay for college. Today, 71 percent of those earning a bachelor's degree graduate with debt, which averages $29,400. While most students are able to repay their loans, many feel burdened by debt, especially as they seek to start a family, buy a home, launch a business, or save for retirement.

Over the past several years, my Administration has worked to ensure that college remains affordable and student debt is manageable, including through raising the maximum Pell Grant award by nearly $1,000, creating the American Opportunity Tax Credit, and expanding access to student loan repayment plans, where monthly obligations are calibrated to a borrower's income and debt. These income-driven repayment plans, like my Pay As You Earn plan, which caps a Federal student loan borrower's payments at 10 percent of income, can be an effective tool to help individuals manage their debt, and pursue their careers while avoiding

consequences of defaulting on a Federal student loan, such as a damaged credit rating, a tax refund offset, or garnished wages.

While my Administration has made significant strides in expanding repayment options available to borrowers and building awareness of income-driven repayment plans, more needs to be done. Currently, not all student borrowers of Federal Direct Loans can cap their monthly loan payments at 10 percent of income, and too many struggling borrowers are still unaware of the options available to them to help responsibly manage their debt.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. *Expanding the President's Pay As You Earn Plan to More Federal Direct Loan Borrowers*. Within 1 year after the date of this memorandum, the Secretary of Education shall propose regulations that will allow additional students who borrowed Federal Direct Loans to cap their Federal student loan payments at 10 percent of their income. The Secretary shall seek to target this option to those borrowers who would otherwise struggle to repay their loans. The Secretary shall issue final regulations in a timely fashion after considering all public comments, as appropriate, with the goal of making the repayment option available to borrowers by December 31, 2015.

SEC. 2. *Improving Communication Strategies to Help Vulnerable Borrowers*. By December 31, 2014, the Secretary of Education shall develop, evaluate, and implement new targeted strategies to reach borrowers who may be struggling to repay their Federal student loans to ensure that they have the information they need to select the best repayment option and avoid future default. In addition to focusing on borrowers who have fallen behind on their loan payments, the Secretary's effort shall focus on borrowers who have left college without completing their education, borrowers who have missed their first loan payment, and borrowers (especially those with low balances) who have defaulted on their loans to help them rehabilitate their loans with income-based monthly payments. The Secretary of Education shall incorporate data analytics into the communications efforts and evaluate these new strategies to identify areas for improvement and build on successful practices.

SEC. 3. *Encouraging Support and Awareness of Repayment Options for Borrowers During Tax Filing Season*. By September 30, 2014, the Secretary of the Treasury and the Secretary of Education shall invite private-sector entities to enter into partnerships to better educate borrowers about income-based repayment plans during the tax filing season in 2015. Building off of prior work, the Secretaries shall further develop effective ways to inform borrowers about their repayment options during the tax filing season in 2015, as well as through personalized financial management tools.

SEC. 4. *Promoting Stronger Collaboration to Ensure That Students and Their Families Have the Information They Need to Make Informed Borrowing Decisions*. By September 30, 2014, the Secretary of Education, in consultation with the Secretary of the Treasury, shall develop a pilot project to test the effectiveness of loan counseling resources, including the Department of Education's Financial Awareness Counseling Tool. The Secretary of Education shall convene higher education experts and student-debt researchers to identify ways to evaluate and strengthen loan counseling for Federal student loan borrowers. Additionally, the Secretaries shall collaborate with organizations representing students, teachers, nurses, social workers, entrepreneurs, and business owners, among others, to help borrowers represented by these organizations learn more about the repayment options that are available to them in financing their investment in higher education and managing their debt, and to provide more comparative, customized resources to those borrowers when possible.

SEC. 5. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Education is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

STUDENT AID BILL OF RIGHTS TO HELP ENSURE AFFORDABLE LOAN REPAYMENT

Memorandum of President of the United States, Mar. 10, 2015, 80 F.R. 13475, provided:

Memorandum for the Secretary of the Treasury[,] the Secretary of Education[,] the Commissioner of Social Security[,] the Director of the Consumer Financial Protection Bureau[,] the Director of the Office of Management and Budget[,] the Director of the Office of Science and Technology Policy[, and] the Director of the Domestic Policy Council

America thrived in the 20th century in large part because we had the most educated workforce in the world. Today, more than ever, Americans need knowledge and skills to meet the demands of a growing global economy. Since many students borrow to pay for postsecondary education, it is imperative they be able to manage their debt as they embark on their careers.

My Administration has taken historic action to ensure that college remains affordable and student debt remains manageable. We have eliminated tens of billions of dollars in student loan subsidies paid to banks in order to increase the maximum Pell grant by nearly $1,000 and provide a path for borrowers to limit payments on many student loans to 10 percent of income, and we have worked with the Congress to enact the American Opportunity Tax Credit, worth $10,000 over 4 years of college. We have promoted innovation and competition to bring down college costs, increased completion rates, and given consumers clear, transparent information on college performance.

College remains an excellent investment, and student loans enable many who could not otherwise do so to access further education. However, there is more work to do to help students repay their loans responsibly. In 2013, college graduates owed an average of $28,400 in Federal and private loans. More than one in eight Federal borrowers default on their loans within 3 years of leaving school. My Administration has already put in place significant protections that ensure borrowers with credit cards and mortgages are treated fairly. We can and should do much more to give students affordable ways to meet their responsibilities and repay their loans.

Now is the time for stronger protections for the more than 40 million Americans with student loan debt. All student loan borrowers should have access to an efficient and responsive complaint and feedback system that holds loan servicers accountable and promotes transparency, the information and flexibility they need to repay their loan responsibly and avoid default, and protections to ensure that they will be treated fairly even if they struggle to repay their loans.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. *State-of-the-Art Complaint and Feedback System*.

(a) *Complaints and Feedback Regarding Federal Financial Aid*. By July 1, 2016, the Secretary of Education shall develop and implement a simple process for borrowers to file complaints regarding Federal financial aid, including those pertaining to lenders, loan servicers, private collection agencies, and institutions of higher education. The process shall allow people to file a complaint and monitor its progress toward resolution. In addition, the Department of Education will provide data from the complaint system to other enforcement agencies that are responsible for oversight of Federal student loan lenders, loan servicers, private collection agencies, and institutions of higher education. By October 1, 2017, and annually thereafter, the Department of Education shall publish a report summarizing and analyzing the content in and resolution of borrower complaints and feedback received through the process. By October 1, 2015, the Secretary of Education shall report to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, on the optimal way to address other student complaints regarding institutions of higher education that participate in Federal student financial aid programs.

(b) *Coordination Among Other Enforcement Agencies*. By October 1, 2015, the Secretary of Education shall, in consultation with the Director of the Consumer Financial Protection Bureau, recommend to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, a process for sharing information with relevant enforcement agencies so that those enforcement agencies may refer matters where there may be violations of consumer protection law.

SEC. 2. *Helping Borrowers Repay Their Loans and Avoid Default*.

(a) *Higher Standards for Federal Direct Loan Servicing*. By January 1, 2016, the Secretary of Education shall require all Federal Direct student loan servicers to provide enhanced disclosures to borrowers and strengthened consumer protections. These disclosures and consumer protections shall be improved throughout the loan repayment process, and shall include disclosures to borrowers regarding loan transfers from one servicer to another and notifications when borrowers become delinquent or have incomplete applications to change repayment plans. As soon as practicable, the Secretary shall direct all Federal Direct student loan servicers to apply prepayments to loans with the highest interest rate to ensure consistency across servicers, unless otherwise instructed by borrowers.

(b) *Regular Review of Student Loan Performance and Borrower Trends*. The Director of the Office of

Management and Budget and the Secretary of Education shall convene quarterly an interagency task force consisting of the Department of the Treasury, Department of Education, Office of Management and Budget, and Domestic Policy Council to monitor trends in the student loan portfolio, budget costs, and borrower assistance efforts. No later than August 1, 2015, the task force shall review recommendations for the Department of Education from its members and the Consumer Financial Protection Bureau on best practices in performance-based contracting to better ensure that servicers help borrowers responsibly make affordable monthly payments on their student loans.

(c) *Additional Protections for Student Loan Borrowers*. By October 1, 2015, the Secretary of Education, in consultation with the Secretary of the Treasury and the Director of the Consumer Financial Protection Bureau, shall issue a report to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, on (i) whether statutory or regulatory changes are needed to current provisions that permit the Secretary of Education to specify acts or omissions at institutions of higher education that borrowers may assert as a defense to repayment of a direct loan; and (ii) after assessing the potential applicability of consumer protections in the mortgage and credit card markets to student loans, recommendations for statutory or regulatory changes in this area, including, where appropriate, strong servicing standards, flexible repayment opportunities for all student loan borrowers, and changes to bankruptcy laws.

(d) *Higher Customer Service Standards in Income-Driven Repayment Plans*. By October 1, 2015, the Secretary of Education and the Secretary of the Treasury shall report to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, on the feasibility of developing a system to give borrowers the opportunity to authorize the Internal Revenue Service to release income information for multiple years for the purposes of automatically determining monthly payments under income-driven repayment plans.

(e) *Finding New and Better Ways to Communicate with Student Loan Borrowers*. By January 1, 2016, the Secretary of Education shall report to the President, through the Director of the Domestic Policy Council, on the findings of a pilot program to test new methods for communicating with borrowers who have Federal Direct student loans on which they are at least 140 days delinquent but which have not entered default. By January 1, 2017, the Secretary shall also, in consultation with the Director of the White House Office of Science and Technology Policy, develop and implement at least five behaviorally designed pilot programs to identify the most effective ways to communicate with borrowers to maximize successful borrower repayment and help reduce delinquency and default and report to the President, through the Director of the Domestic Policy Council, on the status and results of those pilot programs.

(f) *Making it Easier for Federal Direct Student Loan Borrowers to Repay Their Student Loans*. As soon as practicable, the Secretary of Education shall establish a centralized point of access for all Federal student loan borrowers in repayment, including a central location for account information and payment processing for all Federal student loan servicing, regardless of the specific servicer.

SEC. 3. *Fair Treatment for Struggling and Distressed Borrowers.*

(a) *Raising Standards for Student Loan Debt Collectors*. By July 1, 2015, the Secretary of Education shall implement actions to ensure that the debt collection process for defaulted Federal student loans is fair, transparent, charges reasonable fees to defaulted borrowers, and effectively assists borrowers in meeting their obligations and returning to good standing. By January 1, 2016, the Secretary of Education shall publish a quarterly performance report on the Department's private debt collection agency contractors that includes the underlying data, disaggregated by contractor.

(b) *Providing Clarity on the Rights of Borrowers in Bankruptcy*. By July 1, 2015, the Secretary of Education shall issue information highlighting factors the courts have used in their determination of undue hardship, to assist parties who must determine whether to contest an undue hardship discharge in bankruptcy of a Federal student loan.

(c) *Protecting Social Security Benefits for Borrowers with Disabilities*. By July 1, 2015, the Secretary of Education and the Director of the Office of Management and Budget, in consultation with the Commissioner of Social Security, shall develop a plan to identify Federal student loan borrowers who receive Social Security Disability Insurance (SSDI) and determine which beneficiaries qualify for a total and permanent disability discharge of their student loans under the Higher Education Act of 1965. The plan shall specify a process for the Secretary of Education to stop collection on qualified borrowers in order to ensure that SSDI benefits are not reduced to repay student loans that are eligible for discharge. In addition, the Secretary of Education and the Director of the Office of Management and Budget, in consultation with the Commissioner of Social Security, shall identify the best way to communicate with other SSDI recipients who hold student loans about their repayment options, including income-driven plans, and assist them in entering those plans.

(d) *Debt Collection Pilot Program*. By July 1, 2016, the Secretary of the Treasury, in consultation with the

Secretary of Education, shall report to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, on the initial findings of an ongoing pilot program that uses the Department of the Treasury's Bureau of the Fiscal Service to collect on a sample of defaulted Federal student loan debts to help determine how to improve the collection process for defaulted Federal student loans.

SEC. 4. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Education is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[1] *So in original. Probably should be capitalized.*

[2] *So in original.*

[3] *See References in Text note below.*

§1092a. Combined payment plan

(a) Eligibility for plan

Upon the request of the borrower, a lender described in subparagraph (A), (B), or (C) of section 1078–3(a)(1) of this title, or an eligible lender as defined in section 719 of the Public Health Service Act (42 U.S.C. 292o) may, with respect to a consolidation loan made under section 1078–3 of this title (and section 1087–2(o) of this title as in effect prior to the enactment of section 1078–3 of this title) and loans guaranteed under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

(b) Applicability of other requirements

A lender offering a combined payment plan shall comply with all provisions of section 1078–3 of this title applicable to loans consolidated or to be consolidated and shall comply with all provisions of part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) applicable to loans under that subpart which are made part of the combined payment plan, except that a lender offering a combined payment plan under this section may offer consolidation loans pursuant to section 1078–3(b)(1)(A) of this title if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

(c) Lender eligibility

Such lender may offer a combined payment plan only if—

(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

(d) Borrower selection of competing offers

In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

(e) Effect of plan

Upon selection of a lender to administer the combined payment plan, the lender may reissue any loan under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

(2) the loan being reissued was not in default (as defined in section 707(e)(3) of the Public Health Service Act [42 U.S.C. 292f(e)(3)]) at the time the request for a combined payment plan is made.

(f) Notes and insurance certificates

(1) Each loan reissued under subsection (e) of this section shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 710 of the Public Health Service Act [42 U.S.C. 292i]. Notwithstanding the provisions of section 729(a) [1] of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.), the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act [42 U.S.C. 201 et seq.], and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

(g) Termination of borrower eligibility

The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

(h) Fees and premiums

No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

(i) Commencement of repayment

Repayment of a combined payment plan shall commence within 60 days after the later of the date

of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e) of this section.

(Pub. L. 89–329, title IV, §485A, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1484; amended Pub. L. 100–50, §15(12), June 3, 1987, 101 Stat. 357; Pub. L. 111–39, title IV, §407(b)(6), July 1, 2009, 123 Stat. 1951.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (a), (b), (e), and (f), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. Part A of title VII of the Act is classified generally to part A (§292 et seq.) of subchapter V of chapter 6A of Title 42. Section 729 of the Act was classified to section 294b of Title 42 and was omitted in the general revision of subchapter V of chapter 6A by Pub. L. 102–408, title I, §102, Oct. 13, 1992, 106 Stat. 1994. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–39, §407(b)(6)(A), substituted "or an eligible lender as defined in section 719 of the Public Health Service Act (42 U.S.C. 292o)" for "or defined in subpart I of part C of title VII of the Public Health Service Act" and "under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)" for "under subpart I of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans)".

Subsec. (b). Pub. L. 111–39, §407(b)(6)(B), substituted "part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)" for "subpart I of part C of title VII of the Public Health Service Act".

Subsec. (e). Pub. L. 111–39, §407(b)(6)(C)(i), substituted "loan under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)" for "Health Education Assistance Loan" in introductory provisions.

Subsec. (e)(2). Pub. L. 111–39, §407(b)(6)(C)(ii), substituted "707(e)(3)" for "733(e)(3)".

Subsec. (f)(1). Pub. L. 111–39, §407(b)(6)(D)(i), substituted "part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)" for "subpart I of part C of title VII of the Public Health Service Act" and "710" for "728(a)".

Subsec. (f)(2). Pub. L. 111–39, §407(b)(6)(D)(ii), substituted "part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.)" for "subpart I of part C of title VII of the Public Health Service Act".

1987—Subsec. (a). Pub. L. 100–50 substituted "subparagraph (A), (B), or (C)" for "clause (i), (ii), or (iii)".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

[1] *See References in Text note below.*

§1092b. National Student Loan Data System

(a) Development of System

The Secretary shall consult with a representative group of guaranty agencies, eligible lenders, and eligible institutions to develop a mutually agreeable proposal for the establishment of a National Student Loan Data System containing information regarding loans made, insured, or guaranteed under part B of this subchapter and loans made under parts C and D of this subchapter, and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and

residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan not later than one year after October 7, 1998. The information in the data system shall include (but is not limited to)—

(1) the amount and type of each such loan made;

(2) the names and social security numbers of the borrowers;

(3) the guaranty agency responsible for the guarantee of the loan;

(4) the institution of higher education or organization responsible for loans made under parts C and D of this subchapter;

(5) the exact amount of loans partially or totally canceled or in deferment for service under the Peace Corps Act (22 U.S.C. 2501 et seq.), for service under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], and for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness;

(6) the eligible institution in which the student was enrolled or accepted for enrollment at the time the loan was made, and any additional institutions attended by the borrower;

(7) the total amount of loans made to any borrower and the remaining balance of the loans;

(8) the lender, holder, and servicer of such loans;

(9) information concerning the date of any default on the loan and the collection of the loan, including any information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan;

(10) information regarding any deferments or forbearance granted on such loans; and

(11) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

(b) Additional information

For the purposes of research and policy analysis, the proposal shall also contain provisions for obtaining additional data concerning the characteristics of borrowers and the extent of student loan indebtedness on a statistically valid sample of borrowers under part B of this subchapter. Such data shall include—

(1) information concerning the income level of the borrower and his family and the extent of the borrower's need for student financial assistance, including loans;

(2) information concerning the type of institution attended by the borrower and the year of the program of education for which the loan was obtained;

(3) information concerning other student financial assistance received by the borrower; and

(4) information concerning Federal costs associated with the student loan program under part B of this subchapter, including the costs of interest subsidies, special allowance payments, and other subsidies.

(c) Verification

The Secretary may require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan made under part B, C, or D of this subchapter.

(d) Principles for administering the data system

In managing the National Student Loan Data System, the Secretary shall take actions necessary to maintain confidence in the data system, including, at a minimum—

(1) ensuring that the primary purpose of access to the data system by guaranty agencies, eligible lenders, and eligible institutions of higher education is for legitimate program operations, such as the need to verify the eligibility of a student, potential student, or parent for loans under part B, C, or D;

(2) prohibiting nongovernmental researchers and policy analysts from accessing personally identifiable information;

(3) creating a disclosure form for students and potential students that is distributed when such students complete the common financial reporting form under section 1090 of this title, and as a

part of the exit counseling process under section 1092(b) of this title, that—

(A) informs the students that any title IV grant or loan the students receive will be included in the National Student Loan Data System, and instructs the students on how to access that information;

(B) describes the categories of individuals or entities that may access the data relating to such grant or loan through the data system, and for what purposes access is allowed;

(C) defines and explains the categories of information included in the data system;

(D) provides a summary of the provisions of section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974") and other applicable Federal privacy statutes, and a statement of the students' rights and responsibilities with respect to such statutes;

(E) explains the measures taken by the Department to safeguard the students' data; and

(F) includes other information as determined appropriate by the Secretary;

(4) requiring guaranty agencies, eligible lenders, and eligible institutions of higher education that enter into an agreement with a potential student, student, or parent of such student regarding a loan under part B, C, or D, to inform the student or parent that such loan shall be—

(A) submitted to the data system; and

(B) accessible to guaranty agencies, eligible lenders, and eligible institutions of higher education determined by the Secretary to be authorized users of the data system;

(5) regularly reviewing the data system to—

(A) delete inactive users from the data system;

(B) ensure that the data in the data system are not being used for marketing purposes; and

(C) monitor the use of the data system by guaranty agencies and eligible lenders to determine whether an agency or lender is accessing the records of students in which the agency or lender has no existing financial interest; and

(6) developing standardized protocols for limiting access to the data system that include—

(A) collecting data on the usage of the data system to monitor whether access has been or is being used contrary to the purposes of the data system;

(B) defining the steps necessary for determining whether, and how, to deny or restrict access to the data system; and

(C) determining the steps necessary to reopen access to the data system following a denial or restriction of access.

(e) Reports to Congress

(1) Annual report

Not later than September 30 of each fiscal year, the Secretary shall prepare and submit to the authorizing committees a report describing—

(A) the effectiveness of existing privacy safeguards in protecting student and parent information in the data system;

(B) the success of any new authorization protocols in more effectively preventing abuse of the data system;

(C) the ability of the Secretary to monitor how the system is being used, relative to the intended purposes of the data system; and

(D) any protocols developed under subsection (d)(6) during the preceding fiscal year.

(2) Study

(A) In general

The Secretary shall conduct a study regarding—

(i) available mechanisms for providing students and parents with the ability to opt in or opt out of allowing eligible lenders to access their records in the National Student Loan Data System; and

(ii) appropriate protocols for limiting access to the data system, based on the risk assessment required under subchapter III of chapter 35 of title 44.

(B) Submission of study

Not later than three years after August 14, 2008, the Secretary shall prepare and submit a report on the findings of the study under subparagraph (A) to the authorizing committees.

(f) Standardization of data reporting

(1) In general

The Secretary shall by regulation prescribe standards and procedures (including relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 in uniform formats in order to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies.

(2) Activities

For the purpose of establishing standards under this section, the Secretary shall—

(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this subchapter and part C of subchapter I of chapter 34 of title 42.

(g) Common identifiers

The Secretary shall, not later than July 1, 1993—

(1) revise the codes used to identify institutions and students in the student loan data system authorized by this section to make such codes consistent with the codes used in each database used by the Department of Education that contains information of participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) modify the design or operation of the system authorized by this section to ensure that data relating to any institution is readily accessible and can be used in a form compatible with the integrated postsecondary education data system (IPEDS).

(h) Integration of databases

The Secretary shall integrate the National Student Loan Data System with the Pell Grant applicant and recipient databases as of January 1, 1994, and any other databases containing information on participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, §485B, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1486; amended Pub. L. 100–50, §15(13), June 3, 1987, 101 Stat. 357; Pub. L. 101–239, title II, §2008, Dec. 19, 1989, 103 Stat. 2121; Pub. L. 101–610, title II, §204, Nov. 16, 1990, 104 Stat. 3172; Pub. L. 102–325, title IV, §487, July 23, 1992, 106 Stat. 623; Pub. L. 103–208, §2(h)(38)–(41), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title IV, §487, Oct. 7, 1998, 112 Stat. 1746; Pub. L. 110–315, title IV, §489, Aug. 14, 2008, 122 Stat. 3303; Pub. L. 111–39, title IV, §407(b)(7), July 1, 2009, 123 Stat. 1952.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(5), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(5), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

Title IV, referred to in subsec. (d)(3)(A), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

AMENDMENTS

2009—Subsec. (a)(5). Pub. L. 111–39, §407(b)(7)(A), substituted "2501 et seq.)" for "2501 et seq.))".

Subsec. (d)(3)(D). Pub. L. 111–39, §407(b)(7)(B), substituted "commonly known as the 'Family Educational Rights and Privacy Act of 1974' " for "the Family Educational Rights and Privacy Act of 1974".

2008—Subsec. (a)(5). Pub. L. 110–315, §489(1)(C), which directed redesignation of par. (5) "as added by Pub. L. 101–234" as (6), was executed by redesignating par. (5) relating to eligible institutions as (6) to reflect the probable intent of Congress. Par. (5) relating to eligible institutions was added by Pub. L. 101–239.

Pub. L. 110–315, §489(1)(B), substituted "effectiveness;" for "effectiveness." in par. (5) relating to loan cancellations and deferments.

Subsec. (a)(6). Pub. L. 110–315, §489(1)(C), which directed redesignation of par. (5) "as added by Pub. L. 101–234" as (6), was executed by redesignating par. (5) relating to eligible institutions as (6), to reflect the probable intent of Congress. Par. (5) relating to eligible institutions was added by Pub. L. 101–239.

Subsec. (a)(7) to (11). Pub. L. 110–315, §489(1)(A), redesignated pars. (6) to (10) as (7) to (11), respectively.

Subsec. (d). Pub. L. 110–315, §489(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 110–315, §489(4), added subsec. (e) and struck out former subsec. (e) which required the Secretary to prepare and submit to appropriate committees of Congress, in each fiscal year, a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section.

Pub. L. 110–315, §489(2), redesignated subsec. (d) as (e). Former subsec. (e) designated (f).

Subsecs. (f) to (h). Pub. L. 110–315, §489(2), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

1998—Subsec. (a). Pub. L. 105–244 inserted "not later than one year after October 7, 1998" before period at end of third sentence.

1993—Subsec. (a). Pub. L. 103–208, §2(h)(38), substituted "parts C and D of this subchapter" for "part D of this subchapter" and struck out second period at end of third sentence.

Subsec. (a)(4). Pub. L. 103–208, §2(h)(39), substituted "parts C and D of this subchapter" for "part D of this subchapter".

Subsec. (c). Pub. L. 103–208, §2(h)(40), substituted "part B, C, or D of this subchapter" for "part B or part D of this subchapter".

Subsec. (e)(1), (2)(C). Pub. L. 103–208, §2(h)(41), substituted "under this subchapter and part C of subchapter I of chapter 34 of title 42" for "under this part".

1992—Subsec. (a). Pub. L. 102–325, §487(a), inserted ", and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan." after "part D of this subchapter".

Subsecs. (e) to (g). Pub. L. 102–325, §487(b), added subsecs. (e) to (g).

1990—Subsec. (a)(5). Pub. L. 101–610 added subsec. (a)(5) relating to loan cancellations and deferments.

1989—Pub. L. 101–239 amended section generally, substituting subsecs. (a) to (d) for former subsec. (a) relating to authority of Secretary, subsec. (b) relating to access to information, subsec. (c) relating to verification not required, and subsec. (d) relating to report to Congress.

1987—Subsec. (b)(1). Pub. L. 100–50, §15(13)(A), substituted "public agencies" for "Federal agencies".

Subsec. (b)(2)(D). Pub. L. 100–50, §15(13)(B), substituted "of any borrower" for "of a borrower for whom the guaranty agency provides insurance".

Subsec. (b)(3). Pub. L. 100–50, §15(13)(C), substituted "public agency" for "Federal agency".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1092c. Simplification of lending process for borrowers

(a) All like loans treated as one

To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B of this subchapter as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans.

(b) One lender, one guaranty agency

To the extent practicable, and with the cooperation of the borrower, the guaranty agency shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.

(Pub. L. 89–329, title IV, §485C, as added Pub. L. 102–325, title IV, §488, July 23, 1992, 106 Stat. 624.)

§1092d. Scholarship fraud assessment and awareness activities

(a) Annual report on scholarship fraud

(1) Requirement

The Attorney General and the Secretary of Education, in conjunction with the Federal Trade Commission, shall jointly submit to Congress each year a report on fraud in the offering of financial assistance for purposes of financing an education at an institution of higher education. Each report shall contain an assessment of the nature and quantity of incidents of such fraud during the one-year period ending on the date of such report.

(2) Initial report

The first report under paragraph (1) shall be submitted not later than 18 months after November 1, 2000.

(b) National awareness activities

The Secretary of Education shall, in conjunction with the Federal Trade Commission, maintain a scholarship fraud awareness site on the Internet web site of the Department of Education. The scholarship fraud awareness site may include the following:

(1) Appropriate materials from the Project Scholarscam awareness campaign of the Commission, including examples of common fraudulent schemes.

(2) A list of companies and individuals who have been convicted of scholarship fraud in Federal or State court.

(3) An Internet-based message board to provide a forum for public complaints and experiences with scholarship fraud.

(4) An electronic comment form for individuals who have experienced scholarship fraud or have questions about scholarship fraud, with appropriate mechanisms for the transfer of comments received through such forms to the Department and the Commission.

(5) Internet links to other sources of information on scholarship fraud, including Internet web

sites of appropriate nongovernmental organizations, colleges and universities, and government agencies.

(6) An Internet link to the Better Business Bureau in order to assist individuals in assessing the business practices of other persons and entities.

(7) Information on means of communicating with the Federal Student Aid Information Center, including telephone and Internet contact information.

(Pub. L. 106–420, §5, Nov. 1, 2000, 114 Stat. 1868.)

CODIFICATION

Section was enacted as part of the College Scholarship Fraud Prevention Act of 2000, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

FINDINGS

Pub. L. 106–420, §2, Nov. 1, 2000, 114 Stat. 1867, provided that: "Congress makes the following findings:

"(1) A substantial amount of fraud occurs in the offering of college education financial assistance services to consumers.

"(2) Such fraud includes the following:

"(A) Misrepresentations regarding the provision of sources from which consumers may obtain financial assistance (including scholarships, grants, loans, tuition, awards, and other assistance) for purposes of financing a college education.

"(B) Misrepresentations regarding the provision of portfolios of such assistance tailored to the needs of specific consumers.

"(C) Misrepresentations regarding the pre-selection of students as eligible to receive such assistance.

"(D) Misrepresentations that such assistance will be provided to consumers who purchase specified services from specified entities.

"(E) Misrepresentations regarding the business relationships between particular entities and entities that award or may award such assistance.

"(F) Misrepresentations regarding refunds of processing fees if consumers are not provided specified amounts of such assistance, and other misrepresentations regarding refunds.

"(3) In 1996, the Federal Trade Commission launched 'Project Scholarscam', a joint law enforcement and consumer education campaign directed at fraudulent purveyors of so-called 'scholarship services'.

"(4) Despite the efforts of the Federal Trade Commission, colleges and universities, and nongovernmental organizations, the continued lack of awareness about scholarship fraud permits a significant amount of fraudulent activity to occur."

§1092e. College access initiative

(a) State-by-State information

The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 1078(c) of this title to provide to the Secretary the information necessary for the development of Internet web links and access for students and families to a comprehensive listing of the postsecondary education opportunities, programs, publications, Internet web sites, and other services available in the States for which such agency serves as the designated guarantor.

(b) Guaranty agency activities

(1) Plan and activity required

Each guaranty agency with which the Secretary has an agreement under section 1078(c) of this title shall develop a plan, and undertake the activity necessary, to gather the information required under subsection (a) and to make such information available to the public and to the Secretary in a form and manner as prescribed by the Secretary.

(2) Activities

Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career

preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities that either provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

(3) Funding

The activities required by this section may be funded from the guaranty agency's Operating Fund established pursuant to section 1072b of this title and, to the extent funds remain, from earnings on the restricted account established pursuant to section 1072(h)(4) of this title.

(4) Rule of construction

Nothing in this subsection shall be construed to require a guaranty agency to duplicate any efforts under way on February 8, 2006, that meet the requirements of this section.

(c) Access to information

(1) Secretary's responsibility

The Secretary shall ensure the availability of the information provided, by the guaranty agencies in accordance with this section, to students, parents, and other interested individuals, through Internet web links or other methods prescribed by the Secretary.

(2) Guaranty agency responsibility

The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

(3) Publicity

Not later than 270 days after February 8, 2006, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.

(Pub. L. 89–329, title IV, §485D, as added Pub. L. 109–171, title VIII, §8023, Feb. 8, 2006, 120 Stat. 179.)

EFFECTIVE DATE

Section effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as an Effective Date of 2006 Amendment note under section 1002 of this title.

§1092f. Early awareness of financial aid eligibility

(a) In general

The Secretary shall implement, in cooperation with States, institutions of higher education, secondary schools, early intervention and outreach programs under this subchapter and part C of subchapter I of chapter 34 of title 42, other agencies and organizations involved in student financial assistance and college access, public libraries, community centers, employers, and businesses, a comprehensive system of early financial aid information in order to provide students and families with early information about financial aid and early estimates of such students' eligibility for financial aid from multiple sources. Such system shall include the activities described in subsection (b).

(b) Communication of availability of aid and aid eligibility

(1) Students who receive benefits

The Secretary shall—

(A) make special efforts to notify students who receive or are eligible to receive benefits under a Federal means-tested benefit program (including the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.)), or another such benefit program as determined by the Secretary, of such students' potential eligibility for the

Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which the student would be eligible; and

(B) disseminate such informational materials, that are part of the system described in subsection (a), as the Secretary determines necessary.

(2) Secondary school students

The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, secondary schools, and programs under this subchapter and part C of subchapter I of chapter 34 of title 42 that serve secondary school students, shall make special efforts to notify students in secondary school and their families, as early as possible but not later than such students' junior year of secondary school, of the availability of financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42 and shall provide nonbinding estimates of the amounts of grant and loan aid that an individual may be eligible for under this subchapter and part C of subchapter I of chapter 34 of title 42 upon completion of an application form under section 1090(a) of this title. The Secretary shall ensure that such information is as accurate as possible and that such information is provided in an age-appropriate format using dissemination mechanisms suitable for students in secondary school.

(3) Adult learners

The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, employers, workforce investment boards, and public libraries, shall make special efforts to provide individuals who would qualify as independent students, as defined in section 1087vv(d) of this title, with information regarding the availability of financial aid under this title and with nonbinding estimates of the amounts of grant and loan aid that an individual may be eligible for under this subchapter and part C of subchapter I of chapter 34 of title 42 upon completion of an application form under section 1090(a) of this title. The Secretary shall ensure that such information—

(A) is as accurate as possible;

(B) includes specific information regarding the availability of financial aid for students qualified as independent students, as defined in section 1087vv(d) of this title; and

(C) uses dissemination mechanisms suitable for adult learners.

(4) Public awareness campaign

Not later than two years after August 14, 2008, the Secretary, in coordination with States, institutions of higher education, early intervention and outreach programs under this subchapter and part C of subchapter I of chapter 34 of title 42, other agencies and organizations involved in college access and student financial aid, secondary schools, organizations that provide services to individuals that are or were homeless, to individuals in foster care, or to other disconnected individuals, local educational agencies, public libraries, community centers, businesses, employers, employment services, workforce investment boards, and movie theaters, shall implement a public awareness campaign in order to increase national awareness regarding the availability of financial aid under this title. The public awareness campaign shall disseminate accurate information regarding the availability of financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42 and shall be implemented, to the extent practicable, using a variety of media, including print, television, radio, and the Internet. The Secretary shall design and implement the public awareness campaign based upon relevant independent research and the information and dissemination strategies found most effective in implementing paragraphs (1) through (3).

(Pub. L. 89–329, title IV, §485E, as added Pub. L. 110–315, title IV, §490, Aug. 14, 2008, 122 Stat. 3305; amended Pub. L. 111–152, title II, §2101(b)(5), Mar. 30, 2010, 124 Stat. 1073.)

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsec. (b)(1)(A), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

AMENDMENTS

2010—Subsec. (b)(1)(A). Pub. L. 111–152 substituted "of such students' potential eligibility for the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which the student would be eligible" for "of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A".

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–152 effective July 1, 2010, see section 2101(c) of Pub. L. 111–152, set out as a note under section 1070a of this title.

§1093. Distance education demonstration programs

(a) Purpose

It is the purpose of this section—

(1) to allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded distance education programs currently restricted under this chapter and part C of subchapter I of chapter 34 of title 42;

(2) to provide for increased student access to higher education through distance education programs; and

(3) to help determine—

(A) the most effective means of delivering quality education via distance education course offerings;

(B) the specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

(C) the appropriate level of Federal assistance for students enrolled in distance education programs.

(b) Demonstration programs authorized

(1) In general

In accordance with the provisions of subsection (d) of this section, the Secretary is authorized to select institutions of higher education, systems of such institutions, or consortia of such institutions for voluntary participation in a Distance Education Demonstration Program that provides participating institutions with the ability to offer distance education programs that do not meet all or a portion of the sections or regulations described in paragraph (2).

(2) Waivers

The Secretary is authorized to waive for any institution of higher education, system of institutions of higher education, or consortium participating in a Distance Education Demonstration Program, the requirements of section 1087ll(5) of this title as the section relates to computer costs, sections 1088(a) and 1088(b) of this title as such sections relate to requirements for a minimum number of weeks of instruction, sections 1002(a)(3)(A), 1002(a)(3)(B), and 1091(l)(1) of this title, or one or more of the regulations prescribed under this part or part E of this subchapter which inhibit the operation of quality distance education programs.

(3) Eligible applicants

(A) Eligible institutions

Except as provided in subparagraphs (B), (C), and (D), only an institution of higher education that is eligible to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be eligible to participate in the demonstration program authorized under this section.

(B) Prohibition

An institution of higher education described in section 1002(a)(1)(C) of this title shall not be eligible to participate in the demonstration program authorized under this section.

(C) Special rule

Subject to subparagraph (B), an institution of higher education that meets the requirements of subsection (a) of section 1002 of this title, other than the requirement of paragraph (3)(A) or (3)(B) of such subsection, and that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree, shall be eligible to participate in the demonstration program authorized under this section.

(D) Requirement

Notwithstanding any other provision of this paragraph, Western Governors University shall be considered eligible to participate in the demonstration program authorized under this section. In addition to the waivers described in paragraph (2), the Secretary may waive the provisions of subchapter I of this chapter and this part and part G of this subchapter for such university that the Secretary determines to be appropriate because of the unique characteristics of such university. In carrying out the preceding sentence, the Secretary shall ensure that adequate program integrity and accountability measures apply to such university's participation in the demonstration program authorized under this section.

(c) Application

(1) In general

Each institution, system, or consortium of institutions desiring to participate in a demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) Contents

Each application shall include—

(A) a description of the institution, system, or consortium's consultation with a recognized accrediting agency or association with respect to quality assurances for the distance education programs to be offered;

(B) a description of the statutory and regulatory requirements described in subsection (b)(2) of this section or, if applicable, subsection (b)(3)(D) of this section for which a waiver is sought and the reasons for which the waiver is sought;

(C) a description of the distance education programs to be offered;

(D) a description of the students to whom distance education programs will be offered;

(E) an assurance that the institution, system, or consortium will offer full cooperation with the ongoing evaluations of the demonstration program provided for in this section; and

(F) such other information as the Secretary may require.

(d) Selection

(1) In general

For the first year of the demonstration program authorized under this section, the Secretary is authorized to select for participation in the program not more than 15 institutions, systems of institutions, or consortia of institutions. For the third year of the demonstration program authorized under this section, the Secretary may select not more than 35 institutions, systems, or consortia, in addition to the institutions, systems, or consortia selected pursuant to the preceding sentence, to participate in the demonstration program if the Secretary determines that such expansion is warranted based on the evaluations conducted in accordance with subsections (f) and (g) of this section.

(2) Considerations

In selecting institutions to participate in the demonstration program in the first or succeeding years of the program, the Secretary shall take into account—

(A) the number and quality of applications received;

(B) the Department's capacity to oversee and monitor each institution's participation;

(C) an institution's—

(i) financial responsibility;
(ii) administrative capability; and
(iii) program or programs being offered via distance education; and

(D) ensuring the participation of a diverse group of institutions with respect to size, mission, and geographic distribution.

(e) Notification

The Secretary shall make available to the public and to the authorizing committees a list of institutions, systems or consortia selected to participate in the demonstration program authorized by this section. Such notice shall include a listing of the specific statutory and regulatory requirements being waived for each institution, system or consortium and a description of the distance education courses to be offered.

(f) Evaluations and reports

(1) Evaluation

The Secretary shall evaluate the demonstration programs authorized under this section on an annual basis. Such evaluations specifically shall review—

(A) the extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance;

(B) the number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased;

(C) issues related to student financial assistance for distance education;

(D) effective technologies for delivering distance education course offerings; and

(E) the extent to which statutory or regulatory requirements not waived under the demonstration program present difficulties for students or institutions.

(2) Policy analysis

The Secretary shall review current policies and identify those policies that present impediments to the development and use of distance education and other nontraditional methods of expanding access to education.

(3) Annual reports

The Secretary shall provide reports to the authorizing committees on an annual basis regarding—

(A) the demonstration programs authorized under this section; and

(B) the number and types of students receiving assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for instruction leading to a recognized certificate, as provided for in section 1091(l)(1) of this title, including the progress of such students toward recognized certificates and the degree to which participation in such programs leading to such certificates increased.

(g) Oversight

In conducting the demonstration program authorized under this section, the Secretary shall, on a continuing basis—

(1) assure compliance of institutions, systems or consortia with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than the sections and regulations that are waived under subsections (b)(2) and (b)(3)(D) of this section);

(2) provide technical assistance;

(3) monitor fluctuations in the student population enrolled in the participating institutions, systems or consortia; and

(4) consult with appropriate accrediting agencies or associations and appropriate State regulatory authorities.

(h) "Distance education" defined

For the purpose of this section, the term "distance education" means an educational process that is characterized by the separation, in time or place, between instructor and student. Such term may include courses offered principally through the use of—

(1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;

(2) audio or computer conferencing;

(3) video cassettes or discs; or

(4) correspondence.

(Pub. L. 89–329, title IV, §486, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1487; amended Pub. L. 102–325, title IV, §489, July 23, 1992, 106 Stat. 624; Pub. L. 105–244, title IV, §488, Oct. 7, 1998, 112 Stat. 1746; Pub. L. 110–315, title I, §103(b)(12), title IV, §491, Aug. 14, 2008, 122 Stat. 3090, 3307.)

PRIOR PROVISIONS

A prior section 1093, Pub. L. 89–329, title IV, §486, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1450, related to training in financial aid and student support services, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–315, §103(b)(12), substituted "authorizing committees" for "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives".

Subsec. (f)(3). Pub. L. 110–315, §491, substituted "Annual reports" for "Reports" in heading, in subpar. (B) redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and adjusted their margins, and substituted "The Secretary shall provide reports to the authorizing committees on an annual basis" for former subpar. (A) which required Secretary to report to congressional committees on evaluations of demonstration programs and for introductory provisions of former subpar. (B) which related to additional annual reports.

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized Secretary to make grants to nonprofit private organizations to provide training for student financial aid administrators and TRIO personnel.

1992—Pub. L. 102–325 struck out "and student support" after "aid" in section catchline and amended text generally, substituting present provisions for former subsec. (a) relating to program authority, subsec. (b) relating to use of funds, and subsec. (c) relating to authorization of appropriations.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1093a. Articulation agreements

(a) Definition

In this section, the term "articulation agreement" means an agreement between or among institutions of higher education that specifies the acceptability of courses in transfer toward meeting specific degree or program requirements.

(b) Program to encourage articulation agreements

(1) Program established

The Secretary shall carry out a program for States, in cooperation with public institutions of higher education, to develop, enhance, and implement comprehensive articulation agreements between or among such institutions in a State, and (to the extent practicable) across State lines, by 2010. Such articulation agreements shall be made widely and publicly available on the websites of

States and such institutions. In developing, enhancing, and implementing articulation agreements, States and public institutions of higher education may employ strategies, where applicable, including—

(A) common course numbering;

(B) a general education core curriculum;

(C) management systems regarding course equivalency, transfer of credit, and articulation; and

(D) other strategies identified by the Secretary.

(2) Technical assistance provided

The Secretary shall provide technical assistance to States and public institutions of higher education for the purposes of developing and implementing articulation agreements in accordance with this subsection.

(3) Rule of construction

Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to articulation agreements.

(Pub. L. 89–329, title IV, §486A, as added Pub. L. 110–315, title IV, §492, Aug. 14, 2008, 122 Stat. 3307.)

§1094. Program participation agreements

(a) Required for programs of assistance; contents

In order to be an eligible institution for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A of this subchapter, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this subchapter and part C of subchapter I of chapter 34 of title 42, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

(A) the Secretary;

(B) the appropriate guaranty agency; and

(C) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (c) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part D of this subchapter, to holders of loans made to

the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42.

(6) The institution will not provide any student with any statement or certification to any lender under part B of this subchapter that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 1075(a), 1078(a)(2), and 1078(b)(1)(A) and (B) of this title.

(7) The institution will comply with the requirements of section 1092 of this title.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application (A) the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements, and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students.

(9) In the case of an institution participating in a program under part B or C of this subchapter, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

(11) In the case of any institution whose students receive financial assistance pursuant to section 1091(d) of this title, the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.

(12) The institution certifies that—

(A) the institution has established a campus security policy; and

(B) the institution has complied with the disclosure requirements of section 1092(f) of this title.

(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

(14)(A) The institution, in order to participate as an eligible institution under part B or C of this subchapter, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B or C of this subchapter, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

(C) This paragraph shall not apply in the case of an institution in which (i) neither the parent nor the subordinate institution has a cohort default rate in excess of 10 percent, and (ii) the new owner of such parent or subordinate institution does not, and has not, owned any other institution with a cohort default rate in excess of 10 percent.

(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and the State agencies under subpart 1 of part G of this subchapter to share with each other any information pertaining to the institution's eligibility to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 or any information on fraud and abuse.

(16)(A) The institution will not knowingly employ an individual in a capacity that involves the

administration of programs under this subchapter and part C of subchapter I of chapter 34 of title 42, or the receipt of program funds under this subchapter and part C of subchapter I of chapter 34 of title 42, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42 or contract with an institution or third party servicer that has been terminated under section 1082 of this title involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or who has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(ii) judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

(18) The institution will meet the requirements established pursuant to section 1092(g) of this title.

(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 due to compliance with the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, or delays attributable to the institution.

(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(21) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State.

(22) The institution will comply with the refund policy established pursuant to section 1091b of this title.

(23)(A) The institution, if located in a State to which section 20503(b) of title 52 does not apply, will make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.

(B) The institution shall request the forms from the State 120 days prior to the deadline for registering to vote within the State. If an institution has not received a sufficient quantity of forms to fulfill this section from the State within 60 days prior to the deadline for registering to vote in the State, the institution shall not be held liable for not meeting the requirements of this section during that election year.

(C) This paragraph shall apply to general and special elections for Federal office, as defined in section 30101(3) of title 52, and to the elections for Governor or other chief executive within such State).[1]

(D) The institution shall be considered in compliance with the requirements of subparagraph (A) for each student to whom the institution electronically transmits a message containing a voter registration form acceptable for use in the State in which the institution is located, or an Internet address where such a form can be downloaded, if such information is in an electronic message devoted exclusively to voter registration.

(24) In the case of a proprietary institution of higher education (as defined in section 1002(b) of this title), such institution will derive not less than ten percent of such institution's revenues from sources other than funds provided under this subchapter and part C of subchapter I of chapter 34 of title 42, as calculated in accordance with subsection (d)(1), or will be subject to the sanctions described in subsection (d)(2).

(25) In the case of an institution that participates in a loan program under this subchapter and part C of subchapter I of chapter 34 of title 42, the institution will—

(A) develop a code of conduct with respect to such loans with which the institution's officers, employees, and agents shall comply, that—

(i) prohibits a conflict of interest with the responsibilities of an officer, employee, or agent of an institution with respect to such loans; and

(ii) at a minimum, includes the provisions described in subsection (e);

(B) publish such code of conduct prominently on the institution's website; and

(C) administer and enforce such code by, at a minimum, requiring that all of the institution's officers, employees, and agents with responsibilities with respect to such loans be annually informed of the provisions of the code of conduct.

(26) The institution will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

(27) In the case of an institution that has entered into a preferred lender arrangement, the institution will at least annually compile, maintain, and make available for students attending the institution, and the families of such students, a list, in print or other medium, of the specific lenders for loans made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 or private education loans that the institution recommends, promotes, or endorses in accordance with such preferred lender arrangement. In making such list, the institution shall comply with the requirements of subsection (h).

(28)(A) The institution will, upon the request of an applicant for a private education loan, provide to the applicant the form required under section 1638(e)(3) of title 15, and the information required to complete such form, to the extent the institution possesses such information.

(B) For purposes of this paragraph, the term "private education loan" has the meaning given such term in section 1650 of title 15.

(29) The institution certifies that the institution—

(A) has developed plans to effectively combat the unauthorized distribution of copyrighted material, including through the use of a variety of technology-based deterrents; and

(B) will, to the extent practicable, offer alternatives to illegal downloading or peer-to-peer distribution of intellectual property, as determined by the institution in consultation with the chief technology officer or other designated officer of the institution.

(b) Hearings

(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing

and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) Audits; financial responsibility; enforcement of standards

(1) Notwithstanding any other provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clauses (ii) and (iii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this subchapter and part C of subchapter I of chapter 34 of title 42 or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the appropriate State agency notifying the Secretary under subpart 1 of part G of this subchapter, except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receive less than $500,000 in loans under this subchapter and part C of subchapter I of chapter 34 of title 42 during the award year preceding the audit period;

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit; or

(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an eligible institution described in section 1002(a)(1)(C) of this title) that has obtained less than $200,000 in funds under this subchapter and part C of subchapter I of chapter 34 of title 42 during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than ½ of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 1099c(g) of this title;

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the

Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a secondary market that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;

(E) the establishment, by each eligible institution under part B of this subchapter responsible for furnishing to the lender the statement required by section 1078(a)(2)(A)(i) of this title, of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll;

(F) the limitation, suspension, or termination of the participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution, or the imposition of a civil penalty under paragraph (3)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing, that such institution has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(G) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(H) the limitation, suspension, or termination of the eligibility of a third party servicer to contract with any institution to administer any aspect of an institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, or the imposition of a civil penalty under paragraph (3)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(I) an emergency action against a third party servicer that has contracted with an institution to administer any aspect of the institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, under which the Secretary shall, effective on the date on

which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part G of this subchapter, over one or more institutions participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, or, for purposes of paragraphs (1)(H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, is determined to have committed one or more violations of the requirements of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

(3)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution—

(I) has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42 or any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(4) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State agencies notifying the Secretary under subpart 1 of part G of this subchapter, and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.

(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this subchapter and part C of subchapter I of chapter 34 of title 42 for which the institution has not received funds appropriated under this subchapter and part C of subchapter I of chapter 34 of title 42 (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).

(d) Implementation of non-title IV revenue requirement

(1) Calculation

In making calculations under subsection (a)(24), a proprietary institution of higher education shall—

(A) use the cash basis of accounting, except in the case of loans described in subparagraph (D)(i) that are made by the proprietary institution of higher education;

(B) consider as revenue only those funds generated by the institution from—

(i) tuition, fees, and other institutional charges for students enrolled in programs eligible for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42;

(ii) activities conducted by the institution that are necessary for the education and training of the institution's students, if such activities are—

(I) conducted on campus or at a facility under the control of the institution;

(II) performed under the supervision of a member of the institution's faculty; and

(III) required to be performed by all students in a specific educational program at the institution; and

(iii) funds paid by a student, or on behalf of a student by a party other than the institution, for an education or training program that is not eligible for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, if the program—

(I) is approved or licensed by the appropriate State agency;

(II) is accredited by an accrediting agency recognized by the Secretary; or

(III) provides an industry-recognized credential or certification;

(C) presume that any funds for a program under this subchapter and part C of subchapter I of chapter 34 of title 42 that are disbursed or delivered to or on behalf of a student will be used to pay the student's tuition, fees, or other institutional charges, regardless of whether the institution credits those funds to the student's account or pays those funds directly to the student, except to the extent that the student's tuition, fees, or other institutional charges are satisfied by—

(i) grant funds provided by non-Federal public agencies or private sources independent of the institution;

(ii) funds provided under a contractual arrangement with a Federal, State, or local government agency for the purpose of providing job training to low-income individuals who

are in need of that training;

(iii) funds used by a student from savings plans for educational expenses established by or on behalf of the student and which qualify for special tax treatment under title 26; or

(iv) institutional scholarships described in subparagraph (D)(iii);

(D) include institutional aid as revenue to the school only as follows:

(i) in the case of loans made by a proprietary institution of higher education on or after July 1, 2008 and prior to July 1, 2012, the net present value of such loans made by the institution during the applicable institutional fiscal year accounted for on an accrual basis and estimated in accordance with generally accepted accounting principles and related standards and guidance, if the loans—

(I) are bona fide as evidenced by enforceable promissory notes;

(II) are issued at intervals related to the institution's enrollment periods; and

(III) are subject to regular loan repayments and collections;

(ii) in the case of loans made by a proprietary institution of higher education on or after July 1, 2012, only the amount of loan repayments received during the applicable institutional fiscal year, excluding repayments on loans made and accounted for as specified in clause (i); and

(iii) in the case of scholarships provided by a proprietary institution of higher education, only those scholarships provided by the institution in the form of monetary aid or tuition discounts based upon the academic achievements or financial need of students, disbursed during each fiscal year from an established restricted account, and only to the extent that funds in that account represent designated funds from an outside source or from income earned on those funds;

(E) in the case of each student who receives a loan on or after July 1, 2008, and prior to July 1, 2011, that is authorized under section 1078–8 of this title or that is a Federal Direct Unsubsidized Stafford Loan, treat as revenue received by the institution from sources other than funds received under this subchapter and part C of subchapter I of chapter 34 of title 42, the amount by which the disbursement of such loan received by the institution exceeds the limit on such loan in effect on the day before May 7, 2008; and

(F) exclude from revenues—

(i) the amount of funds the institution received under part C of subchapter I of chapter 34 of title 42, unless the institution used those funds to pay a student's institutional charges;

(ii) the amount of funds the institution received under subpart 4 of part A;

(iii) the amount of funds provided by the institution as matching funds for a program under this subchapter and part C of subchapter I of chapter 34 of title 42;

(iv) the amount of funds provided by the institution for a program under this subchapter and part C of subchapter I of chapter 34 of title 42 that are required to be refunded or returned; and

(v) the amount charged for books, supplies, and equipment, unless the institution includes that amount as tuition, fees, or other institutional charges.

(2) Sanctions

(A) Ineligibility

A proprietary institution of higher education that fails to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years shall be ineligible to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 for a period of not less than two institutional fiscal years. To regain eligibility to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42, a

proprietary institution of higher education shall demonstrate compliance with all eligibility and certification requirements under section 1099c of this title for a minimum of two institutional fiscal years after the institutional fiscal year in which the institution became ineligible.

(B) Additional enforcement

In addition to such other means of enforcing the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 as may be available to the Secretary, if a proprietary institution of higher education fails to meet a requirement of subsection (a)(24) for any institutional fiscal year, then the institution's eligibility to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 becomes provisional for the two institutional fiscal years after the institutional fiscal year in which the institution failed to meet the requirement of subsection (a)(24), except that such provisional eligibility shall terminate—

(i) on the expiration date of the institution's program participation agreement under this subsection that is in effect on the date the Secretary determines that the institution failed to meet the requirement of subsection (a)(24); or

(ii) in the case that the Secretary determines that the institution failed to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years, on the date the institution is determined ineligible in accordance with subparagraph (A).

(3) Publication on college navigator website

The Secretary shall publicly disclose on the College Navigator website—

(A) the identity of any proprietary institution of higher education that fails to meet a requirement of subsection (a)(24); and

(B) the extent to which the institution failed to meet such requirement.

(4) Report to Congress

Not later than July 1, 2009, and July 1 of each succeeding year, the Secretary shall submit to the authorizing committees a report that contains, for each proprietary institution of higher education that receives assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, as provided in the audited financial statements submitted to the Secretary by each institution pursuant to the requirements of subsection (a)(24)—

(A) the amount and percentage of such institution's revenues received from sources under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(B) the amount and percentage of such institution's revenues received from other sources.

(e) Code of conduct requirements

An institution of higher education's code of conduct, as required under subsection (a)(25), shall include the following requirements:

(1) Ban on revenue-sharing arrangements

(A) Prohibition

The institution shall not enter into any revenue-sharing arrangement with any lender.

(B) Definition

For purposes of this paragraph, the term "revenue-sharing arrangement" means an arrangement between an institution and a lender under which—

(i) a lender provides or issues a loan that is made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 to students attending the institution or to the families of such students; and

(ii) the institution recommends the lender or the loan products of the lender and in exchange, the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution, an officer or employee of the institution, or an agent.

(2) Gift ban

(A) Prohibition

No officer or employee of the institution who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or agent who has responsibilities with respect to education loans, shall solicit or accept any gift from a lender, guarantor, or servicer of education loans.

(B) Definition of gift

(i) In general

In this paragraph, the term "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(ii) Exceptions

The term "gift" shall not include any of the following:

(I) Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy, such as a brochure, a workshop, or training.

(II) Food, refreshments, training, or informational material furnished to an officer or employee of an institution, or to an agent, as an integral part of a training session that is designed to improve the service of a lender, guarantor, or servicer of education loans to the institution, if such training contributes to the professional development of the officer, employee, or agent.

(III) Favorable terms, conditions, and borrower benefits on an education loan provided to a student employed by the institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

(IV) Entrance and exit counseling services provided to borrowers to meet the institution's responsibilities for entrance and exit counseling as required by subsections (b) and (l) of section 1092 of this title, as long as—

(aa) the institution's staff are in control of the counseling, (whether in person or via electronic capabilities); and

(bb) such counseling does not promote the products or services of any specific lender.

(V) Philanthropic contributions to an institution from a lender, servicer, or guarantor of education loans that are unrelated to education loans or any contribution from any lender, guarantor, or servicer that is not made in exchange for any advantage related to education loans.

(VI) State education grants, scholarships, or financial aid funds administered by or on behalf of a State.

(iii) Rule for gifts to family members

For purposes of this paragraph, a gift to a family member of an officer or employee of an institution, to a family member of an agent, or to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if—

(I) the gift is given with the knowledge and acquiescence of the officer, employee, or agent; and

(II) the officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

(3) Contracting arrangements prohibited

(A) Prohibition

An officer or employee who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or an agent who has

responsibilities with respect to education loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to education loans.

(B) Exceptions

Nothing in this subsection shall be construed as prohibiting—

(i) an officer or employee of an institution who is not employed in the institution's financial aid office and who does not otherwise have responsibilities with respect to education loans, or an agent who does not have responsibilities with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans;

(ii) an officer or employee of the institution who is not employed in the institution's financial aid office but who has responsibility with respect to education loans as a result of a position held at the institution, or an agent who has responsibility with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans, if the institution has a written conflict of interest policy that clearly sets forth that officers, employees, or agents must recuse themselves from participating in any decision of the board regarding education loans at the institution; or

(iii) an officer, employee, or contractor of a lender, guarantor, or servicer of education loans from serving on a board of directors, or serving as a trustee, of an institution, if the institution has a written conflict of interest policy that the board member or trustee must recuse themselves from any decision regarding education loans at the institution.

(4) Interaction with borrowers

The institution shall not—

(A) for any first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; or

(B) refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender or guaranty agency.

(5) Prohibition on offers of funds for private loans

(A) Prohibition

The institution shall not request or accept from any lender any offer of funds to be used for private education loans (as defined in section 1650 of title 15), including funds for an opportunity pool loan, to students in exchange for the institution providing concessions or promises regarding providing the lender with—

(i) a specified number of loans made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42;

(ii) a specified loan volume of such loans; or

(iii) a preferred lender arrangement for such loans.

(B) Definition of opportunity pool loan

In this paragraph, the term "opportunity pool loan" means a private education loan made by a lender to a student attending the institution or the family member of such a student that involves a payment, directly or indirectly, by such institution of points, premiums, additional interest, or financial support to such lender for the purpose of such lender extending credit to the student or the family.

(6) Ban on staffing assistance

(A) Prohibition

The institution shall not request or accept from any lender any assistance with call center staffing or financial aid office staffing.

(B) Certain assistance permitted

Nothing in paragraph (1) shall be construed to prohibit the institution from requesting or accepting assistance from a lender related to—

(i) professional development training for financial aid administrators;

(ii) providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials; or

(iii) staffing services on a short-term, nonrecurring basis to assist the institution with financial aid-related functions during emergencies, including State-declared or federally declared natural disasters, federally declared national disasters, and other localized disasters and emergencies identified by the Secretary.

(7) Advisory board compensation

Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans or other student financial aid of the institution, and who serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors, shall be prohibited from receiving anything of value from the lender, guarantor, or group of lenders or guarantors, except that the employee may be reimbursed for reasonable expenses incurred in serving on such advisory board, commission, or group.

(f) Institutional requirements for teach-outs

(1) In general

In the event the Secretary initiates the limitation, suspension, or termination of the participation of an institution of higher education in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 under the authority of subsection (c)(1)(F) or initiates an emergency action under the authority of subsection (c)(1)(G) and its prescribed regulations, the Secretary shall require that institution to prepare a teach-out plan for submission to the institution's accrediting agency or association in compliance with section 1099b(c)(3) of this title, the Secretary's regulations on teach-out plans, and the standards of the institution's accrediting agency or association.

(2) Teach-out plan defined

In this subsection, the term "teach-out plan" means a written plan that provides for the equitable treatment of students if an institution of higher education ceases to operate before all students have completed their program of study, and may include, if required by the institution's accrediting agency or association, an agreement between institutions for such a teach-out plan.

(g) Inspector General report on gift ban violations

The Inspector General of the Department shall—

(1) submit an annual report to the authorizing committees identifying all violations of an institution's code of conduct that the Inspector General has substantiated during the preceding year relating to the gift ban provisions described in subsection (e)(2); and

(2) make the report available to the public through the Department's website.

(h) Preferred lender list requirements

(1) In general

In compiling, maintaining, and making available a preferred lender list as required under subsection (a)(27), the institution will—

(A) clearly and fully disclose on such preferred lender list—

(i) not less than the information required to be disclosed under section 1019b(a)(2)(A) of this title;

(ii) why the institution has entered into a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower; and

(iii) that the students attending the institution, or the families of such students, do not have

to borrow from a lender on the preferred lender list;

(B) ensure, through the use of the list of lender affiliates provided by the Secretary under paragraph (2), that—

(i) there are not less than three lenders of loans made under part B that are not affiliates of each other included on the preferred lender list and, if the institution recommends, promotes, or endorses private education loans, there are not less than two lenders of private education loans that are not affiliates of each other included on the preferred lender list; and

(ii) the preferred lender list under this paragraph—

(I) specifically indicates, for each listed lender, whether the lender is or is not an affiliate of each other lender on the preferred lender list; and

(II) if a lender is an affiliate of another lender on the preferred lender list, describes the details of such affiliation;

(C) prominently disclose the method and criteria used by the institution in selecting lenders with which to enter into preferred lender arrangements to ensure that such lenders are selected on the basis of the best interests of the borrowers, including—

(i) payment of origination or other fees on behalf of the borrower;

(ii) highly competitive interest rates, or other terms and conditions or provisions of loans under this subchapter and part C of subchapter I of chapter 34 of title 42 or private education loans;

(iii) high-quality servicing for such loans; or

(iv) additional benefits beyond the standard terms and conditions or provisions for such loans;

(D) exercise a duty of care and a duty of loyalty to compile the preferred lender list under this paragraph without prejudice and for the sole benefit of the students attending the institution, or the families of such students;

(E) not deny or otherwise impede the borrower's choice of a lender or cause unnecessary delay in loan certification under this subchapter and part C of subchapter I of chapter 34 of title 42 for those borrowers who choose a lender that is not included on the preferred lender list; and

(F) comply with such other requirements as the Secretary may prescribe by regulation.

(2) Lender affiliates list

(A) In general

The Secretary shall maintain and regularly update a list of lender affiliates of all eligible lenders, and shall provide such list to institutions for use in carrying out paragraph (1)(B).

(B) Use of most recent list

An institution shall use the most recent list of lender affiliates provided by the Secretary under subparagraph (A) in carrying out paragraph (1)(B).

(i) Definitions

For the purpose of this section:

(1) Agent

The term "agent" has the meaning given the term in section 1019 of this title.

(2) Affiliate

The term "affiliate" means a person that controls, is controlled by, or is under common control with another person. A person controls, is controlled by, or is under common control with another person if—

(A) the person directly or indirectly, or acting through one or more others, owns, controls, or has the power to vote five percent or more of any class of voting securities of such other person;

(B) the person controls, in any manner, the election of a majority of the directors or trustees

of such other person; or

(C) the Secretary determines (after notice and opportunity for a hearing) that the person directly or indirectly exercises a controlling interest over the management or policies of such other person's education loans.

(3) Education loan

The term "education loan" has the meaning given the term in section 1019 of this title.

(4) Eligible institution

The term "eligible institution" means any such institution described in section 1002 of this title.

(5) Officer

The term "officer" has the meaning given the term in section 1019 of this title.

(6) Preferred lender arrangement

The term "preferred lender arrangement" has the meaning given the term in section 1019 of this title.

(j) Construction

Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.

(Pub. L. 89–329, title IV, §487, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1488; amended Pub. L. 101–239, title II, §§2003(c)(2), 2006(c), Dec. 19, 1989, 103 Stat. 2114, 2118; Pub. L. 101–542, title II, §205, Nov. 8, 1990, 104 Stat. 2387; Pub. L. 102–26, §2(c)(3), Apr. 9, 1991, 105 Stat. 124; Pub. L. 102–325, title IV, §490, July 23, 1992, 106 Stat. 625; Pub. L. 103–208, §2(h)(42), (43), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title I, §102(b)(4), title IV, §489(a), (b)(1), (c), Oct. 7, 1998, 112 Stat. 1622, 1750, 1751; Pub. L. 106–113, div. B, §1000(a)(4) [title III, §314], Nov. 29, 1999, 113 Stat. 1535, 1501A–266; Pub. L. 110–315, title IV, §493(a)(1)(A), (b)–(d), Aug. 14, 2008, 122 Stat. 3308, 3309–3317; Pub. L. 111–39, title IV, §407(b)(8), July 1, 2009, 123 Stat. 1952.)

REFERENCES IN TEXT

Title IV, referred to in subsec. (d), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

The Higher Education Amendments of 1992, referred to in subsec. (j), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1094, Pub. L. 89–329, title IV, §487, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1451; amended Pub. L. 99–272, title XVI, §16034, Apr. 7, 1986, 100 Stat. 356, related to program participation agreements, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (a)(23)(A). Pub. L. 111–39, §407(b)(8)(A), made technical amendment to reference in original act which appears in text as reference to section 20503(b) of title 52.

Subsec. (c)(1)(A)(i), (F), (H). Pub. L. 111–39, §407(b)(8)(B), substituted "students receive" for "students receives" in subpar. (A)(i) and "paragraph (3)(B)" for "paragraph (2)(B)" in subpars. (F) and (H).

Subsec. (f)(1). Pub. L. 111–39, §407(b)(8)(C), substituted "1099b(c)(3)" for "1099b(c)(4)".

Subsec. (g)(1). Pub. L. 111–39, §407(b)(8)(D), substituted "subsection (e)(2)" for "subsection (f)(2)".

2008—Subsec. (a)(23)(C), (D). Pub. L. 110–315, §493(a)(1)(A)(i), realigned margins of subpar. (C) and added subpar. (D).

Subsec. (a)(24) to (29). Pub. L. 110–315, §493(a)(1)(A)(ii), added pars. (24) to (29).

Subsec. (c)(1)(A)(i). Pub. L. 110–315, §493(b), inserted before semicolon at end ", except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receives less than $500,000 in loans under this subchapter and part C of subchapter I of chapter 34 of title 42 during the award year preceding the audit period".

Subsecs. (d) to (h). Pub. L. 110–315, §493(c)(2), added subsecs. (d) to (h). Former subsecs. (d) and (e) were redesignated (i) and (j), respectively.

Subsec. (i). Pub. L. 110–315, §493(c)(1), (d), redesignated subsec. (d) as (i), substituted "Definitions" for "Definition of eligible institution" in heading, added pars. (1) to (3), inserted par. (4) designation and heading before definition of "eligible institution", and added pars. (5) and (6).

Subsec. (j). Pub. L. 110–315, §493(c)(1), redesignated subsec. (e) as (j).

1999—Subsec. (a)(23)(C). Pub. L. 106–113 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "This paragraph shall apply to elections as defined in section 431(1) of title 2, and includes the election for Governor or other chief executive within such State)."

1998—Subsec. (a)(3)(B) to (D). Pub. L. 105–244, §489(a)(1), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: "the appropriate State review entity designated under subpart 1 of part G of this subchapter;".

Subsec. (a)(4). Pub. L. 105–244, §489(a)(2), substituted "subsection (c)" for "subsection (b)".

Subsec. (a)(9). Pub. L. 105–244, §489(a)(3), substituted "part B or C" for "part B".

Subsec. (a)(14)(A), (B). Pub. L. 105–244, §489(a)(4)(A), (B), substituted "part B or C" for "part B".

Subsec. (a)(14)(C). Pub. L. 105–244, §489(a)(4)(C), added subpar. (C).

Subsec. (a)(15). Pub. L. 105–244, §489(a)(5), substituted "the State agencies" for "State review entities".

Subsec. (a)(18). Pub. L. 105–244, §489(a)(6), amended par. (18) generally. Prior to amendment, par. (18) required institutions to cause an annual compilation to be prepared of revenues and expenses relating to men's and women's sports.

Subsec. (a)(21). Pub. L. 105–244, §489(a)(7), amended par. (21) generally. Prior to amendment, par. (21) read as follows: "The institution will meet the requirements established by the Secretary, State postsecondary review entities, and accrediting agencies pursuant to part G of this subchapter."

Subsec. (a)(23). Pub. L. 105–244, §489(b)(1), added par. (23).

Subsec. (c)(1)(A)(i). Pub. L. 105–244, §489(c)(1)(A), substituted "clauses (ii) and (iii)" for "clause (ii)" and "appropriate State agency notifying the Secretary under" for "State review entities referred to in" and struck out "or" after semicolon.

Subsec. (c)(1)(A)(iii). Pub. L. 105–244, §489(c)(1)(B), (C), added cl. (iii).

Subsec. (c)(4). Pub. L. 105–244, §489(c)(2), struck out ", after consultation with each State review entity designated under subpart 1 of part G of this subchapter," after "shall publish".

Subsec. (c)(5). Pub. L. 105–244, §489(c)(3), substituted "State agencies notifying the Secretary" for "State review entities designated".

Subsec. (d). Pub. L. 105–244, §102(b)(4), substituted "section 1002" for "section 1088".

1993—Subsec. (a)(2). Pub. L. 103–208, §2(h)(42), struck out ", or for completing or handling the Federal Student Assistance Report" after "amount of such assistance".

Subsec. (c)(1)(F). Pub. L. 103–208, §2(h)(43), substituted "participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution," for "eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution,".

1992—Subsec. (a). Pub. L. 102–325, §490(f)(1), substituted "subpart 4" for "subpart 3".

Subsec. (a)(2). Pub. L. 102–325, §490(f)(2), struck out "provided for in section 1090(e) of this title" after "Report".

Subsec. (a)(3). Pub. L. 102–325, §490(a)(1), inserted before period at end ", together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—" and added subpars. (A) to (D).

Subsec. (a)(8). Pub. L. 102–325, §490(a)(2), substituted "application (A)" for "application," inserted ", and" after "advertisements", and added subpar. (B).

Subsec. (a)(13) to (22). Pub. L. 102–325, §490(a)(3), added pars. (13) to (22).

Subsec. (b)(2). Pub. L. 102–325, §490(b)(1), struck out "on the record" after "for a hearing".

Subsec. (c)(1). Pub. L. 102–325, §490(b)(2)(A), substituted "shall" for "is authorized to" in introductory provisions.

Subsec. (c)(1)(A)(i). Pub. L. 102–325, §490(c), substituted "a financial audit of an eligible institution with

regard to the financial condition of the institution in its entirety, and a compliance audit of such institution" for "a financial and compliance audit of an eligible institution," and "on at least an annual basis" for "at least once every 2 years" and inserted "and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the State review entities referred to in subpart 1 of part G of this subchapter" after "submitted to the Secretary".

Subsec. (c)(1)(B). Pub. L. 102–325, §490(d)(1), inserted before semicolon at end ", including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution".

Subsec. (c)(1)(C). Pub. L. 102–325, §490(d)(3), added subpar. (C). Former subpar. (C) redesignated (E).

Subsec. (c)(1)(D). Pub. L. 102–325, §490(d)(3), added subpar. (D). Former subpar. (D) redesignated (F).

Pub. L. 102–325, §490(b)(2)(B), struck out "on the record" after "opportunity for hearing".

Subsec. (c)(1)(E). Pub. L. 102–325, §490(d)(2), redesignated subpar. (C) as (E). Former subpar. (E) redesignated (G).

Subsec. (c)(1)(F). Pub. L. 102–325, §490(d)(2), redesignated subpar. (D) as (F). Former subpar. (F) redesignated (H).

Pub. L. 102–325, §490(b)(2)(C), struck out "on the record" after "opportunity for a hearing".

Subsec. (c)(1)(G). Pub. L. 102–325, §490(d)(2), redesignated subpar. (E) as (G). Former subpar. (G) redesignated (I).

Subsec. (c)(1)(H). Pub. L. 102–325, §490(d)(2), (4), redesignated subpar. (F) as (H) and substituted "a third party servicer" for "an individual or an organization".

Subsec. (c)(1)(I). Pub. L. 102–325, §490(d)(2), (5), redesignated subpar. (G) as (I) and substituted "a third party servicer" for "an individual or an organization".

Subsec. (c)(2). Pub. L. 102–325, §490(d)(8), added par. (2). Former par. (2) redesignated (3).

Pub. L. 102–325, §490(b)(2)(D), struck out "on the record" after "opportunity for a hearing" in subpars. (A) and (B)(i).

Subsec. (c)(3). Pub. L. 102–325, §490(d)(7), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Pub. L. 102–325, §490(d)(6), inserted ", after consultation with each State review entity designated under subpart 1 of part G of this subchapter," after "shall publish".

Subsec. (c)(4). Pub. L. 102–325, §490(d)(7), redesignated par. (3) as (4).

Subsec. (c)(5) to (7). Pub. L. 102–325, §490(d)(9), added pars. (5) to (7).

Subsec. (d). Pub. L. 102–325, §490(f)(3), substituted "section 1088" for "section 1085(a)".

Subsec. (e). Pub. L. 102–325, §490(e), added subsec. (e).

1991—Subsec. (a)(11). Pub. L. 102–26 substituted "whose students receive financial assistance pursuant to section 1091(d) of this title," for "which admits students on the basis of their ability to benefit from the education or training provided by such institution (as determined under section 1091(d) of this title),".

1990—Subsec. (a)(12). Pub. L. 101–542 added par. (12).

1989—Subsec. (a)(11). Pub. L. 101–239, §2003(c)(2), added par. (11).

Subsec. (c)(1)(D). Pub. L. 101–239, §2006(c)(2), substituted ", any regulation" for "or any regulation" and inserted "or any applicable special arrangement, agreement, or limitation,".

Subsec. (c)(1)(E) to (G). Pub. L. 101–239, §2006(c)(3), added subpars. (E) to (G).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IV, §493(a)(1)(B), Aug. 14, 2008, 122 Stat. 3309, provided that: "The amendment made by subparagraph (A) [amending this section] with respect to section 487(a)(26) of the Higher Education Act of 1965 [20 U.S.C. 1094(a)(26)] (as added by subparagraph (A)) shall apply with respect to any disciplinary proceeding conducted by an institution on or after the day that is one year after the date of enactment of this Act [Aug. 14, 2008]."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under

section 1051 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–239, title II, §2003(c)(3), Dec. 19, 1989, 103 Stat. 2114, provided that: "The amendments made by this subsection [amending this section and section 1078–1 of this title] shall apply with respect to periods of enrollment beginning on or after January 1, 1990."

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (a)(10) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

REGULATION PROHIBITED

Pub. L. 105–244, title IV, §489(b)(2), Oct. 7, 1998, 112 Stat. 1751, provided that: "No officer of the executive branch is authorized to instruct the institution in the manner in which the amendment made by this subsection [amending this section] is carried out."

[1] So in original. The closing parenthesis probably should not appear.

§1094a. Regulatory relief and improvement

(a) Quality Assurance Program

(1) In general

The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems, related to processing and disbursement of student financial aid, verification of student financial aid application data, and entrance and exit interviews, thereby enhancing program integrity within the student aid delivery system.

(2) Criteria and consideration

The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary. The selection criteria shall ensure the participation of a diverse group of institutions of higher education with respect to size, mission, and geographical distribution.

(3) Waiver

The Secretary is authorized to waive for any institution participating in the Quality Assurance Program any regulations dealing with reporting or verification requirements in this subchapter and part C of subchapter I of chapter 34 of title 42 that are addressed by the institution's alternative management system, and may substitute such quality assurance reporting as the Secretary determines necessary to ensure accountability and compliance with the purposes of the programs under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall not modify or waive any statutory requirements pursuant to this paragraph.

(4) Determination

The Secretary is authorized to determine—

(A) when an institution that is unable to administer the Quality Assurance Program shall be

removed from such program; and

(B) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

(5) Review and evaluation

The Secretary shall review and evaluate the Quality Assurance Program conducted by each participating institution and, on the basis of that evaluation, make recommendations regarding amendments to this chapter and part C of subchapter I of chapter 34 of title 42 that will streamline the administration and enhance the integrity of Federal student assistance programs. Such recommendations shall be submitted to the authorizing committees.

(b) Regulatory improvement and streamlining experiments

(1) In general

The Secretary shall continue the voluntary participation of any experimental sites in existence as of July 1, 2007, unless the Secretary determines that such site's participation has not been successful in carrying out the purposes of this section. Any experimental sites approved by the Secretary prior to such date that have not been successful in carrying out the purposes of this section shall be discontinued not later than June 30, 2010.

(2) Report

The Secretary shall review and evaluate the experience of institutions participating as experimental sites and shall, on a biennial basis, submit a report based on the review and evaluation to the authorizing committees. Such report shall include—

(A) a list of participating institutions and the specific statutory or regulatory waivers granted to each institution;

(B) the findings and conclusions reached regarding each of the experiments conducted; and

(C) recommendations for amendments to improve and streamline this chapter and part C of subchapter I of chapter 34 of title 42, based on the results of the experiment.

(3) Selection

(A) In general

The Secretary is authorized to periodically select a limited number of additional institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

(B) Waivers

The Secretary is authorized to waive, for any institution participating as an experimental site under subparagraph (A), any requirements in this subchapter and part C of subchapter I of chapter 34 of title 42, including requirements related to the award process and disbursement of student financial aid (such as innovative delivery systems for modular or compressed courses, or other innovative systems), verification of student financial aid application data, entrance and exit interviews, or other management procedures or processes as determined in the negotiated rulemaking process under section 1098a of this title, or regulations prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, that will bias the results of the experiment, except that the Secretary shall not waive any provisions with respect to award rules (other than an award rule related to an experiment in modular or compressed schedules), grant and loan maximum award amounts, and need analysis requirements unless the waiver of such provisions is authorized by another provision under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Determination of success

For the purposes of paragraph (1), the Secretary shall make a determination of success regarding an institution's participation as an experimental site based on—

(A) the ability of the experimental site to reduce administrative burdens to the institution, as documented in the Secretary's biennial report under paragraph (2), without creating costs for the

taxpayer; and

(B) whether the experimental site has improved the delivery of services to, or otherwise benefitted, students.

(c) "Current award year" defined

For purposes of this section, the term "current award year" means the award year during which the participating institution indicates the institution's intention to cease participation.

(Pub. L. 89–329, title IV, §487A, as added Pub. L. 102–325, title IV, §491, July 23, 1992, 106 Stat. 629; amended Pub. L. 105–244, title IV, §490, Oct. 7, 1998, 112 Stat. 1751; Pub. L. 110–315, title I, §103(b)(13), title IV, §494, Aug. 14, 2008, 122 Stat. 3090, 3318; Pub. L. 111–39, title IV, §407(b)(9), July 1, 2009, 123 Stat. 1952.)

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111–39, §407(b)(9)(A), substituted "Any experimental sites" for "Any activities" and "June 30, 2010" for "June 30, 2009".

Subsec. (b)(4). Pub. L. 111–39, §407(b)(9)(B), added par. (4).

2008—Subsec. (a)(5). Pub. L. 110–315, §103(b)(13), substituted "authorizing committees" for "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives".

Subsec. (b)(1). Pub. L. 110–315, §494(1), amended par. (1) generally. Prior to amendment, text read as follows: "The Secretary may continue any experimental sites in existence on October 7, 1998. Any activities approved by the Secretary prior to October 7, 1998, that are inconsistent with this section shall be discontinued not later than June 30, 1999."

Subsec. (b)(2). Pub. L. 110–315, §494(2), added introductory provisions and struck out former introductory provisions which read as follows: "The Secretary shall review and evaluate the experience of institutions participating as experimental sites during the period of 1993 through 1998 under this section (as such section was in effect on the day before October 7, 1998), and shall submit a report based on this review and evaluation to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 6 months after October 7, 1998. Such report shall include—".

Subsec. (b)(3)(A). Pub. L. 110–315, §494(3)(A), substituted "The" for "Upon the submission of the report required by paragraph (2), the" and inserted "periodically" after "authorized to".

Subsec. (b)(3)(B). Pub. L. 110–315, §494(3)(D), inserted ", including requirements related to the award process and disbursement of student financial aid (such as innovative delivery systems for modular or compressed courses, or other innovative systems), verification of student financial aid application data, entrance and exit interviews, or other management procedures or processes as determined in the negotiated rulemaking process under section 1098a of this title" before ", or regulations prescribed", "(other than an award rule related to an experiment in modular or compressed schedules)" after "award rules", and "unless the waiver of such provisions is authorized by another provision under this subchapter and part C of subchapter I of chapter 34 of title 42" before period at end.

Pub. L. 110–315, §494(3)(B), (C), redesignated subpar. (C) as (B) and struck out former subpar. (B). Text of former subpar. (B) read as follows: "Prior to approving any additional experimental sites, the Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives and shall provide to such Committees—

"(i) a list of institutions proposed for participation in the experiment and the specific statutory or regulatory waivers proposed to be granted to each institution;

"(ii) a statement of the objectives to be achieved through the experiment; and

"(iii) an identification of the period of time over which the experiment is to be conducted."

Subsec. (b)(3)(C). Pub. L. 110–315, §494(3)(C), redesignated subpar. (C) as (B).

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized a Quality Assurance Program for institutions to develop and implement systems for verifying student financial aid application data.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1094b. Assignment of identification numbers

The Secretary shall assign to each participant in title IV programs, including institutions, lenders, and guaranty agencies, a single Department of Education identification number to be used to identify its participation in each of the title IV programs.

(Pub. L. 89–329, title IV, §487B, as added Pub. L. 102–325, title IV, §491, July 23, 1992, 106 Stat. 630.)

REFERENCES IN TEXT

Title IV, referred to in text, means title IV of Pub. L. 89–329, as added by Pub. L. 99–498, which is classified generally to this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare.

§1095. Transfer of allotments

In order to offer an arrangement of types of aid, including institutional and State aid which best fits the needs of each individual student, an institution may (1) transfer a total of 25 percent of the institutions allotment under section 1087bb of this title to the institution's allotment under section 1070b–3 of this title or section 2752 of title 42 (or both); (2) transfer 25 percent of the institution's allotment under section 2752 of title 42 to the institution's allotment under section 1070b–3 or 1087bb of this title (or both); and (3) transfer 25 percent of the institution's allotment under section 1070b–3 of this title to the institution's allotment under section 2752 of title 42. Funds transferred to an institution's allotment under another section may be used as a part of and for the same purposes as funds allotted under that section. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(Pub. L. 89–329, title IV, §488, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1490; amended Pub. L. 100–50, §15(14), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, §492, July 23, 1992, 106 Stat. 630; Pub. L. 110–315, title IV, §494A, Aug. 14, 2008, 122 Stat. 3319.)

PRIOR PROVISIONS

A prior section 1095, Pub. L. 89–329, title IV, §488, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1452, related to transfer of allotments, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2008—Pub. L. 110–315 struck out "and" after semicolon in par. (1), substituted "section 1070b–3 or 1087bb of this title (or both); and" for "section 1070b–3 of this title." in par. (2), and added par. (3).

1992—Pub. L. 102–325 inserted first two sentences and struck out former first sentence which read as follows: "Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 1070b–3 of this title or 2752 of title 42, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student."

1987—Pub. L. 100–50 substituted "section 2752 of title 42" for "section 2756 of title 42".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 to this section, relating to transfers of allotments, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§1095a. Wage garnishment requirement

(a) Garnishment requirements

Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B of this subchapter on which the guaranty agency received reimbursement from the Secretary under section 1078(c) of this title, with the guaranty agency holding the loan, as appropriate, provided that—

(1) the amount deducted for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) of this section on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

(7) if an individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of such individual until such individual has been reemployed continuously for at least 12 months; and

(8) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(b) Hearing requirements

A hearing described in subsection (a)(5) of this section shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2) of this section, and in accordance with such procedures as the

Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) of this section upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) of this section may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(c) Notice requirements

The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(d) No attachment of student assistance

Except as authorized in this section, notwithstanding any other provision of Federal or State law, no grant, loan, or work assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42, or property traceable to such assistance, shall be subject to garnishment or attachment in order to satisfy any debt owed by the student awarded such assistance, other than a debt owed to the Secretary and arising under this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) "Disposable pay" defined

For the purpose of this section, the term "disposable pay" means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by law to be withheld.

(Pub. L. 89–329, title IV, §488A, as added Pub. L. 102–164, title VI, §605(a), Nov. 15, 1991, 105 Stat. 1066; amended Pub. L. 105–244, title IV, §490A, Oct. 7, 1998, 112 Stat. 1753; Pub. L. 109–171, title VIII, §8024, Feb. 8, 2006, 120 Stat. 180.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–171 substituted "15 percent" for "10 percent".
1998—Subsecs. (d), (e). Pub. L. 105–244 added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1096. Administrative expenses

(a) Amount of payments

From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A of this subchapter, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 1094 of this title, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A of this subchapter. In addition, an institution which has entered into an agreement with the Secretary under subpart 3 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42, or under part D of this subchapter shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b) of this section. The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first

$2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 3 of part A of this subchapter, its expenditures during such fiscal year under part C of subchapter I of chapter 34 of title 42 for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part D of this subchapter, excluding the principal amount of any such loans which the institution has referred under section 1087cc(a)(4)(B) of this title. In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 1091(g) of this title.

(b) Purpose of payments

(1) The sums paid to institutions under this part are for the sole purpose of administering the programs described in subsection (a) of this section.

(2) If the institution enrolls a significant number of students who are (A) attending the institution less than full time, or (B) independent students, the institution shall use a reasonable proportion of the funds available under this section for financial aid services during times and in places that will most effectively accommodate the needs of such students.

(Pub. L. 89–329, title IV, §489, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 99–603, title I, §121(b)(7), Nov. 6, 1986, 100 Stat. 3391; Pub. L. 100–50, §15(15), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, §§446(c), 493, July 23, 1992, 106 Stat. 567, 630; Pub. L. 103–208, §2(h)(44), (k)(6), Dec. 20, 1993, 107 Stat. 2478, 2486; Pub. L. 110–315, title IV, §494B, Aug. 14, 2008, 122 Stat. 3319; Pub. L. 111–39, title IV, §407(b)(10), July 1, 2009, 123 Stat. 1953.)

PRIOR PROVISIONS

A prior section 1096, Pub. L. 89–329, title IV, §489, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1453; amended Pub. L. 97–35, title V, §537(a)(2), Aug. 13, 1981, 95 Stat. 456, related to administrative expenses, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–39 substituted "has referred under section 1087cc(a)(4)(B)" for "has agreed to assign under section 1087cc(a)(6)(B)" and "1091(g)" for "1091(h)".

2008—Subsec. (b)(1). Pub. L. 110–315 substituted "administering" for "offsetting the administrative costs of".

1993—Subsec. (a). Pub. L. 103–208, §2(k)(6), repealed Pub. L. 102–325, §446(c). See 1992 Amendment note below.

Pub. L. 103–208, §2(h)(44), substituted "1091(h) of this title" for "1091(c) of this title".

1992—Subsec. (a). Pub. L. 102–325, §493(a)(3), substituted "subpart 3" for "subpart 2" in two places.

Pub. L. 102–325, §493(a)(1), (2), struck out "(other than section 2756a of title 42)" before ", or under part D" in second sentence and struck out fourth sentence which read as follows: "The payment for a fiscal year for the purpose of subsection (b) of this section with respect to section 2756a of title 42 shall be payable from each allotment under part C of subchapter I of chapter 34 of title 42 in accordance with regulations of the Secretary, and shall be 10 percent of the institution's expenditures during such fiscal year under such section."

Pub. L. 102–325, §446(c), which directed amendment identical to amendment by Pub. L. 102–325, §493(a)(1), (2), above, was repealed by Pub. L. 103–208, §2(k)(6).

Subsec. (b). Pub. L. 102–325, §493(b), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (a). Pub. L. 100–50 made technical amendment to reference to section 2756a of title 42 to correct reference to corresponding section of original Act, requiring no change in text.

1986—Subsec. (a). Pub. L. 99–603 inserted provision directing the Secretary to pay the costs incurred by institutions of higher education in implementing and operating the immigration status verification system under section 1091(c) of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 446(c) of Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

Amendment by section 493 of Pub. L. 102–325, relating to payments for administrative expenses, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498(7) of Pub. L. 102–325, set out as a note under section 1088 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective Oct. 1, 1987, see section 121(c)(2) of Pub. L. 99–603, set out as a note under section 502 of Title 42, The Public Health and Welfare.

§1096a. Repealed. Pub. L. 102–325, title IV, §494, July 23, 1992, 106 Stat. 631

Section, Pub. L. 89–329, title IV, §489A, as added Pub. L. 102–164, title VI, §606, Nov. 15, 1991, 105 Stat. 1068, related to data matching.

§1097. Criminal penalties

(a) In general

Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed $200, then the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

(b) Assignment of loans

Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Inducements to lend or assign

Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B of this subchapter or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(d) Obstruction of justice

Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from

enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.

(Pub. L. 89–329, title IV, §490, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 102–325, title IV, §495, July 23, 1992, 106 Stat. 631.)

PRIOR PROVISIONS

A prior section 1097, Pub. L. 89–329, title IV, §490, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1453, related to criminal penalties, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, inserting provisions relating to attempted offenses, wherever appearing, and in subsec. (a) inserting provisions relating to failure to refund and substituting provisions relating to $20,000 and $5,000 fines for provisions relating to $10,000 and $1,000 fines, respectively, in subsec. (b) substituting provisions relating to $10,000 fines for provisions relating to $1,000 fines, in subsec. (c) substituting provisions relating to $10,000 fines for provisions relating $1,000 fines, and in subsec. (d) substituting provisions relating to $20,000 fines for provisions relating to $10,000 fines.

§1097a. Administrative subpoenas

(a) Authority

To assist the Secretary in the conduct of investigations of possible violations of the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary is authorized to require by subpoena the production of information, documents, reports, answers, records, accounts, papers, and other documentary evidence pertaining to participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42. The production of any such records may be required from any place in a State.

(b) Enforcement

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States where such person resides or transacts business for a court order for the enforcement of this section.

(Pub. L. 89–329, title IV, §490A, as added Pub. L. 105–244, title IV, §490B, Oct. 7, 1998, 112 Stat. 1754.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1098. Advisory Committee on Student Financial Assistance

(a) Establishment and purpose

(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the "Advisory Committee") which shall provide advice and counsel to the authorizing committees and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms;

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students;

(D) to provide knowledge and understanding of early intervention programs, and to make

recommendations that will result in early awareness by low- and moderate-income students and families—

(i) of their eligibility for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance;

(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of need-based student assistance available to low- and moderate-income students; and

(F) to collect information on Federal regulations, and on the impact of Federal regulations on student financial assistance and on the cost of receiving a postsecondary education, and to make recommendations to help streamline the regulations for institutions of higher education from all sectors.

(b) Independence of Advisory Committee

In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations, expenditures and staffing levels, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the authorizing committees in accordance with subsection (f) of this section. The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b) [1] of this title ceased to be effective on June 23, 1983.

(c) Membership

(1) The Advisory Committee shall consist of 11 members appointed as follows:

(A) Four members shall be appointed by the President pro tempore of the Senate, of whom two members shall be appointed from recommendations by the Majority Leader of the Senate, and two members shall be appointed from recommendations by the Minority Leader of the Senate.

(B) Four members shall be appointed by the Speaker of the House of Representatives, of whom two members shall be appointed from recommendations by the Majority Leader of the House of Representatives, and two members shall be appointed from recommendations by the Minority Leader of the House of Representatives.

(C) Three members shall be appointed by the Secretary, of whom at least one member shall be a student.

(2) Each member of the Advisory Committee, with the exception of a student member, shall be appointed on the basis of technical qualifications, professional experience, and demonstrated knowledge in the fields of higher education, student financial aid, financing post-secondary education, and the operations and financing of student loan guarantee agencies.

(3) The appointment of a member under subparagraph (A) or (B) of paragraph (1) shall be effective upon publication of such appointment in the Congressional Record.

(d) Functions of the Committee

The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under part E of this subchapter;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this subchapter and part C of subchapter I of chapter 34 of title 42 and assist the Department of Education in improving the delivery of student aid;

(4) assess the impact of legislative and administrative policy proposals;

(5) review and comment upon, prior to promulgation, all regulations affecting programs under this subchapter and part C of subchapter I of chapter 34 of title 42, including proposed regulations;

(6) recommend to the authorizing committees and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met;

(7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs;

(9) provide an annual report to the authorizing committees that provides analyses and policy recommendations regarding—

(A) the adequacy of need-based grant aid for low- and moderate-income students; and

(B) the postsecondary enrollment and graduation rates of low- and moderate-income students;

(10) develop and maintain an information clearinghouse to help institutions of higher education understand the regulatory impact of the Federal Government on institutions of higher education from all sectors, in order to raise awareness of institutional legal obligations and provide information to improve compliance with, and to reduce the duplication and inefficiency of, Federal regulations; and

(11) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

(e) Operations of the Committee

(1) Each member of the Advisory Committee shall be appointed for a term of 4 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee serving on August 14, 2008, shall be permitted to serve the duration of the member's term, regardless of whether the member was previously appointed to more than one term.

(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.

(4) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(5) Six members of the Advisory Committee shall constitute a quorum.

(6) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) Submission to Department for comment

The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) Compensation and expenses

Members of the Advisory Committee may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

(h) Personnel and resources

(1) The Advisory Committee may appoint such personnel as may be determined necessary by the Chairman without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule. The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.

(2) In carrying out its duties under this chapter and part C of subchapter I of chapter 34 of title 42, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section 3109 of title 5 and to set pay in accordance with such section.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) Availability of funds

In each fiscal year not less than $800,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) Special analyses and activities

The Advisory Committee shall—

(1) monitor and evaluate the modernization of student financial aid systems and delivery processes and simplifications, including recommendations for improvement;

(2) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

(4) conduct a review and analysis of regulations in accordance with subsection (l); and

(5) conduct a study in accordance with subsection (m).

(k) Term of Committee

Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 2015.

(l) Review and analysis of regulations

(1) Recommendations

The Advisory Committee shall make recommendations to the Secretary and the authorizing committees for consideration of future legislative action regarding redundant or outdated regulations consistent with the Secretary's requirements under section 1099c–2 of this title.

(2) Review and analysis of regulations

(A) Review of current regulations

To meet the requirements of subsection (d)(10), the Advisory Committee shall conduct a review and analysis of the regulations issued by Federal agencies that are in effect at the time of the review and that apply to the operations or activities of institutions of higher education from all sectors. The review and analysis may include a determination of whether the regulation is duplicative, is no longer necessary, is inconsistent with other Federal requirements, or is overly burdensome. In conducting the review, the Advisory Committee shall pay specific attention to evaluating ways in which regulations under this subchapter and part C of subchapter I of chapter 34 of title 42 affecting institutions of higher education (other than institutions described in section 1002(a)(1)(C) of this title), that have received in each of the two most recent award years prior to August 14, 2008, less than $200,000 in funds through this subchapter and part C of subchapter I of chapter 34 of title 42, may be improved, streamlined, or eliminated.

(B) Review and collection of future regulations

The Advisory Committee shall—

(i) monitor all Federal regulations, including notices of proposed rulemaking, for their impact or potential impact on higher education; and

(ii) provide a succinct description of each regulation or proposed regulation that is generally relevant to institutions of higher education from all sectors.

(C) Maintenance of public website

The Advisory Committee shall develop and maintain an easy to use, searchable, and regularly updated website that—

(i) provides information collected in subparagraph (B);

(ii) provides an area for the experts and members of the public to provide recommendations for ways in which the regulations may be streamlined; and

(iii) publishes the study conducted by the National Research Council of the National Academy of Sciences under section 1106 of the Higher Education Opportunity Act.

(3) Consultation

(A) In general

In carrying out the review, analysis, and development of the website required under paragraph (2), the Advisory Committee shall consult with the Secretary, other Federal agencies, relevant representatives of institutions of higher education, individuals who have expertise and experience with Federal regulations, and the review panels described in subparagraph (B).

(B) Review panels

The Advisory Committee shall convene not less than two review panels of representatives of the groups involved in higher education, including individuals involved in student financial assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, who have experience and expertise in the regulations issued by the Federal Government that affect all sectors of higher education, in order to review the regulations and to provide recommendations to the Advisory Committee with respect to the review and analysis under

paragraph (2). The panels shall be made up of experts in areas such as the operations of the financial assistance programs, the institutional eligibility requirements for the financial assistance programs, regulations not directly related to the operations or the institutional eligibility requirements of the financial assistance programs, and regulations for dissemination of information to students about the financial assistance programs.

(4) Periodic updates to the authorizing committees

The Advisory Committee shall—

(A) submit, not later than two years after the completion of the negotiated rulemaking process required under section 1098a of this title resulting from the amendments to this chapter and part C of subchapter I of chapter 34 of title 42 made by the Higher Education Opportunity Act, a report to the authorizing committees and the Secretary detailing the review panels' findings and recommendations with respect to the review of regulations; and

(B) provide periodic updates to the authorizing committees regarding—

(i) the impact of all Federal regulations on all sectors of higher education; and

(ii) suggestions provided through the website for streamlining or eliminating duplicative regulations.

(5) Additional support

The Secretary and the Inspector General of the Department shall provide such assistance and resources to the Advisory Committee as the Secretary and Inspector General determine are necessary to conduct the review and analysis required by this subsection.

(m) Study of innovative pathways to baccalaureate degree attainment

(1) Study required

The Advisory Committee shall conduct a study of the feasibility of increasing baccalaureate degree attainment rates by reducing the costs and financial barriers to attaining a baccalaureate degree through innovative programs.

(2) Scope of study

The Advisory Committee shall examine new and existing programs that promote baccalaureate degree attainment through innovative ways, such as dual or concurrent enrollment programs, changes made to the Federal Pell Grant program, simplification of the needs analysis process, compressed or modular scheduling, articulation agreements, and programs that allow two-year institutions of higher education to offer baccalaureate degrees.

(3) Required aspects of the study

In performing the study described in this subsection, the Advisory Committee shall examine the following aspects of such innovative programs:

(A) The impact of such programs on baccalaureate attainment rates.

(B) The degree to which a student's total cost of attaining a baccalaureate degree can be reduced by such programs.

(C) The ways in which low- and moderate-income students can be specifically targeted by such programs.

(D) The ways in which nontraditional students can be specifically targeted by such programs.

(E) The cost-effectiveness for the Federal Government, States, and institutions of higher education to implement such programs.

(4) Consultation

(A) In general

In performing the study described in this subsection, the Advisory Committee shall consult with a broad range of interested parties in higher education, including parents, students, appropriate representatives of secondary schools and institutions of higher education, appropriate State administrators, administrators of dual or concurrent enrollment programs, and appropriate Department officials.

(B) Consultation with the authorizing committees

The Advisory Committee shall consult on a regular basis with the authorizing committees in carrying out the study required by this subsection.

(5) Reports to authorizing committees

(A) Interim report

The Advisory Committee shall prepare and submit to the authorizing committees and the Secretary an interim report, not later than one year after August 14, 2008, describing the progress made in conducting the study required by this subsection and any preliminary findings on the topics identified under paragraph (2).

(B) Final report

The Advisory Committee shall, not later than three years after August 14, 2008, prepare and submit to the authorizing committees and the Secretary a final report on the study, including recommendations for legislative, regulatory, and administrative changes based on findings related to the topics identified under paragraph (2).

(Pub. L. 89–329, title IV, §491, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1492; amended Pub. L. 100–50, §15(16)–(18), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, §496, July 23, 1992, 106 Stat. 631; Pub. L. 103–208, §2(h)(45), (46), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title IV, §490C, Oct. 7, 1998, 112 Stat. 1754; Pub. L. 110–315, title IV, §494C, Aug. 14, 2008, 122 Stat. 3319; Pub. L. 111–39, title IV, §407(b)(11), July 1, 2009, 123 Stat. 1953; Pub. L. 113–174, §2, Sept. 26, 2014, 128 Stat. 1900.)

REFERENCES IN TEXT

Section 1233g of this title, referred to in subsec. (b), was repealed by Pub. L. 103–382, title II, §212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

The Federal Advisory Committee Act, referred to in subsec. (k), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Higher Education Opportunity Act, referred to in subsec. (l)(4)(A), is Pub. L. 110–315, Aug. 14, 2008, 122 Stat. 3078. Section 1106 of the Act is not classified to the Code. For complete classification of such Act to the Code, see Short Title of 2008 Amendment note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1098, Pub. L. 89–329, title IV, §491, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1454; amended Pub. L. 98–79, §11, Aug. 15, 1983, 97 Stat. 484, related to a National Commission on Student Financial Assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 491 of Pub. L. 89–329 amended former section 403 of this title.

AMENDMENTS

2014—Subsec. (k). Pub. L. 113–174 substituted "2015" for "2014".

2009—Subsec. (l)(2)(A). Pub. L. 111–39 made technical amendment to reference in original act which appears in text as reference to August 14, 2008.

2008—Subsec. (a)(1). Pub. L. 110–315, §494C(b), substituted "authorizing committees" for "Congress".

Subsec. (a)(2)(D) to (F). Pub. L. 110–315, §494C(a)(1), added subpars. (D) to (F).

Subsec. (b). Pub. L. 110–315, §494C(b), substituted "authorizing committees" for "Congress".

Subsec. (c). Pub. L. 110–315, §494C(a)(2), added subsec. (c) and struck out former subsec. (c) relating to appointment and qualifications of Advisory Committee members.

Subsec. (d)(6). Pub. L. 110–315, §494C(a)(3)(A), (b), substituted "authorizing committees" for "Congress" and struck out ", but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses" before semicolon.

Subsec. (d)(9) to (11). Pub. L. 110–315, §494C(a)(3)(B)–(D), added pars. (9) and (10) and redesignated former par. (9) as (11).

Subsec. (e)(1). Pub. L. 110–315, §494C(a)(4)(A), substituted "4 years" for "3 years" in introductory provision.

Subsec. (e)(2). Pub. L. 110–315, §494C(a)(4)(B), substituted "A member of the Advisory Committee serving on August 14, 2008, shall be permitted to serve the duration of the member's term, regardless of

whether the member was previously appointed to more than one term." for "A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee."

Subsec. (j)(1). Pub. L. 110–315, §494C(a)(5)(A), inserted "and simplifications" after "delivery processes" and struck out "including the implementation of a performance-based organization within the Department, and report to Congress regarding such modernization on not less than an annual basis," before "including recommendations for improvement".

Subsec. (j)(4), (5). Pub. L. 110–315, §494C(a)(5)(B), added pars. (4) and (5) and struck out former pars. (4) and (5) which read as follows:

"(4) assess the implications of distance education on student eligibility and other requirements for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, and make recommendations that will enhance access to postsecondary education through distance education while maintaining access, through on-campus instruction at eligible institutions, and program integrity; and

"(5) make recommendations to the Secretary regarding redundant or outdated provisions of and regulations under this chapter, consistent with the Secretary's requirements under section 1099c–2 of this title."

Subsec. (k). Pub. L. 110–315, §494C(a)(6), substituted "2014" for "2004".

Subsecs. (l), (m). Pub. L. 110–315, §494C(a)(7), added subsecs. (l) and (m).

1998—Subsec. (b). Pub. L. 105–244, §490C(1), substituted ", expenditures and staffing levels" for "and expenditures" in second sentence and inserted "Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary." after third sentence.

Subsec. (e)(3) to (6). Pub. L. 105–244, §490C(2), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

Subsec. (g). Pub. L. 105–244, §490C(3), substituted "Members of the Advisory Committee may each" for

"(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

"(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each".

Subsec. (h)(1). Pub. L. 105–244, §490C(4), inserted "determined" after "as may be" and inserted at end "The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals."

Subsec. (i). Pub. L. 105–244, §490C(5), substituted "$800,000" for "$750,000".

Subsec. (j). Pub. L. 105–244, §490C(6), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: "The committee shall—

"(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the need analysis;

"(2) monitor and evaluate the implementation, pursuant to section 1090 of this title, of a Free Application for Federal Student Aid and the process for determining eligibility and awards for programs under this subchapter and part C of subchapter I of chapter 34 of title 42, including a simplified reapplication process;

"(3) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

"(4) assess the adequacy of methods of monitoring student debt burden."

Subsec. (k). Pub. L. 105–244, §490C(7), substituted "2004" for "1998".

Subsec. (l). Pub. L. 105–244, §490C(8), struck out heading and text of subsec. (l) which directed Advisory Committee to conduct a study of means of simplifying all aspects of loan programs under part B of this subchapter.

1993—Subsec. (d)(1). Pub. L. 103–208, §2(h)(45), struck out "sections 1070a–1 through 1070a–5 of this title and" after "established under".

Subsec. (h)(1). Pub. L. 103–208, §2(h)(46), substituted "subchapter III" for "subtitle III" before "of chapter 53 of such title".

1992—Subsec. (b). Pub. L. 102–325, §496(a), inserted after first sentence "Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget

allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures."

Subsec. (d)(3). Pub. L. 102–325, §496(b)(1), struck out "and in assessing the impact of legislative and administrative policy proposals" after "student aid".

Subsec. (d)(4) to (9). Pub. L. 102–325, §496(b)(2)–(6), added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and added par. (9).

Subsec. (h)(4). Pub. L. 102–325, §496(c), substituted "without regard to" for "in accordance with" and inserted before period at end "and to set pay in accordance with such section".

Subsec. (i). Pub. L. 102–325, §496(d), substituted "$750,000" for "$500,000".

Subsecs. (j) to (l). Pub. L. 102–325, §496(e), added subsecs. (j) to (l) and struck out former subsec. (j), which related to special institutional lender study.

1987—Subsec. (b). Pub. L. 100–50, §15(16), inserted at end "The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b) of this title ceased to be effective on June 23, 1983."

Subsec. (i). Pub. L. 100–50, §15(17), substituted "In each fiscal year not less than $500,000" for "An amount, not to exceed $500,000 in any fiscal year".

Subsec. (j). Pub. L. 100–50, §15(18), added subsec. (j).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

[1] *See References in Text note below.*

§1098a. Regional meetings and negotiated rulemaking

(a) Meetings

(1) In general

The Secretary shall obtain public involvement in the development of proposed regulations for this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall obtain the advice of and recommendations from individuals and representatives of the groups involved in student financial assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, such as students, legal assistance organizations that represent students, institutions of higher education, State student grant agencies, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

(2) Issues

The Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of this subchapter and part C of subchapter I of chapter 34 of title 42 through such mechanisms as regional meetings and electronic exchanges of information. The Secretary shall take into account the information received through such mechanisms in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

(b) Draft regulations

(1) In general

After obtaining the advice and recommendations described in subsection (a)(1) of this section and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this subchapter and part C of subchapter I of chapter 34 of title 42 and shall submit such regulations to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups described in subsection (a)(1) of this section, and shall include both representatives of such groups from Washington, D.C., and industry participants. The Secretary shall select individuals with demonstrated expertise or experience in the relevant subjects under negotiation, reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 360-day period described in section 1232(e) of this title.

(2) Expansion of negotiated rulemaking

All regulations pertaining to this subchapter and part C of subchapter I of chapter 34 of title 42 that are promulgated after October 7, 1998, shall be subject to a negotiated rulemaking (including the selection of the issues to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of paragraph (1), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiations process is maintained.

(c) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall not apply to activities carried out under this section.

(d) Authorization of appropriations

There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

(Pub. L. 89–329, title IV, §492, as added Pub. L. 102–325, title IV, §497, July 23, 1992, 106 Stat. 633; amended Pub. L. 105–244, title IV, §490D, Oct. 7, 1998, 112 Stat. 1755; Pub. L. 110–315, title IV, §494D, Aug. 14, 2008, 122 Stat. 3324; Pub. L. 111–39, title IV, §407(b)(12), July 1, 2009, 123 Stat. 1953.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–39, §407(b)(12)(A), substituted "regulations for this subchapter and part C of subchapter I of chapter 34 of title 42. The" for "regulations for parts B, F, and G of this subchapter. The".

Subsec. (a)(2). Pub. L. 111–39, §407(b)(12)(B), substituted "The Secretary shall provide" for text from beginning of par. (2) through "provide", resulting in text identical to that after execution of the amendment by Pub. L. 105–244, §490D(a)(2)(A). See 1998 Amendment note below.

2008—Subsec. (a)(1). Pub. L. 110–315, §494D(a)(1), inserted "State student grant agencies," after "institutions of higher education,".

Subsec. (a)(2). Pub. L. 110–315, §494D(a)(2), struck out ", as amended by the Higher Education Amendments of 1998" before "through such mechanisms".

Subsec. (b)(1). Pub. L. 110–315, §494D(b), struck out "as amended by the Higher Education Amendments of 1998" before "and shall submit", substituted "The Secretary" for "To the extent possible, the Secretary", and inserted "with demonstrated expertise or experience in the relevant subjects under negotiation," after "select individuals".

1998—Subsec. (a)(1). Pub. L. 105–244, §490D(a)(1)(C), substituted "The Secretary shall obtain the advice of and recommendations from" for "Such meetings shall include".

Pub. L. 105–244, §490D(a)(1)(B), which directed the substitution of "this subchapter and part C of subchapter I of chapter 34 of title 42;" for "parts B, F, and G of this subchapter,", could not be executed because "parts B, F, and G of this subchapter," does not appear in text.

Pub. L. 105–244, §490D(a)(1)(A), struck out "convene regional meetings to" before "obtain public involvement".

Subsec. (a)(2). Pub. L. 105–244, §490D(a)(2)(B)–(D), substituted "this subchapter and part C of subchapter I of chapter 34 of title 42" for "parts B, F, and G of this subchapter", "1998 through such mechanisms as regional meetings and electronic exchanges of information" for "1992", and "through such mechanisms in" for "at such meetings in".

Pub. L. 105–244, §490D(a)(2)(A), which directed substitution of "The" for "During such meetings the", was executed by making the substitution for "During such meetings, the" before "Secretary shall provide", to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 105–244, §490D(b), designated existing provisions as par. (1), inserted par. (1) heading, substituted "obtaining the advice and recommendations described in subsection (a)(1) of this section" for "holding regional meetings", "this subchapter and part C of subchapter I of chapter 34 of title 42" for "parts B, F, and G of this subchapter", "1998" for "1992", "360-day" for "240-day", and "section 1232(e)" for "section 1232(g)", struck out "The Secretary shall follow the guidance provided in sections 305.82–4 and 305.85–5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law." after "rulemaking process." and "participating in the regional meetings" after "nominated by groups", and added par. (2).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

INAPPLICABILITY OF MASTER CALENDAR AND NEGOTIATED RULEMAKING REQUIREMENTS

This section inapplicable to amendment made by section 100302(a) of Pub. L. 112–141 or to any regulations promulgated under such amendment, see section 100302(b) of Pub. L. 112–141, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 309 of Pub. L. 112–74 or to any regulations promulgated under such amendments, see section 309(h) of Pub. L. 112–74, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by title V of Pub. L. 112–25 or to any regulations promulgated under such amendments, see section 504 of Pub. L. 112–25, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 1860(a)(2) of Pub. L. 112–10 or to any regulations promulgated under such amendments, see section 1860(c) of Pub. L. 112–10, set out as a note

under section 1089 of this title.

This section inapplicable to amendments made by title IV of Pub. L. 111–39 or to any regulations promulgated under such amendments, see section 409 of Pub. L. 111–39, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 402(a) of Pub. L. 110–315 or to any regulations promulgated under such amendments, see section 402(b) of Pub. L. 110–315, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by Pub. L. 110–227 or to any regulations promulgated under such amendments, see section 11 of Pub. L. 110–227, set out as a note under section 1089 of this title.

§1098b. Authorization of appropriations for administrative expenses

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this subchapter and part C of subchapter I of chapter 34 of title 42, including expenses for staff personnel, program reviews, and compliance activities.

(Pub. L. 89–329, title IV, §493, as added Pub. L. 102–325, title IV, §497, July 23, 1992, 106 Stat. 634.)

§1098c. Repealed. Pub. L. 110–315, title IV, §494E, Aug. 14, 2008, 122 Stat. 3324

Section, Pub. L. 89–329, title IV, §493A, as added Pub. L. 105–244, title IV, §490E, Oct. 7, 1998, 112 Stat. 1756, related to Year 2000 requirements at the Department of Education.

§1098d. Procedures for cancellations and deferments for eligible disabled veterans

The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans' eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42. Not later than 6 months after October 7, 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.

(Pub. L. 89–329, title IV, §493B, as added Pub. L. 105–244, title IV, §490F, Oct. 7, 1998, 112 Stat. 1758.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1098e. Income-based repayment

(a) Definitions

In this section:

(1) Excepted PLUS loan

The term "excepted PLUS loan" means a loan under section 1078–2 of this title, or a Federal Direct PLUS Loan, that is made, insured, or guaranteed on behalf of a dependent student.

(2) Excepted consolidation loan

The term "excepted consolidation loan" means a consolidation loan under section 1078–3 of this title, or a Federal Direct Consolidation Loan, if the proceeds of such loan were used to the discharge the liability on an excepted PLUS loan.

(3) Partial financial hardship

The term "partial financial hardship", when used with respect to a borrower, means that for such borrower—

(A) the annual amount due on the total amount of loans made, insured, or guaranteed under part B or C (other than an excepted PLUS loan or excepted consolidation loan) to a borrower as calculated under the standard repayment plan under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period; exceeds

(B) 15 percent of the result obtained by calculating, on at least an annual basis, the amount by which—

(i) the borrower's, and the borrower's spouse's (if applicable), adjusted gross income; exceeds

(ii) 150 percent of the poverty line applicable to the borrower's family size as determined under section 9902(2) of title 42.

(b) Income-based repayment program authorized

Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall carry out a program under which—

(1) a borrower of any loan made, insured, or guaranteed under part B or C (other than an excepted PLUS loan or excepted consolidation loan) who has a partial financial hardship (whether or not the borrower's loan has been submitted to a guaranty agency for default aversion or had been in default) may elect, during any period the borrower has the partial financial hardship, to have the borrower's aggregate monthly payment for all such loans not exceed the result described in subsection (a)(3)(B) divided by 12;

(2) the holder of such a loan shall apply the borrower's monthly payment under this subsection first toward interest due on the loan, next toward any fees due on the loan, and then toward the principal of the loan;

(3) any interest due and not paid under paragraph (2)—

(A) shall, on subsidized loans, be paid by the Secretary for a period of not more than 3 years after the date of the borrower's election under paragraph (1), except that such period shall not include any period during which the borrower is in deferment due to an economic hardship described in section 1085(o) of this title; and

(B) be capitalized—

(i) in the case of a subsidized loan, subject to subparagraph (A), at the time the borrower—

(I) ends the election to make income-based repayment under this subsection; or

(II) begins making payments of not less than the amount specified in paragraph (6)(A); or

(ii) in the case of an unsubsidized loan, at the time the borrower—

(I) ends the election to make income-based repayment under this subsection; or

(II) begins making payments of not less than the amount specified in paragraph (6)(A);

(4) any principal due and not paid under paragraph (2) shall be deferred;

(5) the amount of time the borrower makes monthly payments under paragraph (1) may exceed 10 years;

(6) if the borrower no longer has a partial financial hardship or no longer wishes to continue the election under this subsection, then—

(A) the maximum monthly payment required to be paid for all loans made to the borrower under part B or C (other than an excepted PLUS loan or excepted consolidation loan) shall not

exceed the monthly amount calculated under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period, when the borrower first made the election described in this subsection; and

(B) the amount of time the borrower is permitted to repay such loans may exceed 10 years;

(7) the Secretary shall repay or cancel any outstanding balance of principal and interest due on all loans made under part B or C (other than a loan under section 1078–2 of this title or a Federal Direct PLUS Loan) to a borrower who—

(A) at any time, elected to participate in income-based repayment under paragraph (1); and

(B) for a period of time prescribed by the Secretary, not to exceed 25 years, meets 1 or more of the following requirements—

(i) has made reduced monthly payments under paragraph (1) or paragraph (6);

(ii) has made monthly payments of not less than the monthly amount calculated under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period, when the borrower first made the election described in this subsection;

(iii) has made payments of not less than the payments required under a standard repayment plan under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title with a repayment period of 10 years;

(iv) has made payments under an income-contingent repayment plan under section 1087e(d)(1)(D) of this title; or

(v) has been in deferment due to an economic hardship described in section 1085(o) of this title;

(8) a borrower who is repaying a loan made under part B or C pursuant to income-based repayment may elect, at any time, to terminate repayment pursuant to income-based repayment and repay such loan under the standard repayment plan; and

(9) the special allowance payment to a lender calculated under section 1087–1(b)(2)(I) of this title, when calculated for a loan in repayment under this section, shall be calculated on the principal balance of the loan and on any accrued interest unpaid by the borrower in accordance with this section.

(c) Eligibility determinations

The Secretary shall establish procedures for annually determining the borrower's eligibility for income-based repayment, including verification of a borrower's annual income and the annual amount due on the total amount of loans made, insured, or guaranteed under part B or C (other than an excepted PLUS loan or excepted consolidation loan), and such other procedures as are necessary to effectively implement income-based repayment under this section. The Secretary shall consider, but is not limited to, the procedures established in accordance with section 1087e(e)(1) of this title or in connection with income sensitive repayment schedules under section 1078(b)(9)(A)(iii) or 1078–3(b)(1)(E) of this title.

(d) Special rule for married borrowers filing separately

In the case of a married borrower who files a separate Federal income tax return, the Secretary shall calculate the amount of the borrower's income-based repayment under this section solely on the basis of the borrower's student loan debt and adjusted gross income.

(e) Special terms for new borrowers on and after July 1, 2014

With respect to any loan made to a new borrower on or after July 1, 2014—

(1) subsection (a)(3)(B) shall be applied by substituting "10 percent" for "15 percent"; and

(2) subsection (b)(7)(B) shall be applied by substituting "20 years" for "25 years".

(Pub. L. 89–329, title IV, §493C, as added Pub. L. 110–84, title II, §203(a), Sept. 27, 2007, 121 Stat. 792; amended Pub. L. 110–153, §2, Dec. 21, 2007, 121 Stat. 1824; Pub. L. 110–315, title IV, §494F, Aug. 14, 2008, 122 Stat. 3324; Pub. L. 111–152, title II, §2213, Mar. 30, 2010, 124 Stat. 1081.)

AMENDMENTS

2010—Subsec. (e). Pub. L. 111–152 added subsec. (e).
2008—Subsec. (b)(1). Pub. L. 110–315 substituted "or had been in default" for "or is already in default".
2007—Subsec. (d). Pub. L. 110–153 added subsec. (d).

EFFECTIVE DATE

Section effective July 1, 2009, see section 203(c)(1) of Pub. L. 110–84, set out as an Effective Date of 2007 Amendment note under section 1078–3 of this title.

§1098f. Deferral of loan repayment following active duty

(a) Deferral of loan repayment following active duty

In addition to any deferral of repayment of a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 pursuant to section 1078(b)(1)(M)(iii), 1087e(f)(2)(C), or 1087dd(c)(2)(A)(iii) of this title, a borrower of a loan under this subchapter and part C of subchapter I of chapter 34 of title 42 who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, and is enrolled, or was enrolled within six months prior to the activation, in a program of instruction at an eligible institution, shall be eligible for a deferment during the 13 months following the conclusion of such service, except that a deferment under this subsection shall expire upon the borrower's return to enrolled student status.

(b) Active duty

Notwithstanding section 1088(d) of this title, in this section, the term "active duty" has the meaning given such term in section 101(d)(1) of title 10, except that such term—

(1) does not include active duty for training or attendance at a service school; but
(2) includes, in the case of members of the National Guard, active State duty.

(Pub. L. 89–329, title IV, §493D, as added Pub. L. 110–84, title II, §204, Sept. 27, 2007, 121 Stat. 795.)

EFFECTIVE DATE

Section effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as an Effective Date of 2007 Amendment note under section 1070a of this title.

§1098g. Exemption from State disclosure requirements

Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) [and 42 U.S.C. 2751 et seq.] shall not be subject to any disclosure requirements of any State law.

(Pub. L. 97–320, title VII, §701(b), Oct. 15, 1982, 96 Stat. 1538.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in text, is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1099 of this title.
Section was enacted as part of the Garn-St Germain Depository Institutions Act of 1982, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

EFFECTIVE DATE

Section effective both with respect to loans made prior to and after Oct. 15, 1982, see section 701(c) of Pub. L. 97–320, set out as an Effective Date of 1982 Amendment note under section 1603 of Title 15, Commerce and Trade.

PART F–1—HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS

CODIFICATION

Part was formerly set out as a note set out under section 1070 of this title.

§1098aa. Short title; findings; reference

(a) Short title

This part may be cited as the "Higher Education Relief Opportunities for Students Act of 2003".

(b) Findings

The Congress finds the following:

(1) There is no more important cause than that of our nation's defense.

(2) The United States will protect the freedom and secure the safety of its citizens.

(3) The United States military is the finest in the world and its personnel are determined to lead the world in pursuit of peace.

(4) Hundreds of thousands of Army, Air Force, Marine Corps, Navy, and Coast Guard reservists and members of the National Guard have been called to active duty or active service.

(5) The men and women of the United States military put their lives on hold, leave their families, jobs, and postsecondary education in order to serve their country and do so with distinction.

(6) There is no more important cause for this Congress than to support the members of the United States military and provide assistance with their transition into and out of active duty and active service.

(c) Reference

References in this part to "the Act" are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(Pub. L. 108–76, §1, Aug. 18, 2003, 117 Stat. 904.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to this chapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was formerly set out in a note under section 1070 of this title.

Section was enacted as part of the Higher Education Relief Opportunities for Students Act of 2003, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

SENSE OF CONGRESS

Pub. L. 110–93, §1, Sept. 30, 2007, 121 Stat. 999, provided that: "It is the sense of Congress that—

"(1) the Higher Education Relief Opportunities for Students Act of 2003 [this part] addresses the unique situations that active duty military personnel and other affected individuals may face in connection with their enrollment in postsecondary institutions and their Federal student loans; and

"(2) the provisions authorized by such Act should be made permanent, thereby allowing the Secretary of Education to continue providing assistance to active duty service members and other affected individuals and their families."

§1098bb. Waiver authority for response to military contingencies and national emergencies

(a) Waivers and modifications

(1) In general

Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education (referred to in this part as the "Secretary") may waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the Act [20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.] as the Secretary deems necessary in connection with a war or other military operation or national emergency to provide the waivers or modifications authorized by paragraph (2).

(2) Actions authorized

The Secretary is authorized to waive or modify any provision described in paragraph (1) as may be necessary to ensure that—

(A) recipients of student financial assistance under title IV of the Act who are affected individuals are not placed in a worse position financially in relation to that financial assistance because of their status as affected individuals;

(B) administrative requirements placed on affected individuals who are recipients of student financial assistance are minimized, to the extent possible without impairing the integrity of the student financial assistance programs, to ease the burden on such students and avoid inadvertent, technical violations or defaults;

(C) the calculation of "annual adjusted family income" and "available income", as used in the determination of need for student financial assistance under title IV of the Act for any such affected individual (and the determination of such need for his or her spouse and dependents, if applicable), may be modified to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such affected individual and his or her family;

(D) the calculation under section 484B(b)(2) of the Act (20 U.S.C. 1091b(b)(2)) of the amount a student is required to return in the case of an affected individual may be modified so that no overpayment will be required to be returned or repaid if the institution has documented (i) the student's status as an affected individual in the student's file, and (ii) the amount of any overpayment discharged; and

(E) institutions of higher education, eligible lenders, guaranty agencies, and other entities participating in the student assistance programs under title IV of the Act that are located in areas that are declared disaster areas by any Federal, State or local official in connection with a national emergency, or whose operations are significantly affected by such a disaster, may be granted temporary relief from requirements that are rendered infeasible or unreasonable by a national emergency, including due diligence requirements and reporting deadlines.

(b) Notice of waivers or modifications

(1) In general

Notwithstanding section 1232 of this title and section 553 of title 5, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section.

(2) Terms and conditions

The notice under paragraph (1) shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions.

(3) Case-by-case basis

The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

(c) Impact report

The Secretary shall, not later than 15 months after first exercising any authority to issue a waiver or modification under subsection (a), report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate on the impact of any waivers or modifications issued pursuant to subsection (a) on affected individuals and the programs under title IV of the Act [20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.], and the basis for such determination, and include in such report the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of such waiver or modification.

(d) No delay in waivers and modifications

Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the waivers and modifications authorized or required by this part.

(Pub. L. 108–76, §2, Aug. 18, 2003, 117 Stat. 904.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (a) and (c), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was formerly set out in a note under section 1070 of this title.

Section was enacted as part of the Higher Education Relief Opportunities for Students Act of 2003, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

§1098cc. Tuition refunds or credits for members of armed forces

(a) Sense of Congress

It is the sense of Congress that—

(1) all institutions offering postsecondary education should provide a full refund to students who are affected individuals for that portion of a period of instruction such student was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for active duty or active service; and

(2) if affected individuals withdraw from a course of study as a result of such active duty or active service, such institutions should make every effort to minimize deferral of enrollment or reapplication requirements and should provide the greatest flexibility possible with administrative deadlines related to those applications.

(b) Definition of full refund

For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

(Pub. L. 108–76, §3, Aug. 18, 2003, 117 Stat. 906.)

CODIFICATION

Section was formerly set out in a note under section 1070 of this title.

Section was enacted as part of the Higher Education Relief Opportunities for Students Act of 2003, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

§1098dd. Use of professional judgment

A financial aid administrator shall be considered to be making a necessary adjustment in accordance with section 1087tt(a) of this title if the administrator makes adjustments with respect to the calculation of the expected student or parent contribution (or both) of an affected individual, and adequately documents the need for the adjustment.

(Pub. L. 108–76, §4, Aug. 18, 2003, 117 Stat. 906.)

CODIFICATION

Section was formerly set out in a note under section 1070 of this title.

Section was enacted as part of the Higher Education Relief Opportunities for Students Act of 2003, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

§1098ee. Definitions

In this part:

(1) Active duty

The term "active duty" has the meaning given such term in section 101(d)(1) of title 10, except that such term does not include active duty for training or attendance at a service school.

(2) Affected individual

The term "affected individual" means an individual who—

(A) is serving on active duty during a war or other military operation or national emergency;

(B) is performing qualifying National Guard duty during a war or other military operation or national emergency;

(C) resides or is employed in an area that is declared a disaster area by any Federal, State, or local official in connection with a national emergency; or

(D) suffered direct economic hardship as a direct result of a war or other military operation or national emergency, as determined by the Secretary.

(3) Military operation

The term "military operation" means a contingency operation as such term is defined in section 101(a)(13) of title 10.

(4) National emergency

The term "national emergency" means a national emergency declared by the President of the United States.

(5) Serving on active duty

The term "serving on active duty during a war or other military operation or national emergency" shall include service by an individual who is—

(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10 or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

(B) any other member of an Armed Force on active duty in connection with such war, operation, or emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

(6) Qualifying National Guard duty

The term "qualifying National Guard duty during a war or other military operation or national emergency" means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, in connection with a war, another military operation, or a national emergency declared by the President and supported by Federal funds.

(Pub. L. 108–76, §5, Aug. 18, 2003, 117 Stat. 906.)

CODIFICATION

Section was formerly set out in a note under section 1070 of this title.

Section was enacted as part of the Higher Education Relief Opportunities for Students Act of 2003, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

§1099. Transferred

CODIFICATION

Section, Pub. L. 97–320, title VII, §701(b), Oct. 15, 1982, 96 Stat. 1538, which related to exemption from State disclosure requirements, was transferred to section 1098g of this title.

PART G—PROGRAM INTEGRITY

CODIFICATION

Pub. L. 105–244, title IV, §491(1), Oct. 7, 1998, 112 Stat. 1758, added heading and struck out former heading.

This part was added as part H of title IV of Pub. L. 89–329 by Pub. L. 102–325, title IV, §499, July 23, 1992, 106 Stat. 634. The letter designation of this part was changed from "H" to "G" for codification purposes. See Codification note preceding section 1087a of this title.

SUBPART 1—STATE ROLE

CODIFICATION

Subpart 1 of part H of title IV of the Higher Education Act of 1965, comprising this subpart, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, §499, July 23, 1992, 106 Stat. 635, and amended by Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457. Subpart 1 is shown herein, however, as having been added by Pub. L. 105–244, title IV, §491(2), Oct. 7, 1998, 112 Stat. 1759, without reference to those intervening amendments because of the extensive revision of subpart 1 by Pub. L. 105–244.

§1099a. State responsibilities

(a) State responsibilities

As part of the integrity program authorized by this part, each State, through one State agency or several State agencies selected by the State, shall—

(1) furnish the Secretary, upon request, information with respect to the process for licensing or other authorization for institutions of higher education to operate within the State;

(2) notify the Secretary promptly whenever the State revokes a license or other authority to operate an institution of higher education; and

(3) notify the Secretary promptly whenever the State has credible evidence that an institution of higher education within the State—

(A) has committed fraud in the administration of the student assistance programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42; or

(B) has substantially violated a provision of this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Institutional responsibility

Each institution of higher education shall provide evidence to the Secretary that the institution has authority to operate within a State at the time the institution is certified under subpart 3 of this part.

(Pub. L. 89–329, title IV, §495, as added Pub. L. 105–244, title IV, §491(2), Oct. 7, 1998, 112 Stat. 1758.)

PRIOR PROVISIONS

Prior sections 1099a to 1099a–3 were omitted in the general amendment of this subpart by Pub. L. 105–244.

Section 1099a, Pub. L. 89–329, title IV, §494, as added Pub. L. 102–325, title IV, §499, July 23, 1992, 106 Stat. 635, authorized State postsecondary review program.

Section 1099a–1, Pub. L. 89–329, title IV, §494A, as added Pub. L. 102–325, title IV, §499, July 23, 1992, 106 Stat. 635, related to State postsecondary review entity agreements.

Section 1099a–2, Pub. L. 89–329, title IV, §494B, as added Pub. L. 102–325, title IV, §499, July 23, 1992, 106 Stat. 637, related to Federal reimbursement of State postsecondary review costs.

Section 1099a–3, Pub. L. 89–329, title IV, §494C, as added Pub. L. 102–325, title IV, §499, July 23, 1992, 106 Stat. 637; amended Pub. L. 103–208, §2(i)(1), (2), Dec. 20, 1993, 107 Stat. 2478, related to functions of State review entities.

SUBPART 2—ACCREDITING AGENCY RECOGNITION

CODIFICATION

Pub. L. 105–244, title IV, §492(a)(1), Oct. 7, 1998, 112 Stat. 1759, substituted "RECOGNITION" for " APPROVAL" in heading.

§1099b. Recognition of accrediting agency or association

(a) Criteria required

No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for the purposes of this chapter and part C of subchapter I of chapter 34 of title 42 or for other Federal purposes, unless the agency or association meets criteria established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish criteria for such determinations. Such criteria shall include an appropriate measure or measures of student achievement. Such criteria shall require that—

(1) the accrediting agency or association shall be a State, regional, or national agency or association and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region, or nationally, as appropriate;

(2) such agency or association—

(A)(i) for the purpose of participation in programs under this chapter and part C of subchapter I of chapter 34 of title 42, has a voluntary membership of institutions of higher education and has as a principal purpose the accrediting of institutions of higher education; or

(ii) for the purpose of participation in other programs administered by the Department of Education or other Federal agencies, has a voluntary membership and has as its principal purpose the accrediting of institutions of higher education or programs;

(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, conducts accreditation through (i) a voluntary membership organization of individuals participating in a profession, or (ii) an agency or association which has as its principal purpose the accreditation of programs within institutions, which institutions are accredited by another agency or association recognized by the Secretary;

(3) if such agency or association is an agency or association described in—

(A) subparagraph (A)(i) of paragraph (2), then such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization;

(B) subparagraph (B) of paragraph (2), then such agency or association has been recognized by the Secretary on or before October 1, 1991; or

(C) subparagraph (C) of paragraph (2) and such agency or association has been recognized by the Secretary on or before October 1, 1991, then the Secretary may waive the requirement that such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization upon a demonstration that the existing relationship has not served to compromise the independence of its accreditation process;

(4)(A) such agency or association consistently applies and enforces standards that respect the stated mission of the institution of higher education, including religious missions, and that ensure that the courses or programs of instruction, training, or study offered by the institution of higher education, including distance education or correspondence courses or programs, are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered; and

(B) if such agency or association has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education or correspondence education, such agency or association shall, in addition to meeting the other requirements of this subpart, demonstrate to the Secretary that—

(i) the agency or association's standards effectively address the quality of an institution's distance education or correspondence education in the areas identified in paragraph (5), except that—

(I) the agency or association shall not be required to have separate standards, procedures, or policies for the evaluation of distance education or correspondence education institutions or programs in order to meet the requirements of this subparagraph; and

(II) in the case that the agency or association is recognized by the Secretary, the agency or association shall not be required to obtain the approval of the Secretary to expand its scope of accreditation to include distance education or correspondence education, provided that the agency or association notifies the Secretary in writing of the change in scope; and

(ii) the agency or association requires an institution that offers distance education or correspondence education to have processes through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the program and receives the academic credit;

(5) the standards for accreditation of the agency or association assess the institution's—

(A) success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of State licensing examinations, consideration of course completion, and job placement rates;

(B) curricula;

(C) faculty;

(D) facilities, equipment, and supplies;

(E) fiscal and administrative capacity as appropriate to the specified scale of operations;

(F) student support services;

(G) recruiting and admissions practices, academic calendars, catalogs, publications, grading and advertising;

(H) measures of program length and the objectives of the degrees or credentials offered;

(I) record of student complaints received by, or available to, the agency or association; and

(J) record of compliance with its program responsibilities under this subchapter and part C of subchapter I of chapter 34 of title 42 based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and such other information as the Secretary may provide to the agency or association;

except that subparagraphs (A), (H), and (J) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;

(6) such an agency or association shall establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, which comply with due process procedures that provide—

(A) for adequate written specification of—

(i) requirements, including clear standards for an institution of higher education or program to be accredited; and

(ii) identified deficiencies at the institution or program examined;

(B) for sufficient opportunity for a written response, by an institution or program, regarding any deficiencies identified by the agency or association to be considered by the agency or association—

(i) within a timeframe determined by the agency or association; and

(ii) prior to final action in the evaluation and withdrawal proceedings;

(C) upon the written request of an institution or program, for an opportunity for the institution or program to appeal any adverse action under this section, including denial, withdrawal, suspension, or termination of accreditation, taken against the institution or program, prior to such action becoming final at a hearing before an appeals panel that—

(i) shall not include current members of the agency's or association's underlying decisionmaking body that made the adverse decision; and

(ii) is subject to a conflict of interest policy;

(D) for the right to representation and participation by counsel for an institution or program during an appeal of the adverse action;

(E) for a process, in accordance with written procedures developed by the agency or association, through which an institution or program, before a final adverse action based solely upon a failure to meet a standard or criterion pertaining to finances, may on one occasion seek review of significant financial information that was unavailable to the institution or program prior to the determination of the adverse action, and that bears materially on the financial deficiencies identified by the agency or association;

(F) in the case that the agency or association determines that the new financial information submitted by the institution or program under subparagraph (E) meets the criteria of significance and materiality described in such subparagraph, for consideration by the agency or association of the new financial information prior to the adverse action described in such subparagraph becoming final; and

(G) that any determination by the agency or association made with respect to the new financial information described in subparagraph (E) shall not be separately appealable by the institution or program;

(7) such agency or association shall notify the Secretary and the appropriate State licensing or authorizing agency within 30 days of the accreditation of an institution or any final denial, withdrawal, suspension, or termination of accreditation or placement on probation of an institution, together with any other adverse action taken with respect to an institution; and

(8) such agency or association shall make available to the public, upon request, and to the Secretary, and the State licensing or authorizing agency a summary of any review resulting in a final accrediting decision involving denial, termination, or suspension of accreditation, together with the comments of the affected institution.

(b) "Separate and independent" defined

For the purpose of subsection (a)(3) of this section, the term "separate and independent" means that—

(1) the members of the postsecondary education governing body of the accrediting agency or

association are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;

(2) among the membership of the board of the accrediting agency or association there shall be one public member (who is not a member of any related trade or membership organization) for each six members of the board, with a minimum of one such public member, and guidelines are established for such members to avoid conflicts of interest;

(3) dues to the accrediting agency or association are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

(c) Operating procedures required

No accrediting agency or association may be recognized by the Secretary as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42, unless the agency or association—

(1) performs, at regularly established intervals, on-site inspections and reviews of institutions of higher education (which may include unannounced site visits) with particular focus on educational quality and program effectiveness, and ensures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities, including those regarding distance education;

(2) monitors the growth of programs at institutions that are experiencing significant enrollment growth;

(3) requires an institution to submit for approval to the accrediting agency a teach-out plan upon the occurrence of any of the following events:

(A) the Department notifies the accrediting agency of an action against the institution pursuant to section 1094(f) of this title;

(B) the accrediting agency acts to withdraw, terminate, or suspend the accreditation of the institution; or

(C) the institution notifies the accrediting agency that the institution intends to cease operations;

(4) requires that any institution of higher education subject to its jurisdiction which plans to establish a branch campus submit a business plan, including projected revenues and expenditures, prior to opening the branch campus;

(5) agrees to conduct, as soon as practicable, but within a period of not more than 6 months of the establishment of a new branch campus or a change of ownership of an institution of higher education, an on-site visit of that branch campus or of the institution after a change of ownership;

(6) requires that teach-out agreements among institutions are subject to approval by the accrediting agency or association consistent with standards promulgated by such agency or association;

(7) makes available to the public and the State licensing or authorizing agency, and submits to the Secretary, a summary of agency or association actions, including—

(A) the award of accreditation or reaccreditation of an institution;

(B) final denial, withdrawal, suspension, or termination of accreditation of an institution, and any findings made in connection with the action taken, together with the official comments of the affected institution; and

(C) any other adverse action taken with respect to an institution or placement on probation of an institution;

(8) discloses publicly whenever an institution of higher education subject to its jurisdiction is being considered for accreditation or reaccreditation; and

(9) confirms, as a part of the agency's or association's review for accreditation or

reaccreditation, that the institution has transfer of credit policies—

(A) that are publicly disclosed; and

(B) that include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.

(d) Length of recognition

No accrediting agency or association may be recognized by the Secretary for the purpose of this chapter and part C of subchapter I of chapter 34 of title 42 for a period of more than 5 years.

(e) Initial arbitration rule

The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

(f) Jurisdiction

Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association recognized by the Secretary for the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42 and involving the denial, withdrawal, or termination of accreditation of the institution of higher education, shall be brought in the appropriate United States district court.

(g) Limitation on scope of criteria

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall be construed to permit the Secretary to establish criteria for accrediting agencies or associations that are not required by this section. Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section. Nothing in this section shall be construed to permit the Secretary to establish any criteria that specifies, defines, or prescribes the standards that accrediting agencies or associations shall use to assess any institution's success with respect to student achievement.

(h) Change of accrediting agency

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

(i) Dual accreditation rule

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association. If the institution is accredited, as an institution, by more than one accrediting agency or association, the institution shall designate which agency's accreditation shall be utilized in determining the institution's eligibility for programs under this chapter and part C of subchapter I of chapter 34 of title 42.

(j) Impact of loss of accreditation

An institution may not be certified or recertified as an institution of higher education under section 1002 of this title and subpart 3 of this part or participate in any of the other programs authorized by this chapter and part C of subchapter I of chapter 34 of title 42 if such institution—

(1) is not currently accredited by any agency or association recognized by the Secretary;

(2) has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by

the same accrediting agency; or

(3) has withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months, unless such order has been rescinded by the same accrediting agency.

(k) Religious institution rule

Notwithstanding subsection (j) of this section, the Secretary shall allow an institution that has had its accreditation withdrawn, revoked, or otherwise terminated, or has voluntarily withdrawn from an accreditation agency, to remain certified as an institution of higher education under section 1002 of this title and subpart 3 of this part for a period sufficient to allow such institution to obtain alternative accreditation, if the Secretary determines that the reason for the withdrawal, revocation, or termination—

(1) is related to the religious mission or affiliation of the institution; and

(2) is not related to the accreditation criteria provided for in this section.

(l) Limitation, suspension, or termination of recognition

(1) If the Secretary determines that an accrediting agency or association has failed to apply effectively the criteria in this section, or is otherwise not in compliance with the requirements of this section, the Secretary shall—

(A) after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association; or

(B) require the agency or association to take appropriate action to bring the agency or association into compliance with such requirements within a timeframe specified by the Secretary, except that—

(i) such timeframe shall not exceed 12 months unless the Secretary extends such period for good cause; and

(ii) if the agency or association fails to bring the agency or association into compliance within such timeframe, the Secretary shall, after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association.

(2) The Secretary may determine that an accrediting agency or association has failed to apply effectively the standards provided in this section if an institution of higher education seeks and receives accreditation from the accrediting agency or association during any period in which the institution is the subject of any interim action by another accrediting agency or association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension, revocation, or termination of accreditation or the institution has been notified of the threatened loss of accreditation, and the due process procedures required by such suspension, revocation, termination, or threatened loss have not been completed.

(m) Limitation on Secretary's authority

The Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institutions to establish eligibility to participate in the programs under this chapter and part C of subchapter I of chapter 34 of title 42 or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies.

(n) Independent evaluation

(1) The Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the criteria established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Such evaluation shall include—

(A) the solicitation of third-party information concerning the performance of the accrediting agency or association; and

(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and

associations, and, at the Secretary's discretion, at representative member institutions.

(2) The Secretary shall place a priority for review of accrediting agencies or associations on those agencies or associations that accredit institutions of higher education that participate most extensively in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 and on those agencies or associations which have been the subject of the most complaints or legal actions.

(3) The Secretary shall consider all available relevant information concerning the compliance of the accrediting agency or association with the criteria provided for in this section, including any complaints or legal actions against such agency or association. In cases where deficiencies in the performance of an accreditation agency or association with respect to the requirements of this section are noted, the Secretary shall take these deficiencies into account in the recognition process. The Secretary shall not, under any circumstances, base decisions on the recognition or denial of recognition of accreditation agencies or associations on criteria other than those contained in this section. When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association's scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs.

(4) The Secretary shall maintain sufficient documentation to support the conclusions reached in the recognition process, and, if the Secretary does not recognize any accreditation agency or association, shall make publicly available the reason for denying recognition, including reference to the specific criteria under this section which have not been fulfilled.

(o) Regulations

The Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions. Notwithstanding any other provision of law, the Secretary shall not promulgate any regulation with respect to the standards of an accreditation agency or association described in subsection (a)(5).

(p) Rule of construction

Nothing in subsection (a)(5) shall be construed to restrict the ability of—

(1) an accrediting agency or association to set, with the involvement of its members, and to apply, accreditation standards for or to institutions or programs that seek review by the agency or association; or

(2) an institution to develop and use institutional standards to show its success with respect to student achievement, which achievement may be considered as part of any accreditation review.

(q) Review of scope changes

The Secretary shall require a review, at the next available meeting of the National Advisory Committee on Institutional Quality and Integrity, of any change in scope undertaken by an agency or association under subsection (a)(4)(B)(i)(II) if the enrollment of an institution that offers distance education or correspondence education that is accredited by such agency or association increases by 50 percent or more within any one institutional fiscal year.

(Pub. L. 89–329, title IV, §496, as added Pub. L. 102–325, title IV, §499, July 23, 1992, 106 Stat. 641; amended Pub. L. 103–208, §2(i)(3)–(8), Dec. 20, 1993, 107 Stat. 2478, 2479; Pub. L. 105–244, title I, §102(b)(5), title IV, §492(a)(2)–(d), Oct. 7, 1998, 112 Stat. 1622, 1759, 1760; Pub. L. 110–315, title IV, §495, Aug. 14, 2008, 122 Stat. 3324; Pub. L. 111–39, title IV, §408(1), July 1, 2009, 123 Stat. 1953.)

AMENDMENTS

2009—Subsec. (a)(6)(G). Pub. L. 111–39 substituted semicolon for period at end.

2008—Subsec. (a)(4). Pub. L. 110–315, §495(1)(A), added par. (4) and struck out former par. (4) which read as follows: "such agency or association consistently applies and enforces standards that ensure that the

courses or programs of instruction, training, or study offered by the institution of higher education, including distance education courses or programs, are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered;".

Subsec. (a)(5)(A). Pub. L. 110–315, §495(1)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "success with respect to student achievement in relation to the institution's mission, including, as appropriate, consideration of course completion, State licensing examinations, and job placement rates;".

Subsec. (a)(6). Pub. L. 110–315, §495(1)(C), added par. (6) and struck out former par. (6) which read as follows: "such agency or association shall apply procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that comply with due process, including—

"(A) adequate specification of requirements and deficiencies at the institution of higher education or program being examined;

"(B) notice of an opportunity for a hearing by any such institution;

"(C) the right to appeal any adverse action against any such institution; and

"(D) the right to representation by counsel for any such institution;".

Subsec. (c)(1). Pub. L. 110–315, §495(2)(A), inserted ", including those regarding distance education" after "their responsibilities".

Subsec. (c)(2) to (8). Pub. L. 110–315, §495(2)(B)–(D), added pars. (2), (3), and (7), redesignated former pars. (2) to (6) as (4) to (8), respectively, and struck out former par. (7) which read as follows: "maintains and makes publicly available written materials regarding standards and procedures for accreditation, appeal procedures, and the accreditation status of each institution subject to its jurisdiction; and".

Subsec. (c)(9). Pub. L. 110–315, §495(2)(E), (F), added par. (9).

Subsec. (g). Pub. L. 110–315, §495(3), inserted at end "Nothing in this section shall be construed to permit the Secretary to establish any criteria that specifies, defines, or prescribes the standards that accrediting agencies or associations shall use to assess any institution's success with respect to student achievement."

Subsec. (o). Pub. L. 110–315, §495(4), inserted at end "Notwithstanding any other provision of law, the Secretary shall not promulgate any regulation with respect to the standards of an accreditation agency or association described in subsection (a)(5)."

Subsecs. (p), (q). Pub. L. 110–315, §495(5), added subsecs. (p) and (q).

1998—Pub. L. 105–244, §492(a)(2), substituted "Recognition" for "Approval" in section catchline.

Subsec. (a). Pub. L. 105–244, §492(b)(1), (2), substituted "Criteria" for "Standards" in heading and "criteria" for "standards" wherever appearing in introductory provisions.

Subsec. (a)(4). Pub. L. 105–244, §492(b)(3), substituted "offered by the institution" for "at the institution" and inserted ", including distance education courses or programs," after "higher education".

Subsec. (a)(5). Pub. L. 105–244, §492(b)(4)(A), (H), substituted "for accreditation" for "of accreditation" in introductory provisions and "(A), (H), and (J)" for "(G), (H), (I), (J), and (L)" in concluding provisions.

Subsec. (a)(5)(A) to (G). Pub. L. 105–244, §492(b)(4)(C), (E), added subpar. (A) and redesignated former subpars. (A) to (F) as (B) to (G), respectively. Former subpar. (G) redesignated (H).

Subsec. (a)(5)(H). Pub. L. 105–244, §492(b)(4)(F), substituted "measures of program length" for "program length and tuition and fees in relation to the subject matters taught".

Pub. L. 105–244, §492(b)(4)(C), redesignated subpar. (G) as (H).

Pub. L. 105–244, §492(b)(4)(B), struck out subpar. (H) which read as follows: "measures of program length in clock hours or credit hours;".

Subsec. (a)(5)(I). Pub. L. 105–244, §492(b)(4)(B), (D), redesignated subpar. (K) as (I) and struck out former subpar. (I) which read as follows: "success with respect to student achievement in relation to its mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates;".

Subsec. (a)(5)(J). Pub. L. 105–244, §492(b)(4)(G), inserted "record of" before "compliance", substituted "based on the most recent student loan default rate data provided by the Secretary, the" for ", including any", and inserted "any" after "reviews, and".

Pub. L. 105–244, §492(b)(4)(B), (D), redesignated subpar. (L) as (J) and struck out former subpar. (J) which read as follows: "default rates in the student loan programs under this subchapter and part C of subchapter I of chapter 34 of title 42, based on the most recent data provided by the Secretary;".

Subsec. (a)(5)(K), (L). Pub. L. 105–244, §492(b)(4)(D), redesignated subpars. (K) and (L) as (I) and (J), respectively.

Subsec. (a)(7). Pub. L. 105–244, §492(b)(5), substituted "State licensing or authorizing agency" for "State postsecondary review entity".

Subsec. (a)(8). Pub. L. 105–244, §492(b)(6), substituted "State licensing or authorizing agency" for "State

postsecondary review entity of the State in which the institution of higher education is located".

Subsec. (c). Pub. L. 105–244, §492(c)(1), substituted "recognized by the Secretary" for "approved by the Secretary" in introductory provisions.

Subsec. (c)(1). Pub. L. 105–244, §492(c)(2), substituted "(which may include unannounced site visits)" for "(at least one of which inspections at each institution that provides vocational education and training shall be unannounced),".

Subsec. (d). Pub. L. 105–244, §492(d)(1), substituted "recognition" for "approval" in heading and "recognized" for "approved" in text.

Subsec. (f). Pub. L. 105–244, §492(d)(2), substituted "recognized" for "approved".

Subsec. (g). Pub. L. 105–244, §492(d)(3), substituted "criteria" for "standards" in heading and "establish criteria" for "establish standards" in text.

Subsec. (j). Pub. L. 105–244, §102(b)(5), substituted "section 1002" for "section 1088" in introductory provisions.

Subsec. (k). Pub. L. 105–244, §§102(b)(5), 492(d)(4)(A), amended subsec. (k) identically, substituting "section 1002" for "section 1088" in introductory provisions.

Subsec. (k)(2). Pub. L. 105–244, §492(d)(4)(B), substituted "criteria" for "standards".

Subsec. (l). Pub. L. 105–244, §492(d)(5), substituted "recognition" for "approval" in heading, added par. (1), and struck out former par. (1) which read as follows: "The Secretary shall limit, suspend, or terminate the approval of an accrediting agency or association if the Secretary determines, after notice and opportunity for a hearing, that the accrediting agency or association has failed to apply effectively the standards or operate according to the procedures provided in this section."

Subsec. (n)(1). Pub. L. 105–244, §492(d)(6)(A), substituted "criteria" for "standards" in introductory provisions.

Subsec. (n)(3). Pub. L. 105–244, §492(d)(6)(A), (B), substituted "criteria" for "standards" in two places, "recognition process" for "approval process", and "recognition or denial of recognition" for "approval or disapproval", and inserted at end "When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association's scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs."

Subsec. (n)(4). Pub. L. 105–244, §492(d)(6)(C), added par. (4) and struck out former par. (4) which read as follows: "The Secretary shall maintain sufficient documentation to support the conclusions reached in the approval process, and, upon disapproval of any accreditation agency or association, shall make publicly available the reason for such disapproval, including reference to the specific standards under this section which have not been fulfilled."

1993—Subsec. (a)(2)(A)(i). Pub. L. 103–208, §2(i)(3), inserted "of institutions of higher education" after "membership".

Subsec. (a)(3)(A). Pub. L. 103–208, §2(i)(4), substituted "subparagraph (A)(i)" for "subparagraph (A)".

Subsec. (a)(5). Pub. L. 103–208, §2(i)(5), substituted a semicolon for the period at end of subpar. (L) and inserted after subpar. (L) the following: "except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;".

Subsec. (c). Pub. L. 103–208, §2(i)(6), substituted "as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42" for "for the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42".

Subsec. (l)(2). Pub. L. 103–208, §2(i)(7), substituted "institution" for "institutution" and "association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension" for "association leading to the suspension".

Subsec. (n)(1)(B). Pub. L. 103–208, §2(i)(8), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "site visits at both the accrediting agency or association and member institutions, including unannounced visits where appropriate."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244,

see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

STUDY OF TRANSFER OF CREDITS

Pub. L. 105–244, title VIII, §804, Oct. 7, 1998, 112 Stat. 1806, which directed the Secretary of Education to conduct a study regarding the treatment of the transfer of credits from one institution of higher education to another and to report to Congress, not later than one year after Oct. 7, 1998, was repealed by Pub. L. 110–315, title IX, §931(1), Aug. 14, 2008, 122 Stat. 3456.

SUBPART 3—ELIGIBILITY AND CERTIFICATION PROCEDURES

§1099c. Eligibility and certification procedures

(a) General requirement

For purposes of qualifying institutions of higher education for participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall determine the legal authority to operate within a State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education in accordance with the requirements of this section.

(b) Single application form

The Secretary shall prepare and prescribe a single application form which—

(1) requires sufficient information and documentation to determine that the requirements of eligibility, accreditation, financial responsibility, and administrative capability of the institution of higher education are met;

(2) requires a specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that which is performed at its branches;

(3) requires—

(A) a description of the third party servicers of an institution of higher education; and

(B) the institution to maintain a copy of any contract with a financial aid service provider or loan servicer, and provide a copy of any such contract to the Secretary upon request;

(4) requires such other information as the Secretary determines will ensure compliance with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 with respect to eligibility, accreditation, administrative capability and financial responsibility; and

(5) provides, at the option of the institution, for participation in one or more of the programs under part B or C of this subchapter.

(c) Financial responsibility standards

(1) The Secretary shall determine whether an institution has the financial responsibility required by this subchapter and part C of subchapter I of chapter 34 of title 42 on the basis of whether the institution is able—

(A) to provide the services described in its official publications and statements;

(B) to provide the administrative resources necessary to comply with the requirements of this

subchapter and part C of subchapter I of chapter 34 of title 42; and

(C) to meet all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

(2) Notwithstanding paragraph (1), if an institution fails to meet criteria prescribed by the Secretary regarding ratios that demonstrate financial responsibility, then the institution shall provide the Secretary with satisfactory evidence of its financial responsibility in accordance with paragraph (3). Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for-profit, public, and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.

(3) The Secretary shall determine an institution to be financially responsible, notwithstanding the institution's failure to meet the criteria under paragraphs (1) and (2), if—

(A) such institution submits to the Secretary third-party financial guarantees that the Secretary determines are reasonable, such as performance bonds or letters of credit payable to the Secretary, which third-party financial guarantees shall equal not less than one-half of the annual potential liabilities of such institution to the Secretary for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, including loan obligations discharged pursuant to section 1087 of this title, and to students for refunds of institutional charges, including funds under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) such institution has its liabilities backed by the full faith and credit of a State, or its equivalent;

(C) such institution establishes to the satisfaction of the Secretary, with the support of a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards, that the institution has sufficient resources to ensure against the precipitous closure of the institution, including the ability to meet all of its financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or

(D) such institution has met standards of financial responsibility, prescribed by the Secretary by regulation, that indicate a level of financial strength not less than those required in paragraph (2).

(4) If an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree fails to meet the criteria imposed by the Secretary pursuant to paragraph (2), the Secretary shall waive that particular requirement for that institution if the institution demonstrates to the satisfaction of the Secretary that—

(A) there is no reasonable doubt as to its continued solvency and ability to deliver quality educational services;

(B) it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and

(C) it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the criteria.

(5) The determination as to whether an institution has met the standards of financial responsibility provided for in paragraphs (2) and (3)(C) shall be based on an audited and certified financial statement of the institution. Such audit shall be conducted by a qualified independent organization or person in accordance with standards established by the American Institute of Certified Public Accountants. Such statement shall be submitted to the Secretary at the time such institution is considered for certification or recertification under this section. If the institution is permitted to be certified (provisionally or otherwise) and such audit does not establish compliance with paragraph (2), the Secretary may require that additional audits be submitted.

(6)(A) The Secretary shall establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds.

(B) The Secretary shall provide for a process under which the Secretary shall exempt an institution of higher education from the requirements described in subparagraph (A) if the Secretary determines that the institution—

(i) is located in a State that has a tuition recovery fund that ensures that the institution meets the requirements of subparagraph (A);

(ii) contributes to the fund; and

(iii) otherwise has legal authority to operate within the State.

(d) Administrative capacity standard

The Secretary is authorized—

(1) to establish procedures and requirements relating to the administrative capacities of institutions of higher education, including—

(A) consideration of past performance of institutions or persons in control of such institutions with respect to student aid programs; and

(B) maintenance of records; and

(2) to establish such other reasonable procedures as the Secretary determines will contribute to ensuring that the institution of higher education will comply with administrative capability required by this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) Financial guarantees from owners

(1) Notwithstanding any other provision of law, the Secretary may, to the extent necessary to protect the financial interest of the United States, require—

(A) financial guarantees from an institution participating, or seeking to participate, in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, or from one or more individuals who the Secretary determines, in accordance with paragraph (2), exercise substantial control over such institution, or both, in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability to the Federal Government, student assistance recipients, and other program participants for funds under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(B) the assumption of personal liability, by one or more individuals who exercise substantial control over such institution, as determined by the Secretary in accordance with paragraph (2), for financial losses to the Federal Government, student assistance recipients, and other program participants for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, and civil and criminal monetary penalties authorized under this subchapter and part C of subchapter I of chapter 34 of title 42.

(2)(A) The Secretary may determine that an individual exercises substantial control over one or more institutions participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 if the Secretary determines that—

(i) the individual directly or indirectly controls a substantial ownership interest in the institution;

(ii) the individual, either alone or together with other individuals, represents, under a voting trust, power of attorney, proxy, or similar agreement, one or more persons who have, individually or in combination with the other persons represented or the individual representing them, a substantial ownership interest in the institution; or

(iii) the individual is a member of the board of directors, the chief executive officer, or other executive officer of the institution or of an entity that holds a substantial ownership interest in the institution.

(B) The Secretary may determine that an entity exercises substantial control over one or more institutions participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 if the Secretary determines that the entity directly or indirectly holds a substantial ownership interest in the institution.

(3) For purposes of this subsection, an ownership interest is defined as a share of the legal or

beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation. An ownership interest may include, but is not limited to—

(A) a sole proprietorship;

(B) an interest as a tenant-in-common, joint tenant, or tenant by the entireties;

(C) a partnership; or

(D) an interest in a trust.

(4) The Secretary shall not impose the requirements described in subparagraphs (A) and (B) of paragraph (1) on an institution that—

(A) has not been subjected to a limitation, suspension, or termination action by the Secretary or a guaranty agency within the preceding 5 years;

(B) has not had, during its 2 most recent audits of the institutions conduct of programs under this subchapter and part C of subchapter I of chapter 34 of title 42, an audit finding that resulted in the institution being required to repay an amount greater than 5 percent of the funds the institution received from programs under this subchapter and part C of subchapter I of chapter 34 of title 42 for any year;

(C) meets and has met, for the preceding 5 years, the financial responsibility standards under subsection (c) of this section; and

(D) has not been cited during the preceding 5 years for failure to submit audits required under this subchapter and part C of subchapter I of chapter 34 of title 42 in a timely fashion.

(5) For purposes of section 1094(c)(1)(G) of this title, this section shall also apply to individuals or organizations that contract with an institution to administer any aspect of an institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42.

(6) Notwithstanding any other provision of law, any individual who—

(A) the Secretary determines, in accordance with paragraph (2), exercises substantial control over an institution participating in, or seeking to participate in, a program under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) is required to pay, on behalf of a student or borrower, a refund of unearned institutional charges to a lender, or to the Secretary; and

(C) willfully fails to pay such refund or willfully attempts in any manner to evade payment of such refund,

shall, in addition to other penalties provided by law, be liable to the Secretary for the amount of the refund not paid, to the same extent with respect to such refund that such an individual would be liable as a responsible person for a penalty under section 6672(a) of title 26 with respect to the nonpayment of taxes.

(f) Actions on applications and site visits

The Secretary shall ensure that prompt action is taken by the Department on any application required under subsection (b) of this section. The personnel of the Department of Education may conduct a site visit at each institution before certifying or recertifying its eligibility for purposes of any program under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall establish priorities by which institutions are to receive site visits, and shall, to the extent practicable, coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.

(g) Time limitations on, and renewal of, eligibility

(1) General rule

After the expiration of the certification of any institution under the schedule prescribed under this section (as this section was in effect prior to October 7, 1998), or upon request for initial

certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of each such institution for a period not to exceed 6 years.

(2) Notification

The Secretary shall notify each institution of higher education not later than 6 months prior to the date of the expiration of the institution's certification.

(3) Institutions outside the United States

The Secretary shall promulgate regulations regarding the recertification requirements applicable to an institution of higher education outside of the United States that meets the requirements of section 1002(a)(1)(C) of this title and received less than $500,000 in funds under part B of this subchapter for the most recent year for which data are available.

(h) Provisional certification of institutional eligibility

(1) Notwithstanding subsections (d) and (g) of this section, the Secretary may provisionally certify an institution's eligibility to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42—

(A) for not more than one complete award year in the case of an institution of higher education seeking an initial certification; and

(B) for not more than 3 complete award years if—

(i) the institution's administrative capability and financial responsibility is being determined for the first time;

(ii) there is a complete or partial change of ownership, as defined under subsection (i) of this section, of an eligible institution; or

(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.

(2) Whenever the Secretary withdraws the recognition of any accrediting agency, an institution of higher education which meets the requirements of accreditation, eligibility, and certification on the day prior to such withdrawal, the Secretary may, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 for a period not to exceed 18 months from the date of the withdrawal of recognition.

(3) If, prior to the end of a period of provisional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may terminate the institution's participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(i) Treatment of changes of ownership

(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 1002 of this title (other than the requirements in subsections (b)(5) and (c)(3) [1]) and this section after such change in control.

(2) An action resulting in a change in control may include (but is not limited to)—

(A) the sale of the institution or the majority of its assets;

(B) the transfer of the controlling interest of stock of the institution or its parent corporation;

(C) the merger of two or more eligible institutions;

(D) the division of one or more institutions into two or more institutions;

(E) the transfer of the controlling interest of stock of the institutions to its parent corporation; or

(F) the transfer of the liabilities of the institution to its parent corporation.

(3) An action that may be treated as not resulting in a change in control includes (but is not limited

to)—

(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or

(B) another action determined by the Secretary to be a routine business practice.

(4)(A) The Secretary may provisionally certify an institution seeking approval of a change in ownership based on the preliminary review by the Secretary of a materially complete application that is received by the Secretary within 10 business days of the transaction for which the approval is sought.

(B) A provisional certification under this paragraph shall expire not later than the end of the month following the month in which the transaction occurred, except that if the Secretary has not issued a decision on the application for the change of ownership within that period, the Secretary may continue such provisional certification on a month-to-month basis until such decision has been issued.

(j) Treatment of branches

(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, shall be certified under this subpart before it may participate as part of such institution in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, except that such branch shall not be required to meet the requirements of sections 1002(b)(1)(E) and 1002(c)(1)(C) of this title prior to seeking such certification. Such branch is required to be in existence at least 2 years after the branch is certified by the Secretary as a branch campus participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, prior to seeking certification as a main campus or free-standing institution.

(2) The Secretary may waive the requirement of section 1001(a)(2) of this title for a branch that (A) is not located in a State, (B) is affiliated with an eligible institution, and (C) was participating in one or more programs under this subchapter and part C of subchapter I of chapter 34 of title 42 on or before January 1, 1992.

(k) Treatment of teach-outs at additional locations

(1) In general

A location of a closed institution of higher education shall be eligible as an additional location of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, for the purposes of a teach-out described in section 1094(f) of this title, if such teach-out has been approved by the institution's accrediting agency.

(2) Special rule

An institution of higher education that conducts a teach-out through the establishment of an additional location described in paragraph (1) shall be permitted to establish a permanent additional location at a closed institution and shall not be required—

(A) to meet the requirements of sections 1002(b)(1)(E) and 1002(c)(1)(C) of this title for such additional location; or

(B) to assume the liabilities of the closed institution.

(Pub. L. 89–329, title IV, §498, as added Pub. L. 102–325, title IV, §499, July 23, 1992, 106 Stat. 647; amended Pub. L. 103–208, §2(i)(9)–(14), Dec. 20, 1993, 107 Stat. 2479, 2480; Pub. L. 105–244, title I, §102(a)(6)(B), (b)(6), (7), title IV, §493(a)–(c)(1), (d)–(h), Oct. 7, 1998, 112 Stat. 1618, 1622, 1761–1763; Pub. L. 110–315, title IV, §496, Aug. 14, 2008, 122 Stat. 3327; Pub. L. 111–39, title IV, §408(2), July 1, 2009, 123 Stat. 1953.)

REFERENCES IN TEXT

Subsections (b)(5) and (c)(3), referred to in subsec. (i)(1), originally meant subsections (b)(5) and (c)(3) of section 1088 of this title, see 1998 Amendment note below for subsec. (i)(1). Pub. L. 105–244, title I, §101(c), Oct. 7, 1998, 112 Stat. 1617, amended section 1088 by striking out subsecs. (b) and (c) and redesignating

subsecs. (e) and (f) as (b) and (c), respectively. Section 1002 of this title does not contain a subsec. (b)(5) or (c)(3), but provisions similar to those appearing in former subsecs. (b)(5) and (c)(3) of section 1088 are contained in subsecs. (b)(1)(E) and (c)(1)(C) of section 1002.

AMENDMENTS

2009—Subsec. (c)(2). Pub. L. 111–39 substituted "for-profit" for "for profit".

2008—Subsec. (d)(1)(B). Pub. L. 110–315, §496(1), inserted "and" after semicolon.

Subsec. (k). Pub. L. 110–315, §496(2), added subsec. (k).

1998—Subsec. (b)(1). Pub. L. 105–244, §493(a)(1), substituted "financial responsibility, and administrative capability" for "and capability".

Subsec. (b)(3). Pub. L. 105–244, §493(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "requires a description of third party servicers of an institution of higher education, together with a copy of any contract with the institution of higher education and a financial aid service provider or loan servicer; and".

Subsec. (b)(5). Pub. L. 105–244, §493(a)(3), (4), added par. (5).

Subsec. (c)(2). Pub. L. 105–244, §493(b)(1)(B), inserted ", public," after "for profit" in second sentence.

Pub. L. 105–244, §493(b)(1)(A), which directed amendment of first sentence by substituting "regarding ratios that demonstrate financial responsibility," for "with respect to operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits", was executed by making the substitution for text which read "asset-to-liabilities ratios" rather than "asset to liabilities ratios", to reflect the probable intent of Congress.

Subsec. (c)(3)(A). Pub. L. 105–244, §493(b)(2), inserted "that the Secretary determines are reasonable" after "Secretary third-party financial guarantees".

Subsec. (c)(4). Pub. L. 105–244, §493(b)(3)(A), substituted "criteria" for "ratio of current assets to current liabilities" in introductory provisions.

Subsec. (c)(4)(C). Pub. L. 105–244, §493(b)(3)(B), substituted "criteria" for "current operating ratio requirement".

Subsec. (e)(6). Pub. L. 105–244, §493(c)(1), added par. (6).

Subsec. (f). Pub. L. 105–244, §493(d), substituted "and site visits" for "; site visits and fees" in heading, "may" for "shall" in second sentence, and "shall establish" for "may establish" and "shall, to the extent practicable, coordinate" for "may coordinate" in third sentence, and struck out at end "The Secretary may charge reasonable fees to cover the expenses of certification and site visits and, to the extent permitted by appropriations Acts, may retain such fees to cover such expenses."

Subsec. (g). Pub. L. 105–244, §493(e), amended heading and text of subsec. (g) generally. Prior to amendment, text read as follows:

"(1) The eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of any institution that is participating in any such program on July 23, 1992, shall expire in accordance with the schedule prescribed by the Secretary in accordance with paragraph (2), but not later than 5 years after July 23, 1992.

"(2) The Secretary shall establish a schedule for the expiration of the eligibility for purposes of any such program of all institutions of higher education within the 5-year period specified in paragraph (1). Such schedule shall place a priority for the expiration of the certification of institutions on those that meet the following criteria:

"(A) institutions subject to review by a State postsecondary review entity pursuant to subpart 1 of this part; or

"(B) other categories of institutions which the Secretary deems necessary.

"(3) After the expiration of the certification of any institution under the schedule prescribed under this subsection, or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of each such institution for a period not to exceed 4 years."

Subsec. (h)(2). Pub. L. 105–244, §493(f), substituted "the recognition" for "the approval" and "of recognition" for "of approval".

Subsec. (i)(1). Pub. L. 105–244, §102(b)(6), substituted "section 1002" for "section 1088".

Subsec. (i)(4). Pub. L. 105–244, §493(g), added par. (4).

Subsec. (j)(1). Pub. L. 105–244, §493(h), inserted "after the branch is certified by the Secretary as a branch campus participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42," after "2 years".

Pub. L. 105–244, §102(b)(7)(A), substituted "sections 1002(b)(1)(E) and 1002(c)(1)(C)" for "sections

1088(b)(5) and 1088(c)(3)".

Subsec. (j)(2). Pub. L. 105–244, §102(a)(6)(B), (b)(7)(B), amended par. (2) identically, substituting "section 1001(a)(2)" for "section 1141(a)(2)".

1993—Subsec. (c)(2). Pub. L. 103–208, §2(i)(9)(A), inserted at end "Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required."

Subsec. (c)(3). Pub. L. 103–208, §2(i)(9)(B), substituted "The Secretary shall determine" for "The Secretary may determine" in introductory provisions.

Subsec. (c)(3)(C). Pub. L. 103–208, §2(i)(9)(C), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "such institution establishes to the satisfaction of the Secretary, with the support of a report of an independent certified public accountant prepared under generally accepted accounting principles, that the institution is a going concern capable of meeting all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary; or".

Subsec. (c)(4) to (6). Pub. L. 103–208, §2(i)(9)(D), (E), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (f). Pub. L. 103–208, §2(i)(10), inserted after second sentence "The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden."

Subsec. (h)(1)(B)(iii). Pub. L. 103–208, §2(i)(11), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: "the Secretary determines that the institution is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its responsibilities under its program participation agreement."

Subsec. (i)(1). Pub. L. 103–208, §2(i)(12), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "For the purpose of certifying the eligibility of an institution, an eligible institution of higher education that has a change in ownership resulting in a change in control shall not be considered to be the same institution (except as provided in paragraph (3)) and shall be considered a new institution for the purpose of establishing eligibility, except that such institution shall not be required (under section 1088(b)(5) or 1088(c)(3) of this title) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years."

Subsec. (i)(3)(A). Pub. L. 103–208, §2(i)(13), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the death of an owner of an institution, when the owner's interest is sold or transferred to either a family member or a current stockholder of the corporation; or".

Subsec. (j)(1). Pub. L. 103–208, §2(i)(14), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "For the purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, a branch of an eligible institution, as defined pursuant to regulations of the Secretary, is a separate institution of higher education and shall separately meet all the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42, except that such institution shall not be required (under section 1088(b)(5) or 1088(c)(3) of this title) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 102(a)(6)(B), (b)(6), (7) and 493(a), (b), (d)–(h) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §493(c)(2), Oct. 7, 1998, 112 Stat. 1762, provided that: "The amendment made by paragraph (1) [amending this section] shall be effective with respect to any unpaid refunds that were first required to be paid to a lender or to the Secretary on or after 90 days after the date of enactment of this Act [Oct. 7, 1998]."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under

section 1051 of this title.

EFFECTIVE DATE

Subpart effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

[1] *See References in Text note below.*

§1099c–1. Program review and data

(a) General authority

In order to strengthen the administrative capability and financial responsibility provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary—

(1) shall provide for the conduct of program reviews on a systematic basis designed to include all institutions of higher education participating in programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42;

(2) shall give priority for program review to institutions of higher education that are—

(A) institutions with a cohort default rate for loans under part B of this subchapter in excess of 25 percent or which places such institutions in the highest 25 percent of such institutions;

(B) institutions with a default rate in dollar volume for loans under part B of this subchapter which places the institutions in the highest 25 percent of such institutions;

(C) institutions with a significant fluctuation in Federal Stafford Loan volume, Federal Direct Stafford/Ford Loan volume, or Federal Pell Grant award volume, or any combination thereof, in the year for which the determination is made, compared to the year prior to such year, that are not accounted for by changes in the Federal Stafford Loan program, the Federal Direct Stafford/Ford Loan program, or the Pell Grant program, or any combination thereof;

(D) institutions reported to have deficiencies or financial aid problems by the State licensing or authorizing agency, or by the appropriate accrediting agency or association;

(E) institutions with high annual dropout rates; and

(F) such other institutions that the Secretary determines may pose a significant risk of failure to comply with the administrative capability or financial responsibility provisions of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(3) shall establish and operate a central data base of information on institutional accreditation, eligibility, and certification that includes—

(A) all relevant information available to the Department;

(B) all relevant information made available by the Secretary of Veterans Affairs;

(C) all relevant information from accrediting agencies or associations;

(D) all relevant information available from a guaranty agency; and

(E) all relevant information available from States under subpart 1 of this part.

(b) Special administrative rules

In carrying out paragraphs (1) and (2) of subsection (a) of this section and any other relevant provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall—

(1) establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education;

(2) make available to each institution participating in programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 complete copies of all review guidelines and procedures used in program reviews;

(3) permit the institution to correct or cure an administrative, accounting, or recordkeeping error if the error is not part of a pattern of error and there is no evidence of fraud or misconduct related to the error;

(4) base any civil penalty assessed against an institution of higher education resulting from a program review or audit on the gravity of the violation, failure, or misrepresentation;

(5) inform the appropriate State and accrediting agency or association whenever the Secretary takes action against an institution of higher education under this section, section 1099c of this title, or section 1082 of this title;

(6) provide to an institution of higher education an adequate opportunity to review and respond to any program review report and relevant materials related to the report before any final program review report is issued;

(7) review and take into consideration an institution of higher education's response in any final program review report or audit determination, and include in the report or determination—

(A) a written statement addressing the institution of higher education's response;

(B) a written statement of the basis for such report or determination; and

(C) a copy of the institution's response; and

(8) maintain and preserve at all times the confidentiality of any program review report until the requirements of paragraphs (6) and (7) are met, and until a final program review is issued, other than to the extent required to comply with paragraph (5), except that the Secretary shall promptly disclose any and all program review reports to the institution of higher education under review.

(c) Data collection rules

The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a) of this section. The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42.

(d) Training

The Secretary shall provide training to personnel of the Department, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews conducted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) Special rule

The provisions of section 3403(b) of this title shall not apply to Secretarial determinations made regarding the appropriate length of instruction for programs measured in clock hours.

(Pub. L. 89–329, title IV, §498A, as added Pub. L. 102–325, title IV, §499, July 23, 1992, 106 Stat. 652; amended Pub. L. 103–208, §2(i)(15), Dec. 20, 1993, 107 Stat. 2480; Pub. L. 105–244, title IV, §494, Oct. 7, 1998, 112 Stat. 1763; Pub. L. 110–315, title IV, §497, Aug. 14, 2008, 122 Stat. 3328.)

AMENDMENTS

2008—Subsec. (b)(6) to (8). Pub. L. 110–315 added pars. (6) to (8).

1998—Subsec. (a)(2). Pub. L. 105–244, §494(1)(A)(i), substituted "shall" for "may" in introductory provisions.

Subsec. (a)(2)(C). Pub. L. 105–244, §494(1)(A)(ii), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "institutions with a significant fluctuation in Federal Stafford Loan volume or Federal Pell Grant awards, or both, in the year for which the determination is made compared to the year prior to such year;".

Subsec. (a)(2)(D). Pub. L. 105–244, §494(1)(A)(iii), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "institutions reported to have deficiencies or financial aid problems by the appropriate State postsecondary review entity designated under subpart 1 of this part or by the appropriate accrediting agency or association;".

Subsec. (a)(2)(E). Pub. L. 105–244, §494(1)(A)(iv), inserted "and" after the semicolon.

Subsec. (a)(2)(F), (G). Pub. L. 105–244, §494(1)(A)(v), added subpar. (F) and struck out former subpars. (F) and (G) which read as follows:

"(F) any institution which is required to be reviewed by a State postsecondary review entity pursuant to subpart 1 of this part under section 1099a–3(b) of this title; and

"(G) such other institutions as the Secretary deems necessary; and".

Subsec. (a)(3)(A). Pub. L. 105–244, §494(1)(B), inserted "relevant" after "all".

Subsec. (b). Pub. L. 105–244, §494(2), amended heading and text of subsec. (b). Prior to amendment, text read as follows:

"(1) In carrying out paragraphs (1) and (2) of subsection (a) of this section, the Secretary shall establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education.

"(2) The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations."

1993—Subsec. (e). Pub. L. 103–208 struck out comma after "title".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§1099c–2. Review of regulations

(a) Review required

The Secretary shall review each regulation issued under this subchapter and part C of subchapter I of chapter 34 of title 42 that is in effect at the time of the review and applies to the operations or activities of any participant in the programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42. The review shall include a determination of whether the regulation is duplicative, or is no longer necessary. The review may involve one or more of the following:

(1) An assurance of the uniformity of interpretation and application of such regulations.

(2) The establishment of a process for ensuring that eligibility and compliance issues, such as institutional audit, program review, and recertification, are considered simultaneously.

(3) A determination of the extent to which unnecessary costs are imposed on institutions of higher education as a consequence of the applicability to the facilities and equipment of such institutions of regulations prescribed for purposes of regulating industrial and commercial enterprises.

(b) Regulatory and statutory relief for small volume institutions

The Secretary shall review and evaluate ways in which regulations under and provisions of this chapter and part C of subchapter I of chapter 34 of title 42 affecting institution of higher education (other than institutions described in section 1002(a)(1)(C) of this title), that have received in each of the two most recent award years prior to October 7, 1998, less than $200,000 in funds through this subchapter and part C of subchapter I of chapter 34 of title 42, may be improved, streamlined, or eliminated.

(c) Consultation

In carrying out subsections (a) and (b) of this section, the Secretary shall consult with relevant representatives of institutions participating in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, §498B, as added Pub. L. 105–244, title IV, §495, Oct. 7, 1998, 112 Stat. 1764; amended Pub. L. 110–315, title IV, §498, Aug. 14, 2008, 122 Stat. 3328.)

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–315 struck out subsec. (d) which required the Secretary to submit reports to Congress.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L.

105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

PART H—COMPETITIVE LOAN AUCTION PILOT PROGRAM

CODIFICATION

This part was added as part I of title IV of Pub. L. 89–329 by Pub. L. 110–84, title VII, §701, Sept. 27, 2007, 121 Stat. 808. The letter designation of this part was changed from "I" to "H" for codification purposes. See Codification note preceding section 1087a of this title.

§1099d. Competitive loan auction pilot program

(a) Definitions

In this section:

(1) Eligible Federal PLUS Loan

The term "eligible Federal PLUS Loan" means a loan described in section 1078–2 of this title made to a parent of a dependent student who is a new borrower on or after July 1, 2009.

(2) Eligible lender

The term "eligible lender" has the meaning given the term in section 1085 of this title.

(b) Pilot program

The Secretary shall carry out a pilot program under which the Secretary establishes a mechanism for an auction of eligible Federal PLUS Loans in accordance with this subsection. The pilot program shall meet the following requirements:

(1) Planning and implementation

During the period beginning on September 27, 2007, and ending on June 30, 2009, the Secretary shall plan and implement the pilot program under this subsection. During the planning and implementation, the Secretary shall consult with other Federal agencies with knowledge of, and experience with, auction programs, including the Federal Communication Commission and the Department of the Treasury.

(2) Origination and disbursement; applicability of section 1078–2

Beginning on July 1, 2009, the Secretary shall arrange for the origination and disbursement of all eligible Federal PLUS Loans in accordance with the provisions of this subsection and the provisions of section 1078–2 of this title that are not inconsistent with this subsection.

(3) Loan origination mechanism

The Secretary shall establish a loan origination auction mechanism that meets the following requirements:

(A) Auction for each State

The Secretary administers an auction under this paragraph for each State, under which eligible lenders compete to originate eligible Federal PLUS Loans under this paragraph at all institutions of higher education within such State.

(B) Prequalification process

The Secretary establishes a prequalification process for eligible lenders desiring to participate in an auction under this paragraph that contains, at a minimum—

(i) a set of borrower benefits and servicing requirements each eligible lender shall meet in order to participate in such an auction;

(ii) an assessment of each such eligible lender's capacity, including capital capacity, to participate effectively; and

(iii) a commitment from such eligible lender that, if the lender has a winning bid under subparagraph (F), the lender will enter into the agreement required under subparagraph (G).

(C) Timing and origination

Each State auction takes place every 2 years, and the eligible lenders with the winning bids for the State are the only eligible lenders permitted to originate eligible Federal PLUS Loans made under this paragraph for the cohort of students at the institutions of higher education within the State until the students graduate from or leave the institutions of higher education.

(D) Bids

Each eligible lender's bid consists of the amount of the special allowance payment (after the application of section 1087–1(b)(2)(I)(v) of this title) the eligible lender proposes to accept from the Secretary with respect to the eligible Federal PLUS Loans made under this paragraph in lieu of the amount determined under section 1087–1(b)(2)(I) of this title.

(E) Maximum bid

The maximum bid allowable under this paragraph shall not exceed the amount of the special allowance payable on eligible Federal PLUS Loans made under this paragraph computed under section 1087–1(b)(2)(I) of this title (other than clauses (ii), (iii), (iv), and (vi) of such section), except that for purposes of the computation under this subparagraph, section 1087–1(b)(2)(I)(i)(III) of this title shall be applied by substituting "1.79 percent" for "2.34 percent".

(F) Winning bids

The winning bids for each State auction shall be the 2 bids containing the lowest and the second lowest proposed special allowance payments, subject to subparagraph (E).

(G) Agreement with Secretary; compliance

(i) Agreement

Each eligible lender having a winning bid under subparagraph (F) shall enter into an agreement with the Secretary under which the eligible lender—

(I) agrees to originate eligible Federal PLUS Loans under this paragraph to each borrower who—

(aa) seeks an eligible Federal PLUS Loan under this paragraph to enable a dependent student to attend an institution of higher education within the State;

(bb) is eligible for an eligible Federal PLUS Loan; and

(cc) elects to borrow from the eligible lender; and

(II) agrees to accept a special allowance payment (after the application of section 1087–1(b)(2)(I)(v) of this title) from the Secretary with respect to the eligible Federal PLUS Loans originated under subclause (I) in the amount proposed in the second lowest winning bid described in subparagraph (F) for the applicable State auction.

(ii) Compliance

If an eligible lender with a winning bid under subparagraph (F) fails to enter into the agreement required under clause (i), or fails to comply with the terms of such agreement, the Secretary may sanction such eligible lender through one or more of the following:

(I) The assessment of a penalty on such eligible lender for any eligible Federal PLUS Loans that such eligible lender fails to originate under this paragraph in accordance with the agreement required under clause (i), in the amount of the additional costs (including the amounts of any increase in special allowance payments) incurred by the Secretary in obtaining another eligible lender to originate such eligible Federal PLUS Loans. The Secretary shall collect such penalty by—

(aa) reducing the amount of any payments otherwise due to such eligible lender from the Secretary by the amount of the penalty; or

(bb) requesting any other Federal agency to reduce the amount of any payments due to such eligible lender from such agency by the amount of the penalty, in accordance with section 3716 of title 31.

(II) A prohibition of bidding by such lender in other auctions under this section.

(III) The limitation, suspension, or termination of such eligible lender's participation in the loan program under part B.

(IV) Any other enforcement action the Secretary is authorized to take under part B.

(H) Sealed bids; confidentiality

All bids are sealed and the Secretary keeps the bids confidential, including following the announcement of the winning bids.

(I) Eligible lender of last resort

(i) In general

In the event that there is no winning bid under subparagraph (F), the students at the institutions of higher education within the State that was the subject of the auction shall be served by an eligible lender of last resort, as determined by the Secretary.

(ii) Determination of eligible lender of last resort

Prior to the start of any auction under this paragraph, eligible lenders that desire to serve as an eligible lender of last resort shall submit an application to the Secretary at such time and in such manner as the Secretary may determine. Such application shall include an assurance that the eligible lender will meet the prequalification requirements described in subparagraph (B).

(iii) Geographic location

The Secretary shall identify an eligible lender of last resort for each State.

(iv) Notification timing

The Secretary shall not identify any eligible lender of last resort until after the announcement of all the winning bids for a State auction for any year.

(v) Maximum special allowance

The Secretary is authorized to set a special allowance payment that shall be payable to a lender of last resort for a State under this subparagraph, which special allowance payment shall be kept confidential, including following the announcement of winning bids. The Secretary shall set such special allowance payment so that it incurs the lowest possible cost to the Federal Government, taking into consideration the lowest bid that was submitted in an auction for such State and the lowest bid submitted in a similar State, as determined by the Secretary.

(J) Guarantee against losses

Each eligible Federal PLUS Loan originated under this paragraph shall be insured by a guaranty agency in accordance with part B, except that, notwithstanding section 1078(b)(1)(G) of this title, such insurance shall be in an amount equal to 99 percent of the unpaid principal and interest due on the loan.

(K) Loan fees

The Secretary shall not collect a loan fee under section 1087–1(d) of this title with respect to an eligible Federal Plus Loan originated under this paragraph.

(L) Consolidation

(i) In general

An eligible lender who is permitted to originate eligible Federal PLUS Loans for a borrower under this paragraph shall have the option to consolidate such loans into 1 loan.

(ii) Notification

In the event a borrower with eligible Federal PLUS Loans made under this paragraph wishes to consolidate the loans, the borrower shall notify the eligible lender who originated the loans under this paragraph.

(iii) Limitation on eligible lender option to consolidate

The option described in clause (i) shall not apply if—

(I) the borrower includes in the notification in clause (ii) verification of consolidation terms and conditions offered by an eligible lender other than the eligible lender described in clause (i); and

(II) not later than 10 days after receiving such notification from the borrower, the eligible lender described in clause (i) does not agree to match such terms and conditions, or provide more favorable terms and conditions to such borrower than the offered terms and conditions described in subclause (I).

(iv) Consolidation of additional loans

If a borrower has a Federal Direct PLUS Loan or a loan made on behalf of a dependent student under section 1078–2 of this title and seeks to consolidate such loan with an eligible Federal PLUS Loan made under this paragraph, then the eligible lender that originated the borrower's loan under this paragraph may include in the consolidation under this subparagraph a Federal Direct PLUS Loan or a loan made on behalf of a dependent student under section 1078–2 of this title, but only if—

(I) in the case of a Federal Direct PLUS Loan, the eligible lender agrees, not later than 10 days after the borrower requests such consolidation from the lender, to match the consolidation terms and conditions that would otherwise be available to the borrower if the borrower consolidated such loans in the loan program under part C; or

(II) in the case of a loan made on behalf of a dependent student under section 1078–2 of this title, the eligible lender agrees, not later than 10 days after the borrower requests such consolidation from the lender, to match the consolidation terms and conditions offered by an eligible lender other than the eligible lender that originated the borrower's loans under this paragraph.

(v) Special allowance on consolidation loans that include loans made under this paragraph

The applicable special allowance payment for loans consolidated under this paragraph shall be equal to the lesser of—

(I) the weighted average of the special allowance payment on such loans, except that in calculating such weighted average the Secretary shall exclude any Federal Direct PLUS Loan included in the consolidation; or

(II) the result of—

(aa) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period; plus

(bb) 1.59 percent.

(vi) Interest payment rebate fee

Any loan under section 1078–3 of this title consolidated under this paragraph shall not be subject to the interest payment rebate fee under section 1078–3(f) of this title.

(c) Required initial evaluation

The Secretary and Secretary of the Treasury shall jointly conduct an evaluation, in consultation with the Office of Management and Budget, the Congressional Budget Office, and the Comptroller General, of the pilot program carried out by the Secretary under this section. The evaluation shall determine—

(1) the extent of the savings to the Federal Government that are generated through the pilot program, compared to the cost the Federal Government would have incurred in operating the

PLUS loan program under section 1078–2 of this title in the absence of the pilot program;

(2) the number of lenders that participated in the pilot program, and the extent to which the pilot program generated competition among lenders to participate in the auctions under the pilot program;

(3) the number and volume of loans made under the pilot program in each State;

(4) the effect of the transition to and operation of the pilot program on the ability of—

(A) lenders participating in the pilot program to originate loans made through the pilot program smoothly and efficiently;

(B) institutions of higher education participating in the pilot program to disburse loans made through the pilot program smoothly and efficiently; and

(C) parents to obtain loans made through the pilot program in a timely and efficient manner;

(5) the differential impact, if any, of the auction among the States, including between rural and non-rural States; and

(6) the feasibility of using the mechanism piloted to operate the other loan programs under part B of this subchapter.

(d) Reports

(1) In general

The Secretary and the Secretary of the Treasury shall submit to the authorizing committees—

(A) not later than September 1, 2010, a preliminary report regarding the findings of the evaluation described in subsection (c);

(B) not later than September 1, 2012, an interim report regarding such findings; and

(C) not later than September 1, 2013, a final report regarding such findings.

(2) Contents

The Secretary shall include, in each report required under subparagraphs (A), (B), and (C) of paragraph (1), any recommendations, that are based on the findings of the evaluation under subsection (c), for—

(A) improving the operation and administration of the auction; and

(B) improving the operation and administration of other loan programs under part B.

(Pub. L. 89–329, title IV, §499, as added Pub. L. 110–84, title VII, §701, Sept. 27, 2007, 121 Stat. 808; amended Pub. L. 110–315, title IV, §499, Aug. 14, 2008, 122 Stat. 3328.)

AMENDMENTS

2008—Subsec. (b)(3)(B)(iii). Pub. L. 110–315, §499(1)(A), added cl. (iii).

Subsec. (b)(3)(G). Pub. L. 110–315, §499(1)(B), added subpar. (G) and struck out former subpar. (G). Text of former subpar. (G) read as follows: "Each eligible lender having a winning bid under subparagraph (F) enters into an agreement with the Secretary under which the eligible lender—

"(i) agrees to originate eligible Federal PLUS Loans under this paragraph to each borrower who—

"(I) seeks an eligible Federal PLUS Loan under this paragraph to enable a dependent student to attend an institution of higher education within the State;

"(II) is eligible for an eligible Federal PLUS Loan; and

"(III) elects to borrow from the eligible lender; and

"(ii) agrees to accept a special allowance payment (after the application of section 1087–1(b)(2)(I)(v) of this title) from the Secretary with respect to the eligible Federal PLUS Loans originated under clause (i) in the amount proposed in the second lowest winning bid described in subparagraph (F) for the applicable State auction."

Subsec. (b)(3)(J). Pub. L. 110–315, §499(1)(C), added subpar. (J) and struck out former subpar. (J). Text of former subpar. (J) read as follows: "The Secretary guarantees the eligible Federal PLUS Loans made under this paragraph against losses resulting from the default of a parent borrower in an amount equal to 99 percent of the unpaid principal and interest due on the loan."

Subsecs. (c), (d). Pub. L. 110–315, §499(2), added subsecs. (c) and (d).

EFFECTIVE DATE

Section effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as an Effective Date of 2007

Amendment note under section 1070a of this title.

PART I—TRANSFERRED

CODIFICATION

Part J of title IV of Pub. L. 89–329, comprising this part, was redesignated part F of title III of Pub. L. 89–329 by Pub. L. 110–315, title III, §316(a)(2), Aug. 14, 2008, 122 Stat. 3185, and transferred to part F (§1067q) of subchapter III of this chapter.

§1099e. Transferred

CODIFICATION

Section, Pub. L. 89–329, title IV, §499A, as added Pub. L. 110–84, title VIII, §802, Sept. 27, 2007, 121 Stat. 817, which related to investment in historically Black colleges and universities and other minority-serving institutions, was transferred to section 1067q of this title.

SUBCHAPTER V—DEVELOPING INSTITUTIONS

CODIFICATION

Title V of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1254; amended Pub. L. 90–35, June 29, 1967, 81 Stat. 81; Pub. L. 90–83, Sept. 11, 1967, 81 Stat. 195; Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 98–558, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 101–226, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. Title V is shown herein, however, as having been added by Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1765, without reference to those intervening amendments because of the extensive revision of title V by Pub. L. 105–244.

PART A—HISPANIC-SERVING INSTITUTIONS

PRIOR PROVISIONS

A prior part A consisted of sections 1102 to 1102j and related to State and local programs for teacher excellence prior to the general amendment of this subchapter by Pub. L. 105–244.

§1101. Findings; purpose; and program authority

(a) Findings

Congress makes the following findings:

(1) Hispanic Americans are at high risk of not enrolling or graduating from institutions of higher education.

(2) Disparities between the enrollment of non-Hispanic white students and Hispanic students in postsecondary education are increasing. Between 1973 and 1994, enrollment of white secondary

school graduates in 4-year institutions of higher education increased at a rate two times higher than that of Hispanic secondary school graduates.

(3) Despite significant limitations in resources, Hispanic-serving institutions provide a significant proportion of postsecondary opportunities for Hispanic students.

(4) Relative to other institutions of higher education, Hispanic-serving institutions are underfunded. Such institutions receive significantly less in State and local funding, per full-time equivalent student, than other institutions of higher education.

(5) Hispanic-serving institutions are succeeding in educating Hispanic students despite significant resource problems that—

(A) limit the ability of such institutions to expand and improve the academic programs of such institutions; and

(B) could imperil the financial and administrative stability of such institutions.

(6) There is a national interest in remedying the disparities described in paragraphs (2) and (4) and ensuring that Hispanic students have an equal opportunity to pursue postsecondary opportunities.

(b) Purpose

The purpose of this subchapter is to—

(1) expand educational opportunities for, and improve the academic attainment of, Hispanic students; and

(2) expand and enhance the academic offerings, program quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

(c) Program authority

The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic students and other low-income individuals.

(Pub. L. 89–329, title V, §501, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1765.)

PRIOR PROVISIONS

A prior section 1101, Pub. L. 89–329, title V, §500, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 653, set forth findings of Congress and purpose of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1101, Pub. L. 89–329, title V, §501, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1495, related to statement of purpose and applicability of this subchapter, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1101, Pub. L. 89–329, title V, §511, Nov. 8, 1965, 79 Stat. 1255; Pub. L. 90–35, §3(a)(3), (b), June 29, 1967, 81 Stat. 85; Pub. L. 90–575, title II, §231 (a), (b)(1), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 91–230, title VIII, §§804(b), 805(a), Apr. 13, 1970, 84 Stat. 190, 191; Pub. L. 92–318, title I, §141(a)(1)(A), (c)(1)(C), June 23, 1972, 86 Stat. 284, 285; Pub. L. 93–380, title VIII, §835(a)(1), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §§151(a)(5)(A), 152(a), Oct. 12, 1976, 90 Stat. 2152; Pub. L. 96–49, §6(a), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title V, §501(a), Oct. 3, 1980, 94 Stat. 1459, set forth statement of purpose and authorization of appropriations for Teacher Corps program, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

A prior section 501 of Pub. L. 89–329 was classified to section 1102 of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 501 of Pub. L. 89–329 was classified to section 1091 of this title prior to repeal by Pub. L. 94–482.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

NATIONAL JOB BANK FOR TEACHER RECRUITMENT

Pub. L. 102–325, title XIV, §1412, July 23, 1992, 106 Stat. 822, authorized Secretary of Education to conduct study on feasibility of establishing national and regional clearinghouses to operate national and regional teacher job banks and to contract one or more entities to establish a national or regional teacher job bank clearinghouse, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

TRAINING AND TECHNICAL ASSISTANCE FOR SCHOOL-BASED DECISIONMAKERS DEMONSTRATION PROGRAM

Pub. L. 102–325, title XV, §1531, July 23, 1992, 106 Stat. 834, authorized Secretary of Education to make grants to local education agencies, in consortia with one or more institutions of higher education, to establish programs to provide training and technical assistance to school-based decisionmakers in local education agencies implementing system-wide reform, prior to repeal by Pub. L. 105–332, §6(b)(3), Oct. 31, 1998, 112 Stat. 3128.

§1101a. Definitions; eligibility

(a) Definitions

For the purpose of this subchapter:

(1) Educational and general expenditures

The term "educational and general expenditures" means the total amount expended by an institution for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers that the institution is required to pay by law.

(2) Eligible institution

The term "eligible institution" means—

(A) an institution of higher education—

(i) that has an enrollment of needy students as required by subsection (b) of this section;

(ii) except as provided in section 1103a(b) of this title, the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(iii) that is—

(I) legally authorized to provide, and provides within the State, an educational program for which the institution awards a bachelor's degree; or

(II) a junior or community college;

(iv) that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or that is, according to such an agency or association, making reasonable progress toward accreditation;

(v) that meets such other requirements as the Secretary may prescribe; and

(vi) that is located in a State; and

(B) any branch of any institution of higher education described under subparagraph (A) that by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

(3) Endowment fund

The term "endowment fund" means a fund that—

(A) is established by State law, by a Hispanic-serving institution, or by a foundation that is exempt from Federal income taxation;

(B) is maintained for the purpose of generating income for the support of the institution; and

(C) does not include real estate.

(4) Full-time equivalent students

The term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(5) Hispanic-serving institution

The term "Hispanic-serving institution" means an institution of higher education that—

(A) is an eligible institution; and

(B) has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students at the end of the award year immediately preceding the date of application.

(6) Junior or community college

The term "junior or community college" means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which the institution awards a bachelor's degree (or an equivalent degree); and

(C) that—

(i) provides an educational program of not less than 2 years in duration that is acceptable for full credit toward such a degree; or

(ii) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(b) Enrollment of needy students

For the purpose of this subchapter, the term "enrollment of needy students" means an enrollment at an institution with respect to which—

(1) at least 50 percent of the degree students so enrolled are receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the second fiscal year preceding the fiscal year for which the determination is made (other than loans for which an interest subsidy is paid pursuant to section 1078 of this title); or

(2) a substantial percentage of the students so enrolled are receiving Federal Pell Grants in the second fiscal year preceding the fiscal year for which the determination is made, compared to the percentage of students receiving Federal Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this paragraph is waived under section 1103a(a) of this title.

(Pub. L. 89–329, title V, §502, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1766; amended Pub. L. 108–375, div. A, title X, §1087, Oct. 28, 2004, 118 Stat. 2066; Pub. L. 109–292, §4(a), Sept. 30, 2006, 120 Stat. 1341; Pub. L. 110–315, title V, §502(b)(1), Aug. 14, 2008, 122 Stat. 3333; Pub. L. 111–39, title V, §501, July 1, 2009, 123 Stat. 1953.)

PRIOR PROVISIONS

A prior section 1101a, Pub. L. 89–329, title V, §502, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1496, authorized appropriations for this subchapter, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 502 of Pub. L. 89–329 was classified to section 1102a of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 502 of Pub. L. 89–329 was classified to section 1091a of this title, prior to repeal by Pub. L. 94–482.

AMENDMENTS

2009—Subsec. (b)(2). Pub. L. 111–39 substituted "for which the determination is made, compared to" for "for which determination is made, compared to".

2008—Subsecs. (a)(2)(A)(ii), (b)(2). Pub. L. 110–315 made technical amendment to reference in original act which appears in text as reference to section 1103a of this title.

2006—Subsec. (a)(5). Pub. L. 109–292, §4(a)(1), inserted "and" at end of subpar. (A), in subpar. (B), struck out "at the time of application," before "has an enrollment", substituted "at the end of the award year immediately preceding the date of application." for "; and", and struck out subpar. (C) which read as follows: "provides assurances that not less than 50 percent of the institution's Hispanic students are low-income individuals, which assurances—

"(i) may employ statistical extrapolation using appropriate data from the Bureau of the Census or other appropriate Federal or State sources; and

"(ii) the Secretary shall consider as meeting the requirements of this subparagraph, unless the Secretary determines, based on a preponderance of the evidence, that the assurances do not meet the requirements."

Subsec. (a)(7). Pub. L. 109–292, §4(a)(2), struck out par. (7) which defined "low-income individual".

2004—Subsec. (a)(5)(C). Pub. L. 108–375 inserted ", which assurances—" and cls. (i) and (ii) before period at end.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1101b. Authorized activities

(a) Types of activities authorized

Grants awarded under this subchapter shall be used by Hispanic-serving institutions of higher education to assist the institutions to plan, develop, undertake, and carry out programs to improve and expand the institutions' capacity to serve Hispanic students and other low-income students.

(b) Authorized activities

Grants awarded under this section shall be used for one or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities.

(3) Support of faculty exchanges, faculty development, curriculum development, academic instruction, and faculty fellowships to assist in attaining advanced degrees in the fellow's field of instruction.

(4) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

(5) Tutoring, counseling, and student service programs designed to improve academic success, including innovative and customized instruction courses (which may include remedial education and English language instruction) designed to help retain students and move the students rapidly into core courses and through program completion.

(6) Articulation agreements and student support programs designed to facilitate the transfer from two-year to four-year institutions.

(7) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or improving an endowment fund.

(11) Creating or improving facilities for Internet or other distance education technologies, including purchase or rental of telecommunications technology equipment or services.

(12) Establishing or enhancing a program of teacher education designed to qualify students to teach in public elementary schools and secondary schools.

(13) Establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

(14) Expanding the number of Hispanic and other underrepresented graduate and professional students that can be served by the institution by expanding courses and institutional resources.

(15) Providing education, counseling services, or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(16) Other activities proposed in the application submitted pursuant to section 1101c of this title that—

(A) contribute to carrying out the purposes of this subchapter; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(c) Endowment fund limitations

(1) Portion of grant

A Hispanic-serving institution may not use more than 20 percent of the grant funds provided under this subchapter for any fiscal year for establishing or improving an endowment fund.

(2) Matching required

A Hispanic-serving institution that uses any portion of the grant funds provided under this subchapter for any fiscal year for establishing or improving an endowment fund shall provide from non-Federal funds an amount equal to or greater than the portion.

(3) Comparability

The provisions of part C of subchapter III of this chapter regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(Pub. L. 89–329, title V, §503, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1768; amended Pub. L. 110–315, title V, §501, Aug. 14, 2008, 122 Stat. 3331.)

PRIOR PROVISIONS

A prior section 503 of Pub. L. 89–329 was classified to section 1102b of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 503 of Pub. L. 89–329 was classified to section 1091b of this title prior to repeal by Pub. L. 94–482.

AMENDMENTS

2008—Subsec. (b)(5). Pub. L. 110–315, §501(2), inserted ", including innovative and customized instruction courses (which may include remedial education and English language instruction) designed to help retain students and move the students rapidly into core courses and through program completion" before period at end.

Subsec. (b)(6) to (16). Pub. L. 110–315, §501(1), (3)–(5), added pars. (6) and (15), redesignated former pars. (6), (7), (8), (9), (10), (11), (12), (13), and (14) as pars. (7), (8), (9), (10), (11), (12), (13), (14), and (16), respectively, and in par. (11), substituted "distance education technologies" for "distance learning academic instruction capabilities".

§1101c. Duration of grant

(a) Award period

The Secretary may award a grant to a Hispanic-serving institution under this subchapter for 5 years.

(b) Planning grants

Notwithstanding subsection (a) of this section, the Secretary may award a grant to a Hispanic-serving institution under this subchapter for a period of 1 year for the purpose of preparation of plans and applications for a grant under this subchapter.

(Pub. L. 89–329, title V, §504, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1769; amended Pub. L. 109–292, §4(b), Sept. 30, 2006, 120 Stat. 1341.)

PRIOR PROVISIONS

A prior section 504 of Pub. L. 89–329 was classified to section 1102c of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 504 of Pub. L. 89–329 was classified to section 1091c of this title prior to repeal by Pub. L. 94–482.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–292 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

"(1) IN GENERAL.—The Secretary may award a grant to a Hispanic-serving institution under this subchapter for 5 years.

"(2) WAITOUT PERIOD.—A Hispanic-serving institution shall not be eligible to secure a subsequent 5-year grant award under this subchapter until 2 years have elapsed since the expiration of the institution's most recent 5-year grant award under this subchapter, except that for the purpose of this subsection a grant under section 1103c(a) of this title shall not be considered a grant under this subchapter."

§1101d. Special rule

No Hispanic-serving institution that is eligible for and receives funds under this subchapter may receive funds under part A or B of subchapter III of this chapter during the period for which funds under this subchapter are awarded.

(Pub. L. 89–329, title V, §505, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1770.)

PRIOR PROVISIONS

A prior section 505 of Pub. L. 89–329 was classified to section 1102d of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 505 of Pub. L. 89–329 was classified to section 1091d of this title prior to repeal by Pub. L. 94–482.

PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS

PRIOR PROVISIONS

A prior part B consisting of sections 1103 to 1103g was redesignated part C by Pub. L. 110–315, title V, §502(a)(1), Aug. 14, 2008, 122 Stat. 3331.

Another prior part B consisted of sections 1103 to 1103g and related to National Teacher Academies prior to the general amendment of this subchapter by Pub. L. 105–244.

§1102. Purposes

The purposes of this part are—

(1) to expand postbaccalaureate educational opportunities for, and improve the academic

attainment of, Hispanic students; and

(2) to expand the postbaccalaureate academic offerings and enhance the program quality in the institutions of higher education that are educating the majority of Hispanic college students and helping large numbers of Hispanic and low-income students complete postsecondary degrees.

(Pub. L. 89–329, title V, §511, as added Pub. L. 110–315, title V, §502(a)(3), Aug. 14, 2008, 122 Stat. 3331.)

PRIOR PROVISIONS

A prior section 1102, Pub. L. 89–329, title V, §501, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 655, related to authority and allocation of funds and defined terms, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1102, Pub. L. 89–329, title V, §512, Nov. 8, 1965, 79 Stat. 1255; Pub. L. 90–35, §3(a)(3), (4), June 29, 1967, 81 Stat. 85; Pub. L. 92–318, title I, §142, June 23, 1972, 86 Stat. 286; Pub. L. 94–482, title I, §151(a)(5)(B), Oct. 12, 1976, 90 Stat. 2152; Pub. L. 96–88, title III, §301(b)(2), title V, §508(l)(3), Oct. 17, 1979, 93 Stat. 677, 694; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to establishment and administration of program, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

A prior section 511 of Pub. L. 89–329 was renumbered section 521, and is classified to section 1103 of this title.

Another prior section 511 of Pub. L. 89–329 was classified to section 1103 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 511 of Pub. L. 89–329 was classified to section 1103 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 511 of Pub. L. 89–329 was classified to section 1101 of this title, prior to repeal by Pub. L. 97–35.

§1102a. Program authority and eligibility

(a) Program authorized

Subject to the availability of funds appropriated to carry out this part, the Secretary shall award grants, on a competitive basis, to eligible institutions to enable the eligible institutions to carry out the authorized activities described in section 1102b of this title.

(b) Eligibility

For the purposes of this part, an "eligible institution" means an institution of higher education that—

(1) is a Hispanic-serving institution (as defined in section 1101a of this title); and

(2) offers a postbaccalaureate certificate or postbaccalaureate degree granting program.

(Pub. L. 89–329, title V, §512, as added Pub. L. 110–315, title V, §502(a)(3), Aug. 14, 2008, 122 Stat. 3332.)

PRIOR PROVISIONS

A prior section 1102a, Pub. L. 89–329, title V, §502, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 656, related to State applications for allotments, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 512 of Pub. L. 89–329 was renumbered section 522, and is classified to section 1103a of this title.

Another prior section 512 of Pub. L. 89–329 was classified to section 1103a of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 512 of Pub. L. 89–329 was classified to section 1103a of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 512 of Pub. L. 89–329 was classified to section 1102 of this title, prior to repeal by Pub. L. 97–35.

§1102b. Authorized activities

Grants awarded under this part shall be used for one or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement of classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

(4) Support for low-income postbaccalaureate students including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance to permit the enrollment of such students in postbaccalaureate certificate and postbaccalaureate degree granting programs.

(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

(6) Creating or improving facilities for Internet or other distance education technologies, including purchase or rental of telecommunications technology equipment or services.

(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and postbaccalaureate degree offerings.

(8) Other activities proposed in the application submitted pursuant to section 1102c of this title that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(Pub. L. 89–329, title V, §513, as added Pub. L. 110–315, title V, §502(a)(3), Aug. 14, 2008, 122 Stat. 3332.)

PRIOR PROVISIONS

A prior section 1102b, Pub. L. 89–329, title V, §503, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 658, related to local applications and use of funds, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 513 of Pub. L. 89–329 was renumbered section 523, and is classified to section 1103b of this title.

Another prior section 513 of Pub. L. 89–329 was classified to section 1103b of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 513 of Pub. L. 89–329 was classified to section 1103b of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 513 of Pub. L. 89–329 was classified to section 1103 of this title, prior to repeal by Pub. L. 97–35.

§1102c. Application and duration

(a) Application

Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as the Secretary may require. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students.

(b) Duration

Grants under this part shall be awarded for a period not to exceed five years.

(c) Limitation

The Secretary may not award more than one grant under this part in any fiscal year to any Hispanic-serving institution.

(Pub. L. 89–329, title V, §514, as added Pub. L. 110–315, title V, §502(a)(3), Aug. 14, 2008, 122 Stat. 3332.)

PRIOR PROVISIONS

A prior section 1102c, Pub. L. 89–329, title V, §504, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 661, related to State uses of funds, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 514 of Pub. L. 89–329 was renumbered section 524, and is classified to section 1103c of this title.

Another prior section 514 of Pub. L. 89–329 was classified to section 1103c of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 514 of Pub. L. 89–329 was classified to section 1103c of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 514 of Pub. L. 89–329 was classified to section 1104 of this title, prior to repeal by Pub. L. 97–35.

Prior sections 1102d to 1102j were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1102d, Pub. L. 89–329, title V, §505, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 663; amended Pub. L. 103–208, §2(j)(1), Dec. 20, 1993, 107 Stat. 2480, related to State Academies for teachers.

Section 1102e, Pub. L. 89–329, title V, §506, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 666, related to State Academies for school leaders.

Section 1102f, Pub. L. 89–329, title V, §507, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 669, related to uses of funds by institutions of higher education.

Section 1102g, Pub. L. 89–329, title V, §508, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 670, related to professional development academies.

Section 1102h, Pub. L. 89–329, title V, §509, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 673, required that Federal funds supplement, not supplant, regular non-Federal funds.

Section 1102i, Pub. L. 89–329, title V, §510, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 673, related to coordination with other programs.

Section 1102j, Pub. L. 89–329, title V, §510A, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 674, authorized appropriations for State and local programs for teacher excellence.

PART C—GENERAL PROVISIONS

CODIFICATION

Pub. L. 110–315, title V, §502(a)(1), Aug. 14, 2008, 122 Stat. 3331, redesignated part B of this subchapter as part C of this subchapter.

PRIOR PROVISIONS

A prior part C consisted of sections 1104 to 1104k and related to teacher scholarships and fellowships prior to the general amendment of this subchapter by Pub. L. 105–244.

§1103. Eligibility; applications

(a) Institutional eligibility

Each Hispanic-serving institution desiring to receive assistance under this subchapter shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Hispanic-serving institution as defined in section 1101a of this title, along with such other data and information as the Secretary may by regulation require.

(b) Applications

(1) Applications required

Any institution which is eligible for assistance under this subchapter shall submit to the

Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for a grant under this subchapter only if the Secretary determines that—

(A) the application meets the requirements of subsection (c) of this section; and

(B) the institution is eligible for assistance in accordance with the provisions of this subchapter under which the assistance is sought.

(2) Preliminary applications

In carrying out paragraph (1), the Secretary may develop a preliminary application for use by Hispanic-serving institutions applying under this subchapter prior to the submission of the principal application.

(c) Contents

A Hispanic-serving institution, in the institution's application for a grant, shall—

(1) set forth, or describe how the institution will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this subchapter);

(2) include a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic students and other low-income individuals;

(3) set forth policies and procedures to ensure that Federal funds made available under this subchapter for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 1101(b) of this title, and in no case supplant those funds;

(4) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this subchapter;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the institution under this subchapter;

(6) provide that the institution will comply with the limitations set forth in section 1103e of this title;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project that consists of several components (as described by the institution pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this subchapter in conjunction with other parts of the development project (as specified by the institution);

(C) an evaluation by the institution of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the institution under this subchapter, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the institution pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the institution; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (D);

(8) provide for making reports, in such form and containing such information, as the Secretary may require to carry out the Secretary's functions under this subchapter, including not less than

one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded and for keeping such records and affording such access to such records, as the Secretary may find necessary to assure the correctness and verification of such reports; and

(9) include such other information as the Secretary may prescribe.

(d) Priority

With respect to applications for assistance under this section, the Secretary shall give priority to an application that contains satisfactory evidence that the Hispanic-serving institution has entered into or will enter into a collaborative arrangement with at least one local educational agency or community-based organization to provide such agency or organization with assistance (from funds other than funds provided under this subchapter) in reducing dropout rates for Hispanic students, improving rates of academic achievement for Hispanic students, and increasing the rates at which Hispanic secondary school graduates enroll in higher education.

(e) Eligibility data

The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in making eligibility determinations and shall advance the base-year for the determinations forward following each annual grant cycle.

(Pub. L. 89–329, title V, §521, formerly §511, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1770; renumbered §521 and amended Pub. L. 110–315, title V, §§502(a)(2), (b)(2), 503, Aug. 14, 2008, 122 Stat. 3331, 3333.)

PRIOR PROVISIONS

A prior section 1103, Pub. L. 89–329, title V, §511, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 674, established program of grants for National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103, Pub. L. 89–329, title V, §511, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1496, set forth statement of purpose for former part A of this subchapter relating to midcareer teacher training for nontraditional students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1103, Pub. L. 89–329, title V, §513, Nov. 8, 1965, 79 Stat. 1256; Pub. L. 90–35, §3(a)(3), (c)–(f), June 29, 1967, 81 Stat. 85, 86; Pub. L. 91–230, title VIII, §§803, 804(c), (d), 805(b), Apr. 13, 1970, 84 Stat. 190, 191; Pub. L. 93–380, title VIII, §835(a)(2), (3), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §§151(a)(5)(C), 152(b)–(d), Oct. 12, 1976, 90 Stat. 2152, 2153; Pub. L. 96–374, title V, §502(a)–(d), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1459, 1503, related to recruitment, enrollment, training, etc., of members for program, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480.

A prior section 521 of Pub. L. 89–329 was classified to section 1104 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 521 of Pub. L. 89–329 was classified to section 1105 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 521 of Pub. L. 89–329 was classified to section 1111 of this title, prior to repeal by Pub. L. 94–482.

AMENDMENTS

2008—Subsec. (b)(1)(A). Pub. L. 110–315, §503, substituted "subsection (c)" for "subsection (b)".

Subsec. (c)(6). Pub. L. 110–315, §502(b)(2), made technical amendment to reference in original act which appears in text as reference to section 1103e of this title.

§1103a. Waiver authority and reporting requirement

(a) Waiver requirements; need-based assistance students

The Secretary may waive the requirements set forth in section 1101a(a)(2)(A)(i) of this title in the

case of an institution—

(1) that is extensively subsidized by the State in which the institution is located and charges low or no tuition;

(2) that serves a substantial number of low-income students as a percentage of the institution's total student population;

(3) that is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions; or

(5) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Hispanic Americans.

(b) Waiver determinations; expenditures

(1) Waiver determinations

The Secretary may waive the requirements set forth in section 1101a(a)(2)(A)(ii) of this title if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet the requirements is due to factors which, when used in the determination of compliance with the requirements, distort such determination, and that the institution's designation as an eligible institution under part A of this subchapter is otherwise consistent with the purposes of this subchapter.

(2) Expenditures

The Secretary shall submit to Congress every other year a report concerning the institutions that, although not satisfying the requirements of section 1101a(a)(2)(A)(ii) of this title, have been determined to be eligible institutions under part A of this subchapter. Such report shall—

(A) identify the factors referred to in paragraph (1) that were considered by the Secretary as factors that distorted the determination of compliance with clauses (i) and (ii) of section 1101a(a)(2)(A) of this title; and

(B) contain a list of each institution determined to be an eligible institution under part A of this subchapter including a statement of the reasons for each such determination.

(Pub. L. 89–329, title V, §522, formerly §512, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1772; renumbered §522, Pub. L. 110–315, title V, §502(a)(2), Aug. 14, 2008, 122 Stat. 3331.)

PRIOR PROVISIONS

A prior section 1103a, Pub. L. 89–329, title V, §512, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 674, related to eligible recipients, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103a, Pub. L. 89–329, title V, §512, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1496, related to selection procedures for grants to institutions offering midcareer teacher training for nontraditional students, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 522 of Pub. L. 89–329 was classified to section 1104a of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 522 of Pub. L. 89–329 was classified to section 1105a of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 522 of Pub. L. 89–329 was classified to section 1112 of this title, prior to repeal by Pub. L. 94–482.

§1103b. Application review process

(a) Review panel

All applications submitted under this subchapter by Hispanic-serving institutions shall be read by a panel of readers composed of individuals who are selected by the Secretary and who include

individuals representing Hispanic-serving institutions. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application that might impair the impartiality with which the individual conducts the review under this section.

(b) Instruction

All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this subchapter that are consistent with the provisions of this subchapter, including—

(1) an enumeration of the factors to be used to determine the quality of applications submitted under this subchapter; and

(2) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this subchapter, the amount of any such grant, and the duration of any such grant.

(c) Recommendations of panel

In awarding grants under this subchapter, the Secretary shall take into consideration the recommendations of the panel made under subsection (a) of this section.

(d) Notification

Not later than June 30 of each year, the Secretary shall notify each Hispanic-serving institution making an application under this subchapter of—

(1) the scores given the institution by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this subchapter, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(Pub. L. 89–329, title V, §523, formerly §513, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1772; renumbered §523, Pub. L. 110–315, title V, §502(a)(2), Aug. 14, 2008, 122 Stat. 3331.)

PRIOR PROVISIONS

A prior section 1103b, Pub. L. 89–329, title V, §513, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 674, related to use of funds, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103b, Pub. L. 89–329, title V, §513, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1497, related to review of applications for grants, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 523 of Pub. L. 89–329 was classified to section 1104b of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 523 of Pub. L. 89–329 was classified to section 1105b of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 523 of Pub. L. 89–329 was classified to section 1113 of this title, prior to repeal by Pub. L. 94–482.

§1103c. Cooperative arrangements

(a) General authority

The Secretary may make grants to encourage cooperative arrangements with funds available to carry out this subchapter, between Hispanic-serving institutions eligible for assistance under this subchapter, and between such institutions and institutions not receiving assistance under this subchapter, for the activities described in sections 1101b and 1102b of this title so that the resources of the cooperating institutions might be combined and shared in order to achieve the purposes of this subchapter, to avoid costly duplicative efforts, and to enhance the development of Hispanic-serving institutions.

(b) Priority

The Secretary shall give priority to grants for the purposes described under subsection (a) of this section whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant Hispanic-serving institution.

(c) Duration

Grants to Hispanic-serving institutions having a cooperative arrangement may be made under this section for a period determined under section 1101d of this title.

(Pub. L. 89–329, title V, §524, formerly §514, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1773; renumbered §524 and amended Pub. L. 110–315, title V, §§502(a)(2), 504, Aug. 14, 2008, 122 Stat. 3331, 3333.)

PRIOR PROVISIONS

A prior section 1103c, Pub. L. 89–329, title V, §514, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 675, related to applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103c, Pub. L. 89–329, title V, §514, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1497, related to amount of grants to institutions offering midcareer teacher training for nontraditional students, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 524 of Pub. L. 89–329 was classified to section 1104c of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 524 of Pub. L. 89–329 was classified to section 1105c of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 524 of Pub. L. 89–329 was classified to section 1114 of this title, prior to repeal by Pub. L. 94–482.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §504, substituted "sections 1101b and 1102b" for "section 1101b".

§1103d. Assistance to institutions under other programs

(a) Assistance eligibility

Each Hispanic-serving institution that the Secretary determines to be an institution eligible under this subchapter may be eligible for waivers in accordance with subsection (b) of this section.

(b) Waiver applicability

(1) In general

Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a Hispanic-serving institution referred to in subsection (a) of this section for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) Programs

The provisions of this section shall apply to any program authorized by subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 or section 1124 of this title.

(c) Limitation

The Secretary shall not waive, under subsection (b) of this section, the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

(Pub. L. 89–329, title V, §525, formerly §515, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998,

112 Stat. 1773; renumbered §525, Pub. L. 110–315, title V, §502(a)(2), Aug. 14, 2008, 122 Stat. 3331.)

PRIOR PROVISIONS

A prior section 1103d, Pub. L. 89–329, title V, §515, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 676, related to State delegations to National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103d, Pub. L. 89–329, title V, §515, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1497, required reports to Secretary from institutions receiving grants, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 525 of Pub. L. 89–329 was classified to section 1104d of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 525 of Pub. L. 89–329 was classified to section 1105d of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 525 of Pub. L. 89–329 was classified to section 1115 of this title, prior to repeal by Pub. L. 94–482.

§1103e. Limitations

The funds appropriated under section 1103g of this title may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to a Hispanic-serving institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to a Hispanic-serving institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to a Hispanic-serving institution.

(Pub. L. 89–329, title V, §526, formerly §516, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1774; renumbered §526 and amended Pub. L. 110–315, title V, §502(a)(2), (b)(3), Aug. 14, 2008, 122 Stat. 3331, 3333.)

PRIOR PROVISIONS

A prior section 1103e, Pub. L. 89–329, title V, §516, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 676, related to selection of participants in National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 526 of Pub. L. 89–329 was classified to section 1104e of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 526 of Pub. L. 89–329 was classified to section 1116 of this title, prior to repeal by Pub. L. 94–482.

AMENDMENTS

2008—Pub. L. 110–315, §502(b)(3), made technical amendment to reference in original act which appears in text as reference to section 1103g of this title.

§1103f. Penalties

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this subchapter embezzles, willfully misapplies, steals, or obtains by fraud any of the funds that are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(Pub. L. 89–329, title V, §527, formerly §517, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1774; renumbered §527, Pub. L. 110–315, title V, §502(a)(2), Aug. 14, 2008, 122 Stat. 3331.)

PRIOR PROVISIONS

A prior section 1103f, Pub. L. 89–329, title V, §517, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 677, related to evaluation of system of National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 527 of Pub. L. 89–329 was classified to section 1104f of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 527 of Pub. L. 89–329 was classified to section 1117 of this title, prior to repeal by Pub. L. 94–482.

§1103g. Authorizations of appropriations

(a) Authorizations

(1) Parts A and C

There are authorized to be appropriated to carry out parts A and C $175,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(2) Part B

There are authorized to be appropriated to carry out part B $100,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(b) Use of multiple year awards

In the event of a multiple year award to any Hispanic-serving institution under this subchapter, the Secretary shall make funds available for such award from funds appropriated for this subchapter for the fiscal year in which such funds are to be used by the institution.

(Pub. L. 89–329, title V, §528, formerly §518, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1774; renumbered §528 and amended Pub. L. 110–315, title V, §§502(a)(2), 505, Aug. 14, 2008, 122 Stat. 3331, 3333.)

PRIOR PROVISIONS

A prior section 1103g, Pub. L. 89–329, title V, §518, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 677, authorized appropriations for National Teacher Academies program, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 528 of Pub. L. 89–329 was classified to section 1104g of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 528 of Pub. L. 89–329 was classified to section 1118 of this title, prior to repeal by Pub. L. 92–318.

Prior sections 1104 to 1104k, 1105 to 1105i, 1106 to 1106g, and 1107 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1104, Pub. L. 89–329, title V, §521, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 677, related to purpose of Paul Douglas Teacher Scholarship program and provided that scholarships be referred to as "Paul Douglas Teacher Scholarships".

A prior section 1104, Pub. L. 89–329, title V, §514, Nov. 8, 1965, 79 Stat. 1257; Pub. L. 90–35, §3(a)(3), (g)(1), June 29, 1967, 81 Stat. 85, 86; Pub. L. 90–575, title II, §232, Oct. 16, 1968, 82 Stat. 1039; Pub. L. 91–230, title VIII, §§804(e), 805(c), Apr. 13, 1970, 84 Stat. 191, 192; Pub. L. 93–380, title VIII, §835(a)(4), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §152(e), Oct. 12, 1976, 90 Stat. 2153; Pub. L. 96–374, title V, §502(e), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1459, 1503, set forth provisions respecting compensation of program members, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1104a, Pub. L. 89–329, title V, §522, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 677, related to allocation among States.

Section 1104b, Pub. L. 89–329, title V, §523, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 678, related to State applications for grants.

Section 1104c, Pub. L. 89–329, title V, §524, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 680, related to amount and duration of scholarships and relation to other assistance.

Section 1104d, Pub. L. 89–329, title V, §525, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 680; amended Pub. L. 103–208, §2(j)(2), Dec. 20, 1993, 107 Stat. 2480, related to selection of Paul Douglas Teacher Scholars.

Section 1104e, Pub. L. 89–329, title V, §526, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 681, related to scholarship conditions.

Section 1104f, Pub. L. 89–329, title V, §527, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 681, related to scholarship repayment provisions.

Section 1104g, Pub. L. 89–329, title V, §528, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 681, related to exceptions to repayment provisions.

Section 1104h, Pub. L. 89–329, title V, §529, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 682, related to Federal administration of State programs and judicial review.

Section 1104i, Pub. L. 89–329, title V, §530, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 682, related to evaluation of scholarship recipients.

Section 1104j, Pub. L. 89–329, title V, §530A, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 683; amended Pub. L. 103–208, §2(j)(3), Dec. 20, 1993, 107 Stat. 2481, related to designation of shortage areas.

Section 1104k, Pub. L. 89–329, title V, §530B, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 683, authorized appropriations for Paul Douglas Teacher Scholarship program.

Section 1105, Pub. L. 89–329, title V, §531, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 684, related to purpose of Christa McAuliffe fellowship program and provided that fellowship recipients be known as "Christa McAuliffe fellows".

A prior section 1105, Pub. L. 89–329, title V, §521, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1498, provided that the purpose of former part B of this subchapter was to encourage partnerships between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1105, Pub. L. 89–329, title V, §515, Nov. 8, 1965, 79 Stat. 1257; Pub. L. 90–35, §3(h), June 29, 1967, 81 Stat. 87; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 223, related to applicability of other provisions of laws to members of the Teacher Corps, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1105a, Pub. L. 89–329, title V, §532, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 684, authorized grants to State education agencies for Christa McAuliffe fellowship program.

A prior section 1105a, Pub. L. 89–329, title V, §522, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1498, related to partnership agreements between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105b, Pub. L. 89–329, title V, §533, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 684, related to award and use of Christa McAuliffe fellowships.

A prior section 1105b, Pub. L. 89–329, title V, §523, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1498, related to grants to encourage partnerships between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105c, Pub. L. 89–329, title V, §534, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 685, related to selection of Christa McAuliffe fellows.

A prior section 1105c, Pub. L. 89–329, title V, §524, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1499, related to application for grants to encourage the partnership between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105d, Pub. L. 89–329, title V, §535, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 685; amended Pub. L. 103–208, §2(j)(4), Dec. 20, 1993, 107 Stat. 2481, related to evaluation of applications.

A prior section 1105d, Pub. L. 89–329, title V, §525, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1499, related to the community college pilot project, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105e, Pub. L. 89–329, title V, §536, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 686, related to fellowship repayment provisions.

Section 1105f, Pub. L. 89–329, title V, §537, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 686; amended Pub. L. 103–208, §2(j)(5), Dec. 20, 1993, 107 Stat. 2481, related to Secretary's responsibilities.

Section 1105g, Pub. L. 89–329, title V, §538, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 686, related to State applications for grants.

Section 1105h, Pub. L. 89–329, title V, §539, as added Pub. L. 102–325, title V, §501(a), July 23, 1992,

106 Stat. 687, related to evaluation of Christa McAuliffe fellows and their impact.

Section 1105i, Pub. L. 89–329, title V, §540, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 687, authorized appropriations to carry out Christa McAuliffe fellowship program.

Section 1106, Pub. L. 89–329, title V, §541, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 687, authorized Teacher Corps program.

A prior section 1106, Pub. L. 89–329, title V, §516, Nov. 8, 1965, 79 Stat. 1258, related to supervision and control of members by local educational agencies, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1106a, Pub. L. 89–329, title V, §542, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 688, related to use of funds.

Section 1106b, Pub. L. 89–329, title V, §543, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 689, related to selection of Teacher Corps members.

Section 1106c, Pub. L. 89–329, title V, §544, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 690, related to State applications for funds.

Section 1106d, Pub. L. 89–329, title V, §545, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 690; amended Pub. L. 103–208, §2(j)(6), Dec. 20, 1993, 107 Stat. 2481, related to Teacher Corps scholarships.

Section 1106e, Pub. L. 89–329, title V, §546, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 691, related to scholarship conditions.

Section 1106f, Pub. L. 89–329, title V, §547, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 693, related to publication and recruitment.

Section 1106g, Pub. L. 89–329, title V, §548, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 693, authorized appropriations for Teacher Corps program.

Section 1107, Pub. L. 89–329, title V, §551, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 693; amended Pub. L. 103–227, title X, §1013, Mar. 31, 1994, 108 Stat. 265, related to National Board for Professional Teaching Standards.

A prior section 1107, Pub. L. 89–329, title V, §531, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1500, related to purpose and authority for professional development resource centers program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1107, Pub. L. 89–329, title V, §517, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, §3(a)(3), June 29, 1967, 81 Stat. 85, prohibited members of the Teacher Corps from acting as replacements for teachers, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Prior sections 1107a to 1107d were omitted in the general amendment of this subchapter by Pub. L. 102–325.

Section 1107a, Pub. L. 89–329, title V, §532, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1501, related to geographical distribution of grants to establish and operate professional development resource centers.

Another prior section 1107a, Pub. L. 89–329, title V, §517A, as added Pub. L. 90–35, §3(i), June 29, 1967, 81 Stat. 87, related to teaching children of migratory agricultural workers, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1107b, Pub. L. 89–329, title V, §533, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1501, related to grant requirements for professional development resource centers.

Section 1107c, Pub. L. 89–329, title V, §534, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1502, related to requirement for professional development policy boards.

Section 1107d, Pub. L. 89–329, title V, §535, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1502, related to submission and approval of applications for grants to establish and operate professional development resource centers.

Prior sections 1108 to 1108g were repealed by Pub. L. 102–325, title V, §501(b), July 23, 1992, 106 Stat. 719, effective July 1, 1995.

Section 1108, Pub. L. 89–329, title V, §552, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 698, provided that subpart 2 of former part D of this subchapter could be cited as the "Alternative Routes to Teacher Certification and Licensure Act of 1992".

A prior section 1108, Pub. L. 89–329, title V, §518, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 87; amended Pub. L. 90–575, title II, §§231(a), 233(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §§141(a)(1)(B), (c)(1)(D), (2)(A), 143(a)(1), June 23, 1972, 86 Stat. 284–286, authorized a program for making grants to States to alleviate teacher shortages, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1108a, Pub. L. 89–329, title V, §553, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106

Stat. 698, provided congressional findings concerning alternative teacher certification and licensure.

Section 1108b, Pub. L. 89–329, title V, §554, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 698, stated purpose of subpart 2 of former part D of this subchapter.

Section 1108c, Pub. L. 89–329, title V, §555, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 699, provided for allotments of funds to States.

Section 1108d, Pub. L. 89–329, title V, §556, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 699; amended Pub. L. 103–382, title II, §261(i)(2), Oct. 20, 1994, 108 Stat. 3929, related to State applications for grants under subpart 2 of former part D of this subchapter.

Section 1108e, Pub. L. 89–329, title V, §557, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, outlined permissible uses of funds.

Section 1108f, Pub. L. 89–329, title V, §558, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, defined "State" for purposes of subpart 2 of former part D of this subchapter.

Section 1108g, Pub. L. 89–329, title V, §559, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, authorized appropriations for fiscal year 1993 to carry out subpart 2 of former part D of this subchapter.

Prior sections 1109 to 1109e, 1110 to 1110e, 1111 to 1111h, 1112 to 1112e, and 1113 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1109, Pub. L. 89–329, title V, §561, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, set forth purpose of class size demonstration grant program.

A prior section 1109, Pub. L. 89–329, title V, §541, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1503; amended Pub. L. 100–50, §16(1), June 3, 1987, 101 Stat. 358; Pub. L. 101–226, §20, Dec. 12, 1989, 103 Stat. 1936, related to purpose of, and regulations under, leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1109, Pub. L. 89–329, title V, §519, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 88; amended Pub. L. 90–575, title II, §234(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §141(c)(2)(B), June 23, 1972, 86 Stat. 285, authorized allotments and reallotments to States, etc., for grants for implementation of program and set forth criteria for determination of amounts, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1109a, Pub. L. 89–329, title V, §562, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, authorized program of grants for demonstration projects that demonstrate methods of reducing class size.

A prior section 1109a, Pub. L. 89–329, title V, §542, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, §16(2), June 3, 1987, 101 Stat. 358, related to allocation of appropriations for leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109b, Pub. L. 89–329, title V, §563, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 701, related to program requirements.

A prior section 1109b, Pub. L. 89–329, title V, §543, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, §16(3), June 3, 1987, 101 Stat. 358, related to technical assistance centers under leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109c, Pub. L. 89–329, title V, §564, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 701, related to applications for grants.

A prior section 1109c, Pub. L. 89–329, title V, §544, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, §16(4), June 3, 1987, 101 Stat. 359, related to general criteria for grants under leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109d, Pub. L. 89–329, title V, §565, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 702, related to evaluation of demonstration projects and dissemination of information.

A prior section 1109d, Pub. L. 89–329, title V, §545, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, §16(5), June 3, 1987, 101 Stat. 359, defined terms for purposes of leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109e, Pub. L. 89–329, title V, §565A, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 702, authorized appropriations for class size demonstration grant program.

Section 1110, Pub. L. 89–329, title V, §566, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 703, stated purpose of middle school teaching demonstration grant program.

A prior section 1110, Pub. L. 89–329, title V, §520, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 88;

amended Pub. L. 90–575, title II, §233(b), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §§143(a)(2), (3), 144(a), 145(a), 146(a), June 23, 1972, 86 Stat. 286, 287, set forth requirements for State plans as prerequisite for receipt of grant by State, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110a, Pub. L. 89–329, title V, §567, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 703, defined "developmentally appropriate" and "middle school".

A prior section 1110a, Pub. L. 89–329, title V, §520A, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 89, set forth manner of repayment of amounts expended by each State for implementation of State plan, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110b, Pub. L. 89–329, title V, §568, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 703, authorized program of grants for development of model programs with specialized focus on teaching grades 6 through 9.

A prior section 1110b, Pub. L. 89–329, title V, §520B, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 89, set forth requirements for disapproval of State plans by Commissioner, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110c, Pub. L. 89–329, title V, §569, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 703, related to applications for grants.

A prior section 1110c, Pub. L. 89–329, title V, §520C, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 90, set forth procedure for judicial review of determinations of Commissioner with respect to State plan, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110d, Pub. L. 89–329, title V, §570, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 704, related to submission of reports and other information by grant recipients.

Section 1110e, Pub. L. 89–329, title V, §570A, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 704, authorized appropriations for middle school teaching demonstration grant program.

Section 1111, Pub. L. 89–329, title V, §571, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 704, stated purpose of new teaching careers grant program.

A prior section 1111, Pub. L. 89–329, title V, §551, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, §17(a), June 3, 1987, 101 Stat. 359, set forth purpose of Congressional teacher scholarship program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1111, Pub. L. 89–329, title V, §521, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, §5(b), June 29, 1967, 81 Stat. 90; Pub. L. 90–247, title VII, §704(a), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, §235, Oct. 16, 1968, 82 Stat. 1040; Pub. L. 91–230, title VIII, §806(a), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title I, §146A, June 23, 1972, 86 Stat. 287, set forth Congressional declaration of policy and statement of purpose, and definitions for fellowship program for teachers and related educational personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1111a, Pub. L. 89–329, title V, §572, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 704; amended Pub. L. 103–382, title III, §391(e)(5), Oct. 20, 1994, 108 Stat. 4022, authorized grants to States.

A prior section 1111a, Pub. L. 89–329, title V, §552, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1506, related to allocation of funds among the States for Congressional teacher scholarships, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111b, Pub. L. 89–329, title V, §573, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 705, related to agreements with grant recipients.

A prior section 1111b, Pub. L. 89–329, title V, §553, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, §17(b), June 3, 1987, 101 Stat. 359, related to grant applications for Congressional teacher scholarships, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111c, Pub. L. 89–329, title V, §574, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 705, related to applications for grants.

A prior section 1111c, Pub. L. 89–329, title V, §554, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1508, related to amount and duration of assistance under Congressional teacher fellowships and relationship of such assistance to other assistance, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111d, Pub. L. 89–329, title V, §575, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 706, related to requirements of recipients of student financial assistance under programs.

A prior section 1111d, Pub. L. 89–329, title V, §555, as added Pub. L. 99–498, title V, §501(a), Oct. 17,

1986, 100 Stat. 1508, related to the selection of Congressional teacher scholars, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111e, Pub. L. 89–329, title V, §576, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 707, related to special considerations in awarding grants.

A prior section 1111e, Pub. L. 89–329, title V, §556, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1509, related to conditions for Congressional teacher scholarships, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111f, Pub. L. 89–329, title V, §576A, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 707, related to use of funds by grant recipients.

A prior section 1111f, Pub. L. 89–329, title V, §557, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, §17(c), June 3, 1987, 101 Stat. 359, related to Congressional teacher scholarship repayment provisions, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111g, Pub. L. 89–329, title V, §576B, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 707, defined terms.

A prior section 1111g, Pub. L. 89–329, title V, §558, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, §17(d), June 3, 1987, 101 Stat. 359, related to exceptions to Congressional teacher scholarship repayment provisions, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111h, Pub. L. 89–329, title V, §576C, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 708, authorized appropriations for new teaching careers grant program.

A prior section 1111h, Pub. L. 89–329, title V, §559, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1510, related to Federal administration of State programs and judicial review of Congressional teacher scholarship programs, prior to the general of this subchapter by Pub. L. 102–325.

Section 1112, Pub. L. 89–329, title V, §577, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 708, stated purpose of grant program to encourage minority students to become teachers.

A prior section 1112, Pub. L. 89–329, title V, §522, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, §5(c), June 29, 1967, 81 Stat. 91; Pub. L. 90–247, title VII, §704(b), Jan. 2, 1968, 81 Stat. 820, authorized Commissioner to award fellowships for graduate study by teaching personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1112a, Pub. L. 89–329, title V, §578, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 708, authorized grants for partnerships.

Section 1112b, Pub. L. 89–329, title V, §579, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 708, related to partnership agreements.

Section 1112c, Pub. L. 89–329, title V, §580, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 709, related to applications for teacher partnership program grants.

Section 1112d, Pub. L. 89–329, title V, §580A, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 710, authorized grants for teacher training and placement programs.

Section 1112e, Pub. L. 89–329, title V, §580B, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 710; amended Pub. L. 103–208, §2(j)(7), Dec. 20, 1993, 107 Stat. 2481, authorized appropriations for programs under sections 1112a and 1112d of this title.

Section 1113, Pub. L. 89–329, title V, §581, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 711; amended Pub. L. 103–208, §2(j)(8), Dec. 20, 1993, 107 Stat. 2481; Pub. L. 103–382, title III, §391(e)(6), (7), Oct. 20, 1994, 108 Stat. 4022, 4023, authorized grants for partnerships to carry out National Mini Corps Program.

A prior section 1113, Pub. L. 89–329, title V, §561, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1510, related to purpose of Christa McAuliffe fellowship program and to designation of fellowships under such program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1113, Pub. L. 89–329, title V, §523, Nov. 8, 1965, 79 Stat. 1259; Pub. L. 90–35, §5(d), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §236, Oct. 16, 1968, 82 Stat. 1040, required allocation of fellowships to institutions with approved programs and set forth criteria for approval of programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Prior sections 1113a to 1113e were omitted in the general amendment of this subchapter by Pub. L. 102–325.

Section 1113a, Pub. L. 89–329, title V, §562, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to use of funds for Christa McAuliffe fellowship program.

Section 1113b, Pub. L. 89–329, title V, §563, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100

Stat. 1511, related to award, distribution, and use of Christa McAuliffe fellowships.

Section 1113c, Pub. L. 89–329, title V, §564, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to selection of Christa McAuliffe teacher fellowships.

Section 1113d, Pub. L. 89–329, title V, §565, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to evaluation of applications for Christa McAuliffe fellowships.

Section 1113e, Pub. L. 89–329, title V, §566, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1512, related to repayment of Christa McAuliffe fellowships.

Prior sections 1114, 1114a, 1115, 1116, and 1117 to 1117c were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1114, Pub. L. 89–329, title V, §586, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 712; amended Pub. L. 103–382, title III, §391(e)(8), (9), Oct. 20, 1994, 108 Stat. 4023, authorized demonstration grants for critical language and area studies.

A prior section 1114, Pub. L. 89–329, title V, §524, Nov. 8, 1965, 79 Stat. 1259; Pub. L. 90–35, §5(e), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §237, Oct. 16, 1968, 82 Stat. 1040, set forth prerequisites for approval of graduate programs to develop and strengthen training of educational personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1114a, Pub. L. 89–329, title V, §587, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 714, related to development of foreign language and culture instructional materials.

Section 1115, Pub. L. 89–329, title V, §591, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 714, authorized grants for development of model programs for educational excellence, teacher training, and educational reform.

A prior section 1115, Pub. L. 89–329, title V, §571, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1512, related to State task forces on teacher training, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1115, Pub. L. 89–329, title V, §525, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, §5(f), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §238, Oct. 16, 1968, 82 Stat. 1040; Pub. L. 92–318, title I, §141(c)(3), June 23, 1972, 86 Stat. 285, authorized Commissioner to pay stipends to individuals awarded fellowships and additional amounts to institutions of higher education for support of programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1116, Pub. L. 89–329, title V, §593, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 715, authorized grants for development of model programs of development and training of faculty who teach students with disabilities.

A prior section 1116, Pub. L. 89–329, title V, §526, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 92–318, title I, §131(d)(2)(C), June 23, 1972, 86 Stat. 260, prohibited award of fellowships for study at divinity school or department, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1117, Pub. L. 89–329, title V, §596, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 716, authorized grants for programs to recruit and train students for careers in early childhood education and violence counseling.

A prior section 1117, Pub. L. 89–329, title V, §527, Nov. 8, 1965, 79 Stat. 1260, set forth conditions imposed upon fellowship recipient, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1117a, Pub. L. 89–329, title V, §597, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 717; amended Pub. L. 103–208, §2(j)(9), Dec. 20, 1993, 107 Stat. 2481, authorized grants for early childhood staff training and professional enhancement.

Section 1117b, Pub. L. 89–329, title V, §598, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 719, required reports by grant recipients.

Section 1117c, Pub. L. 89–329, title V, §599, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 719, authorized appropriations for activities described in sections 1117 and 1117a of this title.

A prior section 1118, Pub. L. 89–329, title V, §528, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, §5(g), June 29, 1967, 81 Stat. 91; Pub. L. 90–247, title VII, §704(c)(1), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, §231(a), (b)(2), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1966 to 1974 to enable persons who were awarded fellowships prior to July 1, 1972, to complete their study under fellowships, prior to repeal by Pub. L. 92–318, title I, §141(c)(1)(E), June 23, 1972, 86 Stat. 285, eff. on and after July 1, 1972.

Prior sections 1119 to 1119e–5 provided for teacher training programs, training for elementary and secondary school teachers to teach handicapped children in areas with a shortage, coordination of education professional development, Carl D. Perkins Scholarship program, and National Talented Teacher Fellowship

program, prior to the general amendment of this subchapter by Pub. L. 99–498.

Section 1119 Pub. L. 89–329, title V, §531, as added Pub. L. 94–482, title I, §153, formerly §153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95–43, §1(b)(5), June 15, 1977, 91 Stat. 218; amended Pub. L. 95–561, title XIII, §1321(a), Nov. 1, 1978, 92 Stat. 2362; Pub. L. 96–49, §6(b), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title V, §§501(b), 503(a), Oct. 3, 1980, 94 Stat. 1459, authorized appropriations for fiscal years 1981 to 1985 to carry out teacher training programs.

Another prior section 1119, Pub. L. 89–329, title V, §531, as added Pub. L. 90–35, §6, June 29, 1967, 81 Stat. 91; amended Pub. L. 90–247, title VII, §704(d), Jan. 2, 1968, 81 Stat. 820; Pub. L. 92–318, title I, §§147(a), 148(a), June 23, 1972, 86 Stat. 287, authorized training and retraining programs for education personnel other than higher education personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Section 1119a, Pub. L. 89–329, title V, §532, as added Pub. L. 94–482, title I, §153, formerly §153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95–43, §1(b)(5), June 15, 1977, 91 Stat. 218; amended Pub. L. 95–561, title XIII, §1321(b), Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title V, §503(b), (c), title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1459, 1460, 1503, related to grants, functions, etc., of teacher centers, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Another prior section 1119a, Pub. L. 89–329, title V, §532, as added Pub. L. 92–318, title IV, §451(b), June 23, 1972, 86 Stat. 344, authorized teachers for Indian children as part of the training and retraining program, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Another prior section 1119a, Pub. L. 89–329, title V, §532, as added Pub. L. 90–35, §6, June 29, 1967, 81 Stat. 92; amended Pub. L. 90–575, title II, §231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by section 141(c)(1)(F) of Pub. L. 92–318, effective on and after July 1, 1972.

Section 1119a–1, Pub. L. 89–329, title V, §533, as added Pub. L. 94–482, title I, §153, Oct. 12, 1976, 90 Stat. 2155; amended Pub. L. 95–43, §1(a)(42), (b)(5), June 15, 1977, 91 Stat. 217, 218; Pub. L. 96–374, title V, §504, Oct. 3, 1980, 94 Stat. 1460; Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357, related to grants for training higher education personnel.

Another prior section 1119a–1, Pub. L. 89–329, title V, §533, as added Pub. L. 90–575, title II, §239, Oct. 16, 1968, 82 Stat. 1040, required an equitable distribution with respect to geography for training programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Section 1119b, Pub. L. 89–329, title V, §541, as added Pub. L. 96–374, title V, §505(a), Oct. 3, 1980, 94 Stat. 1461, authorized grants to State educational agencies to train teachers for handicapped children.

Another prior section 1119b, Pub. L. 89–329, title V, §541, as added Pub. L. 90–35, §6, June 29, 1967, 81 Stat. 93, authorized grants or contracts with institutions of higher education for training programs and projects for higher education personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

Section 1119b–1, Pub. L. 89–329, title V, §542, as added Pub. L. 96–374, title V, §505(a), Oct. 3, 1980, 94 Stat. 1462, related to applications for grants for training teachers for handicapped children.

Another prior section 1119b–1, Pub. L. 89–329, title V, §542, as added Pub. L. 90–35, §6, June 29, 1967, 81 Stat. 93, authorized the payment of stipends to persons participating in authorized training programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

Section 1119b–2, Pub. L. 89–329, title V, §543, as added Pub. L. 96–374, title V, §505(a), Oct. 3, 1980, 94 Stat. 1462, provided for stipends and allowances for participants in program of training teachers for handicapped children.

Another prior section 1119b–2, Pub. L. 89–329, title V, §543, as added Pub. L. 90–35, §6, June 29, 1967, 81 Stat. 93; amended Pub. L. 90–575, title II, §231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by Pub. L. 92–318, title I, §141(c)(1)(G), June 23, 1972, 86 Stat. 285.

Section 1119b–3, Pub. L. 89–329, title V, §544, as added Pub. L. 96–374, title V, §505(a), Oct. 3, 1980, 94 Stat. 1463, set out conditions for maintaining fellowships in training teachers for handicapped children.

Section 1119b–4, Pub. L. 89–329, title V, §545, as added Pub. L. 96–374, title V, §505(a), Oct. 3, 1980, 94 Stat. 1463, defined "special education".

Section 1119b–5, Pub. L. 89–329, title V, §546, as added Pub. L. 96–374, title V, §505(a), Oct. 3, 1980, 94 Stat. 1463, authorized appropriations for fiscal years 1981 to 1985 to carry out grant program for training teachers for handicapped children.

Section 1119c, Pub. L. 89–329, title V, §551, as added Pub. L. 96–374, title V, §506, Oct. 3, 1980, 94 Stat. 1463, stated Congressional findings concerning Federal programs to train education professionals.

Another prior section 1119c, Pub. L. 89–329, title V, §551, as added Pub. L. 90–576, title II, §201, Oct. 16,

1968, 82 Stat. 1091, set forth Congressional declaration of purpose, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(C), title II, §204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–1, Pub. L. 89–329, title V, §552, as added Pub. L. 96–374, title V, §506, Oct. 3, 1980, 94 Stat. 1464, stated Congressional declaration of policy concerning Federal programs to support education professional development.

Another prior section 1119c–1, Pub. L. 89–329, title V, §552, as added Pub. L. 90–576, title II, §201, Oct. 16, 1968, 82 Stat. 1092, related to leadership development awards, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(C), title II, §204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–2, Pub. L. 89–329, title V, §553, as added Pub. L. 96–374, title V, §506, Oct. 3, 1980, 94 Stat. 1464; amended Pub. L. 99–386, title I, §103(b), Aug. 22, 1986, 100 Stat. 821, established Office of Education Professional Development.

Another prior section 1119c–2, Pub. L. 89–329, title V, §553, as added Pub. L. 90–576, title II, §201, Oct. 16, 1968, 82 Stat. 1093, related to exchange programs, institutes, and in-service education for vocational education teachers, supervisors, coordinators, and administrators, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(C), title II, §204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–3, Pub. L. 89–329, title V, §554, as added Pub. L. 90–576, title II, §201, Oct. 16, 1968, 82 Stat. 1094, related to familiarizing teachers with new curricular methods, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(C), title II, §204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–4, Pub. L. 89–329, title V, §555, as added Pub. L. 94–482, title I, §151(a)(4)(B), Oct. 12, 1976, 90 Stat. 2152, authorized appropriation for the fiscal years ending prior to Oct. 1, 1977, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(C), title II, §204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

An identical section 555 of Pub. L. 89–329, as added Pub. L. 94–482, title II, §201(q), Oct. 12, 1976, 90 Stat. 2169, was also classified to section 1119c–4, and was repealed by Pub. L. 94–482, title II, §204(c)(1), Oct. 12, 1976, 90 Stat. 2215.

Another prior section 1119c–4, Pub. L. 89–329, title V, §555, as added by Pub. L. 90–576, title II, §201, Oct. 16, 1968, 82 Stat. 1094; amended by Pub. L. 91–230, title VII, §708, Apr. 13, 1970, 84 Stat. 189, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by Pub. L. 92–318, title I, §141(c)(1)(H), June 23, 1972, 86 Stat. 285.

Section 1119d, Pub. L. 89–329, title V, §561, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2894, stated purpose and authorized appropriations for Carl D. Perkins Scholarship program.

Section 1119d–1, Pub. L. 89–329, title V, §562, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2894, provided for allocation among States of funds appropriated for Carl D. Perkins Scholarship program.

Section 1119d–2, Pub. L. 89–329, title V, §563, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2894, provided for form, content, and processing of applications for grants to States under Carl D. Perkins Scholarship program.

Section 1119d–3, Pub. L. 89–329, title V, §564, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2896, related to amount and duration of Carl D. Perkins Scholarships and the relationship of Scholarships to other forms of assistance.

Section 1119d–4, Pub. L. 89–329, title V, §565, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2896, provided for selection of Carl D. Perkins Scholars.

Section 1119d–5, Pub. L. 89–329, title V, §566, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2897, provided conditions for continued receipt of Carl D. Perkins Scholarship assistance.

Section 1119d–6, Pub. L. 89–329, title V, §567, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2897, provided for repayment of Carl D. Perkins Scholarship assistance in case of noncompliance with program agreement.

Section 1119d–7, Pub. L. 89–329, title V, §568, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2897, provided exceptions to repayment requirements.

Section 1119d–8, Pub. L. 89–329, title V, §569, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2898, related to Federal administration of State programs to make available Carl D. Perkins Scholarships and judicial review thereof.

Section 1119e, Pub. L. 89–329, title V, §571, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2898, stated purpose of establishing national fellowship program for outstanding teachers.

Section 1119e–1, Pub. L. 89–329, title V, §572, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2898, authorized appropriations for fiscal years 1986 to 1989 for fellowships to outstanding teachers.

Section 1119e–2, Pub. L. 89–329, title V, §573, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2899, provided for program of talented teacher fellowships.

Section 1119e–3, Pub. L. 89–329, title V, §574, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98

Stat. 2899, provided for selection of recipients of talented teacher fellowships.

Section 1119e–4, Pub. L. 89–329, title V, §575, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2899, provided for submission and evaluation of applications for talented teacher fellowship assistance.

Section 1119e–5, Pub. L. 89–329, title V, §576, as added Pub. L. 98–558, title VII, §701, Oct. 30, 1984, 98 Stat. 2900, provided for repayment of awards to Federal Government in case of fraud or gross noncompliance.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §505, amended subsec. (a) generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this subchapter $62,500,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years."

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAMS

CODIFICATION

Title VI of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1261; amended Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, Aug. 13, 1979; 93 Stat. 351. Title VI (except for part A) is shown herein, however, as having been added by Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1464, without reference to those intervening amendments because of the extensive revision of the title's provisions by Pub. L. 96–374.

PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

CODIFICATION

Part A of title VI of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1261; amended Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–375, Dec. 21, 1982, 96 Stat. 1819; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457. Part A is shown herein, however, as having been added by Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1774, without reference to those intervening amendments because of the extensive revision of part A by Pub. L. 105–244.

§1121. Findings; purposes; consultation; survey

(a) Findings

Congress finds as follows:

(1) The security, stability, and economic vitality of the United States in a complex global era depend upon American experts in and citizens knowledgeable about world regions, foreign languages, and international affairs, as well as upon a strong research base in these areas.

(2) Advances in communications technology and the growth of regional and global problems make knowledge of other countries and the ability to communicate in other languages more essential to the promotion of mutual understanding and cooperation among nations and their peoples.

(3) Dramatic changes in the world's geopolitical and economic landscapes are creating needs for American expertise and knowledge about a greater diversity of less commonly taught foreign languages and nations of the world.

(4) Systematic efforts are necessary to enhance the capacity of institutions of higher education

in the United States for—

(A) producing graduates with international and foreign language expertise and knowledge; and

(B) research regarding such expertise and knowledge.

(5) Cooperative efforts among the Federal Government, institutions of higher education, and the private sector are necessary to promote the generation and dissemination of information about world regions, foreign languages, and international affairs throughout education, government, business, civic, and nonprofit sectors in the United States.

(b) Purposes

The purposes of this part are—

(1)(A) to support centers, programs, and fellowships in institutions of higher education in the United States for producing increased numbers of trained personnel and research in foreign languages, area studies, and other international studies;

(B) to develop a pool of international experts to meet national needs;

(C) to develop and validate specialized materials and techniques for foreign language acquisition and fluency, emphasizing (but not limited to) the less commonly taught languages;

(D) to promote access to research and training overseas, including through linkages with overseas institutions; and

(E) to advance the internationalization of a variety of disciplines throughout undergraduate and graduate education;

(2) to support cooperative efforts promoting access to and the dissemination of international and foreign language knowledge, teaching materials, and research, throughout education, government, business, civic, and nonprofit sectors in the United States, through the use of advanced technologies; and

(3) to coordinate the programs of the Federal Government in the areas of foreign language, area studies, and other international studies, including professional international affairs education and research.

(c) Consultation

(1) In general

The Secretary shall, prior to requesting applications for funding under this subchapter during each grant cycle, consult with and receive recommendations regarding national need for expertise in foreign languages and world regions from the head officials of a wide range of Federal agencies.

(2) Considering recommendations; providing information

The Secretary—

(A) may take into account the recommendations described in paragraph (1); and

(B) shall—

(i) provide information collected under paragraph (1) when requesting applications for funding under this subchapter; and

(ii) make available to applicants a list of areas identified as areas of national need.

(d) Survey

The Secretary shall assist grantees in developing a survey to administer to students who have completed programs under this subchapter to determine postgraduate employment, education, or training. All grantees, where applicable, shall administer such survey once every two years and report survey results to the Secretary.

(Pub. L. 89–329, title VI, §601, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1774; amended Pub. L. 110–315, title VI, §601, Aug. 14, 2008, 122 Stat. 3333.)

PRIOR PROVISIONS

A prior section 1121, Pub. L. 89–329, title VI, §601, as added Pub. L. 96–374, title VI, §601(a), Oct. 3,

1980, 94 Stat. 1464; amended Pub. L. 99–498, title VI, §601, Oct. 17, 1986, 100 Stat. 1514; Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 720, set out findings of Congress and purpose of this part, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1121, Pub. L. 89–329, title VI, §601, Nov. 8, 1965, 79 Stat. 1261; Pub. L. 89–752, §3(b), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title II, §§241, 242(a), Oct. 16, 1968, 82 Stat. 1041; Pub. L. 92–318, title I, §151(a), June 23, 1972, 86 Stat. 288; Pub. L. 94–482, title I, §156, Oct. 12, 1976, 90 Stat. 2155; Pub. L. 96–49, §7, Aug. 13, 1979, 93 Stat. 353, set out the Congressional statement of purpose and the authorization of appropriations for the program of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Pub. L. 110–315, §601(1), substituted "; purposes; consultation; survey" for "and purposes" in section catchline.

Subsec. (a)(3). Pub. L. 110–315, §601(2), struck out "post-Cold War" after "Dramatic".

Subsec. (b)(1)(D). Pub. L. 110–315, §601(3), inserted ", including through linkages with overseas institutions" before semicolon.

Subsecs. (c), (d). Pub. L. 110–315, §601(4), added subsecs. (c) and (d).

EFFECTIVE DATE

Part effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

NATIONAL ENDOWMENT FOR INTERNATIONAL STUDIES

Pub. L. 99–498, title XIII, §1302, Oct. 17, 1986, 100 Stat. 1580, as amended by Pub. L. 100–50, §23(2), June 3, 1987, 101 Stat. 362, required Secretary of Education, in consultation with Director of United States Information Agency, Director of the Agency for International Development, Secretary of State, and Secretary of Defense, to conduct a study on establishment of a National Endowment for International Studies, such study to develop a program, a funding plan, and priorities for such an Endowment, with the Secretary to prepare and submit to Congress, not later than one year after Oct. 17, 1986, a report on the study, together with such recommendations, including recommendations for legislation, as the Secretary deemed appropriate, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

§1122. Graduate and undergraduate language and area centers and programs

(a) National language and area centers and programs authorized

(1) Centers and programs

(A) In general

The Secretary is authorized to make grants to institutions of higher education or consortia of such institutions for the purpose of establishing, strengthening, and operating—

(i) comprehensive foreign language and area or international studies centers and programs; and

(ii) a diverse network of undergraduate foreign language and area or international studies centers and programs.

(B) National resources

The centers and programs referred to in paragraph (1) shall be national resources for—

(i) teaching of any modern foreign language;

(ii) instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used;

(iii) research and training in international studies, and the international and foreign language aspects of professional and other fields of study; and

(iv) instruction and research on issues in world affairs that concern one or more countries.

(2) Authorized activities

Any such grant may be used to pay all or part of the cost of establishing or operating a center or

program, including the cost of—

(A) teaching and research materials;

(B) curriculum planning and development;

(C) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the teaching and research of the center or program;

(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

(E) professional development of the center's faculty and staff;

(F) projects conducted in cooperation with other centers addressing themes of world regional, cross-regional, international, or global importance;

(G) summer institutes in the United States or abroad designed to provide language and area training in the center's field or topic;

(H) support for faculty, staff, and student travel in foreign areas, regions, or countries, and for the development and support of educational programs abroad for students;

(I) supporting instructors of the less commonly taught languages; and

(J) projects that support students in the science, technology, engineering, and mathematics fields to achieve foreign language proficiency.

(3) Grants to maintain library collections

The Secretary may make grants to centers described in paragraph (1) having important library collections, as determined by the Secretary, for the maintenance of such collections.

(4) Outreach grants and summer institutes

The Secretary may make additional grants to centers described in paragraph (1) for any one or more of the following purposes:

(A) Programs of linkage or outreach between foreign language, area studies, or other international fields, and professional schools and colleges.

(B) Programs of linkage or outreach with 2- and 4-year colleges and universities.

(C) Programs of linkage or outreach between or among—

(i) postsecondary programs or departments in foreign language, area studies, or other international fields; and

(ii) State educational agencies or local educational agencies.

(D) Partnerships or programs of linkage and outreach with departments or agencies of Federal and State governments, including Federal or State scholarship programs for students in related areas.

(E) Programs of linkage or outreach with the news media, business, professional, or trade associations.

(F) Summer institutes in area studies, foreign language, and other international fields designed to carry out the programs described in subparagraphs (A), (B), (D), and (E).

(b) Fellowships for foreign language and area or international studies

(1) In general

The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary.

(2) Eligible students

A student receiving a stipend described in paragraph (1) shall be engaged—

(A) in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program; and

(B)(i) in the case of an undergraduate student, in the intermediate or advanced study of a less commonly taught language; or

(ii) in the case of a graduate student, in graduate study in connection with a program

described in subparagraph (A), including—

(I) predissertation level study;

(II) preparation for dissertation research;

(III) dissertation research abroad; or

(IV) dissertation writing.

(c) Special rule with respect to travel

No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

(d) Allowances

(1) Graduate level recipients

A stipend awarded to a graduate level recipient may include allowances for dependents and for travel for research and study in the United States and abroad.

(2) Undergraduate level recipients

A stipend awarded to an undergraduate level recipient may include an allowance for educational programs in the United States or educational programs abroad that—

(A) are closely linked to the overall goals of the recipient's course of study; and

(B) have the purpose of promoting foreign language fluency and knowledge of foreign cultures.

(e) Application

Each institution of higher education or consortium of such institutions desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require. Each such application shall include—

(1) an explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs; and

(2) a description of how the applicant will encourage government service in areas of national need, as identified by the Secretary, as well as in areas of need in the education, business, and nonprofit sectors.

(Pub. L. 89–329, title VI, §602, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1775; amended Pub. L. 110–315, title VI, §602, Aug. 14, 2008, 122 Stat. 3334.)

PRIOR PROVISIONS

A prior section 1122, Pub. L. 89–329, title VI, §602, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1465; amended Pub. L. 99–498, title VI, §602, Oct. 17, 1986, 100 Stat. 1514; Pub. L. 100–50, §18, June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 720; Pub. L. 103–208, §2(j)(10), (11), Dec. 20, 1993, 107 Stat. 2481, authorized grants for graduate and undergraduate language and area centers and programs, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1122, Pub. L. 89–329, title VI, §602, Nov. 8, 1965, 79 Stat. 1261; Pub. L. 95–180, §1(c), Nov. 15, 1977, 91 Stat. 1372, related to the allotment to States of funds under the program of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Subsec. (a)(1)(A). Pub. L. 110–315, §602(1)(A), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "The Secretary is authorized—

"(i) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive foreign language and area or international studies centers and programs; and

"(ii) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate foreign language and area or international studies centers and programs."

Subsec. (a)(2)(I), (J). Pub. L. 110–315, §602(1)(B), added subpars. (I) and (J).

Subsec. (a)(4)(C). Pub. L. 110–315, §602(1)(C)(iv), added subpar. (C). Former subpar. (C) redesignated (D).

Pub. L. 110–315, §602(1)(C)(i), substituted "Partnerships or programs of linkage and outreach" for "Programs of linkage or outreach" and inserted ", including Federal or State scholarship programs for students in related areas" before period at end.

Subsec. (a)(4)(D). Pub. L. 110–315, §602(1)(C)(iii), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Subsec. (a)(4)(E). Pub. L. 110–315, §602(1)(C)(iii), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Pub. L. 110–315, §602(1)(C)(ii), substituted "area studies" for "foreign area" and "(D), and (E)" for "(C), and (D)" and struck out "of linkage and outreach" after "programs".

Subsec. (a)(4)(F). Pub. L. 110–315, §602(1)(C)(iii), redesignated subpar. (E) as (F).

Subsec. (b). Pub. L. 110–315, §602(2)(A), struck out "Graduate" before "fellowships" in heading.

Subsec. (b)(2). Pub. L. 110–315, §602(2)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Students receiving stipends described in paragraph (1) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program, including predissertation level studies, preparation for dissertation research, dissertation research abroad, and dissertation writing."

Subsecs. (d), (e). Pub. L. 110–315, §602(3), added subsecs. (d) and (e) and struck out former subsec. (d). Prior to amendment, text read as follows: "Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad."

§1123. Language resource centers

(a) Language resource centers authorized

The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or consortia of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively.

(b) Authorized activities

The activities carried out by the centers described in subsection (a) of this section—

(1) shall include effective dissemination efforts, whenever appropriate; and

(2) may include—

(A) the conduct and dissemination of research on new and improved teaching methods, including the use of advanced educational technology;

(B) the development and dissemination of new teaching materials reflecting the use of such research in effective teaching strategies;

(C) the development, application, and dissemination of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

(D) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

(E) a significant focus on the teaching and learning needs of the less commonly taught languages, including an assessment of the strategic needs of the United States, the determination of ways to meet those needs nationally, and the publication and dissemination of instructional materials in the less commonly taught languages;

(F) the development and dissemination of materials designed to serve as a resource for foreign language teachers at the elementary and secondary school levels; and

(G) the operation of intensive summer language institutes to train advanced foreign language students, to provide professional development, and to improve language instruction through preservice and inservice language training for teachers.

(c) Conditions for grants

Grants under this section shall reflect the purposes of this part and be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

(Pub. L. 89–329, title VI, §603, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1777; amended Pub. L. 110–315, title VI, §§603, 610(a), Aug. 14, 2008, 122 Stat. 3336, 3338.)

PRIOR PROVISIONS

A prior section 1123, Pub. L. 89–329, title VI, §603, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1466; amended Pub. L. 99–498, title VI, §603, Oct. 17, 1986, 100 Stat. 1515; Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 722; Pub. L. 103–208, §2(j)(12), Dec. 20, 1993, 107 Stat. 2481, authorized grants for language resource centers, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1123, Pub. L. 89–329, title VI, §603, Nov. 8, 1965, 79 Stat. 1262, related to the State plans for carrying out the program of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §610(a), substituted "consortia" for "combinations".

Subsec. (c). Pub. L. 110–315, §603, inserted "reflect the purposes of this part and" after "section shall".

§1124. Undergraduate international studies and foreign language programs

(a) Incentives for creation of new programs and strengthening of existing programs in undergraduate international studies and foreign language programs

(1) Authority

The Secretary is authorized to make grants to institutions of higher education, consortia of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education, to assist such institutions, consortia or partnerships in planning, developing, and carrying out programs to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions, consortia or partnerships seeking to create new programs or to strengthen existing programs in foreign languages, area studies, and other international fields.

(2) Use of funds

Grants made under this section may be used for the Federal share of the cost of projects and activities which are an integral part of such a program, such as—

(A) planning for the development and expansion of undergraduate programs in international studies and foreign languages;

(B) teaching, research, curriculum development, faculty training in the United States or abroad, and other related activities, including—

(i) the expansion of library and teaching resources; and

(ii) pre-service teacher training and in-service teacher professional development;

(C) expansion of opportunities for learning foreign languages, including less commonly taught languages;

(D) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

(E) programs designed to develop or enhance linkages between 2- and 4-year institutions of higher education, or baccalaureate and post-baccalaureate programs or institutions;

(F) the development of undergraduate educational programs—

(i) in locations abroad where such opportunities are not otherwise available or that serve students for whom such opportunities are not otherwise available; and

(ii) that provide courses that are closely related to on-campus foreign language and

international curricula;

(G) the integration of new and continuing education abroad opportunities for undergraduate students into curricula of specific degree programs;

(H) the development of model programs to enrich or enhance the effectiveness of educational programs abroad, including predeparture and postreturn programs, and the integration of educational programs abroad into the curriculum of the home institution;

(I) the provision of grants for educational programs abroad that—

(i) are closely linked to the program's overall goals; and

(ii) have the purpose of promoting foreign language fluency and knowledge of world regions;

(J) the development of programs designed to integrate professional and technical education with foreign languages, area studies, and other international fields;

(K) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational programs assisted under this subsection;

(L) the conduct of summer institutes in foreign area, foreign language, and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities;

(M) the development of partnerships between—

(i) institutions of higher education; and

(ii) the private sector, government, or elementary and secondary education institutions,

in order to enhance international knowledge and skills; and

(N) the use of innovative technology to increase access to international education programs.

(3) Non-Federal share

The non-Federal share of the cost of the programs assisted under this subsection—

(A) may be provided in cash from the private sector corporations or foundations in an amount equal to one-third of the total cost of the programs assisted under this section; or

(B) may be provided as an in-cash or in-kind contribution from institutional and noninstitutional funds, including State and private sector corporation or foundation contributions, equal to one-half of the total cost of the programs assisted under this section.

(4) Special rule

The Secretary may waive or reduce the required non-Federal share for institutions that—

(A) are eligible to receive assistance under part A or B of subchapter III of this chapter or under subchapter V of this chapter; and

(B) have submitted a grant application under this section that demonstrates a need for a waiver or reduction.

(5) Priority

In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education, consortia or partnerships that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a 2-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

(6) Grant conditions

Grants under this subsection shall reflect the purposes of this part and be made on such conditions as the Secretary determines to be necessary to carry out this subsection.

(7) Application

Each application for assistance under this subsection shall include—

(A) evidence that the applicant has conducted extensive planning prior to submitting the application;

(B) an assurance that the faculty and administrators of all relevant departments and programs served by the applicant are involved in ongoing collaboration with regard to achieving the stated objectives of the application;

(C) an assurance that students at the applicant institutions, as appropriate, will have equal access to, and derive benefits from, the program assisted under this subsection;

(D) an assurance that each applicant, consortium, or partnership will use the Federal assistance provided under this subsection to supplement and not supplant non-Federal funds the institution expends for programs to improve undergraduate instruction in international studies and foreign languages;

(E) a description of how the applicant will provide information to students regarding federally funded scholarship programs in related areas;

(F) an explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, where applicable; and

(G) a description of how the applicant will encourage service in areas of national need, as identified by the Secretary.

(8) Evaluation

The Secretary may establish requirements for program evaluations and require grant recipients to submit annual reports that evaluate the progress and performance of students participating in programs assisted under this subsection.

(b) Programs of national significance

The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to improving undergraduate international studies and foreign language programs.

(c) Funding support

(1) In general

The Secretary may use not more than 20 percent of the total amount appropriated for this part for carrying out the purposes of this section.

(2) Grantees

Of the total amount of grant funds awarded to a grantee under this section, the grantee may use not more than ten percent of such funds for the activity described in subsection (a)(2)(I).

(Pub. L. 89–329, title VI, §604, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1778; amended Pub. L. 110–315, title VI, §§604, 610(a), Aug. 14, 2008, 122 Stat. 3336, 3338; Pub. L. 111–39, title VI, §601(a)(1), July 1, 2009, 123 Stat. 1953.)

PRIOR PROVISIONS

A prior section 1124, Pub. L. 89–329, title VI, §604, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1466; amended Pub. L. 99–498, title VI, §604, Oct. 17, 1986, 100 Stat. 1516; Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 722, authorized grants for undergraduate international studies and foreign language programs, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1124, Pub. L. 89–329, title VI, §604, Nov. 8, 1965, 79 Stat. 1263; Pub. L. 89–752, §14, Nov. 3, 1966, 80 Stat. 1244; Pub. L. 90–575, title II, §242(b)–(d), Oct. 16, 1968, 82 Stat. 1041; Pub. L. 94–482, title I, §157, Oct. 12, 1976, 90 Stat. 2156, provided for grants to institutions of higher education for projects, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1124a, Pub. L. 89–329, title VI, §605, as added Pub. L. 99–498, title VI, §605(2), Oct. 17, 1986, 100 Stat. 1517; amended Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 725, authorized

grants for intensive summer language institutes, prior to the general amendment of this part by Pub. L. 105–244.

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111–39, §601(a)(1)(A), inserted "the" before "Federal" in introductory provisions.

Subsec. (a)(7)(D). Pub. L. 111–39, §601(a)(1)(B), substituted "applicant, consortium," for "institution, combination".

2008—Subsec. (a)(1). Pub. L. 110–315, §604(1), substituted "consortia" for "combinations" wherever appearing.

Subsec. (a)(2)(B)(ii). Pub. L. 110–315, §604(2)(A), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "preservice and inservice teacher training;".

Subsec. (a)(2)(I) to (N). Pub. L. 110–315, §604(2)(B), (C), added subpar. (I) and redesignated former subpars. (I) to (M) as (J) to (N), respectively.

Subsec. (a)(4)(B). Pub. L. 110–315, §604(3), inserted "that demonstrates a need for a waiver or reduction" before period at end.

Subsec. (a)(5). Pub. L. 110–315, §610(a), substituted "consortia" for "combinations".

Subsec. (a)(6). Pub. L. 110–315, §604(4), inserted "reflect the purposes of this part and" after "subsection shall".

Subsec. (a)(7)(E) to (G). Pub. L. 110–315, §604(5), added subpars. (E) to (G).

Subsec. (c). Pub. L. 110–315, §604(6), designated existing provisions as par. (1), inserted heading, substituted "20 percent" for "10 percent", and added par. (2).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1125. Research; studies; annual report

(a) Authorized activities

The Secretary may, directly or through grants or contracts, conduct research and studies that contribute to achieving the purposes of this part. Such research and studies may include—

(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

(2) studies and surveys to assess the utilization of graduates of programs supported under this subchapter by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

(3) evaluation of the extent to which programs assisted under this subchapter that address national needs would not otherwise be offered;

(4) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

(5) research on more effective methods of providing instruction and achieving competency in foreign languages, area studies, or other international fields;

(6) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists;

(7) studies and surveys of the uses of technology in foreign language, area studies, and international studies programs;

(8) studies and evaluations of effective practices in the dissemination of international information, materials, research, teaching strategies, and testing techniques throughout the education community, including elementary and secondary schools;

(9) the application of performance tests and standards across all areas of foreign language instruction and classroom use;

(10) evaluation of the extent to which programs assisted under this subchapter reflect diverse

perspectives and a wide range of views and generate debate on world regions and international affairs, as described in the grantee's application;

(11) the systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of this part; and

(12) support for programs or activities to make data collected, analyzed, or disseminated under this section publicly available and easy to understand.

(b) Annual report

The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

(Pub. L. 89–329, title VI, §605, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1780; amended Pub. L. 110–315, title VI, §605, Aug. 14, 2008, 122 Stat. 3337.)

PRIOR PROVISIONS

A prior section 1125, Pub. L. 89–329, title VI, §606, formerly §605, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1467; amended Pub. L. 97–375, title II, §204, Dec. 21, 1982, 96 Stat. 1823; Pub. L. 99–386, title I, §103(c), Aug. 22, 1986, 100 Stat. 821; renumbered §606 and amended Pub. L. 99–498, title VI, §§605(1), 606, Oct. 17, 1986, 100 Stat. 1517; Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 725, authorized research and studies and required annual report, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1125, Pub. L. 89–329, title VI, §605, Nov. 8, 1965, 79 Stat. 1264; Pub. L. 90–575, title II, §242(a), (e), Oct. 16, 1968, 82 Stat. 1041, related to the applications by institutions of higher education for grants under the program of equipment grants, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 605 of Pub. L. 89–329 was classified to section 1124a of this title, prior to the general amendment of this part by Pub. L. 105–244.

Prior sections 1125a and 1125b were omitted in the general amendment of this part by Pub. L. 105–244.

Section 1125a, Pub. L. 89–329, title VI, §607, as added Pub. L. 99–498, title VI, §607, Oct. 17, 1986, 100 Stat. 1518; amended Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 726; Pub. L. 103–208, §2(j)(13), Dec. 20, 1993, 107 Stat. 2481, related to periodicals and other research materials published outside the United States.

Section 1125b, Pub. L. 89–329, title VI, §608, as added Pub. L. 99–498, title VI, §608, Oct. 17, 1986, 100 Stat. 1518; amended Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 727, related to selection of certain grant recipients.

AMENDMENTS

2008—Subsec. (a)(10) to (12). Pub. L. 110–315 added pars. (10) to (12).

§1126. Technological innovation and cooperation for foreign information access

(a) Authority

(1) In general

The Secretary is authorized to make grants to institutions of higher education, public or nonprofit private libraries, or partnerships between such institutions and other such institutions, libraries, or nonprofit educational organizations, to develop innovative techniques or programs using electronic technologies to collect, organize, preserve, and widely disseminate information from foreign sources on world regions and countries other than the United States that address our Nation's teaching and research needs in international education and foreign languages.

(2) Grant recipients

The Secretary may award grants under this section to carry out the activities authorized under this section to the following:

(A) An institution of higher education.

(B) A public or nonprofit private library.

(C) A partnership of an institution of higher education and one or more of the following:

(i) Another institution of higher education.
(ii) A library.
(iii) A nonprofit educational organization.

(b) Authorized activities

Grants under this section may be used—

(1) to acquire, facilitate access to, or preserve foreign information resources in print or electronic forms;

(2) to develop new means of immediate, full-text document delivery for information and scholarship from abroad;

(3) to develop new means of or standards for shared electronic access to international data;

(4) to support collaborative projects of indexing, cataloging, and other means of bibliographic access for scholars to important research materials published or distributed outside the United States;

(5) to develop methods for the wide dissemination of resources written in non-Roman language alphabets;

(6) to assist teachers of less commonly taught languages in acquiring, via electronic and other means, materials suitable for classroom use;

(7) to promote collaborative technology based projects in foreign languages, area studies, and international studies among grant recipients under this subchapter;

(8) to establish linkages to facilitate carrying out the activities described in this subsection between—

(A) the institutions of higher education, libraries, and partnerships receiving grants under this section; and

(B) institutions of higher education, nonprofit educational organizations, and libraries overseas; and

(9) to carry out other activities that the Secretary determines are consistent with the purpose of the grants awarded under this section.

(c) Application

Each institution of higher education, library, or partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may reasonably require.

(d) Match required

The Federal share of the total cost of carrying out a program supported by a grant under this section shall not be more than 662/3 percent. The non-Federal share of such cost may be provided either in-kind or in cash, and may include contributions from private sector corporations or foundations.

(Pub. L. 89–329, title VI, §606, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1781; amended Pub. L. 110–315, title VI, §606, Aug. 14, 2008, 122 Stat. 3337.)

PRIOR PROVISIONS

A prior section 1126, Pub. L. 89–329, title VI, §609, formerly §606, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1467; renumbered §609, Pub. L. 99–498, title VI, §605(1), Oct. 17, 1986, 100 Stat. 1517; amended Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 727, related to equitable distribution of grants, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1126, Pub. L. 89–329, title VI, §606, Nov. 8, 1965, 79 Stat. 1265, related to reservation and payment of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 606 of Pub. L. 89–329 was classified to section 1125 of this title, prior to the general amendment of this part by Pub. L. 105–244.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §606(1)(D), (E), designated existing provisions as par. (1), inserted

heading, and added par. (2).

Pub. L. 110–315, §606(1)(A)–(C), substituted "or partnerships between such institutions and other such institutions, libraries, or nonprofit educational organizations" for "or consortia of such institutions or libraries" and "electronic technologies" for "new electronic technologies" and inserted "from foreign sources" after "disseminate information".

Subsec. (b)(1). Pub. L. 110–315, §606(2)(A), substituted "to acquire, facilitate access to," for "to facilitate access to".

Subsec. (b)(3). Pub. L. 110–315, §606(2)(B), inserted "or standards for" after "develop new means of".

Subsec. (b)(8), (9). Pub. L. 110–315, §606(2)(C)–(E), added pars. (8) and (9).

Subsec. (c). Pub. L. 110–315, §606(3), substituted "institution of higher education, library, or partnership" for "institution or consortium".

§1127. Selection of certain grant recipients

(a) Competitive grants

The Secretary shall award grants under section 1122 of this title competitively on the basis of criteria that separately, but not less rigorously, evaluates—

(1) the applications for comprehensive foreign language and area or international studies centers and programs; and

(2) the applications for undergraduate foreign language and area or international studies centers and programs.

(b) Selection criteria

The Secretary shall set criteria for grants awarded under section 1122 of this title by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions. In keeping with the purposes of this part, the Secretary shall take into account the degree to which activities of centers, programs, and fellowships at institutions of higher education address national needs, and generate information for and disseminate information to the public. The Secretary shall also consider an applicant's record of placing students into postgraduate employment, education, or training in areas of national need and an applicant's stated efforts to increase the number of such students that go into such placements.

(c) Equitable distribution of grants

The Secretary shall, to the extent practicable, award grants under this part (other than section 1122 of this title) in such manner as to achieve an equitable distribution of the grant funds throughout the United States, based on the merit of a proposal as determined pursuant to a peer review process involving broadly representative professionals.

(Pub. L. 89–329, title VI, §607, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1782; amended Pub. L. 110–315, title VI, §607, Aug. 14, 2008, 122 Stat. 3338.)

PRIOR PROVISIONS

A prior section 1127, Pub. L. 89–329, title VI, §610, formerly §607, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1467; renumbered §610 and amended Pub. L. 99–498, title VI, §§605(1), 609, Oct. 17, 1986, 100 Stat. 1517, 1519; Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 728, authorized grants and contracts for American overseas research centers, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1127, Pub. L. 89–329, title VI, §607, Nov. 8, 1965, 79 Stat. 1265, provided procedures to be followed in event of disapproval of a State plan under equipment grant program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 607 of Pub. L. 89–329 was classified to section 1125a of this title, prior to the general amendment of this part by Pub. L. 105–244.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §607(1), substituted "evaluates—" and pars. (1) and (2) for "evaluates the applications for comprehensive and undergraduate language and area centers and programs."

Subsec. (b). Pub. L. 110–315, §607(2), inserted at end "In keeping with the purposes of this part, the

Secretary shall take into account the degree to which activities of centers, programs, and fellowships at institutions of higher education address national needs, and generate information for and disseminate information to the public. The Secretary shall also consider an applicant's record of placing students into postgraduate employment, education, or training in areas of national need and an applicant's stated efforts to increase the number of such students that go into such placements."

§1128. Equitable distribution of certain funds

(a) Selection criteria

The Secretary shall make excellence the criterion for selection of grants awarded under section 1122 of this title.

(b) Equitable distribution

To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 1122 of this title) in such a manner as will achieve an equitable distribution of funds throughout the United States.

(c) Support for undergraduate education

The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

(Pub. L. 89–329, title VI, §608, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1782.)

PRIOR PROVISIONS

A prior section 1128, Pub. L. 89–329, title VI, §610A, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 728, authorized appropriations for this part, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1128, Pub. L. 89–329, title VI, §608, Nov. 8, 1965, 79 Stat. 1265, provided the process of judicial review in event of State dissatisfaction in equipment grant program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 608 of Pub. L. 89–329 was classified to section 1125b of this title, prior to the general amendment of this part by Pub. L. 105–244.

§1128a. American overseas research centers

(a) Centers authorized

The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a "center") to enable such center to promote postgraduate research, exchanges and area studies.

(b) Use of grants

Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including—

(1) the cost of faculty and staff stipends and salaries;
(2) the cost of faculty, staff, and student travel;
(3) the cost of the operation and maintenance of overseas facilities;
(4) the cost of teaching and research materials;
(5) the cost of acquisition, maintenance, and preservation of library collections;
(6) the cost of bringing visiting scholars and faculty to a center to teach or to conduct research;
(7) the cost of organizing and managing conferences; and
(8) the cost of publication and dissemination of material for the scholarly and general public.

(c) Limitation

The Secretary shall only award grants to and enter into contracts with centers under this section that—

(1) receive more than 50 percent of their funding from public or private United States sources;

(2) have a permanent presence in the country in which the center is located; and

(3) are organizations described in section 501(c)(3) of title 26 which are exempt from taxation under section 501(a) of such title.

(d) Development grants

The Secretary is authorized to make grants for the establishment of new centers. The grants may be used to fund activities that, within 1 year, will result in the creation of a center described in subsection (c) of this section.

(e) Application

Each center desiring to receive a grant or contract under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require.

(Pub. L. 89–329, title VI, §609, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1782; amended Pub. L. 110–315, title VI, §608, Aug. 14, 2008, 122 Stat. 3338.)

PRIOR PROVISIONS

A prior section 609 of Pub. L. 89–329 was classified to section 1126 of this title, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 609 of Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1266; Pub. L. 92–318, title I, §131(d)(2)(D), June 23, 1972, 86 Stat. 260, prohibited equipment grants for sectarian instruction or religious worship and was classified to section 1129 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–315 added subsec. (e).

§1128b. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(Pub. L. 89–329, title VI, §610, as added Pub. L. 105–244, title VI, §601, Oct. 7, 1998, 112 Stat. 1783; amended Pub. L. 110–315, title VI, §609, Aug. 14, 2008, 122 Stat. 3338.)

PRIOR PROVISIONS

A prior section 610 of Pub. L. 89–329 was classified to section 1127 of this title, prior to the general amendment of this part by Pub. L. 105–244.

Prior sections 1129 and 1129a were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1129, Pub. L. 89–329, title VI, §609, Nov. 8, 1965, 79 Stat. 1266; Pub. L. 92–318, title I, §131(d)(2)(D), June 23, 1972, 86 Stat. 260, prohibited equipment grants for sectarian instruction or religious worship.

Section 1129a, Pub. L. 89–329, title VI, §610, as added Pub. L. 90–575, title II, §243, Oct. 16, 1968, 82 Stat. 1041, provided for consultation with the National Science Foundation in regard to the purchase of laboratory equipment.

AMENDMENTS

2008—Pub. L. 110–315 substituted "such sums as may be necessary" for "$80,000,000", "2009" for "1999", and "five" for "4".

PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

§1130. Findings and purposes

(a) Findings

The Congress finds that—

(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business and educational community and creating an awareness among the American public of the internationalization of our economy;

(2) concerted efforts are necessary to engage business schools, language and area study programs, professional international affairs education programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

(b) Purposes

It is the purpose of this part—

(1) to enhance the broad objective of this chapter and part C of subchapter I of chapter 34 of title 42 by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

(Pub. L. 89–329, title VI, §611, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1467; amended Pub. L. 99–498, title VI, §610, Oct. 17, 1986, 100 Stat. 1519; Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 728; Pub. L. 105–244, title VI, §602(a), Oct. 7, 1998, 112 Stat. 1783.)

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline generally.

1992—Pub. L. 102–325 amended section generally, inserting subsec. headings and reenacting text without substantial change.

1986—Subsec. (a)(1). Pub. L. 99–498 inserted "and educational" after "skills in the business".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§1130–1. Centers for international business education

(a) Program authorized

(1) Purpose

The purpose of this section is to coordinate the programs of the Federal Government in the

areas of research, education, and training in international business and trade competitiveness.

(2) In general

The Secretary is authorized to make grants to institutions of higher education, or consortia of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

(A) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted;

(B) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners; and

(C) will provide research and training in the international aspects of trade, commerce, and other fields of study.

(3) Special rule

In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses. Such centers shall also serve other faculty, students, and institutions of higher education located within their region.

(b) Authorized expenditures

Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

(1) faculty and staff travel in foreign areas, regions, or countries;

(2) teaching and research materials;

(3) curriculum planning and development;

(4) bringing visiting scholars and faculty to the center to teach or to conduct research; and

(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

(c) Authorized activities

(1) Mandatory activities

Programs and activities to be conducted by centers assisted under this section shall include—

(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and degree candidates;

(C) programs, such as intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or consortia thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

(2) Permissible activities

Programs and activities to be conducted by centers assisted under this section may include—

(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds

provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program;

(B) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section;

(C) summer institutes in international business, foreign area studies, foreign language studies, and other international studies designed to carry out the purposes of subparagraph (A) of this paragraph;

(D) the development of opportunities for business students to study abroad in locations which are important to the existing and future economic well-being of the United States;

(E) outreach activities or consortia with business programs located at other institutions of higher education (including those that are eligible to receive assistance under part A or B of subchapter III or under subchapter V) for the purpose of providing expertise regarding the internationalization of such programs, such as assistance in research, curriculum development, faculty development, or educational exchange programs;

(F) programs encouraging the advancement and understanding of technology-related disciplines, including manufacturing software systems and technology management; and

(G) other eligible activities prescribed by the Secretary.

(d) Advisory council

(1) Establishment

In order to be eligible for assistance under this section, an institution of higher education, or consortium of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

(2) Membership on advisory council

The center advisory council shall include—

(A) one representative of an administrative department or office of the institution of higher education;

(B) one faculty representative of the business or management school or department of such institution;

(C) one faculty representative of the international studies or foreign language school or department of such institution;

(D) one faculty representative of another professional school or department of such institution, as appropriate;

(E) one or more representatives of local or regional businesses or firms;

(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

(G) such other individuals as the institution of higher education deems appropriate, such as a representative of a community college in the region served by the center.

(3) Meetings

In addition to the initial planning activities required under subsection (d)(1) of this section, the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

(e) Grant duration; Federal share

(1) Duration of grants

The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

(2) Federal share

The Federal share of the cost of planning, establishing and operating centers under this section shall be—

(A) not more than 90 percent for the first year in which Federal funds are received;

(B) not more than 70 percent for the second such year; and

(C) not more than 50 percent for the third such year and for each such year thereafter.

(3) Non-Federal share

The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind.

(4) Waiver of non-Federal share

In the case of an institution of higher education receiving a grant under this part and conducting outreach or consortia activities with another institution of higher education in accordance with subsection (c)(2)(E) of this section, the Secretary may waive a portion of the requirements for the non-Federal share required in paragraph (2) equal to the amount provided by the institution of higher education receiving such grant to such other institution of higher education for carrying out such outreach or consortia activities. Any such waiver shall be subject to such terms and conditions as the Secretary deems necessary for carrying out the purposes of this section.

(f) Grant conditions

Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

(1) evidence that the institution of higher education, or consortium of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1) of this section;

(2) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies, professional international affairs, and other professional schools or departments, as appropriate;

(3) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate, and that diverse perspectives will be made available to students in programs under this section; and

(4) assurance that the institution of higher education, or consortium of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1) of this section.

(Pub. L. 89–329, title VI, §612, as added Pub. L. 100–418, title VI, §6261(2), Aug. 23, 1988, 102 Stat. 1520; amended Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 729; Pub. L. 105–244, title VI, §602(b), Oct. 7, 1998, 112 Stat. 1783; Pub. L. 110–315, title VI, §§610, 611(a), Aug. 14, 2008, 122 Stat. 3338, 3339.)

PRIOR PROVISIONS

A prior section 612 of Pub. L. 89–329 was renumbered section 613 and is classified to section 1130a of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §611(a)(1), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (a)(1). Pub. L. 110–315, §610(a), substituted "consortia" for "combinations" in introductory provisions.

Subsec. (c)(1)(D). Pub. L. 110–315, §610(a), substituted "consortia" for "combinations".

Subsec. (c)(2)(E). Pub. L. 110–315, §611(a)(2)(A), inserted "(including those that are eligible to receive assistance under part A or B of subchapter III or under subchapter V)" after "other institutions of higher education".

Subsec. (c)(2)(F), (G). Pub. L. 110–315, §611(a)(2)(B)–(D), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (d)(1). Pub. L. 110–315, §610(b), substituted "consortium" for "combination".

Subsec. (f)(1). Pub. L. 110–315, §610(b), substituted "consortium" for "combination".

Subsec. (f)(3). Pub. L. 110–315, §611(a)(3), inserted ", and that diverse perspectives will be made available to students in programs under this section" before semicolon.

Subsec. (f)(4). Pub. L. 110–315, §610(b), substituted "consortium" for "combination".

1998—Subsec. (c)(1)(B). Pub. L. 105–244, §602(b)(1)(A)(i), struck out "advanced" after "faculty and".

Subsec. (c)(1)(C). Pub. L. 105–244, §602(b)(1)(A)(ii), struck out "evening or summer" before "programs, such".

Subsec. (c)(2)(C). Pub. L. 105–244, §602(b)(1)(B), inserted "foreign language studies," after "area studies,".

Subsec. (d)(2)(G). Pub. L. 105–244, §602(b)(2), inserted ", such as a representative of a community college in the region served by the center" before the period.

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions relating to grants for establishing and operating international business education centers in subsec. (a), costs to be covered by Federal funds in subsec. (b), scope of programs and activities in subsec. (c), center advisory council in subsec. (d), duration of grants and allotment of Federal and non-Federal shares in subsec. (e), and conditions for grants in subsec. (f).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§1130a. Education and training programs

(a) Program authorized

The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this section shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

(b) Authorized activities

Eligible activities to be conducted by institutions of higher education pursuant to grants or contracts awarded under this section shall include—

(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) development of area studies programs, and interdisciplinary international programs;

(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives;

(9) development of research programs on issues of common interest to institutions of higher

education and private sector organizations and associations engaged in or promoting international economic activity;

(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies;

(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.

(c) Applications

No grant may be made and no contract may be entered into under this section unless an institution of higher education submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b) of this section. Each such application shall include an assurance that, where applicable, the activities funded by the grant will reflect diverse perspectives and a wide range of views on world regions and international affairs.

(d) Federal share

The Federal share under this part for each fiscal year shall not exceed 50 percent of the cost of such program.

(Pub. L. 89–329, title VI, §613, formerly §612, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1468; amended Pub. L. 99–498, title VI, §611, Oct. 17, 1986, 100 Stat. 1519; renumbered §613 and amended Pub. L. 100–418, title VI, §§6261(1), 6263, Aug. 23, 1988, 102 Stat. 1520, 1523; Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 732; Pub. L. 110–315, title VI, §611(b), Aug. 14, 2008, 122 Stat. 3339.)

PRIOR PROVISIONS

A prior section 613 of Pub. L. 89–329 was renumbered section 614 and is classified to section 1130b of this title.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–315 inserted at end "Each such application shall include an assurance that, where applicable, the activities funded by the grant will reflect diverse perspectives and a wide range of views on world regions and international affairs."

1992—Pub. L. 102–325 amended section generally, adding provisions relating to establishment of linkages overseas with institutions of higher education and organizations that contribute to educational objectives of this section and relating to summer institutes in international business, foreign area and other international studies designed to carry out purposes of this section.

1988—Subsecs. (a), (c), (d). Pub. L. 100–418 substituted "section" for "part" wherever appearing.

1986—Subsec. (b)(10). Pub. L. 99–498 added par. (10).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§1130b. Authorization of appropriations

(a) Centers for international business education

There are authorized to be appropriated such sums as may be necessary for the fiscal year 2009

and such sums as may be necessary for each of the five succeeding fiscal years to carry out the provisions of section 1130–1 of this title.

(b) Education and training programs

There are authorized to be appropriated such sums as may be necessary for fiscal year 2009, and such sums as may be necessary for the five succeeding fiscal years, to carry out the provisions of section 1130a of this title.

(Pub. L. 89–329, title VI, §614, formerly §613, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1469; amended Pub. L. 99–498, title VI, §612, Oct. 17, 1986, 100 Stat. 1519; renumbered §614 and amended Pub. L. 100–418, title VI, §§6261(1), 6262, Aug. 23, 1988, 102 Stat. 1520, 1523; Pub. L. 101–600, §7, Nov. 16, 1990, 104 Stat. 3046; Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 733; Pub. L. 105–244, title VI, §602(c), Oct. 7, 1998, 112 Stat. 1783; Pub. L. 110–315, title VI, §611(c), Aug. 14, 2008, 122 Stat. 3339.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §611(c)(1), substituted "such sums as may be necessary" for "$11,000,000", "2009" for "1999", and "five" for "4".

Subsec. (b). Pub. L. 110–315, §611(c)(2), substituted "such sums as may be necessary" for "$7,000,000", "2009" for "1999", and "five" for "4".

1998—Pub. L. 105–244 substituted "1999" for "1993" in subsecs. (a) and (b).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows:

"(a) There are authorized to be appropriated $7,500,000 for the fiscal year 1988 and for each of the 4 succeeding fiscal years to carry out the provisions of section 1130–1 of this title.

"(b) There are authorized to be appropriated $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 1130a of this title."

1990—Subsec. (a). Pub. L. 101–600 substituted "$7,500,000" for "$5,000,000" and "4 succeeding" for "3 succeeding".

1988—Pub. L. 100–418, §6262, amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years."

1986—Pub. L. 99–498 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated $7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this part."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

PART C—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

§1131. Minority foreign service professional development program

(a) Establishment

The Secretary is authorized to award a grant, on a competitive basis, to an eligible recipient to enable such recipient to establish an Institute for International Public Policy (hereafter in this part referred to as the "Institute"). The Institute shall conduct a program to enhance the international competitiveness of the United States by increasing the participation of underrepresented populations in the international service, including private international voluntary organizations and the foreign service of the United States. Such program shall include a program for such students to study abroad

in their junior year, fellowships for graduate study, internships, intensive academic programs such as summer institutes, or intensive language training.

(b) "Eligible recipient" defined

(1) In general

For the purpose of this part, the term "eligible recipient" means a consortium consisting of 1 or more of the following entities:

(A) An institution eligible for assistance under part B of subchapter III of this chapter.

(B) A tribally controlled college or university or Alaska Native or Native Hawaiian-serving institution eligible for assistance under part A or B of subchapter III, or an institution eligible for assistance under subchapter V.

(C) An institution of higher education that serves substantial numbers of underrepresented minority students.

(D) An institution of higher education with programs in training foreign service professionals.

(2) Host institution

Each eligible recipient receiving a grant under this section shall designate an institution of higher education as the host institution for the Institute.

(c) Application

(1) In general

Each eligible recipient desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) Content of application

Each application submitted under paragraph (1) shall include a description of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, where applicable.

(d) Duration

Grants made pursuant to this section shall be awarded for a period not to exceed 5 years.

(e) Match required

The eligible recipient of a grant under this section shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-half the amount of the grant, which contribution may be in cash or in kind.

(Pub. L. 89–329, title VI, §621, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 734; amended Pub. L. 105–244, title VI, §603(a), Oct. 7, 1998, 112 Stat. 1783; Pub. L. 110–315, title VI, §612, Aug. 14, 2008, 122 Stat. 3339.)

PRIOR PROVISIONS

A prior section 1131, Pub. L. 89–329, title VI, §621, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1469; amended Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 99–498, title VI, §613, Oct. 17, 1986, 100 Stat. 1519, related to advisory board on the conduct of programs under this subchapter, prior to repeal by Pub. L. 101–392, title VI, §§612, 702(a), Sept. 25, 1990, 104 Stat. 842, 843, effective July 1, 1991.

Another prior section 1131, Pub. L. 89–329, title VI, §621, Nov. 8, 1965, 79 Stat. 1266, related to grants for operating faculty development program workshops and institutes, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §612(1), substituted "The Institute shall conduct a program to enhance the international competitiveness of the United States by increasing the participation of underrepresented populations in the international service, including private international voluntary organizations and the foreign

service of the United States." for "The Institute shall conduct a program to significantly increase the numbers of African Americans and other underrepresented minorities in the international service, including private international voluntary organizations and the foreign service of the United States."

Subsec. (b)(1)(B) to (D). Pub. L. 110–315, §612(2), added subpars. (B) and (C), redesignated former subpar. (C) as (D), and struck out former subpar. (B) which read as follows: "An institution of higher education which serves substantial numbers of African American or other underrepresented minority students."

Subsec. (c). Pub. L. 110–315, §612(3), designated existing provisions as par. (1), inserted heading, and added par. (2).

1998—Subsec. (e). Pub. L. 105–244 substituted "one-half" for "one-fourth".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§1131–1. Institutional development

(a) In general

The Institute shall award grants, from amounts available to the Institute for each fiscal year, to historically Black colleges and universities, Hispanic-serving institutions, tribally controlled colleges or universities, and minority institutions, to enable such colleges, universities, and institutions to strengthen international affairs, international business, and foreign language study programs, including the teaching of foreign languages, at such colleges, universities, and institutions, respectively, which may include collaboration with institutions of higher education that receive funding under this subchapter.

(b) Application

No grant may be made by the Institute unless an application is made by the college, university, or institution at such time, in such manner, and accompanied by such information as the Institute may require.

(c) Definitions

In this section—

(1) the term "Hispanic-serving institution" has the meaning given the term in section 1101a of this title; and

(2) the term "minority institution" has the meaning given the term in section 1067k of this title.

(Pub. L. 89–329, title VI, §622, as added Pub. L. 105–244, title VI, §603(b)(2), Oct. 7, 1998, 112 Stat. 1784; amended Pub. L. 110–315, title VI, §613, Aug. 14, 2008, 122 Stat. 3340; Pub. L. 111–39, title VI, §601(a)(2), July 1, 2009, 123 Stat. 1954.)

PRIOR PROVISIONS

A prior section 622 of Pub. L. 89–329 was renumbered section 623 and is classified to section 1131a of this title.

Another prior section 622 of Pub. L. 89–329, title VI, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1470; amended Pub. L. 99–498, title VI, §614, Oct. 17, 1986, 100 Stat. 1520, defined terms used in this subchapter and was classified to section 1132 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325. For definitions, see section 1132 of this title.

Another prior section 622 of Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1266, related to stipends for persons attending faculty development program institutes and was classified to section 1132 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–39 inserted period at end.

2008—Subsec. (a). Pub. L. 110–315, §613(1), substituted "tribally controlled colleges or universities" for "Tribally Controlled Colleges or Universities" and "international affairs, international business, and foreign language study programs, including the teaching of foreign languages, at such colleges, universities, and institutions, respectively, which may include collaboration with institutions of higher education that receive funding under this subchapter" for "international affairs programs."

Subsec. (c)(1) to (4). Pub. L. 110–315, §613(2), redesignated pars. (2) and (4) as (1) and (2), respectively, and struck out former pars. (1) and (3), which defined "historically Black college and university" and "Tribally Controlled College or University", respectively.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§1131a. Study abroad program

(a) Program authority

The Institute shall conduct, by grant or contract, a junior year abroad program. The junior year abroad program shall be open to eligible students at institutions of higher education, including historically Black colleges and universities, tribally controlled colleges or universities, Alaska Native-serving, Native Hawaiian-serving, and Hispanic-serving institutions, and other institutions of higher education with significant minority student populations. Eligible student expenses shall be shared by the Institute and the institution at which the student is in attendance. Each student may spend not more than 9 months abroad in a program of academic study, as well as social, familial and political interactions designed to foster an understanding of and familiarity with the language, culture, economics and governance of the host country.

(b) "Eligible student" defined

For the purpose of this section, the term "eligible student" means a student that is—

(1) enrolled full-time in a baccalaureate degree program at an institution of higher education; and

(2) entering the third year of study, or completing the third year of study in the case of a summer abroad program, at an institution of higher education which nominates such student for participation in the study abroad program.

(c) Special rule

An institution of higher education desiring to send a student on the study abroad program shall enter into a Memorandum of Understanding with the Institute under which such institution of higher education agrees to—

(1) provide the requisite academic preparation for students participating in the study abroad or internship programs;

(2) pay one-third the cost of each student it nominates for participation in the study abroad program; and

(3) meet such other requirements as the Secretary may from time to time, by regulation, reasonably require.

(Pub. L. 89–329, title VI, §623, formerly §622, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 734; renumbered §623 and amended Pub. L. 105–244, title VI, §603(b)(1), (c), Oct. 7, 1998, 112 Stat. 1783, 1784; Pub. L. 110–315, title VI, §614, Aug. 14, 2008, 122 Stat. 3340.)

PRIOR PROVISIONS

A prior section 623 of Pub. L. 89–329 was renumbered section 624 and is classified to section 1131b of this

title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315 struck out "as defined in section 1061 of this title" after "Black colleges and universities" and substituted "tribally controlled colleges or universities, Alaska Native-serving, Native Hawaiian-serving, and Hispanic-serving institutions" for "tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978".

1998—Pub. L. 105–244, §603(c)(1), substituted "Study" for "Junior year" in section catchline.

Subsec. (b)(2). Pub. L. 105–244, §603(c)(2), inserted ", or completing the third year of study in the case of a summer abroad program," after "year of study" and substituted "study abroad" for "junior year abroad".

Subsec. (c). Pub. L. 105–244, §603(c)(3)(A), substituted "study abroad" for "junior year abroad" in introductory provisions.

Subsec. (c)(1). Pub. L. 105–244, §603(c)(3)(B), substituted "study abroad" for "junior year abroad".

Subsec. (c)(2). Pub. L. 105–244, §603(c)(3)(C), substituted "one-third" for "one-half" and "study abroad" for "junior year abroad".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1131b. Advanced degree in international relations

The Institute shall provide, in cooperation with the other members participating in the eligible recipient consortium, a program of study leading to an advanced degree in international relations, international affairs, international economics, or other academic areas related to the Institute fellow's career objectives. The advanced degree study program shall be designed by the consortia, consistent with the fellow's career objectives, and shall be reviewed and approved by the Secretary. The Institute may grant fellowships in an amount not to exceed the level of support comparable to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurement of need approved by the Secretary. A fellowship recipient shall agree to undertake full-time study and to enter the international service (including work with private international voluntary organizations) or foreign service of the United States.

(Pub. L. 89–329, title VI, §624, formerly §623, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 735; renumbered §624, Pub. L. 105–244, title VI, §603(b)(1), Oct. 7, 1998, 112 Stat. 1783; amended Pub. L. 110–315, title VI, §615, Aug. 14, 2008, 122 Stat. 3341.)

PRIOR PROVISIONS

A prior section 624 of Pub. L. 89–329 was renumbered section 625 and is classified to section 1131c of this title.

AMENDMENTS

2008—Pub. L. 110–315, in section catchline, substituted "Advanced" for "Masters" and, in text, substituted "an advanced degree in international relations, international affairs, international economics, or other academic areas related to the Institute fellow's career objectives" for "a masters degree in international relations" and "The advanced degree study program shall be designed by the consortia, consistent with the fellow's career objectives, and" for "The masters degree program designed by the consortia".

§1131c. Internships

(a) In general

The Institute shall enter into agreements with historically Black colleges and universities, tribally controlled colleges or universities, Alaska Native-serving, Native Hawaiian-serving, and Hispanic-serving institutions, other institutions of higher education with significant numbers of minority students, and institutions of higher education with programs in training foreign service

professionals, to provide academic year internships during the junior and senior year and summer internships following the sophomore and junior academic years, by work placements with international, voluntary or government organizations or agencies, including the Agency for International Development, the Department of State,[1] the International Monetary Fund, the National Security Council, the Organization of American States, the Export-Import Bank, the Overseas Private Investment Corporation, the Department of State,[1] Office of the United States Trade Representative, the World Bank, and the United Nations.

(b) Postbaccalaureate internships

The Institute shall enter into agreements with institutions of higher education described in the first sentence of subsection (a) of this section to conduct internships for students who have completed study for a baccalaureate degree. The internship program authorized by this subsection shall—

(1) assist the students to prepare for a master's degree program;

(2) be carried out with the assistance of the Woodrow Wilson International Center for Scholars; and

(3) contain work experience for the students designed to contribute to the students' preparation for a master's degree program.

(c) Interagency Committee on Minority Careers in International Affairs

(1) Establishment

There is established in the executive branch of the Federal Government an Interagency Committee on Minority Careers in International Affairs composed of not less than 7 members, including—

(A) the Under Secretary for Farm and Foreign Agricultural Services of the Department of Agriculture, or the Under Secretary's designee;

(B) the Assistant Secretary and Director General, of the United States and Foreign Commercial Service of the Department of Commerce, or the Assistant Secretary and Director General's designee;

(C) the Under Secretary of Defense for Personnel and Readiness of the Department of Defense, or the Under Secretary's designee;

(D) the Assistant Secretary for Postsecondary Education in the Department of Education, or the Assistant Secretary's designee;

(E) the Director General of the Foreign Service of the Department of State, or the Director General's designee; and

(F) the General Counsel of the Agency for International Development, or the General Counsel's designee.

(2) Functions

The Interagency Committee established by this section shall—

(A) on an annual basis inform the Secretary and the Institute regarding ways to advise students participating in the internship program assisted under this section with respect to goals for careers in international affairs;

(B) locate for students potential internship opportunities in the Federal Government related to international affairs; and

(C) promote policies in each department and agency participating in the Committee that are designed to carry out the objectives of this part.

(Pub. L. 89–329, title VI, §625, formerly §624, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 735; renumbered §625, and amended Pub. L. 105–244, title VI, §603(b)(1), (d), Oct. 7, 1998, 112 Stat. 1783, 1784; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(j), Oct. 21, 1998, 112 Stat. 2681–788; Pub. L. 110–315, title VI, §616, Aug. 14, 2008, 122 Stat. 3341.)

PRIOR PROVISIONS

A prior section 625 of Pub. L. 89–329 was renumbered section 626 and is classified to section 1131d of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §616(1), struck out "as defined in section 1061 of this title" after "Black colleges and universities" and substituted "tribally controlled colleges or universities, Alaska Native-serving, Native Hawaiian-serving, and Hispanic-serving institutions" for "tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978", "international," for "an international", and "the Department of State" for "the United States Information Agency" after "Development,".

Subsec. (b)(2) to (4). Pub. L. 110–315, §616(2), inserted "and" after semicolon at end of par. (2), substituted a period for "; and" at end of par. (3), and struck out par. (4) which read as follows: "be assisted by the Interagency Committee on Minority Careers in International Affairs established under subsection (c) of this section."

Subsec. (c)(1)(E) to (G). Pub. L. 110–315, §616(3), inserted "and" after semicolon at end of subpar. (E), substituted a period for "; and" at end of subpar. (F), and struck out subpar. (G) which read as follows: "the Associate Director for Educational and Cultural Affairs of the United States Information Agency, or the Associate Director's designee."

1998—Pub. L. 105–244, §603(d), designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

Subsec. (a). Pub. L. 105–277, which directed the amendment of "section 624 of Pub. L. 89–329 (20 U.S.C. 1131c)" by striking "the United States Information Agency," after "Agency for International Development,", could not be executed because of the intervening amendment by Pub. L. 105–244 which renumbered section 624 of Pub. L. 89–329 as section 625.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of Title 22.

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

[1] So in original. "Department of State" appears twice.

§1131c–1. Financial assistance

(a) Authority

The Institute may provide financial assistance, in the form of summer stipends described in subsection (b) and Ralph Bunche scholarship assistance described in subsection (c), to low-income students to facilitate the participation of the students in the Institute's programs under this part.

(b) Summer stipends

(1) Requirements

A student receiving a summer stipend under this section shall use such stipend to defray the student's cost of participation in a summer institute program funded under this part, including the costs of travel, living, and educational expenses necessary for the student's participation in such program.

(2) Amount

A summer stipend awarded to a student under this section shall not exceed $3,000 per summer.

(c) Ralph Bunche scholarship

(1) Requirements

A student receiving a Ralph Bunche scholarship under this section—

(A) shall be a full-time student at an institution of higher education who is accepted into a program funded under this part; and

(B) shall use such scholarship to pay costs related to the cost of attendance, as defined in section 1087ll of this title, at the institution of higher education in which the student is enrolled.

(2) Amount and duration

A Ralph Bunche scholarship awarded to a student under this section shall not exceed $5,000 per academic year.

(Pub. L. 89–329, title VI, §626, as added Pub. L. 110–315, title VI, §617(2), Aug. 14, 2008, 122 Stat. 3341.)

PRIOR PROVISIONS

A prior section 626 of Pub. L. 89–329 was renumbered section 627, and is classified to section 1131d of this title.

Another prior section 626 of Pub. L. 89–329 was renumbered section 628, and is classified to section 1131e of this title.

§1131d. Report

The Institute shall prepare a report once every two years on the activities of the Institute and shall submit such report to the Secretary of Education and the Secretary of State.

(Pub. L. 89–329, title VI, §627, formerly §625, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 735; renumbered §626, Pub. L. 105–244, title VI, §603(b)(1), Oct. 7, 1998, 112 Stat. 1783; renumbered §627 and amended Pub. L. 110–315, title VI, §§617(1), 618, Aug. 14, 2008, 122 Stat. 3341, 3342.)

PRIOR PROVISIONS

A prior section 627 of Pub. L. 89–329 was renumbered section 628, and is classified to section 1131e of this title.

Another prior section 627 of Pub. L. 89–329 was renumbered section 629, and is classified to section 1131f of this title.

AMENDMENTS

2008—Pub. L. 110–315, §618, substituted "prepare a report once every two years" for "annually prepare a report".

§1131e. Gifts and donations

The Institute is authorized to receive money and other property donated, bequeathed, or devised to the Institute with or without a condition of restriction, for the purpose of providing financial support for the fellowships or underwriting the cost of the Junior Year Abroad Program. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the report described in section 1131d of this title.

(Pub. L. 89–329, title VI, §628, formerly §626, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 736; renumbered §627, and amended Pub. L. 105–244, title VI, §603(b)(1), (f), Oct. 7, 1998, 112 Stat. 1783, 1785; renumbered §628 and amended Pub. L. 110–315, title VI, §§617(1), 619, Aug. 14, 2008, 122 Stat. 3341, 3342.)

PRIOR PROVISIONS

A prior section 628 of Pub. L. 89–329 was renumbered section 629, and is classified to section 1131f of this title.

AMENDMENTS

2008—Pub. L. 110–315, §619, substituted "report described in section 1131d" for "annual report described in section 1131d".

1998—Pub. L. 105–244, §603(f), made technical amendment to reference in original act which appears in text as reference to section 1131d of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244,

see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§1131f. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title VI, §629, formerly §627, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 736; renumbered §628, and amended Pub. L. 105–244, title VI, §603(b)(1), (g), Oct. 7, 1998, 112 Stat. 1783, 1786; renumbered §629 and amended Pub. L. 110–315, title VI, §§617(1), 620, Aug. 14, 2008, 122 Stat. 3341, 3342.)

AMENDMENTS

2008—Pub. L. 110–315, §620, substituted "such sums as may be necessary" for "$10,000,000", "2009" for "1999", and "five succeeding" for "4 succeeding".

1998—Pub. L. 105–244, §603(g), substituted "1999" for "1993".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

PART D—GENERAL PROVISIONS

§1132. Definitions

(a) Definitions

As used in this subchapter—

(1) the term "area studies" means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

(2) the term "comprehensive foreign language and area or international studies center" means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and [1]

(3) the term "educational programs abroad" means programs of study, internships, or service learning outside the United States which are part of a foreign language or other international curriculum at the undergraduate or graduate education levels;

(4) the term "export education" means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures;

(5) the term "historically Black college and university" has the meaning given the term "part B institution" in section 1061 of this title;

(6) the term "institution of higher education" means, in addition to institutions which meet the definition of section 1001 of this title, institutions which meet the requirements of section 1001 of this title except that (1) they are not located in the United States, and (2) they apply for assistance under this subchapter in consortia with institutions which meet the definition of section 1001 of this title;

(7) the term "international business" means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods,

investments in industries, the licensing of processes, patents and trademarks, and the supply of services;

(8) the term "internationalization of curricula" means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education;

(9) the term "tribally controlled college or university" has the meaning given the term in section 1801 of title 25; and

(10) the term "undergraduate foreign language and area or international studies center" means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language and area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students.

(b) Special conditions

All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

(Pub. L. 89–329, title VI, §631, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 736; amended Pub. L. 105–244, title I, §102(b)(8), title VI, §604(a), Oct. 7, 1998, 112 Stat. 1622, 1786; Pub. L. 110–315, title VI, §621, Aug. 14, 2008, 122 Stat. 3342; Pub. L. 111–39, title VI, §601(b), July 1, 2009, 123 Stat. 1954.)

PRIOR PROVISIONS

A prior section 1132, Pub. L. 89–329, title VI, §622, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1470; amended Pub. L. 99–498, title VI, §614, Oct. 17, 1986, 100 Stat. 1520, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1132, Pub. L. 89–329, title VI, §622, Nov. 8, 1965, 79 Stat. 1266, related to stipends for persons attending faculty development program institutes, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–39 made technical correction to directory language of Pub. L. 110–315, §621. See 2008 Amendment notes below.

2008—Subsec. (a)(2). Pub. L. 110–315, §621(2), (3), as amended by Pub. L. 111–39, redesignated par. (5) as (2) and substituted "comprehensive foreign language and area or international studies center" for "comprehensive language and area center". Former par. (2) redesignated (7).

Subsec. (a)(3). Pub. L. 110–315, §621(2), (4), as amended by Pub. L. 111–39, redesignated par. (9) as (3) and substituted semicolon for period at end. Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 110–315, §621(2), as amended by Pub. L. 111–39, redesignated par. (3) as (4). Former par. (4) redesignated (8).

Subsec. (a)(5). Pub. L. 110–315, §621(5), as amended by Pub. L. 111–39, added par. (5).

Pub. L. 110–315, §621(2), as amended by Pub. L. 111–39, redesignated par. (5) as (2).

Subsec. (a)(6). Pub. L. 110–315, §621(2), (6), as amended by Pub. L. 111–39, redesignated par. (8) as (6) and struck out "and" after semicolon. Former par. (6) redesignated (10).

Subsec. (a)(7). Pub. L. 110–315, §621(1), (2), as amended by Pub. L. 111–39, redesignated par. (2) as (7) and struck out former par. (7) which read as follows: "the term 'critical languages' means each of the languages contained in the list of critical languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Fed. Reg. 149, 31413), except that, in the implementation of this definition, the Secretary may set priorities according to the purposes of this subchapter;".

Subsec. (a)(8). Pub. L. 110–315, §621(2), as amended by Pub. L. 111–39, redesignated par. (4) as (8). Former par. (8) redesignated (6).

Subsec. (a)(9). Pub. L. 110–315, §621(7), as amended by Pub. L. 111–39, added par. (9).

Pub. L. 110–315, §621(2), as amended by Pub. L. 111–39, redesignated par. (9) as (3).

Subsec. (a)(10). Pub. L. 110–315, §621(2), (8), as amended by Pub. L. 111–39, redesignated par. (6) as (10) and substituted "undergraduate foreign language and area or international studies center" for "undergraduate language and area center" and a period for the semicolon at end.

1998—Subsec. (a)(8). Pub. L. 105–244, §102(b)(8), substituted "section 1001" for "section 1141(a)" in two places and "of section 1001" for "of 1141(a)".

Subsec. (a)(9). Pub. L. 105–244, §604(a), added par. (9).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

[1] So in original. The word "and" probably should not appear.

§1132–1. Special rule

The Secretary may waive or reduce the non-Federal share required under this subchapter for institutions that—

(1) are eligible to receive assistance under part A or B of subchapter III or under subchapter V; and

(2) have submitted a grant application under this section that demonstrates a need for a waiver or reduction, as determined by the Secretary.

(Pub. L. 89–329, title VI, §632, as added Pub. L. 110–315, title VI, §622, Aug. 14, 2008, 122 Stat. 3343.)

PRIOR PROVISIONS

A prior section 1132–1, Pub. L. 89–329, title VI, §632, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 737, related to preservation of pre-1992 programs, prior to repeal by Pub. L. 105–244, §3, title VI, §604(b), Oct. 7, 1998, 112 Stat. 1585, 1786, effective Oct. 1, 1998.

§1132–2. Rule of construction

Nothing in this subchapter shall be construed to authorize the Secretary to mandate, direct, or control an institution of higher education's specific instructional content, curriculum, or program of instruction.

(Pub. L. 89–329, title VI, §633, as added Pub. L. 110–315, title VI, §622, Aug. 14, 2008, 122 Stat. 3343.)

§1132–3. Assessment

The Secretary is authorized to assess and ensure compliance with all the conditions and terms of grants provided under this subchapter.

(Pub. L. 89–329, title VI, §634, as added Pub. L. 110–315, title VI, §622, Aug. 14, 2008, 122 Stat. 3343.)

§1132–4. Evaluation, outreach, and information

The Secretary may use not more than one percent of the funds made available under this subchapter to carry out program evaluation, national outreach, and information dissemination activities relating to the programs authorized under this subchapter.

(Pub. L. 89–329, title VI, §635, as added Pub. L. 110–315, title VI, §622, Aug. 14, 2008, 122 Stat. 3343.)

§1132–5. Report

The Secretary shall, in consultation and collaboration with the Secretary of State, the Secretary of Defense, and the heads of other relevant Federal agencies, submit a report once every two years that identifies areas of national need in foreign language, area, and international studies as such studies relate to government, education, business, and nonprofit needs, and a plan to address those needs. The report shall be provided to the authorizing committees and made available to the public.

(Pub. L. 89–329, title VI, §636, as added Pub. L. 110–315, title VI, §622, Aug. 14, 2008, 122 Stat. 3343.)

§1132–6. Science and technology advanced foreign language education grant program

(a) Purpose

It is the purpose of this section to support programs in institutions of higher education that—

(1) encourage students to develop—

(A) an understanding of science and technology; and

(B) foreign language proficiency;

(2) foster future international scientific collaboration;

(3) provide for professional development opportunities for elementary school and secondary school teachers of critical foreign languages to increase the number of highly qualified teachers in critical foreign languages; and

(4) increase the number of United States students who achieve the highest level of proficiency in foreign languages critical to the security and competitiveness of the Nation.

(b) Development

The Secretary shall develop a program for the awarding of grants to institutions of higher education that develop innovative programs for the teaching of foreign languages, which may include the preparation of teachers to teach foreign languages.

(c) Regulations and requirements

The Secretary shall promulgate regulations for the awarding of grants under subsection (b). Such regulations may require institutions of higher education to use grant funds for, among other things—

(1) the development of an on-campus cultural awareness program by which students attend classes taught in a foreign language and study the science and technology developments and practices in a non-English speaking country;

(2) immersion programs where students take science or technology related course work in a non-English speaking country;

(3) other programs, such as summer workshops, that emphasize the intense study of a foreign language and science technology;

(4) if applicable, recruiting highly qualified teachers in critical foreign languages, and providing professional development activities for such teachers at the elementary school and secondary

school levels; and

(5) providing innovative opportunities for students that will allow for critical language learning, such as immersion environments, intensive study opportunities, internships, and distance learning.

(d) Grant distribution

In distributing grants to institutions of higher education under this section, the Secretary shall give priority to—

(1) institutions that have programs focusing on curricula that combine the study of foreign languages and the study of science and technology and produce graduates who have both skills; and

(2) institutions teaching critical foreign languages.

(e) Report on best practices

Not later than one year after August 14, 2008, the Secretary shall—

(1) conduct a study to identify the best practices to strengthen the role of institutions of higher education that receive funding under subchapter III or subchapter V in increasing the critical foreign language education efforts in the United States; and

(2) submit a report on the results of such study to the authorizing committees.

(f) Appropriations authorized

There are authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal year 2009 and for each subsequent fiscal year.

(Pub. L. 89–329, title VI, §637, as added Pub. L. 110–315, title VI, §622, Aug. 14, 2008, 122 Stat. 3343.)

§1132–7. Reporting by institutions

(a) Applicability

The data requirement in subsection (b) shall apply to an institution of higher education that receives funds for a center or program under this subchapter if—

(1) the amount of the contribution (including cash and the fair market value of any property) received from any foreign government or from a foreign private sector corporation or foundation during any fiscal year exceeds $250,000 in the aggregate; and

(2) the aggregate contribution, or a significant part of the aggregate contribution, is to be used by a center or program receiving funds under this subchapter.

(b) Data required

The Secretary shall require an institution of higher education referred to in subsection (a) to report information listed in subsection (a) to the Secretary consistent with the requirements of section 1011f of this title.

(Pub. L. 89–329, title VI, §638, as added Pub. L. 110–315, title VI, §622, Aug. 14, 2008, 122 Stat. 3345.)

SUBCHAPTER VII—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

CODIFICATION

Title VII of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title VII, Nov. 8, 1965, 79 Stat. 1266; amended Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 100–203, Dec. 22, 1987, 101 Stat. 1330; Pub. L.

100–369, July 18, 1988, 102 Stat. 835; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 104–208, Sept. 30, 1996, 110 Stat. 3009. Title VII is shown herein, however, as having been added by Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, without reference to those intervening amendments because of the extensive revision of title VII by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1132a, Pub. L. 89–329, title VII, §701, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1520; amended Pub. L. 100–50, §19(1), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, §701, July 23, 1992, 106 Stat. 737, authorized programs of assistance for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132a, Pub. L. 89–329, title VII, §701, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1472, related to purpose of programs of financial assistance to institutions of higher education and to higher education building agencies, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132a, Pub. L. 89–329, title VII, §701, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 288; amended Pub. L. 94–482, title I, §§161(a), 162(a)(3), (b), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 96–49, §8(a), Aug. 13, 1979, 93 Stat. 353, authorized appropriations for a program of grants for the construction, reconstruction, and renovation of undergraduate facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132a–1, Pub. L. 89–329, title VII, §702, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1521; amended Pub. L. 100–50, §19(2), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, §702, July 23, 1992, 106 Stat. 738, related to prior rights and obligations prior to the general amendment of this subchapter by Pub. L. 105–244. For similar provisions, see section 1011j of this title.

Another prior section 1132a–1, Pub. L. 89–329, title VII, §702, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1472, authorized appropriations for fiscal years 1981 to 1985 to carry out programs for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 99–498.

Prior sections 1132a–1 to 1132a–7 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1132a–1, Pub. L. 89–329, title VII, §702, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 288; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, provided for allotments of funds to public community colleges and technical institutes.

Section 1132a–2, Pub. L. 89–329, title VII, §703, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 290; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to allotments to institutions of higher education other than public community colleges and public technical institutes.

Section 1132a–3, Pub. L. 89–329, title VII, §704, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 290; amended Pub. L. 94–482, title I, §162(a)(3), (c), Oct. 12, 1976, 90 Stat. 2156, 2157, set out the requirements of State plans.

Section 1132a–4, Pub. L. 89–329, title VII, §705, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 291; amended Pub. L. 94–482, title I, §162(a)(3), (4), (d), Oct. 12, 1976, 90 Stat. 2156, 2157, related to the eligibility of institutions for grants.

Section 1132a–5, Pub. L. 89–329, title VII, §706, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 292; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to the basic criteria to be applied to State plans.

Section 1132a–6, Pub. L. 89–329, title VII, §707, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 292; amended Pub. L. 94–482, title I, §162(a)(3), (5), Oct. 12, 1976, 90 Stat. 2156, 2157, related to applications for grants for construction, renovation, and reconstruction of undergraduate facilities.

Section 1132a–7, Pub. L. 89–329, title VII, §708, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 293, related to the disapproval of State plans and to judicial review.

A prior section 1132b, Pub. L. 89–329, title VII, §711, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 738, provided that former part A of this subchapter could be cited as the "Higher Education Facilities Act of 1992", prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132b, Pub. L. 89–329, title VII, §711, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1522, related to State plans for construction, reconstruction, and renovation of undergraduate academic facilities, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 1132b, Pub. L. 89–329, title VII, §711, as added Pub. L. 96–374, title VII, §701, Oct.

3, 1980, 94 Stat. 1473, required submission of State plans, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132b, Pub. L. 89–329, title VII, §721, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 294; amended Pub. L. 94–482, title I, §§161(b), 162(e), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 96–49, §8(b), Aug. 13, 1979, 93 Stat. 353, set out Congressional declaration of purpose, grant of authority, and authorization of appropriations for the program of grants for construction, reconstruction, and renovation of graduate academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132b–1, Pub. L. 89–329, title VII, §712, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 738, stated findings of Congress, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132b–1, Pub. L. 89–329, title VII, §712, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1522, related to basic criteria for consideration of State plans, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 1132b–1, Pub. L. 89–329, title VII, §712, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1473, related to basic criteria for consideration of State plans, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132b–1, Pub. L. 89–329, title VII, §722, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 294, related to authority to make grants to eligible institutions, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132b–2, Pub. L. 89–329, title VII, §713, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 738, related to distribution of assistance, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132b–2, Pub. L. 89–329, title VII, §713, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1522, related to allotment of funds, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 1132b–2, Pub. L. 89–329, title VII, §713, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1473, related to allotment of appropriations among States, prior to the general amendment of this subchapter by Pub. L. 99–498.

Prior sections 1132b–3 to 1132b–5 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1132b–3, Pub. L. 89–329, title VII, §714, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 740; amended Pub. L. 103–208, §2(j)(14), Dec. 20, 1993, 107 Stat. 2481, related to use of funds.

Section 1132b–4, Pub. L. 89–329, title VII, §715, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 740; amended Pub. L. 103–208, §2(j)(15), Dec. 20, 1993, 107 Stat. 2481, related to applications for allotments and grants.

Section 1132b–5, Pub. L. 89–329, title VII, §716, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 741, authorized appropriations for former part A of this subchapter.

A prior section 1132c, Pub. L. 89–329, title VII, §721, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 741, which stated findings of Congress, was renumbered section 341 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066 of this title.

Another prior section 1132c, Pub. L. 89–329, title VII, §721, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1524, related to grants for construction, reconstruction, and renovation of graduate academic facilities, prior to the general amendment of part B of this subchapter by Pub. L. 102–325.

Another prior section 1132c, Pub. L. 89–329, title VII, §721, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1475, authorized grants to graduate institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132c, Pub. L. 89–329, title VII, §741, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 295; amended Pub. L. 94–482, title I, §§161(c), 162(a)(3), Oct. 12, 1976, 90 Stat. 2156; Pub. L. 96–49, §8(c)(1), Aug. 13, 1979, 93 Stat. 353, set out grant of authority and authorization of appropriations for program of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–1, Pub. L. 89–329, title VII, §722, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 742, which defined terms, was renumbered section 342 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066a of this title.

Another prior section 1132c–1, Pub. L. 89–329, title VII, §742, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 295; amended Pub. L. 94–482, title I, §162(a)(3), (6), Oct. 12, 1976, 90 Stat. 2156,

2157, related to eligibility, conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–2, Pub. L. 89–329, title VII, §723, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 743, and amended, which related to Federal insurance for bonds, was renumbered section 343 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066b of this title.

Another prior section 1132c–2, Pub. L. 89–329, title VII, §743, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 296; amended Pub. L. 94–482, title I, §162(f), Oct. 12, 1976, 90 Stat. 2157, contained general provisions covering programs of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–3, Pub. L. 89–329, title VII, §724, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 745, which related to limitations on Federal insurance for bonds issued by designated bonding authority, was renumbered section 344 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066c of this title.

Another prior section 1132c–3, Pub. L. 89–329, title VII, §744, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 296, provided for creation of Revolving Loan Fund and Insurance Fund, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–4, Pub. L. 89–329, title VII, §725, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 745, and amended, which related to authority of Secretary, was renumbered section 345 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066d of this title.

Another prior section 1132c–4, Pub. L. 89–329, title VII, §745, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 297; amended Pub. L. 94–482, title I, §§161(d), 162(a)(3), (g), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 95–43, §1(b)(6), June 15, 1977, 91 Stat. 218; Pub. L. 96–49, §8(c)(2), Aug. 13, 1979, 93 Stat. 353, related to annual interest grants, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–5, Pub. L. 89–329, title VII, §726, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 746, and amended, which restricted receipt of grants under former part A of this subchapter, was renumbered section 346 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, transferred to section 1066e of this title, and subsequently repealed.

Another prior section 1132c–5, Pub. L. 89–329, title VII, §746, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 298; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to academic facilities loan insurance, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–6, Pub. L. 89–329, title VII, §727, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 746, which related to HBCU Capital Financing Advisory Board, was renumbered section 347 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066f of this title.

A prior section 1132c–7, Pub. L. 89–329, title VII, §728, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 747, which related to minority business enterprise utilization, was renumbered section 348 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066g of this title.

A prior section 1132d, Pub. L. 89–329, title VII, §731, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 747; amended Pub. L. 103–208, §2(j)(18), (19), Dec. 20, 1993, 107 Stat. 2481, related to Federal assistance in form of loans, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d, Pub. L. 89–329, title VII, §731, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1525; amended Pub. L. 100–50, §19(3), June 3, 1987, 101 Stat. 360, related to eligibility conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 1132d, Pub. L. 89–329, title VII, §731, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1475, related to eligibility conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d, Pub. L. 89–329, title VII, §761, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 299, authorized appropriations for the program of assistance to major disaster areas, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–1, Pub. L. 89–329, title VII, §732, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 748, contained general provisions relating to functions, powers, and duties of the Secretary under former part C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–1, Pub. L. 89–329, title VII, §732, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1526; amended Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837, set out general provisions for loan program, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 1132d–1, Pub. L. 89–329, title VII, §732, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1475, set out general provisions for program of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–1, Pub. L. 89–329, title VII, §762, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 299; amended Pub. L. 94–482, title I, §§161(e), 162(h), Oct. 12, 1979, 90 Stat. 2156, 2157, provided for disaster assistance for replacement or restoration of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–2, Pub. L. 89–329, title VII, §733, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 750, related to apportionment of funds, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–2, Pub. L. 89–329, title VII, §733, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1527; amended Pub. L. 100–50, §19(4), June 3, 1987, 101 Stat. 360, related to revolving loan fund, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 1132d–2, Pub. L. 89–329, title VII, §733, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1476, related to revolving loan and insurance fund, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–2, Pub. L. 89–329, title VII, §763, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300, related to grants for the purchase of equipment and supplies, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–3, Pub. L. 89–329, title VII, §734, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 751; amended Pub. L. 103–208, §2(j)(20), Dec. 20, 1993, 107 Stat. 2481, defined terms, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–3, Pub. L. 89–329, title VII, §734, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1477, related to annual interest grants to assist institutions of higher education and higher education building agencies, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–3, Pub. L. 89–329, title VII, §764, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300, related to repayable assistance in lieu of a grant, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–4, Pub. L. 89–329, title VII, §735, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 753, authorized appropriations for former part C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–4, Pub. L. 89–329, title VII, §735, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1477, related to academic facilities loan insurance, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–4, Pub. L. 89–329, title VII, §765, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300, related to applications for assistance to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1132d–5 and 1132d–11 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1132d–5, Pub. L. 89–329, title VII, §766, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300, defined "major disaster" and "public institution of higher education".

Section 1132d–11, Pub. L. 89–329, title VII, §771, as added Pub. L. 94–482, title I, §162(i), Oct. 12, 1976, 90 Stat. 2157; amended Pub. L. 95–43, §1(a)(43), June 15, 1977, 91 Stat. 217, provided for a program of grants or loans for reconstruction or renovation of academic facilities.

A prior section 1132e, Pub. L. 89–329, title VII, §741, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1528, provided for annual interest grants to assist institutions of higher education in reducing the cost of borrowing money, prior to repeal by Pub. L. 102–325, §2, title VII, §706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

Another prior section 1132e, Pub. L. 89–329, title VII, §741, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1478, related to recovery of payments of grants and use of projects, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132e, Pub. L. 89–329, title VII, §781, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300; amended Pub. L. 94–482, title I, §162(a)(3), (4), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 95–43, §1(a)(44), June 15, 1977, 91 Stat. 218, related to the recovery of payments, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132e–1, Pub. L. 89–329, title VII, §742, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1479, defined terms used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132e–1, Pub. L. 89–329, title VII, §782, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 301; amended Pub. L. 94–482, title I, §162(a)(3), (4), (j), Oct. 12, 1976, 90 Stat. 2156–2158, defined terms used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1132f to 1132f–9 were repealed by Pub. L. 104–208, div. A, title I, §101(e) [title VI, §603(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293.

Section 1132f, Pub. L. 89–329, title VII, §751, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1528, related to congressional declaration of purpose of this part to authorize participation of United States Government and Student Loan Marketing Association in private, for profit corporation known as College Construction Loan Insurance Association, and defined "education facilities purpose".

Section 1132f–1, Pub. L. 89–329, title VII, §752, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1529; amended Pub. L. 102–325, title VII, §707(b), July 23, 1992, 106 Stat. 753, related to criteria used by Corporation for providing guarantees and insurance on obligations issued for education facilities purposes.

Section 1132f–2, Pub. L. 89–329, title VII, §753, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1530, related to process of organizing Corporation.

Section 1132f–3, Pub. L. 89–329, title VII, §754, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1531, related to operation and election of Corporation's Board of Directors.

Section 1132f–4, Pub. L. 89–329, title VII, §755, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1531, related to initial capitalization of Corporation.

Section 1132f–5, Pub. L. 89–329, title VII, §756, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1532, related to issuance of nonvoting stock and debt to public.

Section 1132f–6, Pub. L. 89–329, title VII, §757, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1532, provided that no obligation which is insured, guaranteed, or otherwise backed by Corporation be deemed to be guaranteed by full faith and credit of United States or guaranteed by Student Loan Marketing Association, with provision that this section not affect determination of whether such obligation is guaranteed for purposes of Federal income taxes.

Section 1132f–7, Pub. L. 89–329, title VII, §758, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1532, related to authority of Secretary to sell common stock of Corporation and Student Loan Marketing Association's right of first refusal.

Section 1132f–8, Pub. L. 89–329, title VII, §759, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1533, related to use of stock sale proceeds.

Section 1132f–9, Pub. L. 89–329, title VII, §760, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1533, provided for audits and reports to President and Congress.

A prior section 1132f–10, Pub. L. 104–208, div. A, title I, §101(e) [title VI, §603], Sept. 30, 1996, 110 Stat. 3009–233, 3009–290, which related to Connie Lee privatization, was transferred to section 1155 of this title.

Prior sections 1132g to 1132g–3 and 1132h to 1132h–6 were repealed by Pub. L. 102–325, §2, title VII, §706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

Section 1132g, Pub. L. 89–329, title VII, §761, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1533, related to Federal assistance to undergraduate postsecondary educational institutions in form of loans.

Section 1132g–1, Pub. L. 89–329, title VII, §762, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1535; amended Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837, set out general provisions applicable to loans, including budget and accounting, use of funds, legal powers of Secretary in loan program, and limitations.

Section 1132g–2, Pub. L. 89–329, title VII, §763, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1537, directed that not more than 12.5 percent of loan funds be made available in any one State and set priorities as to types of projects to be approved.

Section 1132g–3, Pub. L. 89–329, title VII, §764, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1537; amended Pub. L. 100–50, §19(5), June 3, 1987, 101 Stat. 360, defined terms used in sections 1132g to 1132g–3 of this title.

Section 1132h, Pub. L. 89–329, title VII, §771, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1539, provided for financial assistance to Eastern Michigan University in Ypsilanti, Michigan, for renovation and restoration of Welch Hall.

Section 1132h–1, Pub. L. 89–329, title VII, §772, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986,

100 Stat. 1539, provided for financial assistance to Rochester Institute of Technology in Rochester, New York, for Federal share of construction and related costs of Academic Health Education Center facility.

Section 1132h–2, Pub. L. 89–329, title VII, §773, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1540, provided financial assistance to Shaw University of Raleigh, North Carolina, for renovation and restoration of Estey Hall.

Section 1132h–3, Pub. L. 89–329, title VII, §774, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1540, provided for an electronic instructional network for gifted and talented students.

Section 1132h–4, Pub. L. 89–329, title VII, §775, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance to Bethune-Cookman College in Volusia County, Florida, for establishment of Mary McLeod Bethune Memorial Fine Arts Center.

Section 1132h–5, Pub. L. 89–329, title VII, §776, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance for University of Connecticut Behavioral Science Facility at Storrs, Connecticut.

Section 1132h–6, Pub. L. 89–329, title VII, §777, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance for the establishment of a business administration program at University of Rhode Island in Kingston, Rhode Island.

Prior sections 1132i to 1132i–2 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1132i, Pub. L. 89–329, title VII, §781, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1542; amended Pub. L. 102–325, title VII, §708(b), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, §2(j)(21), Dec. 20, 1993, 107 Stat. 2481, related to recovery of payments upon cessation of public benefit. See section 1011k of this title.

Section 1132i–1, (Pub. L. 89–329, title VII, §782, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1542; amended Pub. L. 100–50, §19(6), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, §708(c), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, §2(j)(22), Dec. 20, 1993, 107 Stat. 2481, defined terms used in this subchapter.

Section 1132i–2, Pub. L. 89–329, title VII, §783, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1545; amended Pub. L. 100–203, title III, §3101, Dec. 22, 1987, 101 Stat. 1330–39; Pub. L. 102–325, title VII, §708(d), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, §2(j)(23), Dec. 20, 1993, 107 Stat. 2481, related to forgiveness of certain loans.

A prior section 1132j, Pub. L. 89–329, title VII, §795, as added Pub. L. 100–418, title VI, §6211, Aug. 23, 1988, 102 Stat. 1517, provided for a program of agricultural, strategic metals, minerals, forestry, and oceans college and university research facilities and instrumentation modernization, prior to repeal by Pub. L. 102–325, §2, title VII, §706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

§1133. Purpose

It is the purpose of this subchapter—

(1) to authorize national graduate fellowship programs—

(A) in order to attract students of superior ability and achievement, exceptional promise, and demonstrated financial need, into high-quality graduate programs and provide the students with the financial support necessary to complete advanced degrees; and

(B) that are designed to—

(i) sustain and enhance the capacity for graduate education in areas of national need, including those areas critical to United States national and homeland security needs, such as science, technology, engineering, and mathematics; and

(ii) encourage talented students to pursue scholarly careers in the humanities, social sciences, and the arts; and

(2) to promote postsecondary programs.

(Pub. L. 89–329, title VII, §700, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786; amended Pub. L. 110–315, title VII, §701, Aug. 14, 2008, 122 Stat. 3345.)

PRIOR PROVISIONS

Prior sections 1133 to 1133c, which comprised a prior subchapter VIII of this chapter, were repealed by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1133, Pub. L. 89–329, title VIII, §801, as added Pub. L. 99–498, title VIII, §801, Oct. 17, 1986, 100 Stat. 1546; amended Pub. L. 102–325, title VIII, §801, July 23, 1992, 106 Stat. 755, stated purpose of former subchapter VIII of this chapter and defined "cooperative education".

Another prior section 1133, Pub. L. 89–329, title VIII, §801, as added Pub. L. 94–482, title I, §129(b), Oct. 12, 1976, 90 Stat. 2144; amended Pub. L. 96–374, title VIII, §801(a), (b), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1481, 1482, 1503, authorized appropriations for fiscal years 1976 to 1985 for grants and contracts for cooperative education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 99–498.

Another prior section 1133, Pub. L. 89–329, title VIII, §801, as added Pub. L. 90–575, title II, §251, Oct. 16, 1968, 82 Stat. 1042; amended Pub. L. 92–318, title I, §172(a), June 23, 1972, 86 Stat. 304, authorized projects and grants for sharing educational and related resources by institutions of higher education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 94–482.

Section 1133a, Pub. L. 89–329, title VIII, §802, as added Pub. L. 99–498, title VIII, §801, Oct. 17, 1986, 100 Stat. 1546; amended Pub. L. 102–325, title VIII, §801, July 23, 1992, 106 Stat. 755; Pub. L. 103–208, §2(j)(24), Dec. 20, 1993, 107 Stat. 2482, authorized appropriations for former subchapter VIII of this chapter.

Another prior section 1133a, Pub. L. 89–329, title VIII, §802, as added Pub. L. 94–482, title I, §129(b), Oct. 12, 1976, 90 Stat. 2145; amended Pub. L. 96–374, title VIII, §801(c), (d), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, authorized grants for programs of cooperative education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 99–498.

Another prior section 1133a, Pub. L. 89–329, title VIII, §802, as added Pub. L. 90–575, title II, §251, Oct. 16, 1968, 82 Stat. 1043; amended Pub. L. 92–318, title I, §171, June 23, 1972, 86 Stat. 304, authorized appropriations for projects and grants for sharing educational and related resources, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 94–482.

Section 1133b, Pub. L. 89–329, title VIII, §803, as added Pub. L. 99–498, title VIII, §801, Oct. 17, 1986, 100 Stat. 1548; amended Pub. L. 102–325, title VIII, §801, July 23, 1992, 106 Stat. 756; Pub. L. 103–208, §2(j)(25), (26), Dec. 20, 1993, 107 Stat. 2482, authorized grants for cooperative education.

Another prior section 1133b, Pub. L. 89–329, title VIII, §803, as added Pub. L. 94–482, title I, §129(b), Oct. 12, 1976, 90 Stat. 2146; amended Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized grants and contracts for training and research related to cooperative education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 99–498.

Another prior section 1133b, Pub. L. 89–329, title VIII, §803, as added Pub. L. 90–575, title II, §251, Oct. 16, 1968, 82 Stat. 1043, authorized free or reduced rates for sharing educational or related resources by institutions of higher education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 94–482.

Section 1133c, Pub. L. 89–329, title VIII, §804, as added Pub. L. 102–325, title VIII, §801, July 23, 1992, 106 Stat. 759, authorized grants and contracts for demonstration and innovation projects, training and resource centers, and research.

AMENDMENTS

2008—Par. (1)(B)(i). Pub. L. 110–315 inserted ", including those areas critical to United States national and homeland security needs, such as science, technology, engineering, and mathematics" before semicolon.

CONTINUATION OF CHAPTER 21 PROGRAMS

Pub. L. 92–318, title I, §161(b)(1), June 23, 1972, 86 Stat. 303, provided that: "The programs authorized by title VII of the Higher Education Act of 1965 [this subchapter] shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963 [former section 701 et seq. of this title]."

PART A—GRADUATE EDUCATION PROGRAMS

SUBPART 1—JACOB K. JAVITS FELLOWSHIP PROGRAM

§1134. Award of Jacob K. Javits fellowships

(a) Authority and timing of awards

The Secretary is authorized to award fellowships in accordance with the provisions of this subpart for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement, financial need, and exceptional promise. The fellowships shall be awarded to students who are eligible to receive any grant, loan, or work assistance pursuant to section 1091 of this title and intend to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is the terminal highest degree awarded in the area of study. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year following the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

(b) Designation of fellows

Students receiving awards under this subpart shall be known as "Jacob K. Javits Fellows".

(c) Interruptions of study

The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program. In the case of other exceptional circumstances, such as active duty military service or personal or family member illness, the institution of higher education may also permit the fellowship recipient to interrupt periods of study for the duration of the tour of duty (in the case of military service) or for not more than 12 months (in any other case), but without payment of the stipend.

(d) Process and timing of competition

The Secretary shall make applications for fellowships under this part available not later than October 1 of the academic year preceding the academic year for which fellowships will be awarded, and shall announce the recipients of fellowships under this section not later than March 1 of the academic year preceding the academic year for which the fellowships are awarded.

(e) Authority to contract

The Secretary is authorized to enter into a contract with a nongovernmental agency to administer the program assisted under this part if the Secretary determines that entering into the contract is an efficient means of carrying out the program.

(Pub. L. 89–329, title VII, §701, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786; amended Pub. L. 110–315, title VII, §702(a), Aug. 14, 2008, 122 Stat. 3345.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134h of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134, Pub. L. 89–329, title IX, §901, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1549; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 760; Pub. L. 103–208, §2(j)(27), Dec. 20, 1993, 107 Stat. 2482, stated purpose of former subchapter IX of this chapter and contained administrative provisions, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134, Pub. L. 89–329, title IX, §901, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304; amended Pub. L. 94–482, title I, §171(a)(1), (2), Oct. 12, 1976, 90 Stat. 2159; Pub. L. 96–49, §9(a), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title IX, §901(a), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, set forth Congressional declaration of purpose and authorized appropriations for grants to institutions of higher education, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134, Pub. L. 89–329, title IX, §901, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1043, set forth Congressional declaration of purpose respecting education for the public service,

prior to repeal by Pub. L. 92–318.

A prior section 701 of Pub. L. 89–329 was classified to section 1132a of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 701 of Pub. L. 89–329 was classified to section 1132a of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 701 of Pub. L. 89–329 was classified to section 1132a of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–315 inserted at end "In the case of other exceptional circumstances, such as active duty military service or personal or family member illness, the institution of higher education may also permit the fellowship recipient to interrupt periods of study for the duration of the tour of duty (in the case of military service) or for not more than 12 months (in any other case), but without payment of the stipend."

§1134a. Allocation of fellowships

(a) Fellowship Board

(1) Appointment

(A) In general

The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (referred to in this subpart as the "Board") consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board.

(B) Qualifications

In making appointments under subparagraph (A), the Secretary shall—

(i) give due consideration to the appointment of individuals who are highly respected in the academic community;

(ii) appoint members who represent the various geographic regions of the United States;

(iii) ensure that individuals appointed to the Board are broadly representative of a range of disciplines in graduate education in arts, humanities, and social sciences; and

(iv) ensure that such individuals include representatives from institutions that are eligible for one or more of the grants under subchapter III or V.

(2) Duties

The Board shall—

(A) establish general policies for the program established by this subpart and oversee the program's operation;

(B) establish general criteria for the award of fellowships in academic fields identified by the Board, or, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program assisted under this subpart, by such nongovernmental entity;

(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity; and

(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

(3) Consultations

In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

(4) Term

The term of office of each member of the Board shall be 4 years, except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

(5) Initial meeting; vacancy

The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairperson and a Vice Chairperson, who shall serve until 1 year after the date of the appointment of the Chairperson and Vice Chairperson. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6) Quorum; additional meetings

(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out the Board's responsibilities.

(7) Compensation

Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including travel time, and while so serving away from their homes or regular places of business, the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(b) Use of selection panels

The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Board to make such selections under criteria established by the Board, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Board.

(c) Fellowship portability

Each recipient shall be entitled to use the fellowship in a graduate program at any accredited institution of higher education in which the recipient may decide to enroll.

(Pub. L. 89–329, title VII, §702, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1787; amended Pub. L. 110–315, title VII, §702(b), Aug. 14, 2008, 122 Stat. 3345.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (a)(7), is set out in section 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134i of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134a, Pub. L. 89–329, title IX, §911, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 761, authorized grants to encourage women and minority participation in graduate education, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134a, Pub. L. 89–329, title IX, §902, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1550, related to submission and contents of applications, prior to the general amendment of part A of subchapter IX of this chapter by Pub. L. 102–325.

Another prior section 1134a, Pub. L. 89–329, title IX, §902, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 305; amended Pub. L. 94–482, title I, §171(a)(3), Oct. 12, 1976, 90 Stat. 2159; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to applications for grants to institutions of higher education, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134a, Pub. L. 89–329, title IX, §903, as added Pub. L. 90–575, title II, §261, Oct. 16,

1968, 82 Stat. 1043, related to project grants and contracts to strengthen and improve education for the public service, prior to repeal by Pub. L. 92–318.

A prior section 702 of Pub. L. 89–329 was classified to section 1132a–1 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 702 of Pub. L. 89–329 was classified to section 1132a–1 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 702 of Pub. L. 89–329 was classified to section 1132a–1 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–315 amended par. (1) generally. Prior to amendment, text read as follows: "The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (hereinafter in this subpart referred to as the 'Board') consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly representative of a range of disciplines in graduate education in arts, humanities, and social sciences."

§1134b. Stipends

(a) Award by Secretary

The Secretary shall pay to individuals awarded fellowships under this subpart such stipends as the Secretary may establish, reflecting the purpose of this program to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual's first stipend under this subpart in academic year 2009–2010 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation Graduate Research Fellowship Program for such academic year, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need determined in accordance with part E of subchapter IV of this chapter.

(b) Institutional payments

(1) In general

(A) The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be, for academic year 2009–2010 and succeeding academic years, the same amount as the institutional payment made for academic year 2008–2009, adjusted for academic year 2009–2010 and annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(2) Special rules

(A) Beginning March 1, 1992, any applicant for a fellowship under this subpart who has been notified in writing by the Secretary that such applicant has been selected to receive such a fellowship and is subsequently notified that the fellowship award has been withdrawn, shall receive such fellowship unless the Secretary subsequently makes a determination that such applicant submitted fraudulent information on the application.

(B) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

(Pub. L. 89–329, title VII, §703, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1789; amended Pub. L. 110–315, title VII, §702(c)(1), Aug. 14, 2008, 122 Stat. 3346.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134j of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134b, Pub. L. 89–329, title IX, §912, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 761, related to submission and contents of application for assistance, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134b, Pub. L. 89–329, title IX, §903, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1550, related to use of award funds, prior to the general amendment of part A of subchapter IX of this chapter by Pub. L. 102–325.

Another prior section 1134b, Pub. L. 89–329, title IX, §903, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 305; amended Pub. L. 94–482, title I, §171(a)(4), Oct. 12, 1976, 90 Stat. 2160; Pub. L. 96–374, title IX, §901(b), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, related to the uses of funds appropriated to make grants to institutions of higher education, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134b, Pub. L. 89–329, title IX, §904, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1044, related to application for grants or contracts to strengthen and improve education for the public service, providing in subsec. (a) for requisites of application, subsec. (b) for allocation of grants and contracts, and subsec. (c) for payment of compensation of students employed in public service and participation of Federal agencies and departments, prior to repeal by Pub. L. 92–318.

A prior section 703 of Pub. L. 89–329 was classified to section 1132a–2 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §702(c)(1)(A), substituted "2009–2010" for "1999–2000" and "Foundation Graduate Research Fellowship Program for such academic year" for "Foundation graduate fellowships".

Subsec. (b)(1)(A). Pub. L. 110–315, §702(c)(1)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: "The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be, for 1999–2000 and succeeding academic years, the same amount as the institutional payment made for 1998–1999 under section 1134j(b) of this title (as such section was in effect on the day before October 7, 1998) adjusted for 1999–2000 and annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year."

§1134c. Fellowship conditions

(a) Requirements for receipt

An individual awarded a fellowship under the provisions of this subpart shall continue to receive payments provided in section 1134b of this title only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(b) Reports from recipients

The Secretary is authorized to require reports containing such information in such form and filed at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this subpart. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

(Pub. L. 89–329, title VII, §704, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1789.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134k of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134c, Pub. L. 89–329, title IX, §913, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 762, related to use of funds by grant recipients, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134c, Pub. L. 89–329, title IX, §904, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized studies and research activities on the need for, and improvement of, graduate programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134c, Pub. L. 89–329, title IX, §911, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1044, provided for authorization to award public service fellowships, prior to repeal by Pub. L. 92–318.

A prior section 704 of Pub. L. 89–329 was classified to section 1132a–3 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1134c–1 and 1134c–2 were repealed by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1134c–1, Pub. L. 89–329, title IX, §914, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 762, related to information collection.

Section 1134c–2, Pub. L. 89–329, title IX, §915, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 762, authorized appropriations for part A of former subchapter IX of this chapter.

§1134d. Authorization of appropriations

There are authorized to be appropriated $30,000,000 for fiscal year 2009 and each of the five succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title VII, §705, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1790; amended Pub. L. 110–315, title VII, §702(d), Aug. 14, 2008, 122 Stat. 3346.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134k–1 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134d, Pub. L. 89–329, title IX, §921, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1550; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 762, stated purpose of the Patricia Roberts Harris Fellowship program and provided that a recipient of an award under that program be known as a "Patricia Roberts Harris Graduate Fellow", prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134d, Pub. L. 89–329, title IX, §921, as added Pub. L. 96–374, title IX, §902(a), Oct. 3, 1980, 94 Stat. 1482, set forth Congressional statement of purpose, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134d, Pub. L. 89–329, title IX, §921, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, §171(b), Oct. 12, 1976, 90 Stat. 2160, authorized appropriations for carrying out the program of fellowships for graduate and professional study, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134d, Pub. L. 89–329, title IX, §912, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1045, provided for allocation of public service fellowships, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

A prior section 705 of Pub. L. 89–329 was classified to section 1132a–4 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1134e to 1134w were repealed by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1134e, Pub. L. 89–329, title IX, §922, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1550; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 763; Pub. L. 103–208, §2(j)(28), Dec. 20, 1993, 107 Stat. 2482, authorized Patricia Roberts Harris Fellowship program.

Another prior section 1134e, Pub. L. 89–329, title IX, §922, as added Pub. L. 96–374, title IX, §902(a), Oct. 3, 1980, 94 Stat. 1482, authorized program of grants to assist graduate and professional study, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134e, Pub. L. 89–329, title IX, §922, as added Pub. L. 92–318, title I, §181(a), June

23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, §171(b), Oct. 12, 1976, 90 Stat. 2160; Pub. L. 96–49, §9(b), Aug. 13, 1979, 93 Stat. 353, related to the authorization, duration, and extension of the period of fellowships, the awarding of vacated fellowships, and the question of the interruption of studies of fellowship recipients, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134e, Pub. L. 89–329, title IX, §913, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1045, provided for approval of programs, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134f, Pub. L. 89–329, title IX, §923, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1552; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 764; Pub. L. 103–208, §2(j)(29)–(31), Dec. 20, 1993, 107 Stat. 2482, 2483, related to award of fellowships.

Another prior section 1134f, Pub. L. 89–329, title IX, §923, as added Pub. L. 96–374, title IX, §902(a), Oct. 3, 1980, 94 Stat. 1484, related to award of fellowships to graduate and professional students, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134f, Pub. L. 89–329, title IX, §923, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, §171(b), Oct. 12, 1976, 90 Stat. 2160, related to the award of fellowships and the approval of graduate programs, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134f, Pub. L. 89–329, title IX, §914, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1045, provided for stipends for public service fellowships, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134g, Pub. L. 89–329, title IX, §924, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 765; amended Pub. L. 103–208, §2(j)(32), Dec. 20, 1993, 107 Stat. 2483, authorized appropriations for Patricia Roberts Harris Fellowship program.

Another prior section 1134g, Pub. L. 89–329, title IX, §924, as added Pub. L. 96–374, title IX, §902(a), Oct. 3, 1980, 94 Stat. 1484, authorized appropriations for fiscal years 1981 to 1985 for grant program to assist graduate and professional students, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134g, Pub. L. 89–329, title IX, §924, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 307; amended Pub. L. 94–482, title I, §171(b), Oct. 12, 1976, 90 Stat. 2161, related to fellowship stipends, additional allowances to institutions of higher education, and deductions, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134g, Pub. L. 89–329, title IX, §915, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1045, provided for public service fellowship conditions, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134h, Pub. L. 89–329, title IX, §931, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1552; amended Pub. L. 100–50, §20(1), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 765; Pub. L. 103–208, §2(j)(33), Dec. 20, 1993, 107 Stat. 2483, authorized award of Jacob K. Javits fellowships and provided that award recipients be known as "Jacob K. Javits Fellows". See section 1134 of this title.

Another prior section 1134h, Pub. L. 89–329, title IX, §931, as added Pub. L. 96–374, title IX, §903, Oct. 3, 1980, 94 Stat. 1484; amended Pub. L. 99–159, title VIII, §802, Nov. 22, 1985, 99 Stat. 908, authorized award of fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134h, Pub. L. 89–329, title IX, §925, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 307; amended Pub. L. 94–482, title I, §171(b), Oct. 12, 1976, 90 Stat. 2162, set out conditions attached to fellowships for graduate and professional study, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134h, Pub. L. 89–329, title IX, §921, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1046, defined "State", "institution of higher education", "public service" and "academic year", prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134i, Pub. L. 89–329, title IX, §932, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1553; amended Pub. L. 100–50, §20(2), (3), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 766; Pub. L. 103–208, §2(j)(34), (35), Dec. 20, 1993, 107 Stat. 2483, related to Jacob K. Javits Fellows Program Fellowship Board and to allocation of fellowships. See section 1134a of this title.

Another prior section 1134i, Pub. L. 89–329, title IX, §932, as added Pub. L. 96–374, title IX, §903, Oct. 3, 1980, 94 Stat. 1485, related to allocation of fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134i, Pub. L. 89–329, title IX, §941, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, §171(c)(1), Oct. 12, 1976, 90 Stat. 2162; Pub. L. 96–49, §9(c), Aug. 13, 1979, 93 Stat. 353, related to award of public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134i, Pub. L. 89–329, title IX, §922, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1046, related to coordination of Federal assistance respecting education for the public service, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134j, Pub. L. 89–329, title IX, §933, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1554; amended Pub. L. 100–50, §20(4), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 767; Pub. L. 103–208, §2(j)(36), Dec. 20, 1993, 107 Stat. 2483, related to payment of stipends to award recipients. See section 1134b of this title.

Another prior section 1134j, Pub. L. 89–329, title IX, §933, as added Pub. L. 96–374, title IX, §903, Oct. 3, 1980, 94 Stat. 1486, related to stipends paid to individuals awarded fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134j, Pub. L. 89–329, title IX, §942, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, §171(c)(2), Oct. 12, 1976, 90 Stat. 2163, related to the allocation of public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134j, Pub. L. 89–329, title IX, §923, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1046; amended Pub. L. 92–318, title I, §131(d)(2)(E), June 23, 1972, 86 Stat. 260, prohibited any grant, contract, or fellowship for study at schools or departments of divinity, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134k, Pub. L. 89–329, title IX, §934, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1554; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 767, related to fellowship conditions. See section 1134c of this title.

Another prior section 1134k, Pub. L. 89–329, title IX, §934, as added Pub. L. 96–374, title IX, §903, Oct. 3, 1980, 94 Stat. 1486, related to conditions on continuance of fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134k, Pub. L. 89–329, title IX, §943, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, §171(c)(3), Oct. 12, 1976, 90 Stat. 2163, related to requisite approval of programs of graduate or professional study, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134k, Pub. L. 89–329, title IX, §924, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1046, provided for annual report of the Secretary to Congress of activities relating to education for public service, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134k–1, Pub. L. 89–329, title IX, §935, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 768, authorized appropriations for Jacob K. Javits Fellowship program. See section 1134d of this title.

Section 1134l, Pub. L. 89–329, title IX, §941, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1555; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 768; Pub. L. 103–208, §2(j)(37), Dec. 20, 1993, 107 Stat. 2484, stated purpose of graduate assistance in areas of national need grant program.

Another prior section 1134l, Pub. L. 89–329, title IX, §941, as added Pub. L. 96–374, title IX, §904, Oct. 3, 1980, 94 Stat. 1486, authorized assistance for training in legal profession, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134l, Pub. L. 89–329, title IX, §944, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 309; amended Pub. L. 94–482, title I, §171(c)(4), Oct. 12, 1976, 90 Stat. 2163, related to payments to persons awarded public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134l, Pub. L. 89–329, title IX, §925, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1046, authorized appropriations for education for the public service, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134m, Pub. L. 89–329, title IX, §942, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1555; amended Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 768, authorized grants to academic departments and programs to provide assistance to graduate students. See section 1135 of this title.

Another prior section 1134m, Pub. L. 89–329, title IX, §942, as added Pub. L. 96–374, title IX, §904, Oct. 3, 1980, 94 Stat. 1487, authorized appropriations for fiscal years 1981 to 1985 for program of assistance for training in legal profession, prior to the general amendment of subchapter IX of this chapter by Pub. L.

99–498.

Another prior section 1134m, Pub. L. 89–329, title IX, §945, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 309, related to conditions attached to public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134n, Pub. L. 89–329, title IX, §943, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1556; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 769; Pub. L. 103–208, §2(j)(38), Dec. 20, 1993, 107 Stat. 2484, related to institutional eligibility for grants. See section 1135a of this title.

Another prior section 1134n, Pub. L. 89–329, title IX, §951, as added Pub. L. 96–374, title IX, §905, Oct. 3, 1980, 94 Stat. 1487, authorized assistance for law school clinical experience programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134n, Pub. L. 89–329, title IX, §961, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 309; amended Pub. L. 94–482, title I, §171(d)(1)–(3), Oct. 12, 1976, 90 Stat. 2163; Pub. L. 96–49, §9(d), Aug. 13, 1979, 93 Stat. 353, provided for a program of fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134o, Pub. L. 89–329, title IX, §944, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1556; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 770, related to criteria for applications for grants. See section 1135b of this title.

Another prior section 1134o, Pub. L. 89–329, title IX, §952, as added Pub. L. 96–374, title IX, §905, Oct. 3, 1980, 94 Stat. 1488, related to applications for assistance for law school clinical experience programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134o, Pub. L. 89–329, title IX, §962, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 310, related to the award of fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134p, Pub. L. 89–329, title IX, §945, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1557; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 770; Pub. L. 103–208, §2(j)(39), Dec. 20, 1993, 107 Stat. 2484, related to awards to graduate students. See section 1135c of this title.

Another prior section 1134p, Pub. L. 89–329, title IX, §953, as added Pub. L. 96–374, title IX, §905, Oct. 3, 1980, 94 Stat. 1488, authorized appropriations for fiscal years 1981 to 1985 for providing assistance for law school clinical experience programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134p, Pub. L. 89–329, title IX, §963, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 310; amended Pub. L. 94–482, title I, §171(d)(4), Oct. 12, 1976, 90 Stat. 2163, related to the amount of payments to persons awarded fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134q, Pub. L. 89–329, title IX, §946, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 771; Pub. L. 103–208, §2(j)(40), Dec. 20, 1993, 107 Stat. 2484, related to additional assistance for cost of education. See section 1135d of this title.

Another prior section 1134q, Pub. L. 89–329, title IX, §964, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 311, related to fellowship conditions in program of fellowships other than public service fellowships or fellowships for graduate and professional study, prior to repeal by Pub. L. 96–374, title IX, §902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

Section 1134q–1, Pub. L. 89–329, title IX, §947, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 771, authorized appropriations for graduate assistance in areas of national need grant program.

Section 1134r, Pub. L. 89–329, title IX, §951, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 772; Pub. L. 103–208, §2(j)(41), Dec. 20, 1993, 107 Stat. 2484, authorized grants for faculty development fellowship awards and provided that fellowship recipients be known as "Faculty Development Fellows".

Another prior section 1134r, Pub. L. 89–329, title IX, §965, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 311, authorized appropriations for program of fellowships other than public service fellowships or fellowships for graduate and professional study, prior to repeal by Pub. L. 96–374, title IX, §902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

Section 1134r–1, Pub. L. 89–329, title IX, §952, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 773, related to amount of fellowships.

Another prior section 1134r–1, Pub. L. 89–329, title IX, §966, as added Pub. L. 93–380, title VIII, §836(a), Aug. 21, 1974, 88 Stat. 605; amended Pub. L. 94–482, title I, §171(d)(5), Oct. 12, 1976, 90 Stat. 2164; Pub. L. 96–49, §9(e), Aug. 13, 1979, 93 Stat. 353, related to a program of assistance for training in legal profession,

prior to repeal by Pub. L. 96–374, title IX, §902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

Section 1134r–2, Pub. L. 89–329, title IX, §953, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 773, related to applications required for grants.

Another prior section 1134r–2, Pub. L. 89–329, title IX, §971, as added Pub. L. 94–482, title I, §171(e), Oct. 12, 1976, 90 Stat. 2164, related to an annual report on graduate and assistance program, prior to repeal by Pub. L. 96–374, title IX, §902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980, and also by Pub. L. 96–470, title I, §106(b), Oct. 19, 1980, 94 Stat. 2238.

Section 1134r–3, Pub. L. 89–329, title IX, §954, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 774, related to fellowship agreements.

Section 1134r–4, Pub. L. 89–329, title IX, §955, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 774, related to fellowship repayment provisions.

Section 1134r–5, Pub. L. 89–329, title IX, §956, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 774, related to exceptions to repayment provisions.

Section 1134r–6, Pub. L. 89–329, title IX, §957, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 775, authorized appropriations for faculty development fellowship program.

Section 1134s, Pub. L. 89–329, title IX, §961, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 775, authorized program for assistance for training in legal profession.

Another prior section 1134s, Pub. L. 89–329, title IX, §981, as added Pub. L. 92–318, title X, §1001(b), June 23, 1972, 86 Stat. 380, related to a program of general assistance to graduate schools, prior to repeal by Pub. L. 96–374, title IX, §902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980. Subsequent to repeal, subsec. (f) of that section was repealed by Pub. L. 96–470, title I, §106(c), Oct. 19, 1980, 94 Stat. 2238.

Section 1134t, Pub. L. 89–329, title IX, §962, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1559; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 776, authorized appropriations for program for assistance for training in legal profession.

Section 1134u, Pub. L. 89–329, title IX, §971, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1560; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 776, authorized grants and contracts for programs to provide law school clinical experience programs.

Section 1134v, Pub. L. 89–329, title IX, §972, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 777, related to applications for grants or contracts.

Section 1134w, Pub. L. 89–329, title IX, §973, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 777, authorized appropriations for law school clinical experience programs.

AMENDMENTS

2008—Pub. L. 110–315 substituted "fiscal year 2009 and each of the five succeeding fiscal years to carry out this subpart" for "fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart".

SUBPART 2—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

§1135. Grants to academic departments and programs of institutions

(a) Grant authority

(1) In general

The Secretary shall make grants to academic departments, programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree, including a master's or doctoral degree, in order to enable such institutions to provide assistance to graduate students in accordance with this subpart.

(2) Additional grants

The Secretary may also make grants to such departments, programs and other academic units of institutions of higher education granting graduate degrees which submit joint proposals involving

nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

(A) is described in section 501(c)(3) of title 26, and is exempt from tax under section 501(a) of such title;

(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

(C) is not a private foundation;

(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

(E) has necessary research resources not otherwise readily available in such institutions to such students.

(b) Award and duration of grants

(1) Awards

The principal criterion for the award of grants shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in awarding such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

(2) Duration and amount

(A) Duration

The Secretary shall award a grant under this subpart for a period of 3 years.

(B) Amount

The Secretary shall award a grant to an academic department, program or unit of an institution of higher education under this subpart for a fiscal year in an amount that is not less than $100,000 and not greater than $750,000.

(3) Reallotment

Whenever the Secretary determines that an academic department, program or unit of an institution of higher education is unable to use all of the amounts available to the department, program or unit under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments, programs and units of institutions which can use the grants authorized by this subpart.

(c) Preference to continuing grant recipients

(1) In general

The Secretary shall make new grant awards under this subpart only to the extent that each previous grant recipient under this subpart has received continued funding in accordance with subsection (b)(2)(A) of this section.

(2) Ratable reduction

To the extent that appropriations under this subpart are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded under subsection (b)(2)(A) of this section.

(Pub. L. 89–329, title VII, §711, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1790; amended Pub. L. 110–315, title VII, §703(e)(1), Aug. 14, 2008, 122 Stat. 3347.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134m of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135, Pub. L. 89–329, title X, §1001, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1489; amended Pub. L. 102–325, title X, §1001, July 23, 1992, 106 Stat. 778, related to Fund

for the Improvement of Postsecondary Education, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138 of this title.

Another prior section 1135, Pub. L. 89–329, title X, §1001, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 312; amended Pub. L. 93–380, title VIII, §837, Aug. 21, 1974, 88 Stat. 606; Pub. L. 94–482, title I, §176(a)(3)–(5), title V, §501(a)(20), Oct. 12, 1976, 90 Stat. 2165, 2236; Pub. L. 95–180, §1(c), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, §53(a), Aug. 13, 1979, 93 Stat. 354, related to development plans for expansion or improvement of postsecondary education programs in community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

Another prior section 1135, Pub. L. 89–329, title X, §1001, as added Pub. L. 90–575, title II, §271, Oct. 16, 1968, 82 Stat. 1047, contained Congressional statement of purpose respecting improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 711 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 711 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 711 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–315 inserted ", including a master's or doctoral degree," after "leading to a graduate degree".

§1135a. Institutional eligibility

(a) Eligibility criteria

Any academic department, program or unit of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree, including a master's or doctoral degree, in an area of national need (as designated under subsection (b) of this section) may apply for a grant under this subpart. No department, program or unit shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this subpart.

(b) Designation of areas of national need

After consultation with appropriate Federal and nonprofit agencies and organizations, including the National Science Foundation, the Department of Defense, the Department of Homeland Security, the National Academy of Sciences, and the Bureau of Labor Statistics, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into consideration—

(1) the extent to which the interest in the area is compelling;

(2) the extent to which other Federal programs support postbaccalaureate study in the area concerned;

(3) an assessment of how the program may achieve the most significant impact with available resources; and

(4) an assessment of current (as of the time of the designation) and future professional workforce needs of the United States.

(Pub. L. 89–329, title VII, §712, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1791; amended Pub. L. 110–315, title VII, §703(a), (e)(2), Aug. 14, 2008, 122 Stat. 3346, 3347.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134n of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135a, Pub. L. 89–329, title X, §1002, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1489; amended Pub. L. 102–325, title X, §1001, July 23, 1992, 106 Stat. 778, related to National Board of the Fund for the Improvement of Postsecondary Education, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138a of this title.

Another prior section 1135a, Pub. L. 89–329, title X, §1011, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 313; amended Pub. L. 94–482, title I, §176(b)(2), Oct. 12, 1976, 90 Stat. 2165; Pub. L. 96–49, §53(b), Aug. 13, 1979, 93 Stat. 354, authorized appropriations for a program of establishment and expansion of community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

Another prior section 1135a, Pub. L. 89–329, title X, §1002, as added Pub. L. 90–575, title II, §271, Oct. 16, 1968, 82 Stat. 1047, authorized appropriations, provided for types of programs, and prescribed limitations respecting improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 712 of Pub. L. 89–329 was classified to section 1132b–1 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 712 of Pub. L. 89–329 was classified to section 1132b–1 of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 712 of Pub. L. 89–329 was classified to section 1132b–1 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1135a–1, Pub. L. 89–329, title X, §1003, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1490; amended Pub. L. 99–498, title X, §1001(a), Oct. 17, 1986, 100 Stat. 1560; Pub. L. 102–325, title X, §1001, July 23, 1992, 106 Stat. 779, contained administrative provisions, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138b of this title.

Another prior section 1135a–1, Pub. L. 89–329, title X, §1012, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 313; amended Pub. L. 94–482, title I, §176(b)(3), Oct. 12, 1976, 90 Stat. 2165; Pub. L. 95–180, §1(c), Nov. 15, 1977, 91 Stat. 1372, related to the apportionment of funds in the program of establishing and expanding community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

A prior section 1135a–2, Pub. L. 89–329, title X, §1004, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1490; amended Pub. L. 102–325, title X, §1001, July 23, 1992, 106 Stat. 779; Pub. L. 103–208, §2(j)(42), Dec. 20, 1993, 107 Stat. 2484, authorized appropriations for the Fund for the Improvement of Postsecondary Education, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138d of this title.

Another prior section 1135a–2, Pub. L. 89–329, title X, §1013, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 314, provided for establishment grants and defined the term "new community college", prior to repeal by section 1001(a) of Pub. L. 96–374.

A prior section 1135a–3, Pub. L. 89–329, title X, §1005, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1491; amended Pub. L. 99–498, title X, §1001(b), Oct. 17, 1986, 100 Stat. 1561, authorized appropriations to carry out part A of former subchapter X of this chapter for fiscal years 1987 to 1991, prior to the general amendment of that part by Pub. L. 102–325.

Another prior section 1135a–3 and prior sections 1135a–4 to 1135a–7 were repealed by Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1489, eff. Oct. 1, 1980.

Section 1135a–3, Pub. L. 89–329, title X, §1014, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 314; amended Pub. L. 94–482, title I, §177, Oct. 12, 1976, 90 Stat. 2165, related to expansion grants.

Section 1135a–4, Pub. L. 89–329, title X, §1015, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 314, related to leasing of facilities.

Section 1135a–5, Pub. L. 89–329, title X, §1016, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 315, related to establishment and expansion grants.

Section 1135a–6, Pub. L. 89–329, title X, §1017, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 315, authorized payment to approved applicants.

Section 1135a–7, Pub. L. 89–329, title X, §1018, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 315; amended Pub. L. 94–482, title I, §178, Oct. 12, 1976, 90 Stat. 2166, defined the term "community college".

A prior section 1135a–11, Pub. L. 89–329, title X, §1011, as added Pub. L. 102–325, title X, §1001, July 23, 1992, 106 Stat. 780; amended Pub. L. 103–208, §2(j)(43), Dec. 20, 1993, 107 Stat. 2484, authorized grants for special projects in areas of national need, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138c of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §703(e)(2), inserted ", including a master's or doctoral degree," after "leading to a graduate degree".

Subsec. (b). Pub. L. 110–315, §703(a), added subsec. (b) and struck out former subsec. (b). Prior to

amendment, text read as follows: "After consultation with appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into account the extent to which the interest in the area is compelling, the extent to which other Federal programs support postbaccalaureate study in the area concerned, and an assessment of how the program could achieve the most significant impact with available resources."

§1135b. Criteria for applications

(a) Selection of applications

The Secretary shall make grants to academic departments, programs and units of institutions of higher education on the basis of applications submitted in accordance with subsection (b) of this section. Applications shall be ranked on program quality by review panels of nationally recognized scholars and evaluated on the quality and effectiveness of the academic program and the achievement and promise of the students to be served. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

(b) Contents of applications

An academic department, program or unit of an institution of higher education, in the department, program or unit's application for a grant, shall—

(1) describe the current academic program of the applicant for which the grant is sought;

(2) provide assurances that the applicant will provide, from other non-Federal sources, for the purposes of the fellowship program under this subpart an amount equal to at least 25 percent of the amount of the grant received under this subpart, which contribution may be in cash or in kind, fairly valued;

(3) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

(4) describe the number, types, and amounts of the fellowships that the applicant intends to offer with grant funds provided under this part;

(5) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will make awards to individuals who—

(A) have financial need, as determined under part E of subchapter IV of this chapter;

(B) have excellent academic records in their previous programs of study; and

(C) plan to pursue the highest possible degree available in their course of study at the institution;

(6) set forth policies and procedures to ensure that Federal funds made available under this subpart for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this subpart and in no case to supplant those funds;

(7) provide assurances that, in the event that funds made available to the academic department, program or unit under this subpart are insufficient to provide the assistance due a student under the commitment entered into between the academic department, program or unit and the student, the academic department, program or unit will, from any funds available to the department, program or unit, fulfill the commitment to the student;

(8) provide that the applicant will comply with the limitations set forth in section 1135d of this title;

(9) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students; and

(10) include such other information as the Secretary may prescribe.

(Pub. L. 89–329, title VII, §713, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1791; amended Pub. L. 110–315, title VII, §703(e)(3), Aug. 14, 2008, 122 Stat. 3347.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134o of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135b, Pub. L. 89–329, title X, §1021, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1561, and amended, which related to purpose of and authority for minority science improvement program, was renumbered section 351 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067a of this title.

Another prior section 1135b, Pub. L. 89–329, title X, §1051, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 316, authorized appropriations for occupational education programs, prior to repeal by Pub. L. 94–482, title I, §176(c), title II, §204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

Another prior section 1135b, Pub. L. 89–329, title X, §1003, as added Pub. L. 90–575, title II, §271, Oct. 16, 1968, 82 Stat. 1048, related to selection of grant recipients for improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 713 of Pub. L. 89–329 was classified to section 1132b–2 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 713 of Pub. L. 89–329 was classified to section 1132b–2 of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 713 of Pub. L. 89–329 was classified to section 1132b–2 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1135b–1, Pub. L. 89–329, title X, §1022, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1561, which related to grant recipient selection, was renumbered section 352 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067b of this title.

Another prior section 1135b–1, Pub. L. 89–329, title X, §1052, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 316, set forth allotment and reallotment requirements for funds appropriated for programs, prior to repeal by Pub. L. 94–482, title I, §176(c), title II, §204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

A prior section 1135b–2, Pub. L. 89–329, title X, §1023, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1562, which related to use of funds, was renumbered section 353 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067c of this title.

Another prior section 1135b–2, Pub. L. 89–329, title X, §1053, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 317, set forth requirements for administration of programs by Secretary, prior to repeal by Pub. L. 94–482, title I, §176(c), title II, §204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1987, Oct. 1, 1977.

A prior section 1135b–3, Pub. L. 89–329, title X, §1024, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1562, and amended, which required multiagency study of minority science programs, was renumbered section 1024 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), Oct. 7, 1998, 112 Stat. 1636, transferred to section 1067d of this title, and repealed by Pub. L. 111–39, title III, §302, July 1, 2009, 123 Stat. 1938.

Another prior section 1135b–3 and prior sections 1135b–4 to 1135b–9 were repealed by Pub. L. 94–482, title I, §176(c), title II, §204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

Section 1135b–3, Pub. L. 89–329, title X, §1054, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 317, set forth responsibilities of Commissioner of Education in the administration of programs.

Section 1135b–4, Pub. L. 89–329, title X, §1055, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 318, set forth requirements for State participation and administration of programs.

Section 1135b–5, Pub. L. 89–329, title X, §1056, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 318, authorized planning grants for State occupational education programs and set forth criteria for State participation.

Section 1135b–6, Pub. L. 89–329, title X, §1057, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 319, authorized program grants for State occupational education programs and set forth criteria for State administration of grants.

Section 1135b–7, Pub. L. 89–329, title X, §1058, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 320, set forth prerequisites and procedures for program grants by Commissioner and provided for judicial review of actions of Commissioner.

Section 1135b–8, Pub. L. 89–329, title X, §1059, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 321, authorized technical assistance to the States by Commissioner and the establishment of

model programs.

Section 1135b–9, Pub. L. 89–329, title X, §1060, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 322, defined the terms "State" and "postsecondary occupational education" for purposes of occupational education programs.

AMENDMENTS

2008—Subsec. (b)(5)(C). Pub. L. 110–315 inserted "at the institution" before semicolon at end.

§1135c. Awards to graduate students

(a) Commitments to graduate students

(1) In general

An academic department, program or unit of an institution of higher education shall make commitments to graduate students who are eligible students under section 1091 of this title (including students pursuing a doctoral degree after having completed a master's degree program at an institution of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

(2) Special rule

No such commitments shall be made to students under this subpart unless the academic department, program or unit has determined adequate funds are available to fulfill the commitment from funds received or anticipated under this subpart, or from institutional funds.

(b) Amount of stipends

The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this subpart. The stipends the Secretary establishes shall reflect the purpose of the program under this subpart to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual's first stipend under this subpart in academic year 2009–2010 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation Graduate Research Fellowship Program for such academic year, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need as determined under part E of subchapter IV of this chapter.

(c) Treatment of institutional payments

An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this subpart in amounts that exceed the institutional payments made by the Secretary pursuant to section 1135d(a) of this title may count such excess toward the amounts the institution is required to provide pursuant to section 1135b(b)(2) of this title.

(d) Academic progress required

Notwithstanding the provisions of subsection (a) of this section, no student shall receive an award—

(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded; or

(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

(Pub. L. 89–329, title VII, §714, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1792; amended Pub. L. 110–315, title VII, §703(b), (e)(4), Aug. 14, 2008, 122 Stat. 3346, 3347.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134p of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135c, Pub. L. 89–329, title X, §1031, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1563, related to minority support in science and engineering programs, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1135c, Pub. L. 89–329, title X, §1021, formerly §1071, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 322, established Bureau of Occupational and Adult Education and set forth functions, personnel etc., of the Bureau, prior to repeal by Pub. L. 94–482, title II, §204(c)(3), Oct. 12, 1976, 90 Stat. 2215, eff. Oct. 1, 1977. Subsequent to repeal, this prior section 1135c was renumbered section 1021 of Pub. L. 89–329 and amended by deleting "this title" by Pub. L. 96–374, title X, §1001(b), Oct. 3, 1980, 94 Stat. 1491.

Another prior section 1135c, Pub. L. 89–329, title X, §1004, as added Pub. L. 90–575, title II, §271, Oct. 16, 1968, 82 Stat. 1048, provided for consultations respecting improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 714 of Pub. L. 89–329 was classified to section 1132b–3 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 1135c–1, Pub. L. 89–329, title X, §1032, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1563, related to the special service projects program, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1135c–1, Pub. L. 89–329, title X, §1022, formerly §1072, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 323; amended Pub. L. 96–88, title III, §301(b)(2), Oct. 17, 1979, 93 Stat. 678, renumbered and amended Pub. L. 96–374, title X, §1001(b)(1), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1491, 1503; Pub. L. 98–524, §4(c)(3), Oct. 19, 1984, 98 Stat. 2488, established a Community College Unit in Department of Education, prior to the general amendment of part B of subchapter X of this chapter by Pub. L. 99–498.

A prior section 1135c–2, Pub. L. 89–329, title X, §1033, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1563; amended Pub. L. 102–325, title X, §1002(c), July 23, 1992, 106 Stat. 780, related to supportable activities, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–315, §703(b), substituted "2009–2010" for "1999–2000" and "Foundation Graduate Research Fellowship Program for such academic year" for "Foundation graduate fellowships".

Subsec. (c). Pub. L. 110–315, §703(e)(4), made technical amendment to references in original act which appear in text as references to sections 1135d(a) and 1135b(b)(2) of this title.

§1135d. Additional assistance for cost of education

(a) Institutional payments

(1) In general

The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be, for 2009–2010 and succeeding academic years, the same amount as the institutional payment made for 2008–2009 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(2) Reduction

The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(b) Use for overhead prohibited

Funds made available pursuant to this subpart may not be used for the general operational overhead of the academic department or program.

(Pub. L. 89–329, title VII, §715, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat.

1793; amended Pub. L. 110–315, title VII, §703(c), Aug. 14, 2008, 122 Stat. 3346.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134q of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135d, Pub. L. 89–329, title X, §1041, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1564, which related to eligibility for grants, was renumbered section 361 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067g of this title.

A prior section 715 of Pub. L. 89–329 was classified to section 1132b–4 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 1135d–1, Pub. L. 89–329, title X, §1042, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1564, which related to grant applications, was renumbered section 362 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067h of this title.

A prior section 1135d–2, Pub. L. 89–329, title X, §1043, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1564, and amended, which related to cross program and cross agency cooperation, was renumbered section 363 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067i of this title.

A prior section 1135d–3, Pub. L. 89–329, title X, §1044, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1564, which contained administrative provisions, was renumbered section 364 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067j of this title.

A prior section 1135d–4, Pub. L. 89–329, title X, §1045, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1565, related to establishment of Advisory Board for the Minority Science and Engineering Improvement Programs, prior to repeal by Pub. L. 102–325, §2, title X, §1002(e), July 23, 1992, 106 Stat. 458, 780, effective Oct. 1, 1992.

A prior section 1135d–5, Pub. L. 89–329, title X, §1046, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1566, which defined terms, was renumbered section 365 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067k of this title.

A prior section 1135d–6, Pub. L. 89–329, title X, §1047, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 100–418, title VI, §6221, Aug. 23, 1988, 102 Stat. 1518; Pub. L. 102–325, title X, §1002(f), July 23, 1992, 106 Stat. 780, which authorized appropriations, was renumbered section 366 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067l of this title, and repealed by section 301(a)(8) of Pub. L. 105–244.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–315 substituted "2009–2010" for "1999–2000" and "2008–2009" for "1998–1999".

§1135e. Authorization of appropriations

There are authorized to be appropriated $35,000,000 for fiscal year 2009 and each of the five succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title VII, §716, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1794; amended Pub. L. 110–315, title VII, §703(d), Aug. 14, 2008, 122 Stat. 3347.)

PRIOR PROVISIONS

A prior section 1135e, Pub. L. 89–329, title X, §1061, as added Pub. L. 99–498, title X, §1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, §1003, July 23, 1992, 106 Stat. 781, stated purpose of women and minorities science and engineering outreach demonstration program, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

A prior section 716 of Pub. L. 89–329 was classified to section 1132b–5 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Prior sections 1135e–1 to 1135g were repealed by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1135e–1, Pub. L. 89–329, title X, §1062, as added Pub. L. 99–498, title X, §1003, Oct. 17, 1986,

100 Stat. 1567; amended Pub. L. 102–325, title X, §1003, July 23, 1992, 106 Stat. 781, authorized grants for programs to encourage female and minority elementary and secondary school students to pursue higher education for careers in science and engineering.

Section 1135e–2, Pub. L. 89–329, title X, §1063, as added Pub. L. 99–498, title X, §1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, §1003, July 23, 1992, 106 Stat. 781, defined "eligible institution" and related to availability of funds.

Section 1135e–3, Pub. L. 89–329, title X, §1064, as added Pub. L. 102–325, title X, §1003, July 23, 1992, 106 Stat. 782, related to amount, duration, and use of funds.

Section 1135e–4, Pub. L. 89–329, title X, §1065, as added Pub. L. 102–325, title X, §1003, July 23, 1992, 106 Stat. 782, related to applications for grants.

Section 1135e–5, Pub. L. 89–329, title X, §1066, as added Pub. L. 102–325, title X, §1003, July 23, 1992, 106 Stat. 782, related to evaluation of assisted activities.

Section 1135e–6, Pub. L. 89–329, title X, §1067, as added Pub. L. 102–325, title X, §1003, July 23, 1992, 106 Stat. 783, related to Federal share of costs.

Section 1135e–7, Pub. L. 89–329, title X, §1068, as added Pub. L. 102–325, title X, §1003, July 23, 1992, 106 Stat. 783, related to use of funds to supplement and not supplant other funds.

Section 1135e–8, Pub. L. 89–329, title X, §1069, as added Pub. L. 102–325, title X, §1003, July 23, 1992, 106 Stat. 783, authorized appropriations for women and minorities science and engineering outreach demonstration program.

Section 1135f, Pub. L. 89–329, title X, §1081, formerly §1181, as added Pub. L. 102–325, title X, §1004, July 23, 1992, 106 Stat. 783; renumbered §1081 and amended Pub. L. 103–208, §2(j)(44), (45), Dec. 20, 1993, 107 Stat. 2485, established Dwight D. Eisenhower Leadership Program and provided that part D of former subchapter X of this chapter could be cited as the "Dwight D. Eisenhower Leadership Development Act of 1992".

Section 1135g, Pub. L. 89–329, title X, §1091, as added Pub. L. 103–382, title III, §360D, Oct. 20, 1994, 108 Stat. 3972, authorized grants to States for workplace and community transition training for incarcerated youth offenders.

AMENDMENTS

2008—Pub. L. 110–315 substituted "fiscal year 2009 and each of the five succeeding fiscal years to carry out this subpart" for "fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart".

SUBPART 3—THURGOOD MARSHALL LEGAL EDUCATIONAL OPPORTUNITY PROGRAM

§1136. Legal educational opportunity program

(a) Program authority

The Secretary shall carry out a program to be known as the "Thurgood Marshall Legal Educational Opportunity Program" designed to provide low-income, minority, or disadvantaged secondary school and college students with the information, preparation, and financial assistance to gain access to and complete law school study and admission to law practice.

(b) Eligibility

A secondary school student or college student is eligible for assistance under this section if the student is—

(1) from a low-income family;

(2) a minority; or

(3) from an economically or otherwise disadvantaged background.

(c) Contract or grant authorized

The Secretary is authorized to enter into a contract with, or make a grant to, the Council on Legal Education Opportunity, for a period of not less than 5 years—

(1) to identify secondary school and college students who are from low-income families, are minorities, or are from disadvantaged backgrounds described in subsection (b)(3) of this section;

(2) to prepare such students for successful completion of a baccalaureate degree and for study at accredited law schools, and to assist them with the development of analytical skills, writing skills, and study methods to enhance the students' success in, and promote the students' admission to and completion of, law school;

(3) to assist such students to select the appropriate law school, make application for entry into law school, and receive financial assistance for such study;

(4) to provide support services to such students who are first-year law students to improve retention and success in law school studies;

(5) to motivate and prepare such students—

(A) with respect to law school studies and practice in low-income communities; and

(B) to provide legal services to low-income individuals and families; and

(6) to award Thurgood Marshall Fellowships to eligible law school students—

(A) who participated in summer institutes under subsection (d)(6) and who are enrolled in an accredited law school; or

(B) who have successfully completed a comparable summer institute program that is certified by the Council on Legal Education Opportunity.

(d) Services provided

In carrying out the purposes described in subsection (c) of this section, the contract or grant shall provide for the delivery of services through pre-college programs, undergraduate prelaw information resource centers, summer institutes, midyear seminars, and other educational activities, conducted under this section. Such services may include—

(1) information and counseling regarding—

(A) accredited law school academic programs, especially tuition, fees, and admission requirements;

(B) course work offered and required for law school graduation;

(C) faculty specialties and areas of legal emphasis; and

(D) pre-college and undergraduate preparatory courses in analytical and writing skills, study methods, and course selection;

(2) summer academic programs for secondary school students who have expressed interest in a career in the law;

(3) tutoring and academic counseling, including assistance in preparing for bar examinations;

(4) prelaw mentoring programs, involving law school faculty, members of State and local bar associations, and retired and sitting judges, justices, and magistrates;

(5) assistance in identifying preparatory courses and material for the law school aptitude or admissions tests;

(6) summer institutes for Thurgood Marshall Fellows that expose the Fellows to a rigorous curriculum that emphasizes abstract thinking, legal analysis, research, writing, and examination techniques; and

(7) midyear seminars and other educational activities that are designed to reinforce reading, writing, and studying skills of Thurgood Marshall Fellows and Associates.

(e) Duration of provision of services

The services described in subsection (d) of this section may be provided—

(1) prior to the period of law school study, including before and during undergraduate study;

(2) during the period of law school study; and

(3) during the period following law school study and prior to taking a bar examination.

(f) Subcontracts and subgrants

For the purposes of planning, developing, or delivering one or more of the services described in

subsection (d) of this section, the Council on Legal Education Opportunity shall enter into subcontracts with, and make subgrants to, institutions of higher education, law schools, public and private agencies and organizations, national and State bar associations, and combinations of such institutions, schools, agencies, organizations, and associations.

(g) Fellowships and stipends

The Secretary shall annually establish the maximum fellowship to be awarded, and the maximum stipend to be paid (including allowances for participant travel and for the travel of the dependents of the participant), to Thurgood Marshall Fellows or Associates for the period of participation in summer institutes, midyear seminars, and bar preparation seminars. A Thurgood Marshall Fellow or Associate may be eligible for such a fellowship or stipend only if the Fellow or Associate maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions (except with respect to a law school graduate enrolled in a bar preparation course).

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VII, §721, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1794; amended Pub. L. 110–315, title VII, §704(a)–(h), Aug. 14, 2008, 122 Stat. 3347, 3348; Pub. L. 111–39, title VII, §701(1), July 1, 2009, 123 Stat. 1954.)

PRIOR PROVISIONS

A prior section 1136, Pub. L. 89–329, title XI, §1101, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 784, stated findings of Congress, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1136, Pub. L. 89–329, title XI, §1101, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1568, stated Congressional findings and purpose relating to partnerships for economic development, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Another prior section 1136, Pub. L. 89–329, title XI, §1101, as added Pub. L. 96–374, title XI, §1101, Oct. 3, 1980, 94 Stat. 1491, stated Congressional findings and declaration of purpose, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Another prior section 1136, Pub. L. 89–329, title XI, §1101, as added Pub. L. 90–575, title II, §281, Oct. 16, 1968, 82 Stat. 1048; amended Pub. L. 92–318, title I, §191(a), (b), June 23, 1972, 86 Stat. 323, authorized a program for grants and contracts covering the establishment of a law school clinical experiences regimen, prior to the general amendment of subchapter XI of this chapter by Pub. L. 96–374.

A prior section 721 of Pub. L. 89–329 was renumbered section 341 and is classified to section 1066 of this title.

Another prior section 721 of Pub. L. 89–329 was classified to section 1132c of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 721 of Pub. L. 89–329 was classified to section 1132c of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 721 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–39 substituted "services through pre-college programs, undergraduate prelaw information resource centers" for "services through" and all that followed through "resource centers", resulting in text identical to that after execution of the amendment by Pub. L. 110–315, §704(d)(1). See 2008 Amendment note below.

2008—Subsec. (a). Pub. L. 110–315, §704(a)(1), inserted "secondary school and" after "disadvantaged" and "and admission to law practice" before period at end.

Subsec. (b). Pub. L. 110–315, §704(b), inserted "secondary school student or" before "college student" in introductory provisions.

Subsec. (c)(1). Pub. L. 110–315, §704(c)(1), inserted "secondary school and" before "college students".

Subsec. (c)(2). Pub. L. 110–315, §704(c)(2), added par. (2) and struck out former par. (2) which read as follows: "to prepare such students for study at accredited law schools;".

Subsec. (c)(5), (6). Pub. L. 110–315, §704(c)(3), (4), added pars. (5) and (6) and struck out former par. (5) which read as follows: "to motivate and prepare such students with respect to law school studies and practice in low-income communities."

Subsec. (d). Pub. L. 110–315, §704(d)(1), which directed insertion of "pre-college programs, undergraduate" before "pre-law", was executed by making insertion before "prelaw" in introductory provisions, to reflect the probable intent of Congress.

Subsec. (d)(1)(B). Pub. L. 110–315, §704(d)(2)(A), inserted "law school" before "graduation".

Subsec. (d)(1)(D). Pub. L. 110–315, §704(d)(2)(B), added subpar. (D) and struck out former subpar. (D) which read as follows: "undergraduate preparatory courses and curriculum selection;".

Subsec. (d)(2) to (7). Pub. L. 110–315, §704(d)(3)–(5), added par. (2), redesignated former pars. (2) to (6) as (3) to (7), respectively, and in par. (7), inserted "and Associates" after "Thurgood Marshall Fellows".

Subsec. (e)(1). Pub. L. 110–315, §704(e), inserted ", including before and during undergraduate study" before semicolon at end.

Subsec. (f). Pub. L. 110–315, §704(f), inserted "national and State bar associations," after "private agencies and organizations," and substituted "organizations, and associations" for "and organizations".

Subsec. (g). Pub. L. 110–315, §704(g), amended subsec. (g) generally. Prior to amendment, text read as follows: "The Secretary shall annually establish the maximum stipend to be paid (including allowances for participant travel and for the travel of the dependents of the participant) to Thurgood Marshall Fellows for the period of participation in summer institutes and midyear seminars. A Fellow may be eligible for such a stipend only if the Thurgood Marshall Fellow maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions."

Subsec. (h). Pub. L. 110–315, §704(h), substituted "fiscal year 2009 and each of the five succeeding fiscal years" for "fiscal year 1999 and each of the 4 succeeding fiscal years".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

SUBPART 4—MASTERS DEGREE PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND PREDOMINANTLY BLACK INSTITUTIONS

PRIOR PROVISIONS

A prior subpart 4 consisting of section 1137 was redesignated subpart 5 by Pub. L. 110–315, title VII, §706(a)(1), Aug. 14, 2008, 122 Stat. 3349.

§1136a. Masters degree programs at historically Black colleges and universities

(a) Grant program authorized

(1) In general

Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the institutions listed in subsection (b)(1) that is determined by the Secretary to be making a substantial contribution to graduate education opportunities at the masters level in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines for Black Americans.

(2) Assurance of non-Federal matching funds

No grant in excess of $1,000,000 may be made under this section unless the institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f), the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the

failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

(3) Minimum award

Subject to subsections (f) and (g), the amount awarded to each eligible institution listed in subsection (b)(1) for a fiscal year shall be not less than $500,000.

(4) Duration of grants

A grant awarded under this section shall be for a period of not more than six years, but may be periodically renewed for a period to be determined by the Secretary.

(b) Institutional eligibility

(1) In general

Institutions eligible for grants under subsection (a) are the following:

(A) Albany State University.
(B) Alcorn State University.
(C) Claflin University.
(D) Coppin State University.
(E) Elizabeth City State University.
(F) Fayetteville State University.
(G) Fisk University.
(H) Fort Valley State University.
(I) Grambling State University.
(J) Kentucky State University.
(K) Mississippi Valley State University.
(L) Savannah State University.
(M) South Carolina State University.
(N) University of Arkansas, Pine Bluff.
(O) Virginia State University.
(P) West Virginia State University.
(Q) Wilberforce University.
(R) Winston-Salem State University.

(2) Qualified masters degree program

(A) In general

For the purposes of this section, the term "qualified masters degree program" means a masters degree program that provides a program of instruction in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented and has students enrolled in such program of instruction at the time of application for a grant under this section.

(B) Enrollment exception

Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified masters degree program.

(3) Institutional choice

The president or chancellor of the institution may decide which graduate school or qualified masters degree program will receive funds under the grant in any one fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

(4) One grant per institution

The Secretary shall not award more than one grant under this section in any fiscal year to any institution of higher education.

(c) Application

An eligible institution listed in subsection (b)(1) desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may require. The application shall—

(1) demonstrate how the grant funds under this section will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

(2) provide, in the case of applications for grants in excess of $1,000,000, the assurances required under subsection (a)(2) and specify the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(d) Uses of funds

A grant under this section may be used for—

(1) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

(4) scholarships, fellowships, and other financial assistance for needy graduate students to permit the enrollment of the students in, and completion of, a masters degree in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented;

(5) establishing or improving a development office to strengthen and increase contributions from alumni and the private sector;

(6) assisting in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 1065 of this title;

(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems;

(8) acquisition of real property that is adjacent to the campus in connection with the construction, renovation, or improvement of, or an addition to, campus facilities;

(9) education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(10) tutoring, counseling, and student service programs designed to improve academic success;

(11) faculty professional development, faculty exchanges, and faculty participation in professional conferences and meetings; and

(12) other activities proposed in the application submitted under subsection (c) that—

(A) contribute to carrying out the purposes of this section; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(e) Interaction with other grant programs

No institution that is eligible for and receives an award under section 1063b, 1102a, or 1136b of this title for a fiscal year shall be eligible to apply for a grant, or receive grant funds, under this section for the same fiscal year.

(f) Funding rule

Subject to subsection (g), of the amount appropriated to carry out this section for any fiscal year—

(1) the first $9,000,000 (or any lesser amount appropriated) shall be available only for the purposes of making minimum grants under subsection (a)(3) to eligible institutions listed in

subparagraphs (A) through (R) of subsection (b)(1), except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced;

(2) after the application of paragraph (1), an amount shall be available for the purpose of making minimum grants under subsection (a)(3) to eligible institutions listed in subsection (b)(1) that do not receive a grant under paragraph (1), if any, except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced; and

(3) any amount in excess of $9,000,000 shall be made available to each of the eligible institutions identified in subparagraphs (A) through (R) of subsection (b)(1), pursuant to a formula developed by the Secretary that uses the following elements:

(A) The ability of the institution to match Federal funds with non-Federal funds.

(B) The number of students enrolled in the qualified masters degree program at the eligible institution in the previous academic year.

(C) The average cost of attendance per student, for all full-time students enrolled in the qualified masters degree program at such institution.

(D) The number of students in the previous year who received a degree in the qualified masters degree program at such institution.

(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving masters degrees in the disciplines related to the programs for the previous year.

(g) Hold harmless rule

Notwithstanding paragraphs (2) and (3) of subsection (f), no eligible institution identified in subsection (b)(1) that receives a grant under this section for fiscal year 2009 and that is eligible to receive a grant for a subsequent fiscal year shall receive a grant amount for any such subsequent fiscal year that is less than the grant amount received for fiscal year 2009, unless—

(1) the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs that received grants under this section for such fiscal year and that are eligible to receive a grant in such subsequent fiscal year; or

(2) the institution cannot provide sufficient matching funds to meet the requirements of this section.

(Pub. L. 89–329, title VII, §723, as added Pub. L. 110–315, title VII, §706(b), Aug. 14, 2008, 122 Stat. 3349; amended Pub. L. 111–39, title VII, §701(2), July 1, 2009, 123 Stat. 1954.)

PRIOR PROVISIONS

A prior section 1136a, Pub. L. 89–329, title XI, §1102, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 785, stated purpose of and authorized program for urban community service assistance, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1136a, Pub. L. 89–329, title XI, §1102, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1568, related to use of economic development funds, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Another prior section 1136a, Pub. L. 89–329, title XI, §1102, as added Pub. L. 96–374, title XI, §1101, Oct. 3, 1980, 94 Stat. 1491, authorized appropriations for fiscal years 1981 to 1985 for urban grant university program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Another prior section 1136a, Pub. L. 89–329, title XI, §1102, as added Pub. L. 90–575, title II, §281, Oct. 16, 1968, 82 Stat. 1048; amended Pub. L. 92–318, title I, §191(a), June 23, 1972, 86 Stat. 323, related to required applications for participation in law school clinical experiences program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 96–374.

A prior section 723 of Pub. L. 89–329 was renumbered section 343, and is classified to section 1066b of this title.

AMENDMENTS

2009—Subsec. (b)(1)(P). Pub. L. 111–39 substituted "State" for "Sate".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1136b. Masters degree programs at predominantly Black institutions

(a) Grant program authorized

(1) In general

Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the institutions listed in subsection (b)(1) that is determined by the Secretary to be making a substantial contribution to graduate education opportunities at the masters level in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines for Black Americans.

(2) Assurance of non-Federal matching funds

No grant in excess of $1,000,000 may be made under this section unless the institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f), the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

(3) Minimum award

Subject to subsections (f) and (g), the amount awarded to each eligible institution listed in subsection (b)(1) for a fiscal year shall be not less than $500,000.

(4) Duration of grants

A grant awarded under this section shall be for a period of not more than six years, but may be periodically renewed for a period to be determined by the Secretary.

(b) Institutional eligibility

(1) In general

Institutions eligible for grants under subsection (a) are the following:

(A) Chicago State University.
(B) Columbia Union College.
(C) Long Island University, Brooklyn campus.
(D) Robert Morris College.
(E) York College, The City University of New York.

(2) Qualified masters degree program

(A) In general

For the purposes of this section, the term "qualified masters degree program" means a masters degree program that provides a program of instruction in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented and has students enrolled in such program of instruction at the time of application for a grant under this section.

(B) Enrollment exception

Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified masters degree program.

(3) Institutional choice

The president or chancellor of the institution may decide which graduate school or qualified masters degree program will receive funds under the grant in any one fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

(4) One grant per institution

The Secretary shall not award more than one grant under this section in any fiscal year to any institution of higher education.

(c) Application

An eligible institution listed in subsection (b)(1) desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may require. The application shall—

(1) demonstrate how the grant funds under this section will be used to improve graduate educational opportunities for Black and low-income students and lead to greater financial independence; and

(2) provide, in the case of applications for grants in excess of $1,000,000, the assurances required under subsection (a)(2) and specify the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(d) Uses of funds

A grant under this section may be used for—

(1) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

(4) scholarships, fellowships, and other financial assistance for needy graduate students to permit the enrollment of the students in, and completion of, a masters degree in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented;

(5) establishing or improving a development office to strengthen and increase contributions from alumni and the private sector;

(6) assisting in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 1065 of this title;

(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems;

(8) acquisition of real property that is adjacent to the campus in connection with the construction, renovation, or improvement of, or an addition to, campus facilities;

(9) education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(10) tutoring, counseling, and student service programs designed to improve academic success;

(11) faculty professional development, faculty exchanges, and faculty participation in professional conferences and meetings; and

(12) other activities proposed in the application submitted under subsection (c) that—

(A) contribute to carrying out the purposes of this section; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(e) Interaction with other grant programs

No institution that is eligible for and receives an award under section 1063b, 1102a, or 1136a of this title for a fiscal year shall be eligible to apply for a grant, or receive grant funds, under this

section for the same fiscal year.

(f) Funding rule

Subject to subsection (g), of the amount appropriated to carry out this section for any fiscal year—

(1) the first $2,500,000 (or any lesser amount appropriated) shall be available only for the purposes of making minimum grants under subsection (a)(3) to eligible institutions listed in subparagraphs (A) through (E) of subsection (b)(1), except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced;

(2) after the application of paragraph (1), an amount shall be available for the purpose of making minimum grants under subsection (a)(3) to eligible institutions described in subsection (b)(1) that do not receive a grant under paragraph (1), if any, except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced; and

(3) any amount in excess of $2,500,000 shall be made available to each of the eligible institutions identified in subparagraphs (A) through (E) of subsection (b)(1), pursuant to a formula developed by the Secretary that uses the following elements:

(A) The ability of the institution to match Federal funds with non-Federal funds.

(B) The number of students enrolled in the qualified masters degree program at the eligible institution in the previous academic year.

(C) The average cost of attendance per student, for all full-time students enrolled in the qualified masters degree program at such institution.

(D) The number of students in the previous year who received a degree in the qualified masters degree program at such institution.

(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving masters degrees in the disciplines related to the programs for the previous year.

(g) Hold harmless rule

Notwithstanding paragraphs (2) and (3) of subsection (f), no eligible institution identified in subsection (b)(1) that receives a grant under this section for fiscal year 2009 and that is eligible to receive a grant in a subsequent fiscal year shall receive a grant amount in any such subsequent fiscal year that is less than the grant amount received for fiscal year 2009, unless—

(1) the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs that received grants under this section for such fiscal year and that are eligible to receive a grant in such subsequent fiscal year; or

(2) the institution cannot provide sufficient matching funds to meet the requirements of this section.

(Pub. L. 89–329, title VII, §724, as added Pub. L. 110–315, title VII, §706(b), Aug. 14, 2008, 122 Stat. 3353.)

PRIOR PROVISIONS

A prior section 1136b, Pub. L. 89–329, title XI, §1103, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 785, related to applications for urban community service grants, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1136b, Pub. L. 89–329, title XI, §1103, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1569, related to requirements for economic development grant applications, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Another prior section 1136b, Pub. L. 89–329, title XI, §1103, as added Pub. L. 96–374, title XI, §1101, Oct. 3, 1980, 94 Stat. 1492, authorized grants to urban universities, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Another prior section 1136b, Pub. L. 89–329, title XI, §1103, as added Pub. L. 90–575, title II, §281, Oct. 16, 1968, 82 Stat. 1049; amended Pub. L. 92–318, title I, §191(c), June 23, 1972, 86 Stat. 323; Pub. L.

94–482, title I, §172, Oct. 12, 1976, 90 Stat. 2164; Pub. L. 96–49, §11, Aug. 13, 1979, 93 Stat. 354, authorized appropriations for the law school clinical experiences program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 96–374.

A prior section 724 of Pub. L. 89–329 was renumbered section 344, and is classified to section 1066c of this title.

§1136c. Authorization of appropriations

(a) Masters degree programs at historically Black colleges and universities

There are authorized to be appropriated to carry out section 1136a of this title such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) Masters degree programs at predominantly Black institutions

There are authorized to be appropriated to carry out section 1136b of this title such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VII, §725, as added Pub. L. 110–315, title VII, §706(b), Aug. 14, 2008, 122 Stat. 3356.)

PRIOR PROVISIONS

A prior section 1136c, Pub. L. 89–329, title XI, §1104, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 786, related to allowable activities, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1136c, Pub. L. 89–329, title XI, §1104, as added Pub. L. 96–374, title XI, §1101, Oct. 3, 1980, 94 Stat. 1492, placed geographical limitations on assistance to urban universities, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

A prior section 725 of Pub. L. 89–329 was renumbered section 345, and is classified to section 1066d of this title.

Prior sections 1136d to 1136h were repealed by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1136d, Pub. L. 89–329, title XI, §1105, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 786, related to peer review.

Another prior section 1136d, Pub. L. 89–329, title XI, §1105, as added Pub. L. 96–374, title XI, §1101, Oct. 3, 1980, 94 Stat. 1492, defined terms, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Section 1136e, Pub. L. 89–329, title XI, §1106, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 786; amended Pub. L. 103–208, §2(j)(46), Dec. 20, 1993, 107 Stat. 2485, related to disbursement of funds.

Section 1136f, Pub. L. 89–329, title XI, §1107, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 787, related to designation of Urban Grant Institutions.

Section 1136g, Pub. L. 89–329, title XI, §1108, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 787, defined terms "urban area" and "eligible institution".

Section 1136h, Pub. L. 89–329, title XI, §1109, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 787, authorized appropriations for urban community service program.

SUBPART 5—GENERAL PROVISIONS

CODIFICATION

Pub. L. 110–315, title VII, §706(a)(1), Aug. 14, 2008, 122 Stat. 3349, redesignated subpart 4 of this part as subpart 5.

§1137. Administrative provisions for subparts 1 through 4

(a) Coordinated administration

In carrying out the purpose described in section 1133(1) of this title, the Secretary shall provide for coordinated administration and regulation of graduate programs assisted under subparts 1 through 4 of this part with other Federal programs providing assistance for graduate education in order to minimize duplication and improve efficiency to ensure that the programs are carried out in a manner most compatible with academic practices and with the standard timetables for applications for, and notifications of acceptance to, graduate programs.

(b) Hiring authority

For purposes of carrying out subparts 1 through 4 of this part, the Secretary shall appoint, without regard to the provisions of title 5 that govern appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such parts [1]. The employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) Use for religious purposes prohibited

No institutional payment or allowance under section 1134b(b) or 1135d(a) of this title shall be paid to a school or department of divinity as a result of the award of a fellowship under subpart 1 or 2 of this part, respectively, to an individual who is studying for a religious vocation.

(d) Evaluation

The Secretary shall evaluate the success of assistance provided to individuals under subpart 1, 2, 3, or 4 of this part with respect to graduating from their degree programs, and placement in faculty and professional positions.

(Pub. L. 89–329, title VII, §731, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1795; amended Pub. L. 110–315, title VII, §§704(i), 706(a)(2), (3), Aug. 14, 2008, 122 Stat. 3348, 3349.)

PRIOR PROVISIONS

A prior section 1137, Pub. L. 89–329, title XI, §1121, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 788, related to purpose of innovative projects for community service program, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1137, Pub. L. 89–329, title XI, §1111, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1570, related to the purpose of urban community service program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 731 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 731 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 731 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1137a, Pub. L. 89–329, title XI, §1122, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 788; amended Pub. L. 103–82, title I, §111(b)(4), Sept. 21, 1993, 107 Stat. 860, authorized program for innovative projects for community service, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1137a and prior section 1137b were omitted in the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Section 1137a, Pub. L. 89–329, title XI, §1112, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1570, related to use of urban community service funds.

Section 1137b, Pub. L. 89–329, title XI, §1113, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1570, related to contents for applications for urban community services projects.

AMENDMENTS

2008—Pub. L. 110–315, §706(a)(2), substituted "subparts 1 through 4" for "subparts 1, 2, and 3" in section catchline.

Subsecs. (a), (b). Pub. L. 110–315, §706(a)(3)(A), substituted "subparts 1 through 4" for "subparts 1, 2, and 3".

Subsec. (d). Pub. L. 110–315, §706(a)(3)(B), substituted "subpart 1, 2, 3, or 4" for "subpart 1, 2, or 3".

Subsec. (e). Pub. L. 110–315, §704(i), struck out subsec. (e). Prior to amendment, text read as follows: "The Secretary, using funds appropriated to carry out subparts 1 and 2 of this part, and before awarding any assistance under such parts to a recipient that did not receive assistance under part C or D of title IX (as such parts were in effect prior to October 7, 1998) shall continue to provide funding to recipients of assistance under such part C or D (as so in effect), as the case may be, pursuant to any multiyear award of such assistance."

[1] *So in original. Probably should be "subparts".*

PART B—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

§1138. Fund for the Improvement of Postsecondary Education

(a) Authority

The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies, to enable such institutions, combinations, and agencies to improve postsecondary education opportunities by—

(1) the encouragement of reform and improvement of, and innovation in, postsecondary education and the provision of educational opportunity for all students, including nontraditional students;

(2) the creation of institutions, programs, and joint efforts involving paths to career and professional training, including—

(A) efforts that provide academic credit for programs; and

(B) combinations of academic and experiential learning;

(3) the establishment and continuation of institutions, programs, consortia, collaborations, and other joint efforts based on communications technology, including those efforts that utilize distance education and technological advancements to educate and train postsecondary students (including health professionals serving medically underserved populations);

(4) the carrying out, in postsecondary educational institutions, of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering postsecondary institutions and pursuing programs of postsecondary study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties;

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto;

(9) the introduction of reforms in remedial education, including English language instruction, to customize remedial courses to student goals and help students progress rapidly from remedial courses into core courses and through postsecondary program completion;

(10) the provision of support and assistance to partnerships between institutions of higher education and secondary schools with a significant population of students identified as late-entering limited English proficient students, to establish programs that—

(A) result in increased secondary school graduation rates of limited English proficient students; and

(B) increase the number of participating late-entering limited English proficient students who

pursue postsecondary education;

(11) the creation of consortia that join diverse institutions of higher education to design and offer curricular and cocurricular interdisciplinary programs at the undergraduate and graduate levels, sustained for not less than a 5 year period, that—

(A) focus on poverty and human capability; and

(B) include—

(i) a service-learning component; and

(ii) the delivery of educational services through informational resource centers, summer institutes, midyear seminars, and other educational activities that stress the effects of poverty and how poverty can be alleviated through different career paths;

(12) the provision of support and assistance for demonstration projects to provide comprehensive support services to ensure that homeless students, or students who were in foster care or were a ward of the court at any time before the age of 13, enroll and succeed in postsecondary education, including providing housing to such students during periods when housing at the institution of higher education is closed or generally unavailable to other students; and

(13) the support of efforts to work with institutions of higher education, and nonprofit organizations, that seek to promote cultural diversity in the entertainment media industry, including through the training of students in production, marketing, and distribution of culturally relevant content.

(b) Planning grants

The Secretary is authorized to make planning grants to institutions of higher education for the development and testing of innovative techniques in postsecondary education. Such grants shall not exceed $20,000.

(c) Center for best practices to support single parent students

(1) Program authorized

The Secretary is authorized to award one grant or contract to an institution of higher education to enable such institution to establish and maintain a center to study and develop best practices for institutions of higher education to support single parents who are also students attending such institutions.

(2) Institution requirements

The Secretary shall award the grant or contract under this subsection to a four-year institution of higher education that has demonstrated expertise in the development of programs to assist single parents who are students at institutions of higher education, as shown by the institution's development of a variety of targeted services to such students, including on-campus housing, child care, counseling, advising, internship opportunities, financial aid, and financial aid counseling and assistance.

(3) Center activities

The center funded under this section shall—

(A) assist institutions implementing innovative programs that support single parents pursuing higher education;

(B) study and develop an evaluation protocol for such programs that includes quantitative and qualitative methodologies;

(C) provide appropriate technical assistance regarding the replication, evaluation, and continuous improvement of such programs; and

(D) develop and disseminate best practices for such programs.

(d) Prohibition

(1) In general

No funds made available under this part shall be used to provide direct financial assistance in the form of grants or scholarships to students who do not meet the requirements of section 1091(a) of this title.

(2) Rule of construction

Nothing in this subsection shall be construed to prevent a student who does not meet the requirements of section 1091(a) of this title from participating in programs funded under this part.

(e) Priority

In making grants under this part to any institution of higher education after August 14, 2008, the Secretary may give priority to institutions that meet or exceed the most current version of ASHRAE/IES Standard 90.1 (as such term is used in section 6313(a)(6) of title 42) for any new facilities construction or major renovation of the institution after such date, except that this subsection shall not apply with respect to barns or greenhouses or similar structures owned by the institution.

(f) Scholarship program for family members of veterans or members of the military

(1) Authorization

The Secretary shall enter into a contract with a nonprofit organization with demonstrated success in carrying out the activities described in this subsection to carry out a program to provide postsecondary education scholarships for eligible students.

(2) Definition of eligible student

In this subsection, the term "eligible student" means an individual who is enrolled as a full-time or part-time student at an institution of higher education (as defined in section 1002 of this title) and is—

(A) a dependent student who is a child of—

(i) an individual who is—

(I) serving on active duty during a war or other military operation or national emergency (as defined in section 1088 of this title); or

(II) performing qualifying National Guard duty during a war or other military operation or national emergency (as defined in section 1088 of this title); or

(ii) a veteran who—

(I) served or performed, as described in clause (i), since September 11, 2001; and

(II) died, or has been disabled, as a result of such service or performance; or

(B) an independent student who—

(i) is a spouse of an individual who is—

(I) serving on active duty during a war or other military operation or national emergency (as defined in section 1088 of this title); or

(II) performing qualifying National Guard duty during a war or other military operation or national emergency (as defined in section 1088 of this title);

(ii) was (at the time of death of the veteran) a spouse of a veteran who—

(I) served or performed, as described in clause (i), since September 11, 2001; and

(II) died as a result of such service or performance; or

(iii) is a spouse of a veteran who—

(I) served or performed, as described in clause (i), since September 11, 2001; and

(II) has been disabled as a result of such service or performance.

(3) Awarding of scholarships

Scholarships awarded under this subsection shall be awarded based on need with priority given to eligible students who are eligible to receive Federal Pell Grants under subpart 1 of part A of

subchapter IV.

(4) Maximum scholarship amount

The maximum scholarship amount awarded to an eligible student under this subsection for an award year shall be the lesser of $5,000, or the student's cost of attendance (as defined in section 1087ll of this title).

(5) Amounts for scholarships

All of the amounts appropriated to carry out this subsection for a fiscal year shall be used for scholarships awarded under this subsection, except that the nonprofit organization receiving a contract under this subsection may use not more than one percent of such amounts for the administrative costs of the contract.

(Pub. L. 89–329, title VII, §741, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1796; amended Pub. L. 110–315, title VII, §707(a)–(e), Aug. 14, 2008, 122 Stat. 3356–3358.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138, Pub. L. 89–329, title XI, §1141, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 788, related to purpose to assist development of student literacy corps and student mentoring corps programs, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1138, Pub. L. 89–329, title XI, §1121, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1571, related to administrative provisions, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 741 of Pub. L. 89–329 was classified to section 1132e of this title, prior to repeal by Pub. L. 102–325.

Another prior section 741 of Pub. L. 89–329 was classified to section 1132e of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 741 of Pub. L. 89–329 was classified to section 1132c of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Subsec. (a)(1) to (3). Pub. L. 110–315, §707(a)(1), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions, programs, and joint efforts involving paths to career and professional training, and combinations of academic and experiential learning;

"(3) the establishment of institutions and programs based on the technology of communications;"

Subsec. (a)(6). Pub. L. 110–315, §707(a)(2), added par. (6) and struck out former par. (6) which read as follows: "the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;".

Subsec. (a)(9) to (13). Pub. L. 110–315, §707(a)(3)–(5), added pars. (9) to (13).

Subsec. (c). Pub. L. 110–315, §707(b), added subsec. (c).

Subsec. (d). Pub. L. 110–315, §707(c), added subsec. (d).

Subsec. (e). Pub. L. 110–315, §707(d), added subsec. (e).

Subsec. (f). Pub. L. 110–315, §707(e), added subsec. (f).

§1138a. National Board of the Fund for the Improvement of Postsecondary Education

(a) Establishment

There is established a National Board of the Fund for the Improvement of Postsecondary Education (in this part referred to as the "Board"). The Board shall consist of 15 members appointed by the Secretary for overlapping 3-year terms. A majority of the Board shall constitute a quorum.

Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

(b) Membership

The Secretary shall designate one of the members of the Board as Chairperson of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

(c) Duties

The Board shall—

(1) advise the Secretary on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(2) advise the Secretary on the operation of the Fund for the Improvement of Postsecondary Education, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

(3) meet at the call of the Chairperson, except that the Board shall meet whenever one-third or more of the members request in writing that a meeting be held.

(d) Information and assistance

The Secretary shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(Pub. L. 89–329, title VII, §742, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1797; amended Pub. L. 110–315, title VII, §707(h)(1), Aug. 14, 2008, 122 Stat. 3360.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135a of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138a, Pub. L. 89–329, title XI, §1142, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 789; amended Pub. L. 103–208, §2(j)(47), Dec. 20, 1993, 107 Stat. 2485, authorized grants for student literacy corps and student mentoring corps programs, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1138a, Pub. L. 89–329, title XI, §1122, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1571, authorized appropriations to carry out parts A and B of subchapter XI of this chapter, prior to the general amendment of such subchapter by Pub. L. 102–325.

A prior section 742 of Pub. L. 89–329 was classified to section 1132e–1 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 742 of Pub. L. 89–329 was classified to section 1132c–1 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–315, §707(h)(1)(A), struck out par. (1) designation before "The Secretary shall designate" and struck out par. (2). Prior to amendment, text of par. (2) read as follows: "The Secretary shall appoint the Director of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the 'Director')."

Subsec. (c)(1), (2). Pub. L. 110–315, §707(h)(1)(B), struck out "and the Director" after "Secretary".

Subsec. (d). Pub. L. 110–315, §707(h)(1)(C), substituted "Secretary" for "Director".

§1138b. Administrative provisions

The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5 governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter

III of chapter 53 of such title relating to classification and General Schedule pay rates.

(Pub. L. 89–329, title VII, §743, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1797; amended Pub. L. 110–315, title VII, §707(h)(2), Aug. 14, 2008, 122 Stat. 3360.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135a–1 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138b, Pub. L. 89–329, title XI, §1143, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 789, related to use of funds, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1138b, Pub. L. 89–329, title XI, §1123, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1571, defined terms, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 743 of Pub. L. 89–329 was classified to section 1132c–2 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2008—Pub. L. 110–315 struck out subsec. (a) designation and heading before "The Secretary may appoint," and struck out subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this part. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education."

§1138c. Special projects

(a) Grant authority

The Secretary is authorized to make grants to institutions of higher education, or consortia thereof, and such other public agencies and nonprofit organizations as the Secretary deems necessary for innovative projects concerning one or more areas of particular national need identified by the Secretary.

(b) Application

No grant shall be made under this part unless an application is made at such time, in such manner, and contains or is accompanied by such information as the Secretary may require.

(c) Areas of national need

Areas of national need shall include, at a minimum, the following:

(1) Institutional restructuring to improve learning and promote productivity, efficiency, quality improvement, and cost reduction.

(2) Improvements in academic instruction and student learning, including efforts designed to assess the learning gains made by postsecondary students.

(3) Articulation between two- and four-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from two- to four-year institutions of higher education.

(4) Development, evaluation, and dissemination of model courses, including model courses that—

(A) provide students with a broad and integrated knowledge base;

(B) include, at a minimum, broad survey courses in English literature, American and world history, American political institutions, economics, philosophy, college-level mathematics, and the natural sciences; and

(C) include study of a foreign language that leads to reading and writing competency in the foreign language.

(5) International cooperation and student exchanges among postsecondary educational

institutions.

(6) Support of centers to incorporate education in quality and safety into the preparation of medical and nursing students, through grants to medical schools, nursing schools, and osteopathic schools. Such grants shall be used to assist in providing courses of instruction that specifically equip students to—

(A) understand the causes of, and remedies for, medical error, medically induced patient injuries and complications, and other defects in medical care;

(B) engage effectively in personal and systemic efforts to continually reduce medical harm; and

(C) improve patient care and outcomes, as recommended by the Institute of Medicine of the National Academies.

(Pub. L. 89–329, title VII, §744, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1798; amended Pub. L. 110–315, title VII, §707(f), (h)(3), Aug. 14, 2008, 122 Stat. 3359, 3361; Pub. L. 111–39, title VII, §701(3), July 1, 2009, 123 Stat. 1954.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135a–11 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138c, Pub. L. 89–329, title XI, §1144, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 789; amended Pub. L. 103–382, title III, §391(e)(10), Oct. 20, 1994, 108 Stat. 4023, related to applications for grants, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

A prior section 744 of Pub. L. 89–329 was classified to section 1132c–3 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2009—Subsec. (c)(6)(C). Pub. L. 111–39 inserted "of the National Academies" after "Institute of Medicine".

2008—Subsec. (a). Pub. L. 110–315, §707(h)(3), substituted "Secretary" for "Director" wherever appearing.

Subsec. (c). Pub. L. 110–315, §707(f), amended subsec. (c) generally. Prior to amendment, text read as follows: "Areas of national need shall initially include, but shall not be limited to, the following:

"(1) Institutional restructuring to improve learning and promote productivity, efficiency, quality improvement, and cost and price control.

"(2) Articulation between 2- and 4-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from 2- to 4-year institutions of higher education.

"(3) Evaluation and dissemination of model programs.

"(4) International cooperation and student exchange among postsecondary educational institutions."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1138d. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VII, §745, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1798; amended Pub. L. 110–315, title VII, §707(g), Aug. 14, 2008, 122 Stat. 3360.)

PRIOR PROVISIONS

A prior section 1138d, Pub. L. 89–329, title XI, §1145, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 791, related to technical assistance and coordination contract, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

A prior section 745 of Pub. L. 89–329 was classified to section 1132c–4 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1138e, Pub. L. 89–329, title XI, §1146, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 791, defined terms "institution of higher education" and "public community agency", prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

AMENDMENTS

2008—Pub. L. 110–315 substituted "such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years" for "$30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years".

PART C—URBAN COMMUNITY SERVICE

§§1139 to 1139h. Repealed. Pub. L. 110–315, title VII, §708, Aug. 14, 2008, 122 Stat. 3361

Section 1139, Pub. L. 89–329, title VII, §751, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1798, set out Congressional findings.

A prior section 1139, Pub. L. 89–329, title XI, §1151, as added Pub. L. 102–325, title XI, §1101, July 23, 1992, 106 Stat. 792, authorized appropriations for the innovative projects for community service program, student literacy corps program, and student mentoring corps program, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1139, Pub. L. 89–329, title XI, §1131, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1572, stated purpose of providing assistance to establish Robert F. Wagner, Sr., Institute of Urban Public Policy, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Section 1139a, Pub. L. 89–329, title VII, §752, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1798, related to the purpose of this part and program authorization.

A prior section 1139a, Pub. L. 89–329, title XI, §1132, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1572, related to application for and use of funds, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Section 1139b, Pub. L. 89–329, title VII, §753, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1799, related to application for urban community service grants.

A prior section 1139b, Pub. L. 89–329, title XI, §1133, as added Pub. L. 99–498, title XI, §1101, Oct. 17, 1986, 100 Stat. 1573, authorized appropriations, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Section 1139c, Pub. L. 89–329, title VII, §754, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1799, set out allowable activities.

Section 1139d, Pub. L. 89–329, title VII, §755, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1800, related to peer review.

Section 1139e, Pub. L. 89–329, title VII, §756, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1800, related to disbursement of funds.

Section 1139f, Pub. L. 89–329, title VII, §757, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1800, related to designation of "Urban Grant Institutions".

Section 1139g, Pub. L. 89–329, title VII, §758, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1801, set out definitions.

Section 1139h, Pub. L. 89–329, title VII, §759, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1801, authorized appropriations for fiscal year 1999 and each of the 4 succeeding fiscal years to carry out this part.

PART D—PROGRAMS TO PROVIDE STUDENTS WITH DISABILITIES WITH A QUALITY HIGHER EDUCATION

PRIOR PROVISIONS

A prior part D consisted of sections 1140 to 1140d and related to demonstration projects to ensure that

students with disabilities receive a quality higher education, prior to repeal by Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3361.

§1140. Definitions

In this part:

(1) Comprehensive transition and postsecondary program for students with intellectual disabilities

The term "comprehensive transition and postsecondary program for students with intellectual disabilities" means a degree, certificate, or nondegree program that meets each of the following:

(A) Is offered by an institution of higher education.

(B) Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an institution of higher education in order to prepare for gainful employment.

(C) Includes an advising and curriculum structure.

(D) Requires students with intellectual disabilities to participate on not less than a half-time basis as determined by the institution, with such participation focusing on academic components, and occurring through 1 or more of the following activities:

(i) Regular enrollment in credit-bearing courses with nondisabled students offered by the institution.

(ii) Auditing or participating in courses with nondisabled students offered by the institution for which the student does not receive regular academic credit.

(iii) Enrollment in noncredit-bearing, nondegree courses with nondisabled students.

(iv) Participation in internships or work-based training in settings with nondisabled individuals.

(E) Requires students with intellectual disabilities to be socially and academically integrated with non-disabled students to the maximum extent possible.

(2) Student with an intellectual disability

The term "student with an intellectual disability" means a student—

(A) with a cognitive impairment, characterized by significant limitations in—

(i) intellectual and cognitive functioning; and

(ii) adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

(B) who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(Pub. L. 89–329, title VII, §760, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3361; amended Pub. L. 111–39, title VII, §701(4), July 1, 2009, 123 Stat. 1954; Pub. L. 111–256, §2(a), Oct. 5, 2010, 124 Stat. 2643.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (2)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 1140, Pub. L. 89–329, title VII, §761, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1801, stated the purpose of former part D, prior to repeal by Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3361.

AMENDMENTS

2010—Par. (2)(A). Pub. L. 111–256 struck out "mental retardation or" before "a cognitive impairment".

2009—Par. (1). Pub. L. 111–39 added par. (1) and struck out former par. (1) which contained provisions

substantially similar to new subpars. (A) to (D), defining "comprehensive transition and postsecondary program for students with intellectual disabilities".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

DEFINITIONS

For meaning of references to an intellectual disability and to individuals with intellectual disabilities in provisions amended by section 2 of Pub. L. 111–256, see section 2(k) of Pub. L. 111–256, set out as a note under section 1400 of this title.

SUBPART 1—DEMONSTRATION PROJECTS TO SUPPORT POSTSECONDARY FACULTY, STAFF, AND ADMINISTRATORS IN EDUCATING STUDENTS WITH DISABILITIES

§1140a. Purpose

It is the purpose of this subpart to support model demonstration projects to provide technical assistance or professional development for postsecondary faculty, staff, and administrators in institutions of higher education to enable such faculty, staff, and administrators to provide students with disabilities with a quality postsecondary education.

(Pub. L. 89–329, title VII, §761, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3362.)

PRIOR PROVISIONS

A prior section 1140a, Pub. L. 89–329, title VII, §762, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1801, related to authorization of competitive grants, prior to repeal by Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3361.

A prior section 761 of Pub. L. 89–329 was classified to section 1140 of this title, prior to repeal by Pub. L. 110–315.

Another prior section 761 of Pub. L. 89–329 was classified to section 1132g of this title, prior to repeal by Pub. L. 102–325.

Another prior section 761 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1140b. Grants, contracts, and cooperative agreements authorized

(a) Competitive grants, contracts, and cooperative agreements authorized

(1) In general

From amounts appropriated under section 1140e of this title, the Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to institutions of higher education to enable the institutions to carry out the activities under subsection (b).

(2) Awards for professional development and technical assistance

Not less than two grants, contracts, cooperative agreements, or a combination of such awards shall be awarded to institutions of higher education that provide professional development and technical assistance in order for students with learning disabilities to receive a quality postsecondary education.

(b) Duration; activities

(1) Duration

A grant, contract, or cooperative agreement under this subpart shall be awarded for a period of three years.

(2) Authorized activities

A grant, contract, or cooperative agreement awarded under this subpart shall be used to carry out one or more of the following activities:

(A) Teaching methods and strategies

The development of innovative, effective, and efficient teaching methods and strategies, consistent with the principles of universal design for learning, to provide postsecondary faculty, staff, and administrators with the skills and supports necessary to teach and meet the academic and programmatic needs of students with disabilities, in order to improve the retention of such students in, and the completion by such students of, postsecondary education. Such methods and strategies may include in-service training, professional development, customized and general technical assistance, workshops, summer institutes, distance learning, and training in the use of assistive and educational technology.

(B) Effective transition practices

The development of innovative and effective teaching methods and strategies to provide postsecondary faculty, staff, and administrators with the skill and supports necessary to ensure the successful and smooth transition of students with disabilities from secondary school to postsecondary education.

(C) Synthesizing research and information

The synthesis of research and other information related to the provision of postsecondary educational services to students with disabilities, including data on the impact of a postsecondary education on subsequent employment of students with disabilities. Such research, information, and data shall be made publicly available and accessible.

(D) Distance learning

The development of innovative and effective teaching methods and strategies to provide postsecondary faculty, staff, and administrators with the ability to provide accessible distance education programs or classes that would enhance the access of students with disabilities to postsecondary education, including the use of accessible curricula and electronic communication for instruction and advising.

(E) Disability career pathways

(i) In general

The provision of information, training, and technical assistance to secondary and postsecondary faculty, staff, and administrators with respect to disability-related fields that would enable such faculty, staff, and administrators to—

(I) encourage interest and participation in such fields, among students with disabilities and other students;

(II) enhance awareness and understanding of such fields among students with disabilities and other students;

(III) provide educational opportunities in such fields for students with disabilities and other students;

(IV) teach practical skills related to such fields to students with disabilities and other students; and

(V) offer work-based opportunities in such fields to students with disabilities and other students.

(ii) Development

The training and support described in subclauses (I) through (V) of clause (i) may include offering students—

(I) credit-bearing postsecondary-level coursework; and

(II) career and educational counseling.

(F) Professional development and training sessions

The conduct of professional development and training sessions for postsecondary faculty, staff, and administrators from other institutions of higher education to enable such individuals to meet the educational needs of students with disabilities.

(G) Accessibility of education

Making postsecondary education more accessible to students with disabilities through curriculum development, consistent with the principles of universal design for learning.

(3) Mandatory evaluation and dissemination

An institution of higher education awarded a grant, contract, or cooperative agreement under this subpart shall evaluate and disseminate to other institutions of higher education, the information obtained through the activities described in subparagraphs (A) through (G) of paragraph (2).

(c) Considerations in making awards

In awarding grants, contracts, or cooperative agreements under this subpart, the Secretary shall consider the following:

(1) Geographic distribution

Providing an equitable geographic distribution of such awards.

(2) Rural and urban areas

Distributing such awards to urban and rural areas.

(3) Range and type of institution

Ensuring that the activities to be assisted are developed for a range of types and sizes of institutions of higher education.

(4) Prior experience or exceptional programs

Distributing the awards to institutions of higher education with demonstrated prior experience in, or exceptional programs for, meeting the postsecondary educational needs of students with disabilities.

(d) Reports

(1) Initial report

Not later than one year after August 14, 2008, the Secretary shall prepare and submit to the authorizing committees, and make available to the public, a report on all demonstration projects awarded grants under this part for any of fiscal years 1999 through 2008, including a review of the activities and program performance of such demonstration projects based on existing information as of the date of the report.

(2) Subsequent report

Not later than three years after the date of the first award of a grant under this subpart after August 14, 2008, the Secretary shall prepare and submit to the authorizing committees, and make available to the public, a report that—

(A) reviews the activities and program performance of the demonstration projects authorized under this subpart; and

(B) provides guidance and recommendations on how effective projects can be replicated.

(Pub. L. 89–329, title VII, §762, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3362.)

PRIOR PROVISIONS

A prior section 1140b, Pub. L. 89–329, title VII, §763, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1802, related to applications, prior to repeal by Pub. L. 110–315, title VII, §709(2), Aug. 14,

2008, 122 Stat. 3361.

A prior section 762 of Pub. L. 89–329 was classified to section 1140a of this title, prior to repeal by Pub L. 110–315.

Another prior section 762 of Pub. L. 89–329 was classified to section 1132g–1 of this title, prior to repeal by Pub. L. 102–325.

Another prior section 762 of Pub. L. 89–329 was classified to section 1132d–1 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1140c. Applications

Each institution of higher education desiring to receive a grant, contract, or cooperative agreement under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

(1) a description of the activities authorized under this subpart that the institution proposes to carry out, and how such institution plans to conduct such activities in order to further the purpose of this subpart;

(2) a description of how the institution consulted with a broad range of people within the institution to develop activities for which assistance is sought;

(3) a description of how the institution will coordinate and collaborate with the office that provides services to students with disabilities within the institution; and

(4) a description of the extent to which the institution will work to replicate the research-based and best practices of institutions of higher education with demonstrated effectiveness in serving students with disabilities.

(Pub. L. 89–329, title VII, §763, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3364.)

PRIOR PROVISIONS

A prior section 1140c, Pub. L. 89–329, title VII, §764, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1803, established a rule of construction, prior to repeal by Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3361.

A prior section 763 of Pub. L. 89–329 was classified to section 1140b of this title, prior to repeal by Pub. L. 110–315.

Another prior section 763 of Pub. L. 89–329 was classified to section 1132g–2 of this title, prior to repeal by Pub. L. 102–325.

Another prior section 763 of Pub. L. 89–329 was classified to section 1132d–2 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1140d. Rule of construction

Nothing in this subpart shall be construed to impose any additional duty, obligation, or responsibility on an institution of higher education or on the institution's faculty, administrators, or staff than is required under section 794 of title 29 and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(Pub. L. 89–329, title VII, §764, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3365.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in text, is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1140d, Pub. L. 89–329, title VII, §765, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1803, authorized appropriations, prior to repeal by Pub. L. 110–315, title VII, §709(2), Aug.

14, 2008, 122 Stat. 3361.

A prior section 764 of Pub. L. 89–329 was classified to section 1140c of this title, prior to repeal by Pub. L. 110–315.

Another prior section 764 of Pub. L. 89–329 was classified to section 1132g–3 of this title, prior to repeal by Pub. L. 102–325.

Another prior section 764 of Pub. L. 89–329 was classified to section 1132d–3 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1140e. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VII, §765, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3365.)

PRIOR PROVISIONS

A prior section 765 of Pub. L. 89–329 was classified to section 1140d of this title, prior to repeal by Pub. L. 110–315.

Another prior section 765 of Pub. L. 89–329 was classified to section 1132d–4 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

SUBPART 2—TRANSITION PROGRAMS FOR STUDENTS WITH INTELLECTUAL DISABILITIES INTO HIGHER EDUCATION

§1140f. Purpose

It is the purpose of this subpart to support model demonstration programs that promote the successful transition of students with intellectual disabilities into higher education.

(Pub. L. 89–329, title VII, §766, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3365.)

PRIOR PROVISIONS

A prior section 766 of Pub. L. 89–329 was classified to section 1132d–5 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1140g. Model comprehensive transition and postsecondary programs for students with intellectual disabilities

(a) Grants authorized

(1) In general

From amounts appropriated under section 1140i(a) of this title, the Secretary shall annually award grants, on a competitive basis, to institutions of higher education (or consortia of institutions of higher education), to enable the institutions or consortia to create or expand high quality, inclusive model comprehensive transition and postsecondary programs for students with intellectual disabilities.

(2) Administration

The program under this section shall be administered by the office in the Department that administers other postsecondary education programs.

(3) Duration of grants

A grant under this section shall be awarded for a period of 5 years.

(b) Application

An institution of higher education (or a consortium) desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) Award basis

In awarding grants under this section, the Secretary shall—

(1) provide for an equitable geographic distribution of such grants;

(2) provide grant funds for model comprehensive transition and postsecondary programs for students with intellectual disabilities that will serve areas that are underserved by programs of this type; and

(3) give preference to applications submitted under subsection (b) that agree to incorporate into the model comprehensive transition and postsecondary program for students with intellectual disabilities carried out under the grant one or more of the following elements:

(A) The formation of a partnership with any relevant agency serving students with intellectual disabilities, such as a vocational rehabilitation agency.

(B) In the case of an institution of higher education that provides institutionally owned or operated housing for students attending the institution, the integration of students with intellectual disabilities into the housing offered to nondisabled students.

(C) The involvement of students attending the institution of higher education who are studying special education, general education, vocational rehabilitation, assistive technology, or related fields in the model program.

(d) Use of funds

An institution of higher education (or consortium) receiving a grant under this section shall use the grant funds to establish a model comprehensive transition and postsecondary program for students with intellectual disabilities that—

(1) serves students with intellectual disabilities;

(2) provides individual supports and services for the academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the institution of higher education's regular postsecondary program;

(3) with respect to the students with intellectual disabilities participating in the model program, provides a focus on—

(A) academic enrichment;

(B) socialization;

(C) independent living skills, including self-advocacy skills; and

(D) integrated work experiences and career skills that lead to gainful employment;

(4) integrates person-centered planning in the development of the course of study for each student with an intellectual disability participating in the model program;

(5) participates with the coordinating center established under section 1140q(b) of this title in the evaluation of the model program;

(6) partners with one or more local educational agencies to support students with intellectual disabilities participating in the model program who are still eligible for special education and related services under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], including the use of funds available under part B of such Act [20 U.S.C. 1411 et seq.] to support the participation of such students in the model program;

(7) plans for the sustainability of the model program after the end of the grant period; and

(8) creates and offers a meaningful credential for students with intellectual disabilities upon the completion of the model program.

(e) Matching requirement

An institution of higher education (or consortium) that receives a grant under this section shall

provide matching funds toward the cost of the model comprehensive transition and postsecondary program for students with intellectual disabilities carried out under the grant. Such matching funds may be provided in cash or in-kind, and shall be in an amount of not less than 25 percent of the amount of such costs.

(f) Report

Not later than five years after the date of the first grant awarded under this section, the Secretary shall prepare and disseminate a report to the authorizing committees and to the public that—

(1) reviews the activities of the model comprehensive transition and postsecondary programs for students with intellectual disabilities funded under this section; and

(2) provides guidance and recommendations on how effective model programs can be replicated.

(Pub. L. 89–329, title VII, §767, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3365.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (d)(6), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§1140h. Rule of construction

Nothing in this subpart shall be construed to reduce or expand—

(1) the obligation of a State or local educational agency to provide a free appropriate public education, as defined in section 1401 of this title; or

(2) eligibility requirements under any Federal, State, or local disability law, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), or the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.).

(Pub. L. 89–329, title VII, §768, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3367.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in par. (2), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in par. (2), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in par. (2), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677, which is classified principally to chapter 144 (§15001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

§1140i. Authorization of appropriations and reservation

(a) Authorization of appropriations

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) Reservation of funds

For any fiscal year for which appropriations are made for this subpart, the Secretary shall reserve

funds to enter into a cooperative agreement to establish the coordinating center under section 1140q(b) of this title, in an amount that is—

(1) not less than $240,000 for any year in which the amount appropriated to carry out this subpart is $8,000,000 or less; or

(2) equal to 3 percent of the amount appropriated to carry out this subpart for any year in which such amount appropriated is greater than $8,000,000.

(Pub. L. 89–329, title VII, §769, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3367.)

SUBPART 3—COMMISSION ON ACCESSIBLE MATERIALS; PROGRAMS TO SUPPORT IMPROVED ACCESS TO MATERIALS

§1140k. Definition of student with a print disability

In this subpart, the term "student with a print disability" means a student with a disability who experiences barriers to accessing instructional material in nonspecialized formats, including an individual described in section 121(d)(2) of title 17.

(Pub. L. 89–329, title VII, §771, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3367.)

PRIOR PROVISIONS

A prior section 771 of Pub. L. 89–329 was renumbered section 781, and is classified to section 1141 of this title.

Another prior section 771 of Pub. L. 89–329 was classified to section 1132h of this title, prior to repeal by Pub. L. 102–325.

Another prior section 771 of Pub. L. 89–329 was classified to section 1132d–11 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1140*l*. Establishment of Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities

(a) Establishment

(1) In general

The Secretary shall establish a commission to be known as the Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities (in this section referred to as the "Commission").

(2) Membership

(A) Total number of members

The Commission shall include not more than 19 members, who shall be appointed by the Secretary in accordance with subparagraphs (B) and (C).

(B) Members of the Commission

The Commission members shall include one representative from each of the following categories:

(i) The Office of Postsecondary Education of the Department.

(ii) The Office of Special Education and Rehabilitative Services of the Department.

(iii) The Office for Civil Rights of the Department.

(iv) The Library of Congress National Digital Information and Infrastructure Preservation Program Copyright Working Group.

(v) The Association on Higher Education and Disability.
(vi) The Association of American Publishers.
(vii) The Association of American University Presses.
(viii) The National Council on Disability.
(ix) Recording for the Blind and Dyslexic.
(x) National organizations representing individuals with visual impairments.
(xi) National organizations representing individuals with learning disabilities.

(C) Additional members of the Commission

The Commission members shall include two representatives from each of the following categories:

(i) Staff from institutions of higher education with demonstrated experience teaching or supporting students with print disabilities, including representatives from both two-year and four-year institutions of higher education of different sizes.

(ii) Producers of accessible materials, publishing software, and supporting technologies in specialized formats, such as Braille, audio or synthesized speech, and digital media.

(iii) Individuals with visual impairments, including not less than one currently enrolled postsecondary student.

(iv) Individuals with dyslexia or other learning disabilities related to reading, including not less than one currently enrolled postsecondary student.

(D) Timing

The Secretary shall appoint the members of the Commission not later than 60 days after the Commission is established under paragraph (1).

(3) Chairperson and vice chairperson

The Commission shall select a chairperson and vice chairperson from among the members of the Commission.

(4) Meetings

(A) In general

The Commission shall meet at the call of the Chairperson.

(B) First meeting

Not later than 60 days after the appointment of the members of the Commission under paragraph (2)(D), the Commission shall hold the Commission's first meeting.

(5) Quorum

A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(b) Duties of the Commission

(1) Study

(A) In general

The Commission shall conduct a comprehensive study to—

(i) assess the barriers and systemic issues that may affect, and technical solutions available that may improve, the timely delivery and quality of accessible instructional materials for postsecondary students with print disabilities, as well as the effective use of such materials by faculty and staff; and

(ii) make recommendations related to the development of a comprehensive approach to improve the opportunities for postsecondary students with print disabilities to access instructional materials in specialized formats in a timeframe comparable to the availability of instructional materials for postsecondary nondisabled students.

(B) Existing information

To the extent practicable, in carrying out the study under this paragraph, the Commission shall identify and use existing research, recommendations, and information.

(C) Recommendations

(i) In general

The Commission shall develop recommendations—

(I) to inform Federal regulations and legislation;

(II) to support the model demonstration programs authorized under section 1140m of this title;

(III) to identify best practices in systems for collecting, maintaining, processing, and disseminating materials in specialized formats to students with print disabilities at costs comparable to instructional materials for postsecondary nondisabled students;

(IV) to improve the effective use of such materials by faculty and staff, while complying with applicable copyright law; and

(V) to modify the definitions of instructional materials, authorized entities, and eligible students, as such terms are used in applicable Federal law, for the purpose of improving services to students with disabilities.

(ii) Considerations

In developing the recommendations under clause (i), the Commission shall consider—

(I) how students with print disabilities may obtain instructional materials in accessible formats—

(aa) within a timeframe comparable to the availability of instructional materials for nondisabled students; and

(bb) to the maximum extent practicable, at costs comparable to the costs of such materials for nondisabled students;

(II) the feasibility and technical parameters of establishing standardized electronic file formats, such as the National Instructional Materials Accessibility Standard as defined in section 1474(e)(3) of this title, to be provided by publishers of instructional materials to producers of materials in specialized formats, institutions of higher education, and eligible students;

(III) the feasibility of establishing a national clearinghouse, repository, or file-sharing network for electronic files in specialized formats and files used in producing instructional materials in specialized formats, and a list of possible entities qualified to administer such clearinghouse, repository, or network;

(IV) the feasibility of establishing market-based solutions involving collaborations among publishers of instructional materials, producers of materials in specialized formats, and institutions of higher education;

(V) solutions utilizing universal design; and

(VI) solutions for low-incidence, high-cost requests for instructional materials in specialized formats.

(2) Report

Not later than one year after the Commission's first meeting, the Commission shall submit a report to the Secretary and the authorizing committees detailing the findings and recommendations of the study conducted under paragraph (1).

(3) Dissemination of information

In carrying out the study under paragraph (1), the Commission shall disseminate information concerning the issues that are the subject of the study through—

(A) the National Technical Assistance Center established under subpart 4; and

(B) other means, as determined by the Commission.

(c) Termination of the Commission

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits the report under subsection (b)(2) to the Secretary and the authorizing committees.

(Pub. L. 89–329, title VII, §772, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3368; amended Pub. L. 111–39, title VII, §701(5), July 1, 2009, 123 Stat. 1955.)

PRIOR PROVISIONS

A prior section 772 of Pub. L. 89–329 was classified to section 1132h–1 of this title, prior to repeal by Pub. L. 102–325.

AMENDMENTS

2009—Subsec. (a)(2)(A). Pub. L. 111–39, §701(5)(A), substituted "with" for "with in".

Subsec. (b)(1)(C)(ii). Pub. L. 111–39, §701(5)(B), substituted "clause (i)" for "subparagraph (C)" in introductory provisions.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1140m. Model demonstration programs to support improved access to postsecondary instructional materials for students with print disabilities

(a) Purpose

It is the purpose of this section to support model demonstration programs for the purpose of encouraging the development of systems to improve the quality of postsecondary instructional materials in specialized formats and such materials' timely delivery to postsecondary students with print disabilities, including systems to improve efficiency and reduce duplicative efforts across multiple institutions of higher education.

(b) Definition of eligible partnership

In this section, the term "eligible partnership" means a partnership that—

(1) shall include—

(A) an institution of higher education with demonstrated expertise in meeting the needs of students with print disabilities, including the retention of such students in, and such students' completion of, postsecondary education; and

(B) a public or private entity, other than an institution of higher education, with—

(i) demonstrated expertise in developing accessible instructional materials in specialized formats for postsecondary students with print disabilities; and

(ii) the technical development expertise necessary for the efficient dissemination of such materials, including procedures to protect against copyright infringement with respect to the creation, use, and distribution of instructional materials in specialized formats; and

(2) may include representatives of the publishing industry.

(c) Program authorized

From amounts appropriated under section 1140o of this title, the Secretary shall award grants or contracts, on a competitive basis, to not less than one eligible partnership to enable the eligible partnership to support the activities described in subsection (f) and, as applicable, subsection (g).

(d) Application

An eligible partnership that desires a grant or contract under this section shall submit an application at such time, in such manner, and in such format as the Secretary may prescribe. The application shall include information on how the eligible partnership will implement activities under subsection (f) and, as applicable, subsection (g).

(e) Priority

In awarding grants or contracts under this section, the Secretary shall give priority to any applications that include the development and implementation of the procedures and approaches described in paragraphs (2) and (3) of subsection (g).

(f) Required activities

An eligible partnership that receives a grant or contract under this section shall use the grant or contract funds to carry out the following:

(1) Supporting the development and implementation of the following:

(A) Processes and systems to help identify, and verify eligibility of, postsecondary students with print disabilities in need of instructional materials in specialized formats.

(B) Procedures and systems to facilitate and simplify request methods for accessible instructional materials in specialized formats from eligible students described in subparagraph (A), which may include a single point-of-entry system.

(C) Procedures and systems to coordinate among institutions of higher education, publishers of instructional materials, and entities that produce materials in specialized formats, to efficiently facilitate—

(i) requests for such materials;

(ii) the responses to such requests; and

(iii) the delivery of such materials.

(D) Delivery systems that will ensure the timely provision of instructional materials in specialized formats to eligible students, which may include electronic file distribution.

(E) Systems to reduce duplicative conversions and improve sharing of the same instructional materials in specialized formats for multiple eligible students at multiple institutions of higher education.

(F) Procedures to protect against copyright infringement with respect to the development, use, and distribution of instructional materials in specialized formats while maintaining accessibility for eligible students, which may include digital technologies such as watermarking, fingerprinting, and other emerging approaches.

(G) Awareness, outreach, and training activities for faculty, staff, and students related to the acquisition and dissemination of instructional materials in specialized formats and instructional materials utilizing universal design.

(2) Providing recommendations on how effective procedures and systems described in paragraph (1) may be disseminated and implemented on a national basis.

(g) Authorized approaches

An eligible partnership that receives a grant or contract under this section may use the grant or contract funds to support the development and implementation of the following:

(1) Approaches for the provision of instructional materials in specialized formats limited to instructional materials used in smaller categories of postsecondary courses, such as introductory, first-, and second-year courses.

(2) Approaches supporting a unified search for instructional materials in specialized formats across multiple databases or lists of available materials.

(3) Market-based approaches for making instructional materials in specialized formats directly available to eligible students at prices comparable to standard instructional materials.

(h) Report

Not later than three years after the date of the first grant or contract awarded under this section, the Secretary shall submit to the authorizing committees a report that includes—

(1) the number of grants and contracts and the amount of funds distributed under this section;

(2) a summary of the purposes for which the grants and contracts were provided and an evaluation of the progress made under such grants and contracts;

(3) a summary of the activities implemented under subsection (f) and, as applicable, subsection (g), including data on the number of postsecondary students with print disabilities served and the number of instructional material requests executed and delivered in specialized formats; and

(4) an evaluation of the effectiveness of programs funded under this section.

(i) Model expansion

The Secretary may, on the basis of the reports under subsection (h) and section 1140l(b)(2) of this title and any evaluations of the projects funded under this section, expand the program under this section to additional grant or contract recipients that use other programmatic approaches and serve different geographic regions, if the Secretary finds that the models used under this section—

(1) are effective in improving the timely delivery and quality of materials in specialized formats; and

(2) provide adequate protections against copyright infringement.

(Pub. L. 89–329, title VII, §773, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3371.)

PRIOR PROVISIONS

A prior section 773 of Pub. L. 89–329 was classified to section 1132h–2 of this title, prior to repeal by Pub. L. 102–325.

§1140n. Rule of construction

Nothing in this subpart shall be construed to limit or preempt any State law requiring the production or distribution of postsecondary instructional materials in accessible formats to students with disabilities.

(Pub. L. 89–329, title VII, §774, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3373.)

PRIOR PROVISIONS

A prior section 774 of Pub. L. 89–329 was classified to section 1132h–3 of this title, prior to repeal by Pub. L. 102–325.

§1140*o*. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) Priority

For the first fiscal year for which funds are made available under this section, the Secretary shall give priority to allocating funding for the purposes of section 1140l of this title.

(Pub. L. 89–329, title VII, §775, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3373.)

PRIOR PROVISIONS

A prior section 775 of Pub. L. 89–329 was classified to section 1132h–4 of this title, prior to repeal by Pub. L. 102–325.

SUBPART 4—NATIONAL TECHNICAL ASSISTANCE CENTER; COORDINATING CENTER

§1140p. Purpose

It is the purpose of this subpart to provide technical assistance and information on best and promising practices to students with disabilities, the families of students with disabilities, and entities awarded grants, contracts, or cooperative agreements under subpart 1, 2, or 3 to improve the postsecondary recruitment, transition, retention, and completion rates of students with disabilities.

(Pub. L. 89–329, title VII, §776, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3373.)

PRIOR PROVISIONS

A prior section 776 of Pub. L. 89–329 was classified to section 1132h–5 of this title, prior to repeal by Pub. L. 102–325.

§1140q. National technical assistance center; coordinating center

(a) National Center

(1) In general

From amounts appropriated under section 1140r of this title, the Secretary shall award a grant to, or enter into a contract or cooperative agreement with, an eligible entity to provide for the establishment and support of a National Center for Information and Technical Support for Postsecondary Students with Disabilities (in this subsection referred to as the "National Center"). The National Center shall carry out the duties set forth in paragraph (4).

(2) Administration

The program under this section shall be administered by the office in the Department that administers other postsecondary education programs.

(3) Eligible entity

In this subpart, the term "eligible entity" means an institution of higher education, a nonprofit organization, or partnership of two or more such institutions or organizations, with demonstrated expertise in—

(A) supporting students with disabilities in postsecondary education;

(B) technical knowledge necessary for the dissemination of information in accessible formats;

(C) working with diverse types of institutions of higher education, including community colleges; and

(D) the subjects supported by the grants, contracts, or cooperative agreements authorized in subparts 1, 2, and 3.

(4) Duties

The duties of the National Center shall include the following:

(A) Assistance to students and families

The National Center shall provide information and technical assistance to students with disabilities and the families of students with disabilities to support students across the broad spectrum of disabilities, including—

(i) information to assist individuals with disabilities who are prospective students of an institution of higher education in planning for postsecondary education while the students are in secondary school;

(ii) information and technical assistance provided to individualized education program teams (as defined in section 1414(d)(1) of this title) for secondary school students with disabilities, and to early outreach and student services programs, including programs authorized under subparts 2, 4, and 5 of part A of subchapter IV, to support students across a broad spectrum of disabilities with the successful transition to postsecondary education;

(iii) research-based supports, services, and accommodations which are available in postsecondary settings, including services provided by other agencies such as vocational rehabilitation;

(iv) information on student mentoring and networking opportunities for students with disabilities; and

(v) effective recruitment and transition programs at postsecondary educational institutions.

(B) Assistance to institutions of higher education

The National Center shall provide information and technical assistance to faculty, staff, and administrators of institutions of higher education to improve the services provided to, the accommodations for, the retention rates of, and the completion rates of, students with disabilities in higher education settings, which may include—

(i) collection and dissemination of best and promising practices and materials for accommodating and supporting students with disabilities, including practices and materials supported by the grants, contracts, or cooperative agreements authorized under subparts 1, 2, and 3;

(ii) development and provision of training modules for higher education faculty on exemplary practices for accommodating and supporting postsecondary students with disabilities across a range of academic fields, which may include universal design for learning and practices supported by the grants, contracts, or cooperative agreements authorized under subparts 1, 2, and 3; and

(iii) development of technology-based tutorials for higher education faculty and staff, including new faculty and graduate students, on best and promising practices related to support and retention of students with disabilities in postsecondary education.

(C) Information collection and dissemination

The National Center shall be responsible for building, maintaining, and updating a database of disability support services information with respect to institutions of higher education, or for expanding and updating an existing database of disabilities support services information with respect to institutions of higher education. Such database shall be available to the general public through a website built to high technical standards of accessibility practicable for the broad spectrum of individuals with disabilities. Such database and website shall include available information on—

(i) disability documentation requirements;

(ii) support services available;

(iii) links to financial aid;

(iv) accommodations policies;

(v) accessible instructional materials;

(vi) other topics relevant to students with disabilities; and

(vii) the information in the report described in subparagraph (E).

(D) Disability support services

The National Center shall work with organizations and individuals with proven expertise related to disability support services for postsecondary students with disabilities to evaluate, improve, and disseminate information related to the delivery of high quality disability support services at institutions of higher education.

(E) Review and report

Not later than three years after the establishment of the National Center, and every two years thereafter, the National Center shall prepare and disseminate a report to the Secretary and the authorizing committees analyzing the condition of postsecondary success for students with disabilities. Such report shall include—

(i) a review of the activities and the effectiveness of the programs authorized under this part;

(ii) annual enrollment and graduation rates of students with disabilities in institutions of

higher education from publicly reported data;

(iii) recommendations for effective postsecondary supports and services for students with disabilities, and how such supports and services may be widely implemented at institutions of higher education;

(iv) recommendations on reducing barriers to full participation for students with disabilities in higher education; and

(v) a description of strategies with a demonstrated record of effectiveness in improving the success of such students in postsecondary education.

(F) Staffing of the Center

In hiring employees of the National Center, the National Center shall consider the expertise and experience of prospective employees in providing training and technical assistance to practitioners.

(b) Coordinating center

(1) Definition of eligible entity

In this subsection, the term "eligible entity" means an entity, or a partnership of entities, that has demonstrated expertise in the fields of—

(A) higher education;

(B) the education of students with intellectual disabilities;

(C) the development of comprehensive transition and postsecondary programs for students with intellectual disabilities; and

(D) evaluation and technical assistance.

(2) In general

From amounts appropriated under section 1140r of this title, the Secretary shall enter into a cooperative agreement, on a competitive basis, with an eligible entity for the purpose of establishing a coordinating center for institutions of higher education that offer inclusive comprehensive transition and postsecondary programs for students with intellectual disabilities, including institutions participating in grants authorized under subpart 2, to provide—

(A) recommendations related to the development of standards for such programs;

(B) technical assistance for such programs; and

(C) evaluations for such programs.

(3) Administration

The program under this subsection shall be administered by the office in the Department that administers other postsecondary education programs.

(4) Duration

The Secretary shall enter into a cooperative agreement under this subsection for a period of five years.

(5) Requirements of cooperative agreement

The eligible entity entering into a cooperative agreement under this subsection shall establish and maintain a coordinating center that shall—

(A) serve as the technical assistance entity for all comprehensive transition and postsecondary programs for students with intellectual disabilities;

(B) provide technical assistance regarding the development, evaluation, and continuous improvement of such programs;

(C) develop an evaluation protocol for such programs that includes qualitative and quantitative methodologies for measuring student outcomes and program strengths in the areas of academic enrichment, socialization, independent living, and competitive or supported employment;

(D) assist recipients of grants under subpart 2 in efforts to award a meaningful credential to students with intellectual disabilities upon the completion of such programs, which credential

shall take into consideration unique State factors;

(E) develop recommendations for the necessary components of such programs, such as—

(i) academic, vocational, social, and independent living skills;

(ii) evaluation of student progress;

(iii) program administration and evaluation;

(iv) student eligibility; and

(v) issues regarding the equivalency of a student's participation in such programs to semester, trimester, quarter, credit, or clock hours at an institution of higher education, as the case may be;

(F) analyze possible funding streams for such programs and provide recommendations regarding the funding streams;

(G) develop model memoranda of agreement for use between or among institutions of higher education and State and local agencies providing funding for such programs;

(H) develop mechanisms for regular communication, outreach and dissemination of information about comprehensive transition and postsecondary programs for students with intellectual disabilities under subpart 2 between or among such programs and to families and prospective students;

(I) host a meeting of all recipients of grants under subpart 2 not less often than once each year; and

(J) convene a workgroup to develop and recommend model criteria, standards, and components of such programs as described in subparagraph (E), that are appropriate for the development of accreditation standards, which workgroup shall include—

(i) an expert in higher education;

(ii) an expert in special education;

(iii) a disability organization that represents students with intellectual disabilities;

(iv) a representative from the National Advisory Committee on Institutional Quality and Integrity; and

(v) a representative of a regional or national accreditation agency or association.

(6) Report

Not later than five years after the date of the establishment of the coordinating center under this subsection, the coordinating center shall report to the Secretary, the authorizing committees, and the National Advisory Committee on Institutional Quality and Integrity on the recommendations of the workgroup described in paragraph (5)(J).

(Pub. L. 89–329, title VII, §777, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3373.)

PRIOR PROVISIONS

A prior section 777 of Pub. L. 89–329 was classified to section 1132h–6 of this title, prior to repeal by Pub. L. 102–325.

§1140r. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VII, §778, as added Pub. L. 110–315, title VII, §709(2), Aug. 14, 2008, 122 Stat. 3377.)

PART E—COLLEGE ACCESS CHALLENGE GRANT PROGRAM

§1141. College access challenge grant program

(a) Authorization and appropriation

There are authorized to be appropriated, and there are appropriated, to carry out this section $150,000,000 for each of the fiscal years 2010 through 2014. The authority to award grants under this section shall expire at the end of fiscal year 2014. In addition to the amount authorized and appropriated under the preceding sentence, there are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) Program authorized

(1) Grants authorized

From amounts appropriated under subsection (a), the Secretary shall, subject to the availability of appropriations, award grants, from allotments under subsection (c), to States (and to philanthropic organization,[1] as appropriate under paragraph (3)) having applications approved under subsection (d), to enable the State (or philanthropic organization) to pay the Federal share of the costs of carrying out the activities and services described in subsection (f).

(2) Federal share; non-Federal share

(A) Federal share

The amount of the Federal share under this section for a fiscal year shall be equal to 2/3 of the costs of the activities and services described in subsection (f) that are carried out under the grant.

(B) Non-Federal share

The amount of the non-Federal share under this section shall be equal to 1/3 of the costs of the activities and services described in subsection (f). The non-Federal share may be in cash or in-kind, and may be provided from State resources, contributions from private organizations, or both.

(3) Reduction for failure to pay non-Federal share

If a State fails to provide the full non-Federal share required under this subsection, the Secretary shall reduce the amount of the grant payment under this section proportionately, and may award the proportionate reduction amount of the grant directly to a philanthropic organization, as defined in subsection (i), to carry out this section.

(4) Temporary ineligibility for subsequent payments

(A) In general

The Secretary shall determine a grantee to be temporarily ineligible to receive a grant payment under this section for a fiscal year if—

(i) the grantee fails to submit an annual report pursuant to subsection (h) for the preceding fiscal year; or

(ii) the Secretary determines, based on information in such annual report, that the grantee is not effectively meeting the conditions described under subsection (g) and the goals of the application under subsection (d).

(B) Reinstatement

If the Secretary determines that a grantee is ineligible under subparagraph (A), the Secretary may enter into an agreement with the grantee setting forth the terms and conditions under which the grantee may regain eligibility to receive payments under this section.

(c) Determination of allotment

(1) Amount of allotment

Subject to paragraph (2), in making grant payments to grantees under this section, the allotment

to each grantee for a fiscal year shall be equal to the sum of—

(A) the amount that bears the same relation to 50 percent of the amount appropriated under subsection (a) for such fiscal year as the number of residents in the State aged 5 through 17 who are living below the poverty line applicable to the resident's family size (as determined under section 9902(2) of title 42) bears to the total number of such residents in all States; and

(B) the amount that bears the same relation to 50 percent of the amount appropriated under subsection (a) for such fiscal year as the number of residents in the State aged 15 through 44 who are living below the poverty line applicable to the individual's family size (as determined under section 9902(2) of title 42) bears to the total number of such residents in all States.

(2) Minimum amount

The allotment for each State under this section for a fiscal year shall not be an amount that is less than 1.0 percent of the total amount appropriated under subsection (a) for such fiscal year.

(d) Submission and contents of application

(1) In general

For each fiscal year for which a grantee desires a grant payment under subsection (b), the State agency with jurisdiction over higher education, or another agency designated by the Governor or chief executive of the State to administer the program under this section, or a philanthropic organization, in accordance with subsection (b)(3), shall submit an application to the Secretary at such time, in such manner, and containing the information described in paragraph (2).

(2) Application

An application submitted under paragraph (1) shall include the following:

(A) A description of the grantee's capacity to administer the grant under this section and report annually to the Secretary on the activities and services described in subsection (f).

(B) A description of the grantee's plan for using the grant funds to meet the requirements of subsections (f) and (g), including plans for how the grantee will make special efforts to—

(i) provide such benefits to students in the State that are underrepresented in postsecondary education; or

(ii) in the case of a philanthropic organization that operates in more than one State, provide benefits to such students in each such State for which the philanthropic organization is receiving grant funds under this section.

(C) A description of how the grantee will provide or coordinate the provision of the non-Federal share from State resources or private contributions.

(D) A description of—

(i) the structure that the grantee has in place to administer the activities and services described in subsection (f); or

(ii) the plan to develop such administrative capacity.

(e) Subgrants to nonprofit organizations

A State receiving a payment under this section may elect to make a subgrant to one or more nonprofit organizations in the State, including an eligible not-for-profit holder (as described in section 1085(p) of this title), or those nonprofit organizations that have agreements with the Secretary under section 1078(b) of this title, or a partnership of such organizations, to carry out activities or services described in subsection (f), if the nonprofit organization or partnership—

(1) was in existence on the day before the date of the enactment of this Act; and

(2) as of such day, was participating in activities and services related to increasing access to higher education, such as those activities and services described in subsection (f).

(f) Allowable uses

(1) In general

Subject to paragraph (3), a grantee may use a grant payment under this section only for the

following activities and services, pursuant to the conditions under subsection (g):

(A) Information for students and families regarding—

(i) the benefits of a postsecondary education;

(ii) postsecondary education opportunities;

(iii) planning for postsecondary education; and

(iv) career preparation.

(B) Information on financing options for postsecondary education and activities that promote financial literacy and debt management among students and families.

(C) Outreach activities for students who may be at risk of not enrolling in or completing postsecondary education.

(D) Assistance in completion of the Free Application for Federal Student Aid or other common financial reporting form under section 1090(a) of this title.

(E) Need-based grant aid for students.

(F) Professional development for guidance counselors at middle schools and secondary schools, and financial aid administrators and college admissions counselors at institutions of higher education, to improve such individuals' capacity to assist students and parents with—

(i) understanding—

(I) entrance requirements for admission to institutions of higher education; and

(II) State eligibility requirements for Academic Competitiveness Grants or National SMART Grants under section 1070a–1 of this title, and other financial assistance that is dependent upon a student's coursework;

(ii) applying to institutions of higher education;

(iii) applying for Federal student financial assistance and other State, local, and private student financial assistance and scholarships;

(iv) activities that increase students' ability to successfully complete the coursework required for a postsecondary degree, including activities such as tutoring or mentoring; and

(v) activities to improve secondary school students' preparedness for postsecondary entrance examinations.

(G) Student loan cancellation or repayment (as applicable), or interest rate reductions, for borrowers who are employed in a high-need geographical area or a high-need profession in the State, as determined by the State.

(2) Prohibited uses

Funds made available under this section shall not be used to promote any lender's loans.

(3) Use of funds for administrative purposes

A grantee may use not more than 6 percent of the total amount of the sum of the Federal share provided under this section and the non-Federal share required under this section for administrative purposes relating to the grant under this section.

(g) Special conditions

(1) Availability to students and families

A grantee receiving a grant payment under this section shall—

(A) make the activities and services described in subparagraphs (A) through (F) of subsection (f)(1) that are funded under the payment available to all qualifying students and families in the State;

(B) allow students and families to participate in the activities and services without regard to—

(i) the postsecondary institution in which the student enrolls;

(ii) the type of student loan the student receives;

(iii) the servicer of such loan; or

(iv) the student's academic performance;

(C) not charge any student or parent a fee or additional charge to participate in the activities or services; and

(D) in the case of an activity providing grant aid, not require a student to meet any condition other than eligibility for Federal financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, except as provided for in the loan cancellation or repayment or interest rate reductions described in subsection (f)(1)(G).

(2) Priority

A grantee receiving a grant payment under this section shall, in carrying out any activity or service described in subsection (f)(1) with the grant funds, prioritize students and families who are living below the poverty line applicable to the individual's family size (as determined under section 9902(2) of title 42).

(3) Disclosures

(A) Organizational disclosures

In the case of a State that has chosen to make a payment to an eligible not-for-profit holder in the State in accordance with subsection (e), the holder shall clearly and prominently indicate the name of the holder and the nature of the holder's work in connection with any of the activities carried out, or any information or services provided, with such funds.

(B) Informational disclosures

Any information about financing options for higher education provided through an activity or service funded under this section shall—

(i) include information to students and the students' parents of the availability of Federal, State, local, institutional, and other grants and loans for postsecondary education; and

(ii) present information on financial assistance for postsecondary education that is not provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in a manner that is clearly distinct from information on student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(4) Coordination

A grantee receiving a grant payment under this section shall attempt to coordinate the activities carried out with the grant payment with any existing activities that are similar to such activities, and with any other entities that support the existing activities in the State.

(h) Report

A grantee receiving a payment under this section shall prepare and submit an annual report to the Secretary on the activities and services carried out under this section, and on the implementation of such activities and services. The report shall include—

(1) each activity or service that was provided to students and families over the course of the year;

(2) the cost of providing each activity or service;

(3) the number, and percentage, if feasible and applicable, of students who received each activity or service; and

(4) the total contributions from private organizations included in the grantee's non-Federal share for the fiscal year.

(i) Definitions

In this section:

(1) Philanthropic organization

The term "philanthropic organization" means a non-profit organization—

(A) that does not receive funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 or under the Elementary and Secondary Education Act of 1965 [20

U.S.C. 6301 et seq.];

(B) that is not a local educational agency or an institution of higher education;

(C) that has a demonstrated record of dispersing grant aid to underserved populations to ensure access to, and participation in, higher education;

(D) that is affiliated with an eligible consortium (as defined in paragraph (2)) to carry out this section; and

(E) the primary purpose of which is to provide financial aid and support services to students from underrepresented populations to increase the number of such students who enter and remain in college.

(2) Eligible consortium

The term "eligible consortium" means a partnership of 2 or more entities that have agreed to work together to carry out this section that—

(A) includes—

(i) a philanthropic organization, which serves as the manager of the consortium;

(ii) a State that demonstrates a commitment to ensuring the creation of a Statewide system to address the issues of early intervention and financial support for eligible students to enter and remain in college; and

(iii) at the discretion of the philanthropic organization described in clause (i), additional partners, including other non-profit organizations, government entities (including local municipalities, school districts, cities, and counties), institutions of higher education, and other public or private programs that provide mentoring or outreach programs; and

(B) conducts activities to assist students with entering and remaining in college, which may include—

(i) providing need-based grants to students;

(ii) providing early notification to low-income students of their potential eligibility for Federal financial aid (which may include assisting students and families with filling out FAFSA forms), as well as other financial aid and other support available from the eligible consortium;

(iii) encouraging increased student participation in higher education through mentoring or outreach programs; and

(iv) conducting marketing and outreach efforts that are designed to—

(I) encourage full participation of students in the activities of the consortium that carry out this section; and

(II) provide the communities impacted by the activities of the consortium with a general knowledge about the efforts of the consortium.

(3) Grantee

The term "grantee" means—

(A) a State awarded a grant under this section; or

(B) with respect to such a State that has failed to meet the non-Federal share requirement of subsection (b), a philanthropic organization awarded the proportionate reduction amount of such a grant under subsection (b)(3).

(Pub. L. 89–329, title VII, §781, formerly §771, as added Pub. L. 110–84, title VIII, §801, Sept. 27, 2007, 121 Stat. 812; renumbered §781 and amended Pub. L. 110–315, title VII, §§709(1), 710, Aug. 14, 2008, 122 Stat. 3361, 3377; Pub. L. 111–39, title VII, §701(6), July 1, 2009, 123 Stat. 1955; Pub. L. 111–152, title II, §2102, Mar. 30, 2010, 124 Stat. 1073.)

REFERENCES IN TEXT

The date of the enactment of this Act, referred to in subsec. (e)(1), probably means the date of enactment of Pub. L. 110–84, which enacted this section and was approved Sept. 27, 2007.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (i)(1)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1141, Pub. L. 89–329, title XII, §1201, formerly title VIII, §801, Nov. 8, 1965, 79 Stat. 1269; renumbered title XII, §1201, and amended Pub. L. 90–575, title II, §§251, 293, 294, Oct. 16, 1968, 82 Stat. 1042, 1050, 1051; Pub. L. 91–230, title VIII, §806(b), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title I, §131(d)(1), June 23, 1972, 86 Stat. 260; Pub. L. 94–482, title I, §181(a), formerly §181, Oct. 12, 1976, 90 Stat. 2167, renumbered Pub. L. 95–43, §1(b)(7), June 15, 1977, 91 Stat. 218; Pub. L. 95–180, §1(a), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–374, title XIII, §1391(a)(1), (b), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 100–50, §21(a), June 3, 1987, 101 Stat. 360; Pub. L. 102–26, §2(a)(4), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title XII, §1201, July 23, 1992, 106 Stat. 792; Pub. L. 102–394, title III, §308(a), Oct. 6, 1992, 106 Stat. 1820; Pub. L. 103–82, title I, §111(b)(5), Sept. 21, 1993, 107 Stat. 861; Pub. L. 103–208, §2(j)(48), Dec. 20, 1993, 107 Stat. 2485, defined terms for purposes of this chapter, prior to repeal by Pub. L. 105–244, §3, title I, §101(b), title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1616, 1803, effective Oct. 1, 1998.

A prior section 781 of Pub. L. 89–329 was classified to section 1132i of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Section 1142, Pub. L. 89–329, title XII, §1202, formerly §1207, as added Pub. L. 94–482, title I, §182, Oct. 12, 1976, 90 Stat. 2167; renumbered §1202, Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1493; amended Pub. L. 102–325, title XII, §1202, July 23, 1992, 106 Stat. 793, related to antidiscrimination requirements for institutions of higher education receiving Federal assistance, prior to repeal by Pub. L. 105–244, §3, title I, §101(b), title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1616, 1803, effective Oct. 1, 1998.

Another prior section 1142, Pub. L. 89–329, title XII, §1202, formerly title VIII, §802, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, §1202, Pub. L. 90–575, title II, §251, Oct. 16, 1968, 82 Stat. 1042, related to method of payment pursuant to grants, loans, or contracts under this chapter, prior to repeal by section 1201 of Pub. L. 96–374.

Prior sections 1142a and 1142b were repealed by Pub. L. 96–374, title XII, §1201, title XIII, §1393(a), Oct. 3, 1980, 94 Stat. 1493, 1504, effective Oct. 1, 1980.

Section 1142a, Pub. L. 89–329, title XII, §1202, as added Pub. L. 92–318, title I, §196, June 23, 1972, 86 Stat. 324, related to designation of a State postsecondary education commission.

Section 1142b, Pub. L. 89–329, title XII, §1203, as added Pub. L. 92–318, title I, §196, June 23, 1972, 86 Stat. 325; amended Pub. L. 94–482, title I, §179, Oct. 12, 1976, 90 Stat. 2166; Pub. L. 96–49, §12, Aug. 13, 1979, 93 Stat. 354, related to comprehensive statewide planning.

Prior sections 1143 to 1145g were repealed by Pub. L. 105–244, §3, title I, §101(b), title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1616, 1803, effective Oct. 1, 1998.

Section 1143, Pub. L. 89–329, title XII, §1203, as added Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1493, related to State agreements.

Another prior section 1143, Pub. L. 89–329, title XII, §1203, formerly title VIII, §803, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, §1203, Pub. L. 90–575, title II, §251, Oct. 16, 1968, 82 Stat. 1042, provided for delegation of functions by Commissioner of Education and utilization of services and facilities of other agencies, prior to repeal by Pub. L. 91–230, title IV, §401(c)(5), Apr. 13, 1970, 84 Stat. 173.

Section 1144, Pub. L. 89–329, title XII, §1204, formerly title VIII, §804, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, §1204, Pub. L. 90–575, title II, §251, Oct. 16, 1968, 82 Stat. 1042; amended Pub. L. 91–230, title IV, §401(f)(6), Apr. 13, 1970, 84 Stat. 173, prohibited Federal control over education.

Section 1144a, Pub. L. 89–329, title XII, §1204, as added Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1495; amended Pub. L. 99–498, title XII, §1201, Oct. 17, 1986, 100 Stat. 1573; Pub. L. 102–73, title VIII, §801(c), July 25, 1991, 105 Stat. 360; Pub. L. 103–208, §2(j)(49), Dec. 20, 1993, 107 Stat. 2485, related to treatment of territories and territorial student assistance.

Another prior section 1144a, Pub. L. 92–318, title V, §510, June 23, 1972, 86 Stat. 353, set forth sense of Congress that governing boards of institutions of higher education give consideration to student participation on such boards, prior to being omitted from the Code.

Section 1145, Pub. L. 89–329, title XII, §1205, as added Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1495; amended Pub. L. 99–498, title XII, §1202, Oct. 17, 1986, 100 Stat. 1573; Pub. L. 102–325, title XII, §1203, July 23, 1992, 106 Stat. 793; Pub. L. 103–208, §2(j)(50)–(53), Dec. 20, 1993, 107 Stat. 2485, related to National Advisory Committee on Institutional Quality and Integrity.

Another prior section 1145, Pub. L. 89–329, title XII, §1205, as added Pub. L. 90–575, title II, §291(a), Oct. 16, 1968, 82 Stat. 1049; amended Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174, established an Advisory Council on Graduate Education in the Office of Education, prior to repeal by section 1201 of Pub. L. 96–374.

Section 1145a, Pub. L. 89–329, title XII, §1206, as added Pub. L. 99–498, title XII, §1203, Oct. 17, 1986,

100 Stat. 1573, related to Commission to study postsecondary institutional and programmatic recognition process.

Another prior section 1145a, Pub. L. 89–329, title XII, §1206, as added Pub. L. 92–318, title I, §197, June 23, 1972, 86 Stat. 325, related to supplying cost-of-education data by institutions of higher education, prior to repeal by Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1493, eff. Oct. 1, 1980.

Section 1145b, Pub. L. 89–329, title XII, §1207, as added Pub. L. 99–498, title XII, §1204, Oct. 17, 1986, 100 Stat. 1576, related to student representation in connection with administration of this chapter.

Another prior section 1145b, Pub. L. 89–329, title XII, §1202, formerly §1207, as added Pub. L. 94–482, title I, §182, Oct. 12, 1976, 90 Stat. 2167; renumbered title XII, §1202, Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1493, which related to antidiscrimination requirements for institutions of higher education receiving Federal assistance, was transferred to section 1142 of this title and subsequently repealed by Pub. L. 105–244.

Section 1145c, Pub. L. 89–329, title XII, §1208, as added Pub. L. 99–498, title XII, §1205, Oct. 17, 1986, 100 Stat. 1577, related to financial responsibility of foreign students.

Another prior section 1145c, Pub. L. 89–329, title XII, §1208, as added Pub. L. 94–482, title I, §183, Oct. 12, 1976, 90 Stat. 2167, related to availability of appropriations, prior to repeal by Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1493, eff. Oct. 1, 1980.

Section 1145d, Pub. L. 89–329, title XII, §1209, as added Pub. L. 102–325, title XII, §1204, July 23, 1992, 106 Stat. 794; amended Pub. L. 103–208, §2(j)(54), Dec. 20, 1993, 107 Stat. 2485, related to disclosures of foreign gifts.

Another prior section 1145d, Pub. L. 89–329, title XII, §1209, as added Pub. L. 99–498, title XII, §1206(a), Oct. 17, 1986, 100 Stat. 1577, related to disclosures of foreign gifts, prior to repeal by Pub. L. 99–498, title XII, §1206(b), Oct. 17, 1986, 100 Stat. 1579, as amended by Pub. L. 100–50, §22(f), June 3, 1987, 101 Stat. 362, effective Aug. 1, 1989.

Section 1145d–1, Pub. L. 89–329, title XII, §1210, as added Pub. L. 100–50, §21(b), June 3, 1987, 101 Stat. 360, related to application of peer review process.

Section 1145e, Pub. L. 89–329, title XII, §1211, formerly §1210, as added Pub. L. 99–498, title XII, §1207, Oct. 17, 1986, 100 Stat. 1579; renumbered §1211, Pub. L. 100–50, §21(b), June 3, 1987, 101 Stat. 360, related to aggregate limit of authorization of appropriations.

Section 1145f, Pub. L. 89–329, title XII, §1212, formerly §1211, as added Pub. L. 100–418, title VI, §6231, Aug. 23, 1988, 102 Stat. 1518; renumbered §1212 and amended Pub. L. 103–208, §2(j)(55), (56), Dec. 20, 1993, 107 Stat. 2485, related to technology transfer centers.

Section 1145g, Pub. L. 89–329, title XII, §1213, as added Pub. L. 101–226, §22(a)(1), Dec. 12, 1989, 103 Stat. 1938, related to drug and alcohol abuse prevention.

A prior section 1145h, Pub. L. 102–325, title XV, §1541, July 23, 1992, 106 Stat. 834; Pub. L. 103–208, §2(k)(13), Dec. 20, 1993, 107 Stat. 2486, authorized grants for campus sexual offense education, prior to repeal by Pub. L. 105–332, §6(b)(3), Oct. 31, 1998, 112 Stat. 3128.

A prior section 1146, Pub. L. 96–374, title XIII, §1392, Oct. 3, 1980, 94 Stat. 1504, which related to contract authority, was transferred to section 1154 of this title.

Another prior section 1146, Pub. L. 89–329, title XII, §1206, as added Pub. L. 90–575, title II, §292, Oct. 16, 1968, 82 Stat. 1050, provided for dissemination of information and authorization of $2,000,000 for fiscal year ending June 30, 1970, and such amount as Congress might authorize for fiscal year ending June 30, 1971, prior to repeal by Pub. L. 91–230, title IV, §401(d)(5), Apr. 13, 1970, 84 Stat. 173.

A prior section 1146a, Pub. L. 99–498, §3, Oct. 17, 1986, 100 Stat. 1278, which provided that contracting authority be subject to appropriations, was transferred, and is set out as a Contracting Authority Subject to Appropriations note under section 1154 of this title.

Prior sections 1147 to 1150, Pub. L. 89–329, title XII, §§1207–1210, as added Pub. L. 90–575, title II, §295, Oct. 16, 1968, 82 Stat. 1051, 1052, provided for program planning and evaluation for higher education programs; advance funding; evaluation reports and Congressional review; and availability of appropriations on academic or school year basis, prior to repeal by Pub. L. 91–230, title IV, §401(b), Apr. 13, 1970, 84 Stat. 172.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–152, §2102(1), substituted "$150,000,000 for each of the fiscal years 2010 through 2014. The authority to award grants under this section shall expire at the end of fiscal year 2014." for "$66,000,000 for each of the fiscal years 2008 and 2009."

Subsec. (c)(2). Pub. L. 111–152, §2102(2), substituted "1.0 percent" for "0.5 percent".

2009—Subsec. (c)(1). Pub. L. 111–39, §701(6)(A), made technical amendment to reference in original act

which appears in two places in text as reference to section 9902(2) of title 42.

Subsec. (e). Pub. L. 111–39, §701(6)(B), substituted "(as described in section 1085(p) of this title)" for "(as defined in section 1085(p) of this title, as amended by section 303 of this Act)" and "1078(b)" for "1085(j)" in introductory provisions.

Subsec. (g)(2). Pub. L. 111–39, §701(6)(C), made technical amendment to reference in original act which appears in text as reference to section 9902(2) of title 42.

Subsec. (i). Pub. L. 111–39, §701(6)(D), substituted "consortium" for "consortia" in par. (1)(D) and in par. (2) in heading and wherever appearing in text.

2008—Subsec. (a). Pub. L. 110–315, §710(1), substituted "In addition to the amount authorized and appropriated under the preceding sentence, there are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years." for "The authority to award grants under this section shall expire at the end of fiscal year 2009."

Subsec. (b)(1). Pub. L. 110–315, §710(2), inserted ", subject to the availability of appropriations," after "the Secretary shall".

Subsec. (e). Pub. L. 110–315, §710(3), inserted ", or those nonprofit organizations that have agreements with the Secretary under section 1085(j) of this title" before ", or a partnership".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2007, see section 1(c) of Pub. L. 110–84, set out as an Effective Date of 2007 Amendment note under section 1070a of this title.

[1] So in original. Probably should be "organizations,".

SUBCHAPTER VIII—MISCELLANEOUS

§1151. Repealed. Pub. L. 113–128, title V, §511(b), July 22, 2014, 128 Stat. 1705

Section, Pub. L. 105–244, title VIII, §821, Oct. 7, 1998, 112 Stat. 1813; Pub. L. 110–315, title IX, §932, Aug. 14, 2008, 122 Stat. 3456; Pub. L. 111–39, title VIII, §802(a)(1), July 1, 2009, 123 Stat. 1956, related to grants to States for workplace and community transition training for incarcerated individuals.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§1152. Repealed. Pub. L. 109–162, title III, §304(f), Jan. 5, 2006, 119 Stat. 3016

Section, Pub. L. 105–244, title VIII, §826, Oct. 7, 1998, 112 Stat. 1815; Pub. L. 106–386, div. B, title I, §1108(a), title V, §1512(d), Oct. 28, 2000, 114 Stat. 1500, 1533; Pub. L. 109–162, title XI, §1135(d), Jan. 5, 2006, 119 Stat. 3109; Pub. L. 109–271, §§2(d), 8(b), Aug. 12, 2006, 120 Stat. 752, 766, related to grants to combat violent crimes against women on campuses.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning fiscal year 2007, see section 4 of Pub. L. 109–162, set out as an Effective Date of 2006 Amendment note under section 3793 of Title 42, The Public Health and Welfare.

§1153. Underground Railroad educational and cultural program

(a) Program established

The Secretary of Education, in consultation and cooperation with the Secretary of the Interior, is authorized to make grants to 1 or more nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad, including the lessons to be drawn from such history.

(b) Grant agreement

Each nonprofit educational organization awarded a grant under this section shall enter into an agreement with the Secretary of Education. Each such agreement shall require the organization—

(1) to establish a facility to—

(A) house, display, interpret, and communicate information regarding the artifacts and other materials related to the history of the Underground Railroad, including the lessons to be drawn from such history;

(B) maintain such artifacts and materials; and

(C) make the efforts described in subparagraph (A) available, including through electronic means, to elementary and secondary schools, institutions of higher education, and the general public;

(2) to demonstrate substantial public and private support for the operation of the facility through the implementation of a public-private partnership between one or more State or local public entities and one or more private entities, which public-private partnership shall provide matching funds from non-federal sources for the support of the facility in an amount equal to or greater than four times the amount of the grant awarded under this section;

(3) to create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility;

(4) to establish and maintain a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States, including the lessons to be drawn from the history of the Underground Railroad, if such satellite centers raise 80 percent of the funds required to establish and maintain the satellite centers from non-Federal public and private sources;

(5) to establish and maintain the capability to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad, including the lessons to be drawn from such history; and

(6) to submit, for each fiscal year for which the organization receives funding under this section, a report to the Secretary of Education that contains—

(A) a description of the programs and activities supported by the funding;

(B) the audited financial statement of the organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the funding as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the funding as the Secretary may require.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section $3,000,000 for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 105–244, title VIII, §841, Oct. 7, 1998, 112 Stat. 1820; Pub. L. 110–315, title IX, §933, Aug. 14, 2008, 122 Stat. 3459; Pub. L. 111–39, title VIII, §802(a)(2), July 1, 2009, 123 Stat. 1957.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1998, and not as part of the Higher Education Act of 1965 which comprises this chapter.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–39 inserted "this section" after "to carry out".

2008—Subsec. (a). Pub. L. 110–315, §933(1), inserted ", including the lessons to be drawn from such history" after "Underground Railroad".

Subsec. (b)(1), (2). Pub. L. 110–315, §933(2)(A), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) to establish a facility to house, display, and interpret the artifacts related to the history of the Underground Railroad, and to make the interpretive efforts available to institutions of higher education that award a baccalaureate or graduate degree;

"(2) to demonstrate substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility, which private entity shall provide matching funds for the support of the facility in an amount equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government;".

Subsec. (b)(4). Pub. L. 110–315, §933(2)(B), inserted "and maintain" after "establish" in two places and "including the lessons to be drawn from the history of the Underground Railroad," after "United States,".

Subsec. (b)(5). Pub. L. 110–315, §933(2)(C), inserted "and maintain" after "establish" and ", including the lessons to be drawn from such history" after "Underground Railroad".

Subsec. (c). Pub. L. 110–315, §933(3), substituted "$3,000,000 for fiscal year 2009 and each of the five succeeding fiscal years" for "this section $6,000,000 for fiscal year 1999, $6,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $3,000,000 for fiscal year 2002, and $3,000,000 for fiscal year 2003".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1154. Contract authority

The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 96–374, title XIII, §1392, Oct. 3, 1980, 94 Stat. 1504.)

REFERENCES IN TEXT

The Act, as amended by this Act, referred to in text, means the Higher Education Act of 1965, Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended by the Education Amendments of 1980, Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367, which is classified generally to this chapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1146 of this title.

Section was enacted as part of the Education Amendments of 1980, and not as part of the Higher Education Act of 1965 which comprises this chapter.

Section was enacted as part of the Higher Education Amendments of 1986, and not as part of the Higher Education Act of 1965 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

CONTRACTING AUTHORITY SUBJECT TO APPROPRIATIONS

Pub. L. 99–498, §3, Oct. 17, 1986, 100 Stat. 1278, provided that: "The authority to enter into contracts or other obligations under this Act (other than amendments made to part B of title IV of the Act) [see Tables for classification] shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts."

§1155. Connie Lee privatization

(a) Status of Corporation and corporate powers; obligations not federally guaranteed

(1) Status of the Corporation

The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation, nor a Government controlled corporation, as such terms are defined in section 103 of title 5. No action under section 1491 of title 28 (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) Corporate powers

The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct the Corporation's affairs as a private, for-profit corporation and to carry out the Corporation's purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of the Corporation's affairs and the efficient operation of a private, for-profit business.

(3) Limitation on ownership of stock

(A) Student Loan Marketing Association

The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on September 30, 1996. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise the Student Loan Marketing Association's right to appoint directors under section 1132f–3 of this title as long as that section is in effect.

(B) Prohibition

Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(C) Financial support or guarantees

After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) No Federal guarantee

(A) Obligations insured by the Corporation

(i) Full faith and credit of the United States

No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) Student Loan Marketing Association

No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) Special rule

This paragraph shall not affect the determination of whether such obligation is guaranteed

for purposes of Federal income taxes.

(B) Securities offered by the Corporation

No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) "Corporation" defined

The term "Corporation" as used in this section means the College Construction Loan Insurance Association as in existence on the day before September 30, 1996, and any successor corporation.

(b) Related privatization requirements

(1) Notice requirements

(A) In general

During the six-year period following September 30, 1996, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation, a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations or such securities, as the case may be, guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) Additional notice

During the five-year period following the sale of stock pursuant to subsection (c)(1) of this section, in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) Corporate charter

The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) Corporate name

The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association", or any substantially similar variation thereof.

(4) Articles of incorporation

The Corporation shall amend the Corporation's articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) Requirements until stock sale

Notwithstanding subsection (d) of this section, the requirements of sections 1132f–3 and 1132f–9 of this title, as such sections were in effect on the day before September 30, 1996, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.[1]

(c) Sale of federally owned stock

(1) Purchase by the Corporation

The Secretary of the Treasury shall sell and the Corporation shall purchase, within 90 days after September 30, 1996, the stock of the Corporation held by the Secretary of Education at a price

determined by the binding, independent appraisal of a nationally recognized financial firm, except that the 90-day period may be extended by mutual agreement of the Secretary of the Treasury and the Corporation to not more than 150 days after September 30, 1996. The appraiser shall be jointly selected by the Secretary of the Treasury and the Corporation. In the event that the Secretary of the Treasury and the Corporation cannot agree on the appraiser, then the Secretary of the Treasury and the Corporation shall name an independent third party to select the appraiser.

(2) Reimbursement of costs and expenses of sale

The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs and expenses related to such sale, except that one-half of all reasonable costs and expenses relating to the independent appraisal under paragraph (1) shall be borne by the Corporation.

(3) Deposit into account

Amounts collected from the sale of stock pursuant to this subsection that are not used to reimburse the Secretary of the Treasury pursuant to paragraph (2) shall be deposited into the account established under subsection (e) of this section.

(4) Assistance by the Corporation

The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(5) Report to Congress

Not later than 6 months after September 30, 1996, the Secretary of the Treasury shall report to the appropriate committees of Congress on the completion and terms of the sale of stock of the Corporation pursuant to this subsection.

(d) Omitted

(e) Establishment of account

(1) In general

Notwithstanding any other provision of law, the District of Columbia Financial Responsibility and Management Assistance Authority shall establish an account to receive—

(A) amounts collected from the sale and proceeds resulting from the exercise of stock warrants pursuant to section 1087–3(c)(9) of this title;

(B) amounts and proceeds remitted as compensation for the right to assign the "Sallie Mae" name as a trademark or service mark pursuant to section 1087–3(e)(3) of this title; and

(C) amounts and proceeds collected from the sale of the stock of the Corporation and deposited pursuant to subsection (c)(3) of this section.

(2) Amounts and proceeds

(A) Amounts and proceeds relating to Sallie Mae

The amounts and proceeds described in subparagraphs (A) and (B) of paragraph (1) shall be used to finance public elementary and secondary school facility construction and repair within the District of Columbia or to carry out the District of Columbia School Reform Act of 1995.

(B) Amounts and proceeds relating to Connie Lee

The amounts and proceeds described in subparagraph (C) of paragraph (1) shall be used to finance public and public charter elementary and secondary school facility construction and repair within the District of Columbia. Of such amounts and proceeds, $5,000,000 shall be set aside for a credit enhancement revolving fund for public charter schools in the District of Columbia, to be administered and disbursed in accordance with paragraph (3).

(3) Credit enhancement revolving fund for public charter schools

(A) Distribution of amounts

Of the amounts in the credit enhancement revolving fund established under paragraph

(2)(B)—

(i) 50 percent shall be used to make grants under subparagraph (B); and

(ii) 50 percent shall be used to make grants under subparagraph (C).

(B) Grants to eligible nonprofit corporations

(i) In general

Using the amounts described in subparagraph (A)(i), the Mayor of the District of Columbia shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in subparagraph (E).

(ii) Administration

Subject to subparagraph (F), the Mayor shall administer the program of grants under this subparagraph, except that if the committee described in subparagraph (C)(iii) is in operation and is fully functional prior to the date the Mayor makes the grants, the Mayor may delegate the administration of the program to the committee.

(C) Other grants

(i) In general

Using the amounts described in subparagraph (A)(ii), the Mayor of the District of Columbia shall make grants to entities to carry out the purposes described in subparagraph (E).

(ii) Participation of schools

A public charter school in the District of Columbia may receive a grant under this subparagraph to carry out the purposes described in subparagraph (E) in the same manner as other entities receiving grants to carry out such activities.

(iii) Administration through committee

Subject to subparagraph (F), the Mayor shall carry out this subparagraph through the committee appointed by the Mayor under the second sentence of paragraph (2)(B) (as in effect prior to November 22, 2000). The committee may enter into an agreement with a third party to carry out its responsibilities under this subparagraph.

(iv) Cap on administrative costs

Not more than 5 percent of the funds available for grants under this subparagraph for a fiscal year may be used to cover the administrative costs of making grants under this subparagraph for the fiscal year.

(D) Special rule regarding eligibility of nonprofit corporations

In order to be eligible to receive a grant under this paragraph, a nonprofit corporation must provide appropriate certification to the Mayor or to the committee described in subparagraph (C)(iii) (as the case may be) that it is duly authorized by two or more public charter schools in the District of Columbia to act on their behalf in obtaining financing (or in assisting them in obtaining financing) to cover the costs of activities described in subparagraph (E)(i).

(E) Purposes of grants

(i) In general

The recipient of a grant under this paragraph shall use the funds provided under the grant to carry out activities to assist public charter schools in the District of Columbia in—

(I) obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;

(II) obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other

incidental costs;

(III) enhancing the availability of loans (including mortgages) and bonds; and

(IV) obtaining lease guarantees (in accordance with regulations promulgated by the Office of Public Charter School Financing).

(ii) No direct funding for schools

Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to public charter schools.

(F) Role of Office of Public Charter School Financing and Support

During fiscal year 2003 and each succeeding fiscal year, the Office of Public Charter School Financing and Support shall be responsible for receiving applications, making payments, and otherwise administering this paragraph, except that no grant may be made under this paragraph without the approval of the committee described in subparagraph (C)(iii).

(Pub. L. 104–208, div. A, title I, §101(e) [title VI, §603], Sept. 30, 1996, 110 Stat. 3009–233, 3009–290; Pub. L. 106–113, div. A, title I, §153, Nov. 29, 1999, 113 Stat. 1526; Pub. L. 106–522, §161, Nov. 22, 2000, 114 Stat. 2483; Pub. L. 106–553, §1(a)(1) [§161], Dec. 21, 2000, 114 Stat. 2762, 2762A–45; Pub. L. 106–554, §1(a)(4) [div. A, §406(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–189; Pub. L. 107–96, Dec. 21, 2001, 115 Stat. 936; Pub. L. 108–7, div. C, title III, §143(c), Feb. 20, 2003, 117 Stat. 131; Pub. L. 108–199, div. C, title IV, §434, Jan. 23, 2004, 118 Stat. 141; Pub. L. 108–335, title III, §340(a), Oct. 18, 2004, 118 Stat. 1348; Pub. L. 108–447, div. J, title I, §103(a)(2), Dec. 8, 2004, 118 Stat. 3341.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (a)(2), is act June 8, 1954, ch. 269, 68 Stat. 179, as amended, which is not classified to the Code.

Sections 1132f–3 and 1132f–9 of this title, referred to in subsecs. (a)(3)(A) and (b)(5), were repealed by subsec. (d) of this section.

The District of Columbia School Reform Act of 1995, referred to in subsec. (e)(2)(A), is Pub. L. 104–134, title I, §101(b) [title II], Apr. 26, 1996, 110 Stat. 1321–77, 1321–107, as amended, which amended former sections 6322, 6364, and 6365 of this title and enacted provisions set out as a note under former section 6322 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 1132f–10 of this title.

Section enacted as part of the Student Loan Marketing Association Reorganization Act of 1996, and not as part of the Higher Education Act of 1965 which comprises this chapter.

Section is comprised of section 101(e) [title VI, §603] of div. A of Pub. L. 104–208. Subsec. (d) of section 603 of title VI of section 101(e) of Pub. L. 104–208, repealed sections 1132f to 1132f–9 of this title.

AMENDMENTS

2004—Subsec. (e)(3)(C)(iv). Pub. L. 108–199 inserted "for a fiscal year" after "this subparagraph" and "for the fiscal year" before period at end.

Subsec. (e)(3)(E)(i)(IV). Pub. L. 108–335, §340, as amended by Pub. L. 108–447, which directed the amendment of subsec. (e)(3)(E) by adding subcl. (IV) at the end, was executed by adding subcl. (IV) at the end of cl. (i), to reflect the probable intent of Congress.

2003—Subsec. (e)(3)(B)(ii), (C)(iii). Pub. L. 108–7, §143(c)(1), substituted "Subject to subparagraph (F), the Mayor" for "The Mayor".

Subsec. (e)(3)(F). Pub. L. 108–7, §143(c)(2), added subpar. (F).

2001—Subsec. (e)(2)(B). Pub. L. 107–96, par. (2), which directed amendment of section 161 of Pub. L. 106–522, by inserting "revolving" after "enhancement" in second sentence of par. (2)(B), was executed by revising the amendment by Pub. L. 106–522, §161(1), which had amended the second sentence of subsec. (e)(2)(B) of this section, to reflect the probable intent of Congress. See 2000 Amendment note below.

Subsec. (e)(3). Pub. L. 107–96, pars. (1), (3), amended Pub. L. 106–522, §161(2). See 2000 Amendment note below.

Pub. L. 107–96, par. (2), which directed amendment of section 161 of Pub. L. 106–522, by inserting "revolving" after "enhancement" in heading of par. (3) and in par. (3)(A), was executed by revising the

amendment by Pub. L. 106–522, §161(2), which had added subsec. (e)(3) to this section, to reflect the probable intent of Congress. See 2000 Amendment note below.

Subsec. (e)(3)(C)(iv). Pub. L. 107–96, proviso, which directed amendment of the cap on administrative costs as amended by Pub. L. 106–522, §161, by substituting "5 percent" for "10 percent", could not be executed because the words "10 percent" did not appear in this section after the amendment of Pub. L. 106–522, §161(2), by Pub. L. 107–96, par. (3). See 2000 Amendment note below.

2000—Subsec. (e)(2)(B). Pub. L. 106–553, §1(a)(1) [§161(1)], which directed amendment identical to amendment by Pub. L. 106–522, §161(1), below, was repealed by Pub. L. 106–554, §1(a)(4) [div. A, §406(a)]. See Effective Date and Construction of 2000 Amendment note below.

Pub. L. 106–522, §161(1), as amended by Pub. L. 107–96, par. (2), amended second sentence generally. Prior to amendment, second sentence read as follows: "Of such amounts and proceeds, $5,000,000 shall be set aside for use as a credit enhancement fund for public charter schools in the District of Columbia, with the administration of the fund (including the making of loans) to be carried out by the Mayor through a committee consisting of three individuals appointed by the Mayor of the District of Columbia and two individuals appointed by the Public Charter School Board established under section 2214 of the District of Columbia School Reform Act of 1995."

Subsec. (e)(3). Pub. L. 106–553, §1(a)(1) [§161(2)], which directed amendment identical to amendment by Pub. L. 106–522, §161(2), below, was repealed by Pub. L. 106–554, §1(a)(4) [div. A, §406(a)]. See Effective Date and Construction of 2000 Amendment note below.

Pub. L. 106–522, §161(2), as amended by Pub. L. 107–96, pars. (1) to (3), added par. (3).

1999—Subsec. (e)(2)(B). Pub. L. 106–113 inserted "and public charter" after "public" and inserted at end "Of such amounts and proceeds, $5,000,000 shall be set aside for use as a credit enhancement fund for public charter schools in the District of Columbia, with the administration of the fund (including the making of loans) to be carried out by the Mayor through a committee consisting of three individuals appointed by the Mayor of the District of Columbia and two individuals appointed by the Public Charter School Board established under section 2214 of the District of Columbia School Reform Act of 1995."

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–447, div. J, title I, §103(b), Dec. 8, 2004, 118 Stat. 3343, provided that: "The amendments made by this section [amending this section] shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005 [Pub. L. 108–335]."

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–96, Dec. 21, 2001, 115 Stat. 936, provided that the amendments made by that act to section 161 of Pub. L. 106–522 are effective as if included in Pub. L. 106–522.

EFFECTIVE DATE AND CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(4) [div. A, §406], Dec. 21, 2000, 114 Stat. 2763, 2763A–189, provided that:

"(a) The provisions of H.R. 5547 (as enacted into law by H.R. 4942 of the 106th Congress) [H.R. 5547 as enacted by section 1(a)(1) of Pub. L. 106–553, amending this section and enacting provisions set out as a note under section 6301 of Title 31, Money and Finance] are repealed and shall be deemed for all purposes (including section 1(b) of H.R. 4942 [Pub. L. 106–553, 1 U.S.C. 112 note]) to have never been enacted.

"(b) The repeal made by this section shall take effect as if included in H.R. 4942 of the 106th Congress [Pub. L. 106–553] on the date of its enactment [Dec. 21, 2000]."

[1] *So in original. Probably should be "section."*

SUBCHAPTER IX—ADDITIONAL PROGRAMS

PART A—PROJECT GRAD

§1161a. Project GRAD

(a) Purposes

The purposes of this section are—

(1) to provide support and assistance to programs implementing integrated education reform services in order to improve secondary school graduation, postsecondary program attendance, and postsecondary completion rates for low-income students; and

(2) to promote the establishment of new programs to implement such integrated education reform services.

(b) Definitions

In this section:

(1) Low-income student

The term "low-income student" means a student who is determined by a local educational agency to be from a low-income family using the measures described in section 6313(a)(5) of this title.

(2) Feeder pattern

The term "feeder pattern" means a secondary school and the elementary schools and middle schools that channel students into that secondary school.

(c) Contract authorized

From the amount appropriated to carry out this section, the Secretary is authorized to award a five-year contract to Project GRAD USA (referred to in this section as the "contractor"), a nonprofit education organization that has as its primary purpose the improvement of secondary school graduation and postsecondary attendance and completion rates for low-income students. Such contract shall be used to carry out the requirements of subsection (d) and to implement and sustain integrated education reform services through subcontractor activities described in subsection (e)(3) at existing Project GRAD program sites and to promote the expansion to new sites.

(d) Requirements of contract

The Secretary shall enter into an agreement with the contractor that requires that the contractor shall—

(1) enter into subcontracts with nonprofit educational organizations that serve a substantial number or percentage of low-income students (referred to in this subsection as "subcontractors"), under which the subcontractors agree to implement the Project GRAD programs described in subsection (e) and provide matching funds for such programs;

(2) directly carry out—

(A) activities to implement and sustain the literacy, mathematics, classroom management, social service, and postsecondary access programs further described in subsection (e)(3);

(B) activities to build the organizational and management capacity of the subcontractors to effectively implement and sustain the programs;

(C) activities for the purpose of improving and expanding the programs, including activities—

(i) to further articulate a program for one or more grade levels and across grade levels;

(ii) to tailor a program for a particular target audience; and

(iii) to provide tighter integration across programs;

(D) activities for the purpose of implementing new Project GRAD program sites;

(E) activities for the purpose of promoting greater public awareness of integrated education reform services to improve secondary school graduation and postsecondary attendance rates for low-income students; and

(F) other activities directly related to improving secondary school graduation and postsecondary attendance and completion rates for low-income students; and

(3) use contract funds available under this section to pay—

(A) the amount determined under subsection (f); and

(B) costs associated with carrying out the activities and providing the services, as provided in paragraph (2) of this subsection.

(e) Supported programs

(1) Designation

The subcontractor programs referred to in this subsection shall be known as Project GRAD programs.

(2) Feeder patterns

Each subcontractor shall implement a Project GRAD program and shall, with the agreement of the contractor—

(A) identify or establish not less than one feeder pattern of public schools; and

(B) provide the integrated educational reform services described in paragraph (3) at each identified feeder pattern.

(3) Integrated education reform services

The services provided through a Project GRAD program may include—

(A) research-based programs in reading, mathematics, and classroom management;

(B) campus-based social services programs, including a systematic approach to increase family and community involvement in the schools served by the Project GRAD program;

(C) a postsecondary access program that includes—

(i) providing postsecondary scholarships for students who meet established criteria;

(ii) proven approaches for increasing student and family postsecondary awareness; and

(iii) assistance for students in applying for higher education financial aid; and

(D) such other services identified by the contractor as necessary to increase secondary school graduation and postsecondary attendance and completion rates.

(f) Use of funds

Of the funds made available to carry out this section, not more than five percent of such funds, or $4,000,000, whichever is less, shall be used by the contractor to pay for administration of the contract.

(g) Contribution and matching requirement

(1) In general

The contractor shall provide to each subcontractor an average of $200 for each student served by the subcontractor in the Project GRAD program, adjusted to take into consideration—

(A) the resources or funds available in the area where the subcontractor will implement the Project GRAD program; and

(B) the need for the Project GRAD program in such area to improve student outcomes, including reading and mathematics achievement, secondary school graduation, and postsecondary attendance and completion rates.

(2) Matching requirement

Each subcontractor shall provide funds for the Project GRAD program in an amount that is equal to the amount received by the subcontractor from the contractor. Such matching funds may be provided in cash or in kind, fairly evaluated.

(3) Waiver authority

The contractor may waive, in whole or in part, the requirement of paragraph (2) for a subcontractor, if the subcontractor—

(A) demonstrates that the subcontractor would not otherwise be able to participate in the program; and

(B) enters into an agreement with the contractor with respect to the amount to which the

waiver will apply.

(h) Evaluation

(1) Evaluation by the Secretary

The Secretary shall select an independent entity to evaluate, every three years, the performance of students who participate in a Project GRAD program under this section. The evaluation shall—

(A) be conducted using a rigorous research design for determining the effectiveness of the Project GRAD programs funded under this section; and

(B) compare reading and mathematics achievement, secondary school graduation, and postsecondary attendance and completion rates of students who participate in a Project GRAD program funded under this section with those indicators for students of similar backgrounds who do not participate in such program.

(2) Evaluation by contractor and subcontractors

The contractor shall require each subcontractor to prepare an in-depth report of the results and the use of funds of each Project GRAD program funded under this section that includes—

(A) data on the reading and mathematics achievement of students involved in the Project GRAD program;

(B) data on secondary school graduation and postsecondary attendance and completion rates; and

(C) such financial reporting as required by the Secretary to review the effectiveness and efficiency of the program.

(3) Availability of evaluations

Copies of any evaluation or report prepared under this subsection shall be made available to—

(A) the Secretary; and

(B) the authorizing committees.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §801, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3378.)

PART B—MATHEMATICS AND SCIENCE SCHOLARS PROGRAM

§1161b. Mathematics and science scholars program

(a) Program authorized

From the amounts appropriated under subsection (f), the Secretary is authorized to award grants to States, on a competitive basis, to enable the States to encourage students to pursue a rigorous course of study, beginning in secondary school and continuing through the students' postsecondary education, in science, technology, engineering, mathematics, or a health-related field.

(b) Applications

(1) In general

A State that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. A State may submit an application to receive a grant under subsection (c) or (d), or both.

(2) Contents of application

Each application shall include a description of—

(A) the program or programs for which the State is applying;
(B) if applicable, the priority set by the Governor pursuant to subsection (c)(4) or (d)(3); and
(C) how the State will meet the requirements of subsection (e).

(c) Mathematics and science scholars program

(1) Grant for scholarships

The Secretary shall award grants under this subsection to provide scholarship support to eligible students.

(2) Eligible students

A student is eligible for a scholarship under this subsection if the student—
(A) meets the requirements of section 1091(a) of this title;
(B) is a full-time student in the student's first year of undergraduate study; and
(C) has completed a rigorous secondary school curriculum in mathematics and science.

(3) Rigorous curriculum

Each participating State shall determine the requirements for a rigorous secondary school curriculum in mathematics and science described in paragraph (2)(C).

(4) Priority for scholarships

The Governor of a State may set a priority for awarding scholarships under this subsection for particular eligible students, such as students attending schools in high-need local educational agencies (as defined in section 1021 of this title), students who are from groups underrepresented in the fields of mathematics, science, and engineering, students served by local educational agencies that do not meet or exceed State standards in mathematics and science, or other high-need students.

(5) Amount and duration of scholarship

The Secretary shall award a grant under this subsection to provide scholarships—
(A) in an amount that does not exceed $5,000 per student; and
(B) for not more than one year of undergraduate study.

(d) STEM or health-related scholars program

(1) Grant for scholarships

The Secretary shall award grants under this subsection to provide scholarship support to eligible students.

(2) Eligible students

A student is eligible for scholarship under this subsection if the student—
(A) meets the requirements of section 1091(a) of this title;
(B) is a full-time student who has completed at least the first year of undergraduate study;
(C) is enrolled in a program of undergraduate instruction leading to a bachelor's degree with a major in science, technology, engineering, mathematics, or a health-related field; and
(D) has obtained a cumulative grade point average of at least a 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the most recently completed term.

(3) Priority for scholarships

The Governor of a State may set a priority for awarding scholarships under this subsection for students agreeing to work in areas of science, technology, engineering, mathematics, or health-related fields.

(4) Amount and duration of scholarship

The Secretary shall award a grant under this subsection to provide scholarships—
(A) in an amount that does not exceed $5,000 per student for an academic year; and
(B) in an aggregate amount that does not exceed $20,000 per student.

(e) Matching requirement

In order to receive a grant under this section, a State shall provide matching funds for the scholarships awarded under this section in an amount equal to 50 percent of the Federal funds received.

(f) Authorization

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(g) Definition

The term "Governor" means the chief executive officer of a State.

(Pub. L. 89–329, title VIII, §802, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3381; amended Pub. L. 111–39, title VIII, §801(1), July 1, 2009, 123 Stat. 1955.)

AMENDMENTS

2009—Subsec. (d)(2)(D). Pub. L. 111–39 substituted "regulations" for "regulation".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART C—BUSINESS WORKFORCE PARTNERSHIPS FOR JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES

§1161c. Business workforce partnerships for job skill training in high-growth occupations or industries

(a) Purpose

The purpose of this section is to provide grants to institutions of higher education partnering with employers to—

(1) provide relevant job skill training in high-growth and high-wage industries or occupations to nontraditional students; and

(2) strengthen ties between degree credit offerings at institutions of higher education and business and industry workforce needs.

(b) Authorization

(1) In general

From the amounts appropriated under subsection (k), the Secretary shall award grants, on a competitive basis, to eligible partnerships for the purpose provided in subsection (a).

(2) Duration

The Secretary shall award grants under this section for a period of not less than 36 months and not more than 60 months.

(3) Supplement, not supplant

Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds available to the eligible partnership for carrying out the activities described in subsection (c).

(c) Use of funds

In consultation with all of the members of an eligible partnership, grant funds provided under this section may be used to—

(1) expand or create for-credit academic programs or programs of training that provide relevant job skill training for high-growth and high-wage occupations or industries, including offerings connected to registered apprenticeship programs and entrepreneurial training opportunities;

(2) in consultation with faculty in the appropriate departments of an institution of higher education, adapt college offerings to the schedules and needs of working students, such as the creation of evening, weekend, modular, compressed, or distance learning formats;

(3) purchase equipment that will facilitate the development of academic programs or programs of training that provide training for high-growth and high-wage occupations or industries;

(4) strengthen outreach efforts that enable students, including students with limited English proficiency, to attend institutions of higher education with academic programs or programs of training focused on high-growth and high-wage occupations or industries;

(5) expand worksite learning and training opportunities, including registered apprenticeships as appropriate; and

(6) support other activities the Secretary determines to be consistent with the purpose of this section.

(d) Application

(1) In general

Each eligible partnership that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

(2) Contents

Each application submitted under paragraph (1) shall include a description of—

(A) how the eligible partnership, through the institution of higher education, will provide relevant job skill training for students to enter high-growth and high-wage occupations or industries; and

(B) how the eligible partnership has consulted with employers and, where applicable, labor organizations to identify local high-growth and high-wage occupations or industries.

(e) Award basis

In awarding grants under this section, the Secretary shall—

(1) give priority to applications focused on serving nontraditional students;

(2) ensure an equitable distribution of grant funds under this section among urban and rural areas of the United States; and

(3) take into consideration the capability of an institution of higher education that is participating in an eligible partnership to—

(A) offer one- or two-year high-quality programs of instruction and job skill training for students entering a high-growth and high-wage occupation or industry;

(B) involve the local business community, and to place graduates in employment in high-growth and high-wage occupations or industries in the community; and

(C) serve adult workers or displaced workers.

(f) Administrative costs

A grantee under this section may use not more than five percent of the grant amount to pay administrative costs associated with activities funded by the grant.

(g) Technical assistance

The Secretary shall provide technical assistance to grantees under this section throughout the grant period.

(h) Evaluation

The Secretary shall conduct an evaluation of the effectiveness of the program under this section based on performance standards developed in consultation with the Department of Labor, and shall disseminate to the public the findings of such evaluation and information related to promising

practices developed under this section.

(i) Report to Congress

Not later than 36 months after the first grant is awarded under this section, the Comptroller General shall report to the authorizing committees recommendations—

(1) for changes to this chapter and part C of subchapter I of chapter 34 of title 42 and related Acts, such as the Carl D. Perkins Career and Technical Education Act of 2006 [20 U.S.C. 2301 et seq.] and the Workforce Innovation and Opportunity Act (including titles I and II [29 U.S.C. 3111 et seq., 3271 et seq.]), to help create and sustain business and industry workforce partnerships at institutions of higher education; and

(2) for other changes to this chapter and part C of subchapter I of chapter 34 of title 42 and related Acts to otherwise strengthen the links between business and industry workforce needs, workforce development programs, and other degree credit offerings at institutions of higher education.

(j) Definitions

In this section:

(1) Eligible partnership

(A) In general

The term "eligible partnership" means a partnership that includes—

(i) one or more institutions of higher education, one of which serves as the fiscal agent and grant recipient for the eligible partnership;

(ii) except as provided in subparagraph (B), an employer, group of employers, local board (as such term is defined in section 3 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3102]), or workforce intermediary, or any combination thereof; and

(iii) where applicable, one or more labor organizations that represent workers locally in the businesses or industries that are the focus of the partnership, including as a result of such an organization's representation of employees at a worksite at which the partnership proposes to conduct activities under this section.

(B) State and local boards

Notwithstanding subparagraph (A), if an institution of higher education that is participating in an eligible partnership under this section is located in a State that does not operate local boards, an eligible partnership may include a State board (as such term is defined in section 3 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3102]).

(C) Rule of construction

Nothing in this subsection shall be construed to prohibit an eligible partnership that is in existence on August 14, 2008, from applying for a grant under this section.

(2) Nontraditional student

The term "nontraditional student" means a student—

(A) who is an independent student, as defined in section 1087vv(d) of this title;

(B) who attends an institution of higher education—

(i) on less than a full-time basis;

(ii) via evening, weekend, modular, or compressed courses; or

(iii) via distance education methods; and

(C) who—

(i) enrolled for the first time in an institution of higher education three or more years after completing high school; or

(ii) works full-time.

(k) Authorization of appropriations

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

for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §803, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3382; amended Pub. L. 113–128, title V, §512(n)(5), July 22, 2014, 128 Stat. 1710.)

REFERENCES IN TEXT

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (i)(1), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (i)(1), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. Titles I and II of the Act are classified generally to subchapters I (§3111 et seq.) and II (§3271 et seq.), respectively, of chapter 32 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

AMENDMENTS

2014—Subsec. (i)(1). Pub. L. 113–128, §512(n)(5)(A), substituted "for changes to this chapter and part C of subchapter I of chapter 34 of title 42 and related Acts, such as the Carl D. Perkins Career and Technical Education Act of 2006 and the Workforce Innovation and Opportunity Act (including titles I and II), to help create and sustain business and industry workforce partnerships at institutions of higher education" for "for changes to this chapter and part C of subchapter I of chapter 34 of title 42 and related Acts, such as the Carl D. Perkins Career and Technical Education Act of 2006 and the Workforce Investment Act of 1998 (including titles I and II), to help create and sustain business and industry workforce partnerships at institutions of higher education".

Subsec. (j)(1)(A)(ii). Pub. L. 113–128, §512(n)(5)(B)(i), substituted "local board (as such term is defined in section 3 of the Workforce Innovation and Opportunity Act)" for "local board (as such term is defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801))".

Subsec. (j)(1)(B). Pub. L. 113–128, §512(n)(5)(B)(ii), substituted "a State board (as such term is defined in section 3 of the Workforce Innovation and Opportunity Act)" for "a State board (as such term is defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801))".

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

PART D—CAPACITY FOR NURSING STUDENTS AND FACULTY

§1161d. Capacity for nursing students and faculty

(a) Authorization

From the amounts appropriated under subsection (f), the Secretary shall award grants to institutions of higher education that offer—

(1) an accredited registered nursing program at the baccalaureate or associate degree level to enable such program to expand the faculty and facilities of such program to accommodate additional students in such program; or

(2) an accredited graduate-level nursing program to accommodate advanced practice degrees for registered nurses or to accommodate students enrolled in such program to become teachers of nursing students.

(b) Determination of number of students and application

Each institution of higher education that offers a program described in subsection (a) that desires to receive a grant under this section shall—

(1) determine, for the four academic years preceding the academic year for which the determination is made, the average number of matriculated nursing program students, in each of the institution's accredited associate, baccalaureate, or advanced nursing degree programs at such institution for such academic years;

(2) submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require, including the average number in each of the institution's accredited nursing programs determined under paragraph (1); and

(3) with respect to the partnerships described in subsection (c)(2)(B), provide assurances that—

(A) the individuals enrolled in the program will—

(i) be registered nurses in pursuit of a master's or doctoral degree in nursing; and

(ii) have a contractual obligation with the hospital or health facility that is in partnership with the institution of higher education;

(B) the hospital or health facility of employment will be the clinical site for the accredited school of nursing program, if the program requires a clinical site;

(C) individuals enrolled in the program will—

(i) maintain their employment on at least a part-time basis with the hospital or health facility that allowed them to participate in the program; and

(ii) receive an income from the hospital or health facility, as at least a part-time employee, and release times or flexible schedules, to accommodate their program requirements, as necessary; and

(D) upon completion of the program, recipients of scholarships described in subsection (c)(2)(B)(ii)(III) will be required to teach for two years in an accredited school of nursing for each year of support the individual received under this section.

(c) Grant amount; award basis

(1) Grant amount

For each academic year after academic year 2009–2010, the Secretary is authorized to provide to each institution of higher education awarded a grant under this section an amount that is equal to $3,000 multiplied by the number by which—

(A) the number of matriculated nursing program students at such institution for such academic year, exceeds

(B) the average number determined with respect to such institution under subsection (b)(1).

(2) Distribution of grants among different degree programs

(A) In general

Subject to subparagraph (D), from the funds available to award grants under this section for each fiscal year, the Secretary shall—

(i) use 20 percent of such funds to award grants under this section to institutions of higher education for the purpose of accommodating advanced practice degrees or students in accredited graduate-level nursing programs;

(ii) use 40 percent of such funds to award grants under this section to institutions of higher education for the purpose of expanding accredited registered nurse programs at the baccalaureate degree level; and

(iii) use 40 percent of such funds to award grants under this section to institutions of higher education for the purpose of expanding accredited registered nurse programs at the associate degree level.

(B) Optional uses of funds

Grants awarded under this section may be used to support partnerships with hospitals or health facilities to—

(i) improve the alignment between nursing education and the emerging challenges of health care delivery by—

(I) the purchase of distance learning technologies and expanding methods of delivery of instruction to include alternatives to onsite learning; and

(II) the collection, analysis, and dissemination of data on educational outcomes and best practices identified through the activities described in this section; and

(ii) ensure that students can earn a salary while obtaining an advanced degree in nursing with the goal of becoming nurse faculty by—

(I) funding release time for qualified nurses enrolled in the graduate nursing program;

(II) providing for faculty salaries; or

(III) providing scholarships to qualified nurses in pursuit of an advanced degree with the goal of becoming faculty members in an accredited nursing program.

(C) Considerations in making awards

In awarding grants under this section, the Secretary shall consider the following:

(i) Geographic distribution

Providing an equitable geographic distribution of such grants.

(ii) Urban and rural areas

Distributing such grants to urban and rural areas.

(iii) Range and type of institution

Ensuring that the activities to be assisted are developed for a range of types and sizes of institutions of higher education, including institutions providing alternative methods of delivery of instruction in addition to on-site learning.

(D) Distribution of excess funds

If, for a fiscal year, funds described in clause (i), (ii), or (iii) of subparagraph (A) remain available after the Secretary awards grants under this section to all applicants for the particular category of accredited nursing programs described in such clause, the Secretary shall use equal amounts of the remaining funds to award grants under this section to applicants that applied under the other categories of nursing programs.

(E) Limitation

Of the amount appropriated to carry out this section, the Secretary may award not more than ten percent of such amount for the optional purposes under subparagraph (B).

(d) Definitions

For purposes of this section:

(1) Health facility

The term "health facility" means an Indian health service center, a Native Hawaiian health center, a hospital, a federally qualified health center, a rural health clinic, a nursing home, a home health agency, a hospice program, a public health clinic, a State or local department of public health, a skilled nursing facility, or an ambulatory surgical center.

(2) Public Health Service Act

The terms "accredited" and "school of nursing" have the meanings given those terms in section 801 of the Public Health Service Act (42 U.S.C. 296).

(e) Prohibition

(1) In general

Funds provided under this section may not be used for the construction of new facilities.

(2) Rule of construction

Nothing in paragraph (1) shall be construed to prohibit funds provided under this section from being used for the repair or renovation of facilities.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §804, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3385; amended Pub. L. 111–39, title VIII, §801(2), July 1, 2009, 123 Stat. 1955.)

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–39 substituted "Definitions" for "Definition" in heading, added par. (2), and struck out former par. (2). Prior to amendment, text read as follows: "The terms 'accredited school of nursing' and 'accredited nursing program' have the meaning given those terms in section 296 of title 42."

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART E—AMERICAN HISTORY FOR FREEDOM

§1161e. American history for freedom

(a) Grants authorized

From the amounts appropriated under subsection (f), the Secretary is authorized to award three-year grants, on a competitive basis, to eligible institutions to establish or strengthen postsecondary academic programs or centers that promote and impart knowledge of—

(1) traditional American history;

(2) the history and nature of, and threats to, free institutions; or

(3) the history and achievements of Western civilization.

(b) Definitions

In this section:

(1) Eligible institution

The term "eligible institution" means an institution of higher education as defined in section 1001 of this title.

(2) Free institution

The term "free institution" means an institution that emerged out of Western civilization, such as democracy, constitutional government, individual rights, market economics, religious freedom and religious tolerance, and freedom of thought and inquiry.

(3) Traditional American history

The term "traditional American history" means—

(A) the significant constitutional, political, intellectual, economic, and foreign policy trends and issues that have shaped the course of American history; and

(B) the key episodes, turning points, and leading figures involved in the constitutional, political, intellectual, diplomatic, and economic history of the United States.

(c) Application

(1) In general

Each eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) Contents

Each application submitted under paragraph (1) shall include a description of—

(A) how funds made available under this section will be used for the activities set forth under subsection (e), including how such activities will increase knowledge with respect to traditional American history, free institutions, or Western civilization;

(B) how the eligible institution will ensure that information about the activities funded under this section is widely disseminated pursuant to subsection (e)(1)(B);

(C) any activities to be undertaken pursuant to subsection (e)(2)(A), including identification of entities intended to participate;

(D) how funds made available under this section shall be used to supplement and not supplant non-Federal funds available for the activities described in subsection (e); and

(E) such fiscal controls and accounting procedures as may be necessary to ensure proper disbursement of and accounting for funding made available to the eligible institution under this section.

(d) Award basis

In awarding grants under this section, the Secretary shall take into consideration the capability of the eligible institution to—

(1) increase access to quality programming that expands knowledge of traditional American history, free institutions, or Western civilization;

(2) involve personnel with strong expertise in traditional American history, free institutions, or Western civilization; and

(3) sustain the activities funded under this section after the grant has expired.

(e) Use of funds

(1) Required use of funds

Funds provided under this section shall be used to—

(A) establish or strengthen academic programs or centers focused on traditional American history, free institutions, or Western civilization, which may include—

(i) design and implementation of programs of study, courses, lecture series, seminars, and symposia;

(ii) development, publication, and dissemination of instructional materials;

(iii) research;

(iv) support for faculty teaching in undergraduate and, if applicable, graduate programs;

(v) support for graduate and postgraduate fellowships, if applicable; or

(vi) teacher preparation initiatives that stress content mastery regarding traditional American history, free institutions, or Western civilization; and

(B) conduct outreach activities to ensure that information about the activities funded under this section is widely disseminated—

(i) to undergraduate students (including students enrolled in teacher education programs, if applicable);

(ii) to graduate students (including students enrolled in teacher education programs, if applicable);

(iii) to faculty;

(iv) to local educational agencies; and

(v) within the local community.

(2) Allowable uses of funds

Funds provided under this section may be used to support—

(A) collaboration with entities such as—

(i) local educational agencies, for the purpose of providing elementary and secondary school teachers an opportunity to enhance their knowledge of traditional American history, free institutions, or Western civilization; and

(ii) nonprofit organizations whose mission is consistent with the purpose of this section,

such as academic organizations, museums, and libraries, for assistance in carrying out activities described under subsection (a); and

(B) other activities that meet the purposes of this section.

(f) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §805, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3388.)

PART F—TEACH FOR AMERICA

§1161f. Teach For America

(a) Definitions

For purposes of this section:

(1) Grantee

The term "grantee" means Teach For America, Inc.

(2) Repealed. Pub. L. 114–95, title IX, §9214(c)(12)(A), Dec. 10, 2015, 129 Stat. 2164

(3) High-need local educational agency

The term "high-need local educational agency" has the meaning given such term in section 1021 of this title.

(b) Grants authorized

From the amounts appropriated under subsection (f), the Secretary is authorized to award a five-year grant to Teach For America, Inc., the national teacher corps of outstanding recent college graduates who commit to teach for two years in underserved communities in the United States, to implement and expand its program of recruiting, selecting, training, and supporting new teachers.

(c) Requirements

In carrying out the grant program under subsection (b), the Secretary shall enter into an agreement with the grantee under which the grantee agrees to use the grant funds provided under this section to—

(1) provide teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title, to high-need local educational agencies in urban and rural communities;

(2) pay the costs of recruiting, selecting, training, and supporting new teachers; and

(3) serve a substantial number and percentage of underserved students.

(d) Authorized activities

(1) In general

Grant funds provided under this section shall be used by the grantee to carry out each of the following activities:

(A) Recruiting and selecting teachers through a highly selective national process.

(B) Providing preservice training to such teachers through a rigorous summer institute that includes hands-on teaching experience and significant exposure to education coursework and theory.

(C) Placing such teachers in schools and positions designated by high-need local educational

agencies as high-need placements serving underserved students.

(D) Providing ongoing professional development activities for such teachers' first two years in the classroom, including regular classroom observations and feedback, and ongoing training and support.

(2) Limitation

The grantee shall use all grant funds received under this section to support activities related directly to the recruitment, selection, training, and support of teachers as described in subsection (b), except that funds may be used for non-programmatic costs in accordance with subsection (f)(2).

(e) Reports and evaluations

(1) Annual report

The grantee shall provide to the Secretary an annual report that includes—

(A) data on the number and quality of the teachers provided to local educational agencies through a grant under this section;

(B) an externally conducted analysis of the satisfaction of local educational agencies and principals with the teachers so provided; and

(C) comprehensive data on the background of the teachers chosen, the training such teachers received, the placement sites of such teachers, the professional development of such teachers, and the retention of such teachers.

(2) Study

(A) In general

From funds appropriated under subsection (f), the Secretary shall provide for a study that examines the achievement levels of the students taught by the teachers assisted under this section.

(B) Student achievement gains compared

The study shall compare, within the same schools, the achievement gains made by students taught by teachers who are assisted under this section with the achievement gains made by students taught by teachers who are not assisted under this section.

(C) Requirements

The Secretary shall provide for such a study not less than once every three years, and each such study shall include multiple placement sites and multiple schools within placement sites.

(D) Peer review standards

Each such study shall meet the peer review standards of the education research community. Further, the peer review standards shall ensure that reviewers are practicing researchers and have expertise in assessment systems, accountability, psychometric measurement and statistics, and instruction.

(3) Accounting, financial reporting, and internal control systems

(A) In general

The grantee shall contract with an independent auditor to conduct a comprehensive review of the grantee's accounting, financial reporting, and internal control systems. Such review shall assess whether that grantee's accounting, financial reporting, and internal control systems are designed to—

(i) provide information that is complete, accurate, and reliable;

(ii) reasonably detect and prevent material misstatements, as well as fraud, waste, and abuse; and

(iii) provide information to demonstrate the grantee's compliance with related Federal programs, as applicable.

(B) Review requirements

Not later than 90 days after the grantee receives funds to carry out this section for the first fiscal year in which funds become available to carry out this section after August 14, 2008, the independent auditor shall complete the review required by this paragraph.

(C) Report

Not later than 120 days after the grantee receives funds to carry out this section for the first fiscal year in which funds become available to carry out this section after August 14, 2008, the independent auditor shall submit a report to the authorizing committees and the Secretary of the findings of the review required under this paragraph, including any recommendations of the independent auditor, as appropriate, with respect to the grantee's accounting, financial reporting, and internal control systems.

(f) Authorization of appropriations

(1) In general

The amount authorized to be appropriated to carry out this section shall not exceed—

(A) $20,000,000 for fiscal year 2009;

(B) $25,000,000 for fiscal year 2010; and

(C) such sums as may be necessary for each of the four succeeding fiscal years.

(2) Limitation

The grantee shall not use more than 5 percent of Federal funds made available under this section for non-programmatic costs to carry out this section.

(Pub. L. 89–329, title VIII, §806, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3390; amended Pub. L. 114–95, title IX, §9214(c)(12), Dec. 10, 2015, 129 Stat. 2164.)

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114–95, §9214(c)(12)(A), struck out par. (2). Text read as follows: "The term 'highly qualified' has the meaning given the term in section 7801 of this title or section 1401 of this title."

Subsec. (c)(1). Pub. L. 114–95, §9214(c)(12)(B), substituted "teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title," for "highly qualified teachers".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART G—PATSY T. MINK FELLOWSHIP PROGRAM

§1161g. Patsy T. Mink fellowship program

(a) Purpose; designation

(1) In general

It is the purpose of this section to provide, through eligible institutions, a program of fellowship awards to assist highly qualified minorities and women to acquire the doctoral degree, or highest possible degree available, in academic areas in which such individuals are underrepresented for the purpose of enabling such individuals to enter the higher education professoriate.

(2) Designation

Each recipient of a fellowship award from an eligible institution receiving a grant under this

section shall be known as a "Patsy T. Mink Graduate Fellow".

(b) Eligible institution

In this section, the term "eligible institution" means an institution of higher education, or a consortium of such institutions, that offers a program of postbaccalaureate study leading to a graduate degree.

(c) Program authorized

(1) Grants by Secretary

(A) In general

From the amounts appropriated under subsection (f), the Secretary shall award grants to eligible institutions to enable such institutions to make fellowship awards to individuals in accordance with the provisions of this section.

(B) Priority consideration

In awarding grants under this section, the Secretary shall consider the eligible institution's prior experience in producing doctoral degree, or highest possible degree available, holders who are minorities and women, and shall give priority consideration in making grants under this section to those eligible institutions with a demonstrated record of producing minorities and women who have earned such degrees.

(2) Applications

(A) In general

An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) Applications made on behalf

The following entities may submit an application on behalf of an eligible institution:

(i) A graduate school or department of such institution.

(ii) A graduate school or department of such institution in collaboration with an undergraduate college or school of such institution.

(iii) An organizational unit within such institution that offers a program of postbaccalaureate study leading to a graduate degree, including an interdisciplinary or an interdepartmental program.

(C) Partnership

In developing a grant application and carrying out the grant activities authorized under this section, an eligible institution may partner with a nonprofit organization with a demonstrated record of helping minorities and women earn postbaccalaureate degrees.

(3) Selection of applications

In awarding grants under paragraph (1), the Secretary shall—

(A) take into account—

(i) the number and distribution of minority and female faculty nationally;

(ii) the current and projected need for highly trained individuals in all areas of the higher education professoriate; and

(iii) the present and projected need for highly trained individuals in academic career fields in which minorities and women are underrepresented in the higher education professoriate; and

(B) consider the need to prepare a large number of minorities and women generally in academic career fields of high national priority, especially in areas in which such individuals are traditionally underrepresented in college and university faculty.

(4) Distribution and amounts of grants

(A) Equitable distribution

In awarding grants under this section, the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among public and private eligible institutions that apply for grants under this section and that demonstrate an ability to achieve the purpose of this section.

(B) Special rule

To the maximum extent practicable, the Secretary shall use not less than 30 percent of the amount appropriated pursuant to subsection (f) to award grants to eligible institutions that are eligible for assistance under subchapter III or subchapter V, or to consortia of eligible institutions that include at least one eligible institution that is eligible for assistance under subchapter III or subchapter V.

(C) Allocation

In awarding grants under this section, the Secretary shall allocate appropriate funds to those eligible institutions whose applications indicate an ability to significantly increase the numbers of minorities and women entering the higher education professoriate and that commit institutional resources to the attainment of the purpose of this section.

(D) Number of fellowship awards

An eligible institution that receives a grant under this section shall make not less than ten fellowship awards.

(E) Insufficient funds

If the amount appropriated is not sufficient to permit all grantees under this section to provide the minimum number of fellowships required by subparagraph (D), the Secretary may, after awarding as many grants to support the minimum number of fellowships as such amount appropriated permits, award grants that do not require the grantee to award the minimum number of fellowships required by such subparagraph.

(5) Institutional allowance

(A) In general

(i) Number of allowances

In awarding grants under this section, the Secretary shall pay to each eligible institution awarded a grant, for each individual awarded a fellowship by such institution under this section, an institutional allowance.

(ii) Amount

Except as provided in subparagraph (C), for academic year 2009–2010 and succeeding academic years, an institutional allowance under this paragraph shall be in an amount equal to the amount of institutional allowance made to an institution of higher education under section 1135d of this title for such academic year.

(B) Use of funds

Institutional allowances may be expended at the discretion of the eligible institution and may be used to provide, except as prohibited under subparagraph (D), academic support and career transition services for individuals awarded fellowships by such institution.

(C) Reduction

The institutional allowance paid under subparagraph (A) shall be reduced by the amount the eligible institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(D) Use for overhead prohibited

Funds made available under this section may not be used for general operational overhead of the academic department or institution receiving funds under this section.

(d) Fellowship recipients

(1) Authorization

An eligible institution that receives a grant under this section shall use the grant funds to make fellowship awards to minorities and women who are enrolled at such institution in a doctoral degree program, or program for the highest possible degree available, and—

(A) intend to pursue a career in instruction at—

(i) an institution of higher education (as the term is defined in section 1001 of this title);

(ii) an institution of higher education (as the term is defined in section 1002(a)(1) of this title); and

(iii) a proprietary institution of higher education (as the term is defined in section 1002(b) of this title); and

(B) sign an agreement with the Secretary agreeing—

(i) to begin employment at an institution described in subparagraph (A) not later than three years after receiving the doctoral degree or highest possible degree available, which three-year period may be extended by the Secretary for extraordinary circumstances; and

(ii) to be employed by such institution for one year for each year of fellowship assistance received under this section.

(2) Repayment for failure to comply

In the event that any recipient of a fellowship under this section fails or refuses to comply with the agreement signed pursuant to paragraph (1)(B), the sum of the amounts of any fellowship received by such recipient shall, upon a determination of such a failure or refusal to comply, be treated as a Federal Direct Unsubsidized Stafford Loan under part C of subchapter IV, and shall be subject to repayment, together with interest thereon accruing from the date of the grant award, in accordance with terms and conditions specified by the Secretary in regulations under this section.

(3) Waiver and modification

(A) Regulations

The Secretary shall promulgate regulations setting forth criteria to be considered in granting a waiver for the service requirement under paragraph (1)(B).

(B) Content

The criteria under subparagraph (A) shall include whether compliance with the service requirement by the fellowship recipient would be—

(i) inequitable and represent an extraordinary hardship; or

(ii) deemed impossible because the individual is permanently and totally disabled at the time of the waiver request.

(4) Amount of fellowship awards

Fellowship awards under this section shall consist of a stipend in an amount equal to the level of support provided to fellows under the National Science Foundation Graduate Research Fellowship Program, except that such stipend shall be adjusted as necessary so as not to exceed the fellow's tuition and fees or demonstrated need (as determined by the institution of higher education where the graduate student is enrolled), whichever is greater.

(5) Academic progress required

An individual student shall not be eligible to receive a fellowship award—

(A) except during periods in which such student is enrolled, and such student is maintaining satisfactory academic progress in, and devoting essentially full time to, study or research in the pursuit of the degree for which the fellowship support was awarded; and

(B) if the student is engaged in gainful employment, other than part-time employment in

teaching, research, or similar activity determined by the eligible institution to be consistent with and supportive of the student's progress toward the appropriate degree.

(e) Rule of construction

Nothing in this section shall be construed to require an eligible institution that receives a grant under this section—

(1) to grant a preference to or to differentially treat any applicant for a faculty position as a result of the institution's participation in the program under this section; or

(2) to hire a Patsy T. Mink Fellow who completes this program and seeks employment at such institution.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §807, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3392.)

PART H—IMPROVING COLLEGE ENROLLMENT BY SECONDARY SCHOOLS

§1161h. Improving college enrollment by secondary schools

(a) In general

From the amounts appropriated under subsection (c), the Secretary shall award a grant to one nonprofit organization described in subsection (b) to enable the nonprofit organization—

(1) to make publicly available the year-to-year postsecondary education enrollment rate trends of secondary school students, disaggregated by secondary school, in compliance with section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974");

(2) to identify not less than 50 urban local educational agencies and five States with significant rural populations, each serving a significant population of low-income students, and to carry out a comprehensive assessment in the agencies and States of the factors known to contribute to improved postsecondary education enrollment rates, which factors shall include—

(A) the local educational agency's and State's leadership strategies and capacities;

(B) the secondary school curriculum and class offerings of the local educational agency and State;

(C) the professional development used by the local educational agency and the State to assist teachers, guidance counselors, and administrators in supporting the transition of secondary students to postsecondary education;

(D) secondary school student attendance and other factors demonstrated to be associated with enrollment into postsecondary education;

(E) the use of data systems by the local educational agency and the State to measure postsecondary education enrollment rates and the incentives in place to motivate the efforts of faculty and students to improve student and schoolwide outcomes; and

(F) strategies to mobilize student leaders to build a college-bound culture; and

(3) to provide comprehensive services to improve the schoolwide postsecondary education enrollment rates of each of not less than ten local educational agencies and States, with the federally funded portion of each project declining by not less than 20 percent each year beginning in the second year of the comprehensive services, that—

(A) participated in the needs assessment described in paragraph (2); and

(B) demonstrated a willingness and commitment to improving the postsecondary education enrollment rates of the local educational agency or State, respectively.

(b) Grant recipient criteria

The recipient of the grant awarded under subsection (a) shall be a nonprofit organization with demonstrated expertise—

(1) in increasing schoolwide postsecondary enrollment rates in low-income communities nationwide by providing curriculum, training, and technical assistance to secondary school staff and student peer influencers; and

(2) in a postsecondary education transition data management system.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §808, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3396; amended Pub. L. 111–39, title VIII, §801(3), July 1, 2009, 123 Stat. 1955.)

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–39 substituted "section 1232g of this title (commonly known as the 'Family Educational Rights and Privacy Act of 1974')" for "the Family Education Rights and Privacy Act of 1974".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART I—EARLY CHILDHOOD EDUCATION PROFESSIONAL DEVELOPMENT AND CAREER TASK FORCE

§1161i. Purpose

The purposes of this part are—

(1) to improve the quality of the early childhood education workforce by creating a statewide early childhood education professional development and career task force for early childhood education program staff, directors, administrators, and faculty; and

(2) to create—

(A) a coherent system of core competencies, pathways to qualifications, credentials, degrees, quality assurances, access, and outreach, for early childhood education program staff, directors, administrators, and faculty that is linked to compensation commensurate with experience and qualifications;

(B) articulation agreements that enable early childhood education professionals to transition easily among degrees; and

(C) compensation initiatives for individuals working in an early childhood education program that reflect the individuals' credentials, degrees, and experience.

(Pub. L. 89–329, title VIII, §811, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3397.)

§1161i–1. Definition of early childhood education program

In this part, the term "early childhood education program" means—

(1) a Head Start program or an Early Head Start program carried out under the Head Start Act

(42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program or an Indian Head Start program;

(2) a State licensed or regulated child care program; or

(3) a State prekindergarten program or a program authorized under section 619 [20 U.S.C. 1419] or part C [20 U.S.C. 1431 et seq.] of the Individuals with Disabilities Education Act, that serves children from birth through age six and that addresses the children's cognitive (including language, early literacy, and pre-numeracy), social, emotional, and physical development.

(Pub. L. 89–329, title VIII, §812, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3398.)

REFERENCES IN TEXT

The Head Start Act, referred to in par. (1), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in par. (3), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§1161i–2. Grants authorized

(a) In general

From the amounts appropriated under section 1161i–7 of this title, the Secretary is authorized to award grants to States in accordance with the provisions of this part to enable such States—

(1) to establish a State Task Force described in section 1161i–3 of this title; and

(2) to support activities of the State Task Force described in section 1161i–4 of this title.

(b) Competitive basis

Grants under this part shall be awarded on a competitive basis.

(c) Equitable geographic distribution

In awarding grants under this part, the Secretary shall take into consideration providing an equitable geographic distribution of such grants.

(d) Duration

Grants under this part shall be awarded for a period of five years.

(Pub. L. 89–329, title VIII, §813, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3398.)

§1161i–3. State Task Force establishment

(a) State Task Force established

The Governor of a State receiving a grant under this part shall establish, or designate an existing entity to serve as, the State Early Childhood Education Professional Development and Career Task Force (hereafter in this part referred to as the "State Task Force").

(b) Membership

The State Task Force shall include a representative of a State agency, an institution of higher education (including an associate or a baccalaureate degree granting institution of higher education), an early childhood education program, a nonprofit early childhood organization, a statewide early childhood workforce scholarship or supplemental initiative, the State Head Start collaboration director, and any other entity or individual the Governor determines appropriate.

(Pub. L. 89–329, title VIII, §814, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122

Stat. 3398.)

§1161i–4. State Task Force activities

(a) Activities

The State Task Force shall—

(1) coordinate and communicate regularly with the State Advisory Council on Early Care and Education (hereafter in this part referred to as "State Advisory Council") or a similar State entity charged with creating a comprehensive system of early care and education in the State, for the purposes of—

(A) integrating recommendations for early childhood professional development and career activities into the plans of the State Advisory Council; and

(B) assisting in the implementation of professional development and career activities that are consistent with the plans described in subparagraph (A);

(2) conduct a review of opportunities for and barriers to high-quality professional development, training, and higher education degree programs, in early childhood development and learning, including a periodic statewide survey concerning the demographics of individuals working in early childhood education programs in the State, which survey shall include information disaggregated by—

(A) race, gender, and ethnicity;

(B) compensation levels;

(C) type of early childhood education program setting;

(D) specialized knowledge of child development;

(E) years of experience in an early childhood education program;

(F) attainment of—

(i) academic credit for coursework;

(ii) an academic degree;

(iii) a credential;

(iv) licensure; or

(v) certification in early childhood education; and

(G) specialized knowledge in the education of children with limited English proficiency and students with disabilities; and

(3) develop a plan for a comprehensive statewide professional development and career system for individuals working in early childhood education programs or for early childhood education providers, which plan may include—

(A) methods of providing outreach to early childhood education program staff, directors, and administrators, including methods for how outreach is provided to non-English speaking providers, in order to enable the providers to be aware of opportunities and resources under the statewide plan;

(B) developing a unified data collection and dissemination system for early childhood education training, professional development, and higher education programs;

(C) increasing the participation of early childhood educators in high-quality training and professional development by assisting in paying the costs of enrollment in and completion of such training and professional development courses;

(D) increasing the participation of early childhood educators in undergraduate and graduate education programs leading to degrees in early childhood education by providing assistance to pay the costs of enrollment in and completion of such programs, which assistance—

(i) shall only be provided to an individual who—

(I) in the case of an individual pursuing an undergraduate or graduate degree, enters into

an agreement under which the individual agrees to work, for a reasonable number of years after receiving such a degree, in an early childhood education program that is located in a low-income area; and

(II) has a family income equal to or less than the annually adjusted national median family income as determined by the Bureau of the Census; and

(ii) shall be provided in an amount that does not exceed $17,500;

(E) supporting professional development activities and a career lattice for a variety of early childhood professional roles with varying professional qualifications and responsibilities for early childhood education personnel, including strategies to enhance the compensation of such personnel;

(F) supporting articulation agreements between two- and four-year public and private institutions of higher education and mechanisms to transform other training, professional development, and experience into academic credit;

(G) developing mentoring and coaching programs to support new educators in and directors of early childhood education programs;

(H) providing career development advising with respect to the field of early childhood education, including informing an individual regarding—

(i) entry into and continuing education requirements for professional roles in the field;

(ii) available financial assistance for postsecondary education; and

(iii) professional development and career advancement in the field;

(I) enhancing the capacity and quality of faculty and coursework in postsecondary programs that lead to an associate, baccalaureate, or graduate degree in early childhood education;

(J) consideration of the availability of on-line graduate level professional development offered by institutions of higher education with experience and demonstrated expertise in establishing programs in child development, in order to improve the skills and expertise of individuals working in early childhood education programs; and

(K) developing or enhancing a system of quality assurance with respect to the early childhood education professional development and career system, including standards or qualifications for individuals and entities who offer training and professional development in early childhood education.

(b) Public hearings

The State Task Force shall hold public hearings and provide an opportunity for public comment on the activities described in the statewide plan described in subsection (a)(3).

(c) Periodic review

The State Task Force shall meet periodically to review implementation of the statewide plan and to recommend any changes to the statewide plan the State Task Force determines necessary.

(Pub. L. 89–329, title VIII, §815, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3398.)

§1161i–5. State application and report

(a) In general

Each State desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall include a description of—

(1) the membership of the State Task Force;

(2) the activities for which the grant assistance will be used;

(3) other Federal, State, local, and private resources that will be available to support the

activities of the State Task Force described in section 1161i–4 of this title;

(4) the availability within the State of training, early childhood educator preparation, professional development, compensation initiatives, and career systems, related to early childhood education; and

(5) the resources available within the State for such training, educator preparation, professional development, compensation initiatives, and career systems.

(b) Report to the Secretary

Not later than two years after receiving a grant under this part, a State shall submit a report to the Secretary that shall describe—

(1) other Federal, State, local, and private resources that will be used in combination with a grant under this section to develop or expand the State's early childhood education professional development and career activities;

(2) the ways in which the State Advisory Council (or similar State entity) will coordinate the various State and local activities that support the early childhood education professional development and career system; and

(3) the ways in which the State Task Force will use funds provided under this part and carry out the activities described in section 1161i–4 of this title.

(Pub. L. 89–329, title VIII, §816, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3401.)

§1161i–6. Evaluations

(a) State evaluation

Each State receiving a grant under this part shall—

(1) evaluate the activities that are assisted under this part in order to determine—

(A) the effectiveness of the activities in achieving State goals;

(B) the impact of a career lattice for individuals working in early childhood education programs;

(C) the impact of the activities on licensing or regulating requirements for individuals in the field of early childhood development;

(D) the impact of the activities, and the impact of the statewide plan described in section 1161i–4(a)(3) of this title, on the quality of education, professional development, and training related to early childhood education programs that are offered in the State;

(E) the change in compensation and retention of individuals working in early childhood education programs within the State resulting from the activities; and

(F) the impact of the activities on the demographic characteristics of individuals working in early childhood education programs; and

(2) submit a report at the end of the grant period to the Secretary regarding the evaluation described in paragraph (1).

(b) Secretary's evaluation

Not later than September 30, 2013, the Secretary, in consultation with the Secretary of Health and Human Services, shall prepare and submit to the authorizing committees an evaluation of the State reports submitted under subsection (a)(2).

(Pub. L. 89–329, title VIII, §817, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3401.)

§1161i–7. Authorization of appropriations

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

fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §818, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3402.)

PART J—IMPROVING SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION WITH A FOCUS ON ALASKA NATIVE AND NATIVE HAWAIIAN STUDENTS

§1161j. Improving science, technology, engineering, and mathematics education with a focus on Alaska Native and Native Hawaiian students

(a) Purpose

The purposes of this section are—

(1) to develop or expand programs for the development of professionals in the fields of science, technology, engineering, and mathematics; and

(2) to focus resources on meeting the educational and cultural needs of Alaska Natives and Native Hawaiians.

(b) Definitions

In this section:

(1) Alaska Native

The term "Alaska Native" has the meaning given such term in section 7546 of this title.

(2) Eligible partnership

The term "eligible partnership" means a partnership that includes—

(A) one or more colleges, schools, or departments of engineering;

(B) one or more colleges of science or mathematics;

(C) one or more institutions of higher education that offer two-year degrees; and

(D) one or more private entities that—

(i) conduct career awareness activities showcasing local technology professionals;

(ii) encourage students to pursue education in science, technology, engineering, and mathematics from elementary school through postsecondary education, and careers in those fields, with the assistance of local technology professionals;

(iii) develop internships, apprenticeships, and mentoring programs in partnership with relevant industries; and

(iv) assist with placement of interns and apprentices.

(3) Institution of higher education

The term "institution of higher education" has the meaning given such term in section 1001(a) of this title.

(4) Native Hawaiian

The term "Native Hawaiian" has the meaning given the term in section 7517 of this title.

(c) Grant authorized

From the amounts appropriated to carry out this section under subsection (i), the Secretary is authorized to award a grant to an eligible partnership to enable the eligible partnership to expand programs for the development of science, technology, engineering, or mathematics professionals, from elementary school through postsecondary education, including existing programs for Alaska Native and Native Hawaiian students.

(d) Uses of funds

Grant funds under this section shall be used for one or more of the following:

(1) Development or implementation of cultural, social, or educational transition programs to assist students to transition into college life and academics in order to increase such students' retention rates in the fields of science, technology, engineering, or mathematics, with a focus on Alaska Native or Native Hawaiian students.

(2) Development or implementation of academic support or supplemental educational programs to increase the graduation rates of students in the fields of science, technology, engineering, or mathematics, with a focus on Alaska Native and Native Hawaiian students.

(3) Development or implementation of internship programs, carried out in coordination with educational institutions and private entities, to prepare students for careers in the fields of science, technology, engineering, or mathematics, with a focus on programs that serve Alaska Native or Native Hawaiian students.

(4) Such other activities as are consistent with the purpose of this section.

(e) Application

Each eligible partnership that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(f) Priority

In awarding grants under this section, the Secretary shall give priority to an eligible partnership that, on the day before August 14, 2008, provides one or more programs in which 30 percent or more of the program participants are Alaska Native or Native Hawaiian.

(g) Period of grant

A grant under this section shall be awarded for a period of five years.

(h) Evaluation and report

Each eligible partnership that receives a grant under this section shall conduct an evaluation to determine the effectiveness of the programs funded under the grant and shall provide a report regarding the evaluation to the Secretary not later than six months after the end of the grant period.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §819, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3402; amended Pub. L. 111–39, title VIII, §801(4), July 1, 2009, 123 Stat. 1955; Pub. L. 114–95, title IX, §9215(oo)(11), Dec. 10, 2015, 129 Stat. 2180.)

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114–95, §9215(oo)(11)(A), made technical amendment to reference in original act which appears in text as reference to section 7546 of this title.

Subsec. (b)(4). Pub. L. 114–95, §9215(oo)(11)(B), made technical amendment to reference in original act which appears in text as reference to section 7517 of this title.

2009—Subsec. (b)(3). Pub. L. 111–39 inserted period at end.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART K—PILOT PROGRAMS TO INCREASE COLLEGE PERSISTENCE AND SUCCESS

§1161k. Pilot programs to increase college persistence and success

(a) Grants authorized

From the amounts appropriated under subsection (i), the Secretary is authorized to award grants in accordance with this section, on a competitive basis, to eligible institutions to enable the institutions to develop programs to increase the persistence and success of low-income college students.

(b) Applications

(1) In general

An eligible institution seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. An eligible institution may submit an application to receive a grant under subsection (c) or (d) or both.

(2) Evaluation condition

Each eligible institution seeking a grant under this section shall agree to participate in the evaluation described in subsection (f).

(3) Priority for replication of evidence-based policies and practices

In awarding grants for the program under subsection (d), the Secretary shall give priority to applications submitted by eligible institutions that propose to replicate policies and practices that have proven effective in increasing persistence and degree completion by low-income students or students in need of developmental education.

(c) Pilot program to increase persistence and success in community colleges

(1) Definitions

In this subsection:

(A) Eligible institution

The term "eligible institution" means an institution of higher education, as defined in section 1001 of this title, that provides a one- or two-year program of study leading to a degree or certificate.

(B) Eligible student

The term "eligible student" means a student who—

(i) is eligible to receive assistance under section 1070a of this title;

(ii) is enrolled at least half-time;

(iii) is not younger than age 19;

(iv) is the parent of at least one dependent child, which dependent child is age 18 or younger;

(v) has a secondary school diploma or its recognized equivalent; and

(vi) does not have a degree or certificate from an institution of higher education.

(2) Uses of funds

(A) Support

The Secretary shall award grants under this subsection to eligible institutions to enable such institutions to provide additional monetary and nonmonetary support to eligible students to enable the eligible students to maintain enrollment and complete degree or certificate programs.

(B) Required uses

Each eligible institution receiving a grant under this subsection shall use the grant funds—

(i) to provide scholarships in accordance with paragraph (3); and

(ii) to provide counseling services in accordance with paragraph (4).

(C) Allowable uses of funds

Grant funds provided under this subsection may be used—

(i) to conduct outreach to make students aware of the scholarships and counseling services available under this subsection and to encourage the students to participate in the program assisted under this subsection; and

(ii) to provide incentives of $20 or less to applicants who complete the process of applying for assistance under this subsection, as compensation for the student's time.

(3) Scholarship requirements

(A) In general

Each scholarship awarded under this subsection shall—

(i) be awarded for one academic year consisting of two semesters or the equivalent;

(ii) require the student to maintain, during the scholarship period, at least half-time enrollment and at least a 2.0 grade point average or the equivalent;

(iii) be awarded in the amount of $1,000 for each of two semesters (prorated for quarters or other equivalents), or $2,000 for an academic year;

(iv) not exceed the student's cost of attendance, as defined in section 1087ll of this title; and

(v) be paid, for each of the two semesters, in increments of—

(I) $250 upon enrollment (prorated for quarters or other equivalents);

(II) $250 upon passing midterm examinations or comparable assessments (prorated for quarters or other equivalents); and

(III) $500 upon passing courses (prorated for quarters or other equivalents).

(B) Number

An eligible institution may award an eligible student not more than two scholarships under this subsection.

(4) Counseling services

(A) In general

Each eligible institution receiving a grant under this subsection shall use the grant funds to provide students at the institution with a counseling staff dedicated to students participating in the program under this subsection. Each such counselor shall—

(i) have a caseload of less than 125 students;

(ii) use a proactive, team-oriented approach to counseling;

(iii) hold a minimum of two meetings with each student each semester; and

(iv) provide referrals to and follow-up with other student services staff, including financial aid and career services.

(B) Counseling services availability

The counseling services provided under this subsection shall be available to participating students during the daytime and evening hours.

(d) Student success grant pilot program

(1) Definitions

(A) Eligible institution

In this subsection, the term "eligible institution" means an institution of higher education in which, during the three-year period preceding the year in which the institution is applying for a

grant under this subsection, an average of not less than 50 percent of the institution's entering first-year students are assessed as needing developmental courses to bring reading, writing, or mathematics skills up to college level.

(B) Eligible student

In this subsection, the term "eligible student" means a student who—

(i) is eligible to receive assistance under section 1070a of this title;

(ii) is a first-year student at the time of entering the program;

(iii) is assessed as needing developmental education to bring reading, writing, or mathematics skills up to college level; and

(iv) is selected by an eligible institution to participate in the program.

(2) Student success grant amount

The Secretary shall award grants under this subsection to eligible institutions in an amount equal to $1,500 multiplied by the number of students the institution selects to participate in the program in such year. An institution shall not select more than 200 students to participate in the program under this subsection during such year.

(3) Required uses

An eligible institution that receives a grant under this subsection shall use the grant funds to assign a student success coach to each first-year student participating in the program to provide intensive career and academic advising, ongoing personal help in navigating college services (such as financial aid and registration), and assistance in connecting to community resources that can help students overcome family and personal challenges to success. Student success coaches—

(A) shall work with not more than 50 new students during any academic period;

(B) may be employees of academic departments, student services offices, community-based organizations, or other entities as determined appropriate by the institution; and

(C) shall meet with each eligible student selected for the program before registration for courses.

(4) Allowable uses

An eligible institution that receives a grant under this subsection may use the grant funds to provide services and program innovations for students participating in the program, including the following:

(A) College and career success courses provided at no charge to participating students. These courses may cover college success topics, including how to take notes, how to study, how to take tests, and how to budget time, and may also include a substantial career exploration component. Institutions may use such courses to help students develop a college and career success plan, so that by the end of the first semester the students have a clear sense of their career goals and what classes to take to achieve such goals.

(B) Work-study jobs with private employers in the students' fields of study.

(C) Learning communities that ensure that students participating in the program are clustered together for at least two courses beginning in the first semester after enrolling and have other opportunities to create and maintain bonds that allow them to provide academic and social support to each other.

(D) Curricular redesign, which may include such innovations as blended or accelerated remediation classes that help student success grant recipients to attain college-level reading, writing, or math skills (or a combination thereof) more rapidly than traditional remediation formats allow, and intensive skills refresher classes, offered prior to each semester, to help students who have tested into remedial coursework to reach entry level assessment scores for the postsecondary programs they wish to enter.

(E) Instructional support, such as learning labs, supplemental instruction, and tutoring.

(F) Assistance with support services, such as child care and transportation.

(5) Required non-Federal share

Each institution participating in the program under this subsection shall provide a non-Federal share of 25 percent of the amount of the grant to carry out the activities of the program. The non-Federal share under this subsection may be provided in cash or in kind.

(e) Period of grant

The Secretary may award a grant under subsection (c) or (d) of this section for a period of five years.

(f) Technical assistance and evaluation

(1) Contractor

From the funds appropriated under this section, the Secretary shall enter into a contract with one or more private, nonprofit entities to provide technical assistance to grantees and to conduct the evaluations required under paragraph (3).

(2) Evaluations

The evaluations required under paragraph (3) shall be conducted by entities that are capable of designing and carrying out independent evaluations that identify the impact of the activities carried out by eligible institutions under this section on improving persistence and success of student participants under this section.

(3) Conduct of evaluations

The Secretary shall conduct an evaluation of the impact of the persistence and success grant programs as follows:

(A) Program to increase persistence in community colleges

The evaluation of the program under subsection (c) shall be conducted using a random assignment research design with the following requirements:

(i) When students are recruited for the program, all students will be told about the program and the evaluation.

(ii) Baseline data will be collected from all applicants for assistance under subsection (c).

(iii) Students will be assigned randomly to two groups, which will consist of—

(I) a program group that will receive the scholarship and the additional counseling services; and

(II) a control group that will receive whatever regular financial aid and counseling services are available to all students at the institution of higher education.

(B) Student success grant program

Eligible institutions receiving a grant to carry out the program under subsection (d) shall work with the evaluator to track persistence and completion outcomes for students in such program, specifically the proportion of these students who take and complete developmental education courses, the proportion who take and complete college-level coursework, and the proportion who complete certificates and degrees. The data shall be broken down by gender, race, ethnicity, and age and the evaluator shall assist institutions in analyzing these data to compare program participants to comparable nonparticipants, using statistical techniques to control for differences in the groups.

(g) Report

The Secretary shall—

(1) provide a report to the authorizing committees that includes the evaluation and information on best practices and lessons learned during the pilot programs described in this section; and

(2) disseminate the report to the public by making the report available on the Department's website.

(h) Supplement not supplant

Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds available to the institution to carrying out the activities described in

subsections (c) and (d).

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years. The Secretary may use not more than two percent of the amounts appropriated to provide the technical assistance and conduct the evaluations required under subsection (f).

(Pub. L. 89–329, title VIII, §820, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3404; amended Pub. L. 111–39, title VIII, §801(5), July 1, 2009, 123 Stat. 1955.)

AMENDMENTS

2009—Subsec. (d)(5). Pub. L. 111–39, §801(5)(A), inserted "the" before "grant".
Subsec. (f)(2). Pub. L. 111–39, §801(5)(B), substituted "section" for "subpart" in two places.
Subsec. (h). Pub. L. 111–39, §801(5)(C), substituted "used" for "use".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART L—STUDENT SAFETY AND CAMPUS EMERGENCY MANAGEMENT

§1161*l*. Student safety and campus emergency management

(a) Grants authorized

(1) In general

From the amounts appropriated under subsection (f), the Secretary is authorized to award grants, on a competitive basis, to institutions of higher education or consortia of institutions of higher education to enable institutions of higher education or consortia to pay the Federal share of the cost of carrying out the authorized activities described in subsection (c).

(2) Consultation with the Attorney General and the Secretary of Homeland Security

Where appropriate, the Secretary shall award grants under this section in consultation with the Attorney General and the Secretary of Homeland Security.

(3) Duration

The Secretary shall award each grant under this section for a period of two years.

(4) Limitation on institutions and consortia

An institution of higher education or consortium shall be eligible for only one grant under this section.

(b) Federal share; non-Federal share

(1) In general

The Federal share of the activities described in subsection (c) shall be 50 percent.

(2) Non-Federal share

An institution of higher education or consortium that receives a grant under this section shall provide the non-Federal share, which may be provided from State and local resources dedicated to emergency preparedness and response.

(c) Authorized activities

Each institution of higher education or consortium receiving a grant under this section may use the

grant funds to carry out one or more of the following:

(1) Developing and implementing a state-of-the-art emergency communications system for each campus of an institution of higher education or consortium, in order to contact students via cellular, text message, or other state-of-the-art communications methods when a significant emergency or dangerous situation occurs. An institution or consortium using grant funds to carry out this paragraph shall also, in coordination with the appropriate State and local emergency management authorities—

(A) develop procedures that students, employees, and others on a campus of an institution of higher education or consortium will be directed to follow in the event of a significant emergency or dangerous situation; and

(B) develop procedures the institution of higher education or consortium shall follow to inform, in a reasonable and timely manner, students, employees, and others on a campus in the event of a significant emergency or dangerous situation, which procedures shall include the emergency communications system described in this paragraph.

(2) Supporting measures to improve safety at the institution of higher education or consortium, such as—

(A) security assessments;

(B) security training of personnel and students at the institution of higher education or consortium;

(C) where appropriate, coordination of campus preparedness and response efforts with local law enforcement, local emergency management authorities, and other agencies, to improve coordinated responses in emergencies among such entities;

(D) establishing a hotline that allows a student or staff member at an institution or consortium to report another student or staff member at the institution or consortium who the reporting student or staff member believes may be a danger to the reported student or staff member or to others; and

(E) acquisition and installation of access control, video surveillance, intrusion detection, and perimeter security technologies and systems.

(3) Coordinating with appropriate local entities for the provision of mental health services for students and staff of the institution of higher education or consortium, including mental health crisis response and intervention services for students and staff affected by a campus or community emergency.

(d) Application

Each institution of higher education or consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(e) Technical assistance

The Secretary shall coordinate technical assistance provided by State and local emergency management agencies, the Department of Homeland Security, and other agencies as appropriate, to institutions of higher education or consortia that request assistance in developing and implementing the activities assisted under this section.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §821, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3408; amended Pub. L. 111–39, title VIII, §801(6), July 1, 2009, 123 Stat. 1956.)

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–39, §801(6)(A), substituted "subsection (f)" for "subsection (g)".
Subsec. (c)(1)(B). Pub. L. 111–39, §801(6)(B), substituted "in a reasonable" for "within a reasonable".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1161*l*–1. Model emergency response policies, procedures, and practices

The Secretary, in consultation with the Attorney General and the Secretary of Homeland Security, shall continue to—

(1) advise institutions of higher education on model emergency response policies, procedures, and practices; and

(2) disseminate information concerning those policies, procedures, and practices.

(Pub. L. 89–329, title VIII, §822, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3410.)

§1161*l*–2. Preparation for future disasters plan by the Secretary

The Secretary shall continue to coordinate with the Secretary of Homeland Security and other appropriate agencies to develop and maintain procedures to address the preparedness, response, and recovery needs of institutions of higher education in the event of a natural or manmade disaster with respect to which the President has declared a major disaster or emergency (as such terms are defined in section 1161l–3 of this title).

(Pub. L. 89–329, title VIII, §823, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3410.)

§1161*l*–3. Education Disaster and Emergency Relief Loan Program

(a) Program authorized

The Secretary, in consultation with the Secretary of Homeland Security, is authorized to establish an Education Disaster and Emergency Relief Loan Program for institutions of higher education impacted by a major disaster or emergency declared by the President.

(b) Use of assistance

The Secretary shall, subject to the availability of appropriations, provide loans under this section to institutions of higher education after the declaration of a major disaster or emergency by the President. Loan funds provided under this section may be used for construction, replacement, renovation, and operations costs resulting from a major disaster or emergency declared by the President.

(c) Application requirements

To be considered for a loan under this section, an institution of higher education shall—

(1) submit a financial statement and other appropriate data, documentation, or evidence requested by the Secretary that indicates that the institution incurred losses resulting from the impact of a major disaster or emergency declared by the President, and the monetary amount of such losses;

(2) demonstrate that the institution had appropriate insurance policies prior to the major disaster or emergency and filed claims, as appropriate, related to the major disaster or emergency; and

(3) demonstrate that the institution attempted to minimize the cost of any losses by pursuing collateral source compensation from the Federal Emergency Management Agency prior to seeking a loan under this section, except that an institution of higher education shall not be required to receive collateral source compensation from the Federal Emergency Management Agency prior to being eligible for a loan under this section.

(d) Audit

The Secretary may audit a financial statement submitted under subsection (c) and an institution of higher education shall provide any information that the Secretary determines necessary to conduct such an audit.

(e) Reduction in loan amounts

To determine the amount of a loan to make available to an institution of higher education under this section, the Secretary shall calculate the monetary amount of losses incurred by such institution as a result of a major disaster or emergency declared by the President, and shall reduce such amount by the amount of collateral source compensation the institution has already received from insurance, the Federal Emergency Management Agency, and the Small Business Administration.

(f) Establishment of loan program

Prior to disbursing any loans under this section, the Secretary shall prescribe regulations that establish the Education Disaster and Emergency Relief Loan Program, including—

(1) terms for the loan program;

(2) procedures for an application for a loan;

(3) minimum requirements for the loan program and for receiving a loan, including—

(A) online forms to be used in submitting a request for a loan;

(B) information to be included in such forms; and

(C) procedures to assist in filing and pursuing a loan; and

(4) any other terms and conditions the Secretary may prescribe after taking into consideration the structure of other existing capital financing loan programs under this chapter and part C of subchapter I of chapter 34 of title 42.

(g) Definitions

In this section:

(1) Institution affected by a Gulf hurricane disaster

The term "institution affected by a Gulf hurricane disaster" means an institution of higher education that—

(A) is located in an area affected by a Gulf hurricane disaster; and

(B) is able to demonstrate that the institution—

(i) incurred physical damage resulting from the impact of a Gulf hurricane disaster; and

(ii) was not able to fully reopen in existing facilities or to fully reopen to the pre-hurricane levels for 30 days or more on or after August 29, 2005.

(2) Area affected by a Gulf hurricane disaster; Gulf hurricane disaster

The terms "area affected by a Gulf hurricane disaster" and "Gulf hurricane disaster" have the meanings given such terms in section 209 of the Higher Education Hurricane Relief Act of 2005 (Public Law 109–148, 119 Stat. 2808).

(3) Emergency

The term "emergency" has the meaning given such term in section 5122(1) of title 42.

(4) Institutions of higher education

The term "institution of higher education" has the meaning given such term in section 1001 of this title.

(5) Major disaster

The term "major disaster" has the meaning given the term in section 5122(2) of title 42.

(h) Effective date

Loans provided to institutions of higher education pursuant to this section shall be available only with respect to major disasters or emergencies declared by the President that occur after August 14, 2008, except that loans may be provided pursuant to this section to an institution affected by a Gulf

hurricane disaster with respect to such disaster.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §824, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3410; amended Pub. L. 111–39, title VIII, §801(7), July 1, 2009, 123 Stat. 1956.)

REFERENCES IN TEXT

Section 209 of the Higher Education Hurricane Relief Act of 2005, referred to in subsec. (g)(2), is section 209 of title IV of div. B of Pub. L. 109–148, 119 Stat. 2808, which is not classified to the Code.

AMENDMENTS

2009—Subsec. (f)(3)(A). Pub. L. 111–39, §801(7)(A), inserted "a" after "submitting".
Subsec. (f)(3)(C). Pub. L. 111–39, §801(7)(B), substituted "pursuing" for "pursing".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1161*l*–4. Guidance on mental health disclosures for student safety

(a) Guidance

The Secretary shall continue to provide guidance that clarifies the role of institutions of higher education with respect to the disclosure of education records, including to a parent or legal guardian of a dependent student, in the event that such student demonstrates that the student poses a significant risk of harm to himself or herself or to others, including a significant risk of suicide, homicide, or assault. Such guidance shall further clarify that an institution of higher education that, in good faith, discloses education records or other information in accordance with the requirements of this chapter and part C of subchapter I of chapter 34 of title 42 and section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974") shall not be liable to any person for that disclosure.

(b) Information to Congress

The Secretary shall provide an update to the authorizing committees on the Secretary's activities under subsection (a) not later than 180 days after August 14, 2008.

(Pub. L. 89–329, title VIII, §825, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3412; amended Pub. L. 111–39, title VIII, §801(8), July 1, 2009, 123 Stat. 1956.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–39 substituted "commonly known as the 'Family Educational Rights and Privacy Act of 1974' " for "the Family Educational Rights and Privacy Act of 1974".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1161*l*–5. Rule of construction

Nothing in this part shall be construed—

(1) to provide a private right of action to any person to enforce any provision of this section;

(2) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability; or

(3) to affect section 1232g of this title (commonly known as the "Family Educational Rights and

Privacy Act of 1974") or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(Pub. L. 89–329, title VIII, §826, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3412; amended Pub. L. 111–39, title VIII, §801(9), July 1, 2009, 123 Stat. 1956.)

REFERENCES IN TEXT

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in par. (3), is section 264 of title II of Pub. L. 104–191, Aug. 21, 1996, 110 Stat. 2033, which is set out as a note under section 1320d–2 of Title 42, The Public Health and Welfare.

AMENDMENTS

2009—Par. (3). Pub. L. 111–39 substituted "commonly known as the 'Family Educational Rights and Privacy Act of 1974' " for "the Family Educational Rights and Privacy Act of 1974".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART M—LOW TUITION

§1161m. Incentives and rewards for low tuition

(a) Rewards for low tuition

(1) Grants

From funds made available under subsection (e), the Secretary shall award grants to institutions of higher education that, for academic year 2009–2010 or any succeeding academic year—

(A) have an annual tuition and fee increase, expressed as a percentage change, for the most recent academic year for which satisfactory data is available, that is in the lowest 20 percent of such increases for each category described in subsection (b);

(B) are public institutions of higher education that have tuition and fees that are in the lowest quartile of institutions in each category described in subsection (b)(1), (b)(4), or (b)(7); or

(C) are public institutions of higher education that have a tuition and fee increase of less than $600 for a first-time, full-time undergraduate student.

(2) Use of funds

Funds awarded to an institution of higher education under paragraph (1) shall be distributed by the institution in the form of need-based grant aid to students who are eligible for Federal Pell Grants, except that no student shall receive an amount under this section that would cause the amount of total financial aid received by such student to exceed the cost of attendance of the institution.

(b) Categories of institutions

The categories of institutions described in subsection (a) shall be the following:

(1) four-year public institutions of higher education;
(2) four-year private, nonprofit institutions of higher education;
(3) four-year private, for-profit institutions of higher education;
(4) two-year public institutions of higher education;
(5) two-year private, nonprofit institutions of higher education;
(6) two-year private, for-profit institutions of higher education;
(7) less than two-year public institutions of higher education;
(8) less than two-year private, nonprofit institutions of higher education; and
(9) less than two-year private, for-profit institutions of higher education.

(c) Rewards for guaranteed tuition

(1) Bonus

For each institution of higher education that the Secretary determines complies with the requirements of paragraph (2) or (3) of this subsection, the Secretary shall provide to such institution a bonus amount. Such institution shall award the bonus amount in the form of need-based aid first to students who are eligible for Federal Pell Grants who were in attendance at the institution during the award year that such institution satisfied the eligibility criteria for maintaining low tuition and fees, then to students who are eligible for Federal Pell Grants who were not in attendance at the institution during such award year.

(2) Four-year institutions

An institution of higher education that provides a program of instruction for which it awards a bachelor's degree complies with the requirements of this paragraph if—

(A) for a public institution of higher education, such institution's tuition and fees are in the lowest quartile of institutions in the same category as described under subsection (b); or

(B) for any institution of higher education, such institution guarantees that for any academic year (or the equivalent) beginning on or after July 1, 2009, and for each of the four succeeding continuous academic years, the tuition and fees charged to an undergraduate student will not exceed—

(i) for a public institution of higher education, $600 per year for a full-time undergraduate student; or

(ii) for any other institution of higher education—

(I) the amount that the student was charged for an academic year at the time the student first enrolled in the institution of higher education, plus

(II) the percentage change in tuition and fees at the institution for the three most recent academic years for which data is available, multiplied by the amount determined under subclause (I).

(3) Less-than four-year institutions

An institution of higher education that does not provide a program of instruction for which it awards a bachelor's degree complies with the requirements of this paragraph if—

(A) for a public institution of higher education, such institution's tuition is in the lowest quartile of institutions in the same category as described under subsection (b); or

(B) for any institution of higher education, such institution guarantees that for any academic year (or the equivalent) beginning on or after July 1, 2009, and for each of the 1.5 succeeding continuous academic years, the tuition and fees charged to an undergraduate student will not exceed—

(i) for a public institution of higher education, $600 per year for a full-time undergraduate student; or

(ii) for any other institution of higher education—

(I) the amount that the student was charged for an academic year at the time the student first enrolled in the institution of higher education, plus

(II) the percentage change in tuition and fees at the institution for the three most recent academic years for which data is available, multiplied by the amount determined under subclause (I).

(d) Definitions

In this section, the terms "tuition and fees" and "net price" have the meaning given to such terms in section 1015a of this title.

(e) Authorization

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §830, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122

Stat. 3413; amended Pub. L. 111–39, title VIII, §801(10), July 1, 2009, 123 Stat. 1956.)

AMENDMENTS

2009—Subsec. (a)(1)(B). Pub. L. 111–39 substituted "of institutions" for "of for institutions".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART N—COOPERATIVE EDUCATION

§1161n. Statement of purpose; definition

(a) Purpose

It is the purpose of this part to award grants to institutions of higher education or consortia of such institutions to encourage such institutions to develop and make available to their students work experience that will aid such students in future careers and will enable such students to support themselves financially while in school.

(b) Definition

In this part the term "cooperative education" means the provision of alternating or parallel periods of academic study and public or private employment to give students work experiences related to their academic or occupational objectives and an opportunity to earn the funds necessary for continuing and completing their education.

(Pub. L. 89–329, title VIII, §831, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3415.)

§1161n–1. Reservations

(a) Reservations

Of the amount appropriated to carry out this part in each fiscal year—

(1) not less than 50 percent shall be available for awarding grants to institutions of higher education and consortia of such institutions described in section 1161n–2(a)(1)(A) of this title for cooperative education under section 1161n–2 of this title;

(2) not less than 25 percent shall be available for awarding grants to institutions of higher education described in section 1161n–2(a)(1)(B) of this title for cooperative education under section 1161n–2 of this title;

(3) not to exceed 11 percent shall be available for demonstration projects under paragraph (1) of section 1161n–3(a) of this title;

(4) not to exceed 11 percent shall be available for training and resource centers under paragraph (2) of section 1161n–3(a) of this title; and

(5) not to exceed 3 percent shall be available for research under paragraph (3) of section 1161n–3(a) of this title.

(b) Availability of appropriations

Amounts appropriated under this part shall not be used for the payment of compensation of students for employment by employers participating in a program under this part.

(Pub. L. 89–329, title VIII, §832, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3415.)

§1161n–2. Grants for cooperative education

(a) Grants authorized

(1) In general

The Secretary is authorized, from the amount available to carry out this section under section 1161n–4 of this title in each fiscal year and in accordance with the provisions of this part—

(A) to award grants to institutions of higher education or consortia of such institutions that have not received a grant under this paragraph in the ten-year period preceding the date for which a grant under this section is requested to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or consortia of institutions; and

(B) to award grants to institutions of higher education that are operating an existing cooperative education program as determined by the Secretary to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions.

(2) Program requirement

Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving students work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

(3) Amount of grants

(A) The amount of each grant awarded pursuant to paragraph (1)(A) to any institution of higher education or consortia of such institutions in any fiscal year shall not exceed $500,000.

(B)(i) Except as provided in clauses (ii) and (iii), the Secretary shall award grants in each fiscal year to each institution of higher education described in paragraph (1)(B) that has an application approved under subsection (b) in an amount that bears the same ratio to the amount reserved pursuant to section 1161n–1(a)(2) of this title for such fiscal year as the number of unduplicated students placed in cooperative education jobs during the preceding fiscal year by such institution of higher education (other than cooperative education jobs under section 1161n–3 of this title and as determined by the Secretary) bears to the total number of all such students placed in such jobs during the preceding fiscal year by all such institutions.

(ii) No institution of higher education shall receive a grant pursuant to paragraph (1)(B) in any fiscal year in an amount that exceeds 25 percent of such institution's cooperative education program's personnel and operating budget for the preceding fiscal year.

(iii) The minimum annual grant amount that an institution of higher education is eligible to receive under paragraph (1)(B) is $1,000 and the maximum annual grant amount is $75,000.

(4) Limitation

The Secretary shall not award grants pursuant to subparagraphs (A) and (B) of paragraph (1) to the same institution of higher education or consortia of such institution in any one fiscal year.

(5) Uses

Grants awarded under paragraph (1)(B) shall be used exclusively—

(A) to expand the quality of and participation in a cooperative education program;

(B) for outreach to potential participants in new curricular areas; and

(C) for outreach to potential participants including underrepresented and nontraditional populations.

(b) Applications

Each institution of higher education or consortium of such institutions desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

(1) set forth the program or activities for which a grant is authorized under this section;

(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant, and the amount of grant funds to be used for such program or activities;

(3) provide that the applicant will expend, during the fiscal year for which the grant is awarded for the purpose of such program or activities, not less than the amount expended for such purpose during the previous fiscal year;

(4) describe the plans which the applicant will carry out to assure, and contain a formal statement of the institution's commitment that assures, that the applicant will continue the cooperative education program beyond the five-year period of Federal assistance described in subsection (c)(1) at a level that is not less than the total amount expended for such program during the first year such program was assisted under this section;

(5) provide that, in the case of an institution of higher education that provides a two-year program that is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate or associate degree candidates and who carry at least one-half of the normal full-time academic workload;

(6) provide that the applicant will—

(A) make such reports as may be necessary to ensure that the applicant is complying with the provisions of this section, including reports for the second and each succeeding fiscal year for which the applicant receives a grant with respect to the impact of the cooperative education program in the previous fiscal year, including—

(i) the number of unduplicated student applicants in the cooperative education program;

(ii) the number of unduplicated students placed in cooperative education jobs;

(iii) the number of employers who have hired cooperative education students;

(iv) the income for students derived from working in cooperative education jobs; and

(v) the increase or decrease in the number of unduplicated students placed in cooperative education jobs in each fiscal year compared to the previous fiscal year; and

(B) keep such records as may be necessary to ensure that the applicant is complying with the provisions of this part, including the notation of cooperative education employment on the student's transcript;

(7) describe the extent to which programs in the academic disciplines for which the application is made have satisfactorily met the needs of public and private sector employers;

(8) describe the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit;

(9) describe the plans that the applicant will carry out to evaluate the applicant's cooperative education program at the end of the grant period;

(10) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part;

(11) demonstrate a commitment to serving underserved populations at the institution; and

(12) include such other information as may be necessary to carry out the provisions of this part.

(c) Duration of grants; Federal share

(1) Duration of grants

No individual institution of higher education may receive, individually or as a participant in a consortium of such institutions—

(A) a grant pursuant to subsection (a)(1)(A) for more than five fiscal years; or

(B) a grant pursuant to subsection (a)(1)(B) for more than five fiscal years.

(2) Federal share

The Federal share of a grant under subsection (a)(1)(A) may not exceed—

(A) 85 percent of the cost of carrying out the program or activities described in the application in the first year the applicant receives a grant under this section;

(B) 70 percent of such cost in the second such year;
(C) 55 percent of such cost in the third such year;
(D) 40 percent of such cost in the fourth such year; and
(E) 25 percent of such cost in the fifth such year.

(3) Special rule

Notwithstanding any other provision of law, the Secretary may not waive the provisions of paragraphs (1) and (2).

(d) Maintenance of effort

If the Secretary determines that a recipient of funds under this section has failed to maintain the fiscal effort described in subsection (b)(3), then the Secretary may elect not to make grant payments under this section to such recipient.

(e) Factors for special consideration of applications

(1) In general

In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education or consortia of such institutions for programs that show the greatest promise of success based on—

(A) the extent to which programs in the academic discipline with respect to which the application is made have satisfactorily met the needs of public and private sector employers;

(B) the strength of the commitment of the institution of higher education or consortium of such institutions to cooperative education as demonstrated by the plans and formalized institutional commitment statement which such institution or consortium has made to continue the program after the termination of Federal financial assistance;

(C) the extent to which the institution or consortium of institutions is committed to extending cooperative education for students who can benefit; and

(D) such other factors as are consistent with the purpose of this part.

(2) Additional special consideration

The Secretary shall also give special consideration to applications from institutions of higher education or consortia of such institutions that demonstrate a commitment to serving underserved populations attending such institutions.

(Pub. L. 89–329, title VIII, §833, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3415; amended Pub. L. 111–39, title VIII, §801(11), July 1, 2009, 123 Stat. 1956.)

AMENDMENTS

2009—Subsec. (e)(1). Pub. L. 111–39, §801(11)(A), substituted "based on" for "because of" in introductory provisions.

Subsec. (e)(1)(D). Pub. L. 111–39, §801(11)(B), substituted "purpose of this part" for "purposes of this section".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

§1161n–3. Demonstration and innovation projects; training and resource centers; and research

(a) Authorization

From the amounts appropriated under section 1161n–4 of this title, the Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts—

(1) from the amounts available in each fiscal year under section 1161n–1(a)(3) of this title, for the conduct of demonstration projects designed to demonstrate or determine the effectiveness of

innovative methods of cooperative education;

(2) from the amounts available in each fiscal year under section 1161n–1(a)(4) of this title, for the conduct of training and resource centers designed to—

(A) train personnel in the field of cooperative education;

(B) improve materials used in cooperative education programs if such improvement is conducted in conjunction with other activities described in this paragraph;

(C) provide technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

(D) encourage model cooperative education programs that furnish education and training in occupations in which there is a national need;

(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with one or more institutions of higher education in order to—

(i) assist the institution that is not the institution carrying out the cooperative education program to develop and expand an existing program of cooperative education; or

(ii) establish and improve or expand comprehensive cooperative education programs; and

(F) encourage model cooperative education programs in the fields of science and mathematics for women and minorities who are underrepresented in such fields; and

(3) from the amounts available in each fiscal year under section 1161n–1(a)(5) of this title, for the conduct of research relating to cooperative education.

(b) Administrative provision

(1) In general

To carry out this section, the Secretary may—

(A) make grants to or contracts with institutions of higher education or consortia of such institutions; and

(B) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will contribute to the objectives of this section.

(2) Limitation

(A) Contracts with institutions of higher education

The Secretary may use not more than three percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(A).

(B) Contracts with other agencies or organizations

The Secretary may use not more than three percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(B).

(c) Supplement not supplant

A recipient of a grant or contract under this section may use the funds provided only to supplement funds made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.

(Pub. L. 89–329, title VIII, §834, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3419.)

§1161n–4. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §835, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3420.)

PART O—COLLEGE PARTNERSHIP GRANTS

§1161*o*. College partnership grants authorized

(a) Grants authorized

From the amount appropriated to carry out this section, the Secretary shall award grants to eligible partnerships for the purposes of developing and implementing articulation agreements.

(b) Eligible partnerships

For purposes of this part, an eligible partnership shall include at least two institutions of higher education, or a system of institutions of higher education, and may include either or both of the following:

(1) A consortia of institutions of higher education.

(2) A State higher education agency.

(c) Priority

The Secretary shall give priority to eligible partnerships that—

(1) are located in a State that has employed strategies described in section 1093a(b)(1) of this title; or

(2) include—

(A) one or more junior or community colleges (as defined by section 1058(f) of this title) that award associate's degrees; and

(B) one or more institutions of higher education that offer a baccalaureate or post-baccalaureate degree not awarded by the institutions described in subparagraph (A) with which it is partnered.

(d) Mandatory use of funds

Grants awarded under this part shall be used for—

(1) the development of policies and programs to expand opportunities for students to earn bachelor's degrees, by facilitating the transfer of academic credits between institutions and expanding articulation and guaranteed transfer agreements between institutions of higher education, including through common course numbering and general education core curriculum;

(2) academic program enhancements; and

(3) programs to identify and remove barriers that inhibit student transfers, including technological and informational programs.

(e) Optional use of funds

Grants awarded under this part may be used for—

(1) support services to students participating in the program, such as tutoring, mentoring, and academic and personal counseling; and

(2) any service that facilitates the transition of students between the partner institutions.

(f) Prohibition

No funds provided under this section shall be used to financially compensate an institution for the purposes of entering into an articulation agreement or for accepting students transferring into such institution.

(g) Applications

Any eligible partnership that desires to obtain a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information or assurances as the Secretary may require.

(h) Definition

For purposes of this section, the term "articulation agreement" means an agreement between institutions of higher education that specifies the acceptability of courses in transfer toward meeting specific degree requirements.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §841, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3420; amended Pub. L. 111–39, title VIII, §801(12), July 1, 2009, 123 Stat. 1956.)

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111–39 substituted "1093a(b)(1)" for "1093a(d)".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART P—JOBS TO CAREERS

§1161p. Grants to create bridges from jobs to careers

(a) Purpose

The purpose of this section is to provide grants on a competitive basis to institutions of higher education for the purpose of improving developmental education to help students move more rapidly into for-credit occupational courses and into better jobs that may require a certificate or degree.

(b) Authorization of program

From amounts appropriated to carry out this section, the Secretary shall award grants, on a competitive basis, to institutions of higher education, as defined in section 1001(a) of this title, to create workforce bridge programs between developmental courses and for-credit courses in occupational certificate programs that are articulated to degree programs. Such workforce bridge programs shall focus on—

(1) improving developmental education, including English language instruction, by customizing developmental education to student career goals; and

(2) helping students move rapidly from developmental coursework into for-credit occupational courses and through program completion.

(c) Application

An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(d) Priorities

The Secretary shall give priority to applications that—

(1) are from institutions of higher education in which not less than 50 percent of the institution's entering first-year students who are subject to mandatory assessment are assessed as needing developmental courses to bring reading, writing, or mathematics skills up to college level; and

(2) propose to replicate practices that have proven effective with adults, or propose to collaborate with adult education providers.

(e) Required activity

An institution of higher education that receives a grant under this section shall use the grant funds to create workforce bridge programs to customize developmental education curricula, including

English language instruction, to reflect the content of for-credit occupational certificate or degree programs, or clusters of such programs, in which developmental education students are enrolled or plan to enroll. Such workforce bridge programs shall integrate the curricula and the instruction of the developmental and college-level coursework.

(f) Permissible activities

An institution of higher education that receives a grant under this section may use the grant funds to carry out one or more of the following activities:

(1) Designing and implementing innovative ways to improve retention in and completion of developmental education courses, including enrolling students in cohorts, accelerating course content, dually enrolling students in developmental and college-level courses, tutoring, providing counseling and other supportive services, and giving small, material incentives for attendance and performance.

(2) In consultation with faculty in the appropriate departments, reconfiguring courses offered on-site during standard academic terms for modular, compressed, or other alternative schedules, or for distance-learning formats, to meet the needs of working adults.

(3) Developing counseling strategies that address the needs of students in remedial education courses, and including counseling students on career options and the range of programs available, such as certificate programs that are articulated to degree programs and programs designed to facilitate transfer to four-year institutions of higher education.

(4) Improving the quality of teaching in remedial courses through professional development, reclassification of such teaching positions, or other means the institution of higher education determines appropriate.

(5) Any other activities the institution of higher education and the Secretary determine will promote retention of, and completion by, students attending institutions of higher education.

(g) Grant period

Grants made under this section shall be for a period of not less than three years and not more than five years.

(h) Technical assistance

The Secretary shall provide technical assistance to recipients of, and applicants for, grants under this section.

(i) Report and summary

Each institution of higher education that receives a grant under this section shall report to the Secretary on the effectiveness of the program in enabling students to move rapidly from developmental coursework into for-credit occupational courses and through program completion. The Secretary shall summarize the reports, identify best practices, and disseminate the information from such summary and identification to the public.

(j) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §851, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3421; amended Pub. L. 111–39, title VIII, §801(13), July 1, 2009, 123 Stat. 1956.)

AMENDMENTS

2009—Subsec. (j). Pub. L. 111–39 inserted "to be appropriated" after "authorized".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART Q—RURAL DEVELOPMENT GRANTS FOR RURAL-SERVING COLLEGES AND UNIVERSITIES

§1161q. Grants to rural-serving institutions of higher education

(a) Purposes

The purposes of this section are—

(1) to increase enrollment and graduation rates of secondary school graduates and nontraditional students from rural areas at two-year and four-year institutions of higher education, and their articulation from two-year degree programs into four-year degree programs; and

(2) to promote economic growth and development in rural America through partnership grants to consortia of rural-serving institutions of higher education, local educational agencies, and regional employers.

(b) Definitions

For the purposes of this section:

(1) Rural-serving institution of higher education

The term "rural-serving institution of higher education" means an institution of higher education that primarily serves rural areas.

(2) Rural area

The term "rural area" means an area that is defined, identified, or otherwise recognized as rural by a governmental agency of the State in which the area is located.

(3) Nontraditional student

The term "nontraditional student" means an individual who—

(A) delays enrollment in an institution of higher education by three or more years after secondary school graduation;

(B) attends an institution of higher education part-time; or

(C) attends an institution of higher education and—

(i) works full-time;

(ii) is an independent student, as defined in section 1087vv of this title;

(iii) has one or more dependents other than a spouse;

(iv) is a single parent; or

(v) does not have a secondary school diploma or the recognized equivalent of such a diploma.

(4) Regional employer

The term "regional employer" means an employer within a rural area.

(c) Partnership

(1) Required partners

A rural-serving institution of higher education, or a consortium of rural-serving institutions of higher education, that receives a grant under this section shall carry out the activities of the grant in partnership with—

(A) one or more local educational agencies serving a rural area; and

(B) one or more regional employers or local boards (as such term is defined in section 3102 of title 29) serving a rural area.

(2) Optional partners

A rural-serving institution of higher education, or a consortium of rural-serving institutions of higher education, that receives a grant under this section, may carry out the activities of the grant in partnership with—

(A) an educational service agency (as defined in section 7801 of this title); or

(B) a nonprofit organization with demonstrated expertise in rural education at the secondary and postsecondary levels.

(d) Grants authorized

(1) In general

From amounts made available under subsection (g), the Secretary is authorized to award grants, on a competitive basis, to eligible rural-serving institutions of higher education or a consortium of such institutions, to carry out the activities described in subsection (f).

(2) Duration

A grant awarded under this section shall be awarded for a period not to exceed three years.

(3) Maximum and minimum grants

No grant awarded under this section shall be less than $200,000.

(4) Special considerations

In awarding grants under this section, the Secretary shall give special consideration to applications that demonstrate the most potential and propose the most promising and innovative approaches for—

(A) increasing the percentage of graduates of rural secondary schools attending rural-serving institutions of higher education;

(B) meeting the employment needs of regional employers with graduates of rural-serving institutions of higher education; and

(C) improving the health of the regional economy of a rural area through a partnership of local educational agencies serving the rural area, rural-serving institutions of higher education, and regional employers.

(5) Limitation

A rural-serving institution of higher education shall not receive more than one grant under this section.

(e) Applications

Each rural-serving institution of higher education desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(f) Required use of funds

A rural-serving institution of higher education that receives a grant under this section shall use grant funds for at least three of the following four purposes:

(1) To improve postsecondary enrollment rates for rural secondary school students at rural-serving institutions of higher education, which may include—

(A) programs to provide students and families with counseling related to applying for postsecondary education, and Federal and State financial assistance for postsecondary education;

(B) programs that provide students and families of rural high schools access and exposure to campuses, classes, programs, and internships of rural-serving institutions of higher education, including covering the cost of transportation to and from such institutions; and

(C) other initiatives that assist students and families in applying for and developing interest in attending rural-serving institutions of higher education.

(2) To increase enrollment rates of nontraditional students in degree programs at rural-serving institutions of higher education, which may include—

(A) programs to provide nontraditional students with counseling related to applying for postsecondary education, and Federal and State financial assistance for postsecondary education;

(B) community outreach initiatives to encourage nontraditional students to enroll in a rural-serving institution of higher education; and

(C) programs to improve the enrollment of nontraditional students in two-year degree programs and the transition of nontraditional students articulating from two-year degree programs to four-year degree programs.

(3) To create or strengthen academic programs at rural-serving institutions of higher education to prepare graduates to enter into high-need occupations in the regional and local economies.

(4) To provide additional career training to students of rural-serving institutions of higher education in fields relevant to the regional economy.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as many be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §861, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3423; amended Pub. L. 113–128, title V, §512(n)(6), July 22, 2014, 128 Stat. 1711; Pub. L. 114–95, title IX, §9215(oo)(12), Dec. 10, 2015, 129 Stat. 2180.)

AMENDMENTS

2015—Subsec. (c)(2)(A). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

2014—Subsec. (c)(1)(B). Pub. L. 113–128 substituted "local boards (as such term is defined in section 3102 of title 29)" for "local boards (as such term is defined in section 2801 of title 29)".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

PART R—CAMPUS-BASED DIGITAL THEFT PREVENTION

§1161r. Campus-based digital theft prevention

(a) Program authority

From the amounts appropriated under subsection (d), the Secretary may make grants to institutions of higher education, or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, education, and cost-effective technological solutions, to reduce and eliminate the illegal downloading and distribution of intellectual property. Such grants or contracts may also be used for the support of higher education centers that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

(b) Awards

Grants and contracts shall be awarded under this section on a competitive basis.

(c) Applications

An institution of higher education or a consortium of such institutions that desires to receive a

grant or contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §871, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3425.)

PART S—TRAINING FOR REALTIME WRITERS

§1161s. Program to promote training and job placement of realtime writers

(a) Authorization of grant program

(1) In general

From the amounts appropriated to carry out this section, the Secretary shall award grants, on a competitive basis, to eligible entities under paragraph (2) to promote training and placement of individuals, including individuals who have completed a court reporting training program, as realtime writers in order to meet the requirements for closed captioning of video programming set forth in section 613 of title 47 and the rules prescribed thereunder.

(2) Eligible entities

For purposes of this section, an eligible entity is a court reporting program that—

(A) has a curriculum capable of training realtime writers qualified to provide captioning services;

(B) is accredited by an accrediting agency or association recognized by the Secretary; and

(C) is participating in student aid programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(3) Priority in grants

In determining whether to make grants under this section, the Secretary shall give a priority to eligible entities that, as determined by the Secretary—

(A) possess the most substantial capability to increase their capacity to train realtime writers;

(B) demonstrate the most promising collaboration with educational institutions, businesses, labor organizations, or other community groups having the potential to train or provide job placement assistance to realtime writers; or

(C) propose the most promising and innovative approaches for initiating or expanding training or job placement assistance efforts with respect to realtime writers.

(4) Duration of grant

A grant under this section shall be for a period of up to five years.

(5) Maximum amount of grant

The amount of a grant provided under this subsection to an eligible entity may not exceed $1,500,000 for the period of the grant.

(b) Application

(1) In general

To receive a grant under subsection (a), an eligible entity shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall contain the information set forth under paragraph (2).

(2) Information

Information in the application of an eligible entity for a grant under subsection (a) shall include the following:

(A) A description of the training and assistance to be funded using the grant amount, including how such training and assistance will increase the number of realtime writers.

(B) A description of performance measures to be utilized to evaluate the progress of individuals receiving such training and assistance in matters relating to enrollment, completion of training, and job placement and retention.

(C) A description of the manner in which the eligible entity will ensure that recipients of scholarships, if any, funded by the grant will be employed and retained as realtime writers.

(D) A description of the manner in which the eligible entity intends to continue providing the training and assistance to be funded by the grant after the end of the grant period, including any partnerships or arrangements established for that purpose.

(E) A description of how the eligible entity will work with local boards (as defined in section 3102 of title 29) to ensure that training and assistance to be funded with the grant will further local workforce goals, including the creation of educational opportunities for individuals who are from economically disadvantaged backgrounds or are displaced workers.

(F) Additional information, if any, on the eligibility of the eligible entity for priority in the making of grants under subsection (a)(3).

(G) Such other information as the Secretary may require.

(c) Use of funds

(1) In general

An eligible entity receiving a grant under subsection (a) shall use the grant amount for purposes relating to the recruitment, training and assistance, and job placement of individuals, including individuals who have completed a court reporting training program, as realtime writers, including—

(A) recruitment;

(B) subject to paragraph (2), the provision of scholarships;

(C) distance learning;

(D) further developing and implementing both English and Spanish curricula to more effectively train individuals in realtime writing skills, and education in the knowledge necessary for the delivery of high quality closed captioning services;

(E) mentoring students to ensure successful completion of the realtime training and providing assistance in job placement;

(F) encouraging individuals with disabilities to pursue a career in realtime writing; and

(G) the employment and payment of personnel for the purposes described in this paragraph.

(2) Scholarships

(A) Amount

The amount of a scholarship under paragraph (1)(B) shall be based on the amount of need of the scholarship recipient for financial assistance, as determined in accordance with part E of subchapter IV.

(B) Agreement

Each recipient of a scholarship under paragraph (1)(B) shall enter into an agreement with the school in which the recipient is enrolled to provide realtime writing services for the purposes described in subsection (a)(1) for a period of time appropriate (as determined by the Secretary) for the amount of the scholarship received.

(C) Coursework and employment

The Secretary shall establish requirements for coursework and employment for recipients of scholarships under paragraph (1)(B), including requirements for repayment of scholarship amounts in the event of failure to meet such requirements for coursework and employment. The

Secretary may waive, in whole or in part, the requirements for repayment of scholarship amounts on the basis of economic conditions which may affect the ability of scholarship recipients to find work as realtime writers.

(3) Administrative costs

The recipient of a grant under this section may not use more than five percent of the grant amount to pay administrative costs associated with activities funded by the grant. The Secretary shall use not more than five percent of the amount available for grants under this section in any fiscal year for administrative costs of the program.

(4) Supplement not supplant

Grant amounts under this section shall supplement and not supplant other Federal or non-Federal funds of the grant recipient for purposes of promoting the training and placement of individuals as realtime writers.

(d) Report

(1) In general

Each eligible entity receiving a grant under subsection (a) shall submit to the Secretary, at the end of the grant period, a report on the activities of such entity with respect to the use of grant amounts during the grant period.

(2) Report information

Each report of an eligible entity under paragraph (1) shall include—

(A) an assessment by the entity of the effectiveness of activities carried out using such funds in increasing the number of realtime writers, using the performance measures submitted by the eligible entity in the application for the grant under subsection (b)(2); and

(B) a description of the best practices identified by the eligible entity for increasing the number of individuals who are trained, employed, and retained in employment as realtime writers.

(3) Summaries

The Secretary shall summarize the reports submitted under paragraph (2) and make such summary available on the Department's website.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §872, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3426; amended Pub. L. 113–128, title V, §512(n)(7), July 22, 2014, 128 Stat. 1711.)

AMENDMENTS

2014—Subsec. (b)(2)(E). Pub. L. 113–128 substituted "local boards (as defined in section 3102 of title 29)" for "local boards (as defined in section 2801 of title 29)".

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

PART T—CENTERS OF EXCELLENCE FOR VETERAN STUDENT SUCCESS

§1161t. Model programs for Centers of Excellence for Veteran Student Success

(a) Purpose

It is the purpose of this section to encourage model programs to support veteran student success in postsecondary education by coordinating services to address the academic, financial, physical, and social needs of veteran students.

(b) Grants authorized

(1) In general

Subject to the availability of appropriations under subsection (f), the Secretary shall award grants to institutions of higher education to develop model programs to support veteran student success in postsecondary education.

(2) Grant period

A grant awarded under this section shall be awarded for a period of three years.

(c) Use of grants

(1) Required activities

An institution of higher education receiving a grant under this section shall use such grant to carry out a model program that includes—

(A) establishing a Center of Excellence for Veteran Student Success on the campus of the institution to provide a single point of contact to coordinate comprehensive support services for veteran students;

(B) establishing a veteran student support team, including representatives from the offices of the institution responsible for admissions, registration, financial aid, veterans benefits, academic advising, student health, personal or mental health counseling, career advising, disabilities services, and any other office of the institution that provides support to veteran students on campus;

(C) providing a coordinator whose primary responsibility is to coordinate the model program carried out under this section;

(D) monitoring the rates of veteran student enrollment, persistence, and completion; and

(E) developing a plan to sustain the Center of Excellence for Veteran Student Success after the grant period.

(2) Other authorized activities

An institution of higher education receiving a grant under this section may use such grant to carry out any of the following activities with respect to veteran students:

(A) Outreach and recruitment of such students.

(B) Supportive instructional services for such students, which may include—

(i) personal, academic, and career counseling, as an ongoing part of the program;

(ii) tutoring and academic skill-building instruction assistance, as needed; and

(iii) assistance with special admissions and transfer of credit from previous postsecondary education or experience.

(C) Assistance in obtaining student financial aid.

(D) Housing support for veteran students living in institutional facilities and commuting veteran students.

(E) Cultural events, academic programs, orientation programs, and other activities designed to ease the transition to campus life for veteran students.

(F) Support for veteran student organizations and veteran student support groups on campus.

(G) Coordination of academic advising and admissions counseling with military bases and national guard units in the area.

(H) Other support services the institution determines to be necessary to ensure the success of veterans in achieving educational and career goals.

(d) Application; selection

(1) Application

To be considered for a grant under this section, an institution of higher education shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(2) Selection considerations

In awarding grants under this section, the Secretary shall consider—

(A) the number of veteran students enrolled at an institution of higher education; and

(B) the need for model programs to address the needs of veteran students at a wide range of institutions of higher education, including the need to provide—

(i) an equitable distribution of such grants to institutions of higher education of various types and sizes;

(ii) an equitable geographic distribution of such grants; and

(iii) an equitable distribution of such grants among rural and urban areas.

(e) Evaluation and accountability plan

The Secretary shall develop an evaluation and accountability plan for model programs funded under this section to objectively measure the impact of such programs, including a measure of whether postsecondary education enrollment, persistence, and completion for veterans increases as a result of such programs.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §873, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3428.)

PART U—UNIVERSITY SUSTAINABILITY PROGRAMS

§1161u. Sustainability planning grants authorized

(a) Program authorized

(1) In general

From the amounts appropriated to carry out this section, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall make grants to eligible entities to establish sustainability programs to design and implement sustainability practices, including in the areas of energy management, greenhouse gas emissions reductions, green building, waste management, purchasing, transportation, and toxics management, and other aspects of sustainability that integrate campus operations with multidisciplinary academic programs and are applicable to the private and government sectors.

(2) Period of grant

The provision of payments under a grant under paragraph (1) shall extend over a period of not more than four fiscal years.

(3) Definition of eligible entity

For purposes of this part, the term "eligible entity" means—

(A) an institution of higher education; or

(B) a nonprofit consortium, association, alliance, or collaboration operating in partnership with one or more institutions of higher education that received funds for the implementation of

work associated with sustainability programs under this part.

(b) Applications

(1) In general

To receive a grant under subsection (a)(1), an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may reasonably require.

(2) Assurances

Such application shall include assurances that the eligible entity—

(A) has developed a plan, including an evaluation component, for the program component established pursuant to subsection (c);

(B) shall use Federal funds received from a grant under subsection (a) to supplement, not supplant, non-Federal funds that would otherwise be available for projects funded under this section;

(C) shall provide, with respect to any fiscal year in which such entity receives funds from a grant under subsection (a)(1), non-Federal funds or an in-kind contribution in an amount equal to 20 percent of funds from such grant, for the purpose of carrying out the program component established pursuant to subsection (c); and

(D) shall collaborate with business, government, and the nonprofit sectors in the development and implementation of its sustainability plan.

(c) Use of funds

(1) Individual institutions

Grants made under subsection (a) may be used by an eligible entity that is an individual institution of higher education for the following purposes:

(A) To develop and implement administrative and operations practices at an institution of higher education that test, model, and analyze principles of sustainability.

(B) To establish multidisciplinary education, research, and outreach programs at an institution of higher education that address the environmental, social, and economic dimensions of sustainability.

(C) To support research and teaching initiatives that focus on multidisciplinary and integrated environmental, economic, and social elements.

(D) To establish initiatives in the areas of energy management, greenhouse gas emissions reductions, green building, waste management, purchasing, toxics management, transportation, and other aspects of sustainability.

(E) To support student, faculty, and staff work at an institution of higher education to implement, research, and evaluate sustainable practices.

(F) To expand sustainability literacy on campus.

(G) To integrate sustainability curricula in all programs of instruction, particularly in business, architecture, technology, manufacturing, engineering, and science programs.

(2) Partnerships

Grants made under subsection (a) may be used by an eligible entity that is a nonprofit consortium, association, alliance, or collaboration operating in partnership with one or more institutions of higher education for the following purposes:

(A) To conduct faculty, staff and administrator training on the subjects of sustainability and institutional change.

(B) To compile, evaluate, and disseminate best practices, case studies, guidelines and standards regarding sustainability.

(C) To conduct efforts to engage external stakeholders such as business, alumni, and accrediting agencies in the process of building support for research, education, and technology development for sustainability.

(D) To conduct professional development programs for faculty in all disciplines to enable

faculty to incorporate sustainability content in their courses.

(E) To create the analytical tools necessary for institutions of higher education to assess and measure their individual progress toward fully sustainable campus operations and fully integrating sustainability into the curriculum.

(F) To develop educational benchmarks for institutions of higher education to determine the necessary rigor and effectiveness of academic sustainability programs.

(d) Reports

An eligible entity that receives a grant under subsection (a) shall submit to the Secretary, for each fiscal year in which the entity receives amounts from such grant, a report that describes the work conducted pursuant to subsection (c), research findings and publications, administrative savings experienced, and an evaluation of the program.

(e) Allocation requirement

The Secretary may not make grants under subsection (a) to any eligible entity in a total amount that is less than $250,000 or more than $2,000,000.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §881, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3430.)

PART V—MODELING AND SIMULATION PROGRAMS

§1161v. Modeling and simulation

(a) Purpose; definition

(1) Purpose

The purpose of this section is to promote the study of modeling and simulation at institutions of higher education, through the collaboration with new and existing programs, and specifically to promote the use of technology in such study through the creation of accurate models that can simulate processes or recreate real life, by—

(A) establishing a task force at the Department of Education to raise awareness of and define the study of modeling and simulation;

(B) providing grants to institutions of higher education to develop new modeling and simulation degree programs; and

(C) providing grants for institutions of higher education to enhance existing modeling and simulation degree programs.

(2) Definition

In this section, the term "modeling and simulation" means a field of study related to the application of computer science and mathematics to develop a level of understanding of the interaction of the parts of a system and of a system as a whole.

(b) Establishment of task force

(1) In general

Subject to the availability of appropriations, the Secretary shall establish a task force within the Department to study modeling and simulation and to support the development of the modeling and simulation field. The activities of such task force shall include—

(A) helping to define the study of modeling and simulation (including the content of

modeling and simulation classes and programs);

(B) identifying best practices for such study;

(C) identifying core knowledge and skills that individuals who participate in modeling and simulation programs should acquire; and

(D) providing recommendations to the Secretary with respect to—

(i) the information described in subparagraphs (A) through (C); and

(ii) a system by which grants under this section will be distributed.

(2) Task force membership

The membership of the task force under this subsection shall be composed of representatives from—

(A) institutions of higher education with established modeling and simulation degree programs;

(B) the National Science Foundation;

(C) Federal Government agencies that use modeling and simulation extensively, including the Department of Defense, the National Institutes of Health, the Department of Homeland Security, the Department of Health and Human Services, the Department of Energy, and the Department of Transportation;

(D) private industries with a primary focus on modeling and simulation;

(E) national modeling and simulation organizations; and

(F) the Office of Science and Technology Policy.

(c) Enhancing modeling and simulation at institutions of higher education

(1) Enhancement grants authorized

(A) In general

The Secretary is authorized to award grants, on a competitive basis, to eligible institutions to enhance modeling and simulation degree programs at such eligible institutions.

(B) Duration of grant

A grant awarded under this subsection shall be awarded for a three-year period, and such grant period may be extended for not more than two years if the Secretary determines that an eligible institution has demonstrated success in enhancing the modeling and simulation degree program at such eligible institution.

(C) Minimum grant amount

Subject to the availability of appropriations, a grant awarded to an eligible institution under this subsection shall not be less than $750,000.

(D) Non-Federal share

Each eligible institution receiving a grant under this subsection shall provide, from non-Federal sources, in cash or in-kind, an amount equal to 25 percent of the amount of the grant to carry out the activities supported by the grant. The Secretary may waive the non-Federal share requirement under this subparagraph for an eligible institution if the Secretary determines a waiver to be appropriate based on the financial ability of the institution.

(2) Eligible institutions

For the purposes of this subsection, an eligible institution is an institution of higher education that—

(A) has an established modeling and simulation degree program, including a major, minor, or career-track program; or

(B) has an established modeling and simulation certificate or concentration program.

(3) Application

To be considered for a grant under this subsection, an eligible institution shall submit to the Secretary an application at such time, in such manner, and containing such information as the

Secretary may require. Such application shall include—

(A) a letter from the president or provost of the eligible institution that demonstrates the institution's commitment to the enhancement of the modeling and simulation program at the institution of higher education;

(B) an identification of designated faculty responsible for the enhancement of the institution's modeling and simulation program; and

(C) a detailed plan for how the grant funds will be used to enhance the modeling and simulation program of the institution.

(4) Uses of funds

A grant awarded under this subsection shall be used by an eligible institution to carry out the plan developed in accordance with paragraph (3)(C) to enhance modeling and simulation programs at the institution, which may include—

(A) in the case of an institution that is eligible under paragraph (2)(B), activities to assist in the establishment of a major, minor, or career-track modeling and simulation program at the eligible institution;

(B) expanding the multidisciplinary nature of the institution's modeling and simulation programs;

(C) recruiting students into the field of modeling and simulation through the provision of fellowships or assistantships;

(D) creating new courses to complement existing courses and reflect emerging developments in the modeling and simulation field;

(E) conducting research to support new methodologies and techniques in modeling and simulation; and

(F) purchasing equipment necessary for modeling and simulation programs.

(d) Establishing modeling and simulation programs

(1) Establishment grants authorized

(A) In general

The Secretary is authorized to award grants to institutions of higher education to establish a modeling and simulation program, including a major, minor, career-track, certificate, or concentration program.

(B) Duration of grant

A grant awarded under this subsection shall be awarded for a three-year period, and such grant period may be extended for not more than two years if the Secretary determines that an eligible institution has demonstrated success in establishing a modeling and simulation degree program at such eligible institution.

(C) Minimum grant amount

Subject to the availability of appropriations, a grant awarded to an eligible institution under this subsection shall not be less than $750,000.

(D) Non-Federal share

Each eligible institution receiving a grant under this subsection shall provide, from non-Federal sources, in cash or in-kind, an amount equal to 25 percent of the amount of the grant to carry out the activities supported by the grant. The Secretary may waive the non-Federal share requirement under this subparagraph for an eligible institution if the Secretary determines a waiver to be appropriate based on the financial ability of the institution.

(2) Application

To apply for a grant under this subsection, an eligible institution shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

(A) a letter from the president or provost of the eligible institution that demonstrates the

institution's commitment to the establishment of a modeling and simulation program at the institution of higher education;

(B) a detailed plan for how the grant funds will be used to establish a modeling and simulation program at the institution; and

(C) a description of how the modeling and simulation program established under this subsection will complement existing programs and fit into the institution's current program and course offerings.

(3) Uses of funds

A grant awarded under this subsection may be used by an eligible institution to—

(A) establish, or work toward the establishment of, a modeling and simulation program, including a major, minor, career-track, certificate, or concentration program at the eligible institution;

(B) provide adequate staffing to ensure the successful establishment of the modeling and simulation program, which may include the assignment of full-time dedicated or supportive faculty; and

(C) purchase equipment necessary for a modeling and simulation program.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years. Of the amounts authorized to be appropriated for each fiscal year—

(1) $1,000,000 is authorized to carry out the activities of the task force established pursuant to subsection (b); and

(2) of the amount remaining after the allocation for paragraph (1)—

(A) 50 percent is authorized to carry out the grant program under subsection (c); and

(B) 50 percent is authorized to carry out the grant program under subsection (d).

(Pub. L. 89–329, title VIII, §891, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3432.)

PART W—PATH TO SUCCESS

§1161w. Path to success

(a) Purpose

The purpose of this section is to encourage community supported programs that—

(1) leverage and enhance community support for at-risk young adults by facilitating the transition of such young adults who are eligible individuals into productive learning environments where such young adults can obtain the life, social, academic, career, and technical skills and credentials necessary to strengthen the Nation's workforce;

(2) provide counseling, as appropriate, for eligible individuals participating in the programs to allow the eligible individuals to build a relationship with one or more guidance counselors during the period that the individuals are enrolled in the programs, including providing referrals and connections to community resources that help eligible individuals transition back into the community with the necessary life, social, academic, career, and technical skills after being in detention, or incarcerated, particularly resources related to health, housing, job training, and workplace readiness;

(3) provide training and education for eligible individuals participating in the programs, to allow such individuals to assist community officials and law enforcement agencies with the deterrence and prevention of gang and youth violence by participating in seminars, training, and workshops throughout the community; and

(4) provide each eligible individual participating in the programs with individual attention based on a curriculum that matches the interests and abilities of the individual to the resources of the program.

(b) Reentry education program

(1) Grant program established

From the amounts appropriated under subsection (g), the Secretary is authorized to award grants to community colleges to enter into and maintain partnerships with juvenile detention centers and secure juvenile justice residential facilities to provide assistance, services, and education to eligible individuals who reenter the community and pursue, in accordance with the requirements of this section, at least one of the following:

(A) A certificate of completion for a specialized area of study, such as career and technical training and other alternative postsecondary educational programs.

(B) An associate's degree.

(2) Grant period

A grant awarded under this part shall be for one four-year period, and may be renewed for an additional period as the Secretary determines to be appropriate.

(3) Application

A community college desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require. Such application shall include—

(A) an assessment of the existing community resources available to serve at-risk youth;

(B) a detailed description of the program and activities the community college will carry out with such grant; and

(C) a proposed budget describing how the community college will use the funds made available by such grant.

(4) Priority

In awarding grants under this part, the Secretary shall give priority to community colleges that propose to serve the highest number of priority individuals, and, among such community colleges, shall give priority to community colleges that the Secretary determines will best carry out the purposes of this part, based on the applications submitted in accordance with paragraph (3).

(c) Allowable uses of funds

A community college awarded a grant under this part may use such grant to—

(1) pay for tuition and transportation costs of eligible individuals;

(2) establish and carry out an education program that includes classes for eligible individuals that—

(A) provide marketable life and social skills to such individuals;

(B) meet the education program requirements under subsection (d), including as appropriate, courses necessary for the completion of a secondary school diploma or the recognized equivalent;

(C) promote the civic engagement of such individuals; and

(D) facilitate a smooth reentry of such individuals into the community;

(3) create and carry out a mentoring program that is—

(A) specifically designed to help eligible individuals with the potential challenges of the transitional period from detention to release;

(B) created in consultation with guidance counselors, academic advisors, law enforcement officials, and other community resources; and

(C) administered by a program coordinator, selected and employed by the community college, who shall oversee each individual's development and shall serve as the immediate supervisor and reporting officer to whom the academic advisors, guidance counselors, and

volunteers shall report regarding the progress of each such individual;

(4) facilitate employment opportunities for eligible individuals by entering into partnerships with public and private entities to provide opportunities for internships, apprenticeships, and permanent employment, as possible, for such individuals; and

(5) provide training for eligible individuals participating in the programs, to allow such individuals to assist community officials and law enforcement agencies with the deterrence and prevention of gang and youth violence by participating in seminars and workshop series throughout the community.

(d) Education program requirements

An education program established and carried out under subsection (c) shall—

(1) include classes that are required for completion of a certificate, diploma, or degree described in subparagraph (A) or (B) of subsection (b)(1), including as appropriate courses necessary for the completion of a secondary school diploma or the recognized equivalent;

(2) provide a variety of academic programs, with various completion requirements, to accommodate the diverse academic backgrounds, learning styles, and academic and career interests of the eligible individuals who participate in the education program;

(3) offer flexible academic programs that are designed to improve the academic development and achievement of eligible individuals, and to avoid high attrition rates for such individuals; and

(4) provide for a uniquely designed education plan for each eligible individual participating in the program, which shall require such individual to receive, at a minimum, a certificate or degree described in subparagraph (A) or (B) of subsection (b)(1) to successfully complete such program.

(e) Reports

Each community college awarded a grant under this part shall submit to the Secretary a report—

(1) documenting the results of the program carried out with such grant; and

(2) evaluating the effectiveness of activities carried out through such program.

(f) Definitions

In this section:

(1) Community college

The term "community college" has the meaning given the term "junior or community college" in section 1058(f) of this title.

(2) Eligible individual

The term "eligible individual" means an individual who—

(A) is 16 to 25 years of age (inclusive); and

(B)(i) has been convicted of a criminal offense; and

(ii) is detained in, or has been released from, a juvenile detention center or secure juvenile justice residential facility.

(3) Gang-related offense

(A) In general

The term "gang-related offense" means an offense that involves the circumstances described in subparagraph (B) and that is—

(i) a Federal or State felony involving a controlled substance (as defined in section 802 of title 21) for which the maximum penalty is not less than five years;

(ii) a Federal or State crime of violence that has as an element the use or attempted use of physical force against the person of another for which the maximum penalty is not less than six months; or

(iii) a conspiracy to commit an offense described in clause (i) or (ii).

(B) Circumstances

The circumstances described in this subparagraph are that the offense described in

subparagraph (A) was committed by a person who—

(i) participates in a criminal street gang (as defined in section 521(a) of title 18) with knowledge that such gang's members engage in or have engaged in a continuing series of offenses described in subparagraph (A); and

(ii) intends to promote or further the felonious activities of the criminal street gang or maintain or increase the person's position in the gang.

(4) Priority individual

The term "priority individual" means an individual who—

(A) is an eligible individual;

(B) has been convicted of a gang-related offense; and

(C) has served or is serving a period of detention in a juvenile detention center or secure juvenile justice residential facility for such offense.

(5) Guidance counselor

The term "guidance counselor" means an individual who works with at-risk youth on a one-on-one basis, to establish a supportive relationship with such at-risk youth and to provide such at-risk youth with academic assistance and exposure to new experiences that enhance their ability to become responsible citizens.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §892, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3436.)

PART X—SCHOOL OF VETERINARY MEDICINE COMPETITIVE GRANT PROGRAM

§1161x. School of veterinary medicine competitive grant program

(a) In general

From the amounts appropriated under subsection (g), the Secretary of Health and Human Services shall award competitive grants to eligible entities for the purpose of improving public health preparedness through increasing the number of veterinarians in the workforce.

(b) Eligible entities

To be eligible to receive a grant under subsection (a), an entity shall—

(1) be—

(A) a public or other nonprofit school of veterinary medicine that is accredited by a nationally recognized accrediting agency or association recognized by the Secretary of Education pursuant to part G of subchapter IV;

(B) a public or nonprofit, department of comparative medicine, department of veterinary science, school of public health, or school of medicine that is accredited by a nationally recognized accrediting agency or association recognized by the Secretary of Education pursuant to part G of subchapter IV and that offers graduate training for veterinarians in a public health practice area as determined by the Secretary of Health and Human Services; or

(C) a public or nonprofit entity that—

(i) conducts recognized residency training programs for veterinarians that are approved by a veterinary specialty organization that is recognized by the American Veterinary Medical Association; and

(ii) offers postgraduate training for veterinarians in a public health practice area as determined by the Secretary of Health and Human Services; and

(2) prepare and submit to the Secretary of Health and Human Services an application, at such time, in such manner, and containing such information as the Secretary of Health and Human Services may require.

(c) Consideration of applications

The Secretary of Health and Human Services shall establish procedures to ensure that applications under subsection (b)(2) are rigorously reviewed and that grants are competitively awarded based on—

(1) the ability of the applicant to increase the number of veterinarians who are trained in specified public health practice areas as determined by the Secretary of Health and Human Services;

(2) the ability of the applicant to increase capacity in research on high priority disease agents; or

(3) any other consideration the Secretary of Health and Human Services determines necessary.

(d) Preference

In awarding grants under subsection (a), the Secretary of Health and Human Services shall give preference to applicants that demonstrate a comprehensive approach by involving more than one school of veterinary medicine, department of comparative medicine, department of veterinary science, school of public health, school of medicine, or residency training program that offers postgraduate training for veterinarians in a public health practice area as determined by the Secretary of Health and Human Services.

(e) Use of funds

Amounts received under a grant under this section shall be used by a grantee to increase the number of veterinarians in the workforce through paying costs associated with the expansion of academic programs at schools of veterinary medicine, departments of comparative medicine, departments of veterinary science, or entities offering residency training programs, or academic programs that offer postgraduate training for veterinarians or concurrent training for veterinary students in specific areas of specialization, which costs may include minor renovation and improvement in classrooms, libraries, and laboratories.

(f) Definition of public health practice area

In this section, the term "public health practice area" includes the areas of bioterrorism and emergency preparedness, environmental health, food safety and food security, regulatory medicine, diagnostic laboratory medicine, and biomedical research.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years. Amounts appropriated under this subsection shall remain available until expended.

(Pub. L. 89–329, title VIII, §893, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3439.)

PART Y—EARLY FEDERAL PELL GRANT COMMITMENT DEMONSTRATION PROGRAM

§1161y. Early Federal Pell Grant Commitment Demonstration Program

(a) Demonstration program authority

(1) In general

The Secretary is authorized to carry out an Early Federal Pell Grant Commitment Demonstration Program under which—

(A) the Secretary awards grants to four State educational agencies, in accordance with paragraph (2), to pay the administrative expenses incurred in participating in the demonstration program under this section; and

(B) the Secretary awards Federal Pell Grants to participating students in accordance with this section and consistent with section 1070a of this title.

(2) Grants

(A) In general

From amounts appropriated under subsection (h) for a fiscal year, the Secretary is authorized to award grants to four State educational agencies to enable the State educational agencies to pay the administrative expenses incurred in participating in the demonstration program under this section by carrying out a demonstration project under which eighth grade students described in subsection (b)(1)(B) receive a commitment early in the students' academic careers to receive a Federal Pell Grant.

(B) Equal amounts

The Secretary shall award grants under this section in equal amounts to each of the four participating State educational agencies.

(b) Demonstration project requirements

Each of the four demonstration projects assisted under this section shall meet the following requirements:

(1) Participants

(A) In general

The State educational agency shall make participation in the demonstration project available to two cohorts of students, which shall consist of—

(i) one cohort of eighth grade students who begin participating in the first academic year for which funds have been appropriated to carry out this section; and

(ii) one cohort of eighth grade students who begin participating in the academic year succeeding the academic year described in clause (i).

(B) Students in each cohort

Each cohort of students shall consist of not more than 10,000 eighth grade students who qualify for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) Student data

The State educational agency shall ensure that student data from local educational agencies serving students who participate in the demonstration project, as well as student data from local educational agencies serving a comparable group of students who do not participate in the demonstration project, are available for evaluation of the demonstration project, and are made available in accordance with the requirements of section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974").

(3) Federal Pell Grant commitment

Each student who participates in the demonstration project receives a commitment from the Secretary to receive a Federal Pell Grant during the first academic year that the student is in attendance at an institution of higher education as an undergraduate, provided that the student applies for Federal financial aid (via the FAFSA or EZ FAFSA) for such academic year.

(4) Application process

Each State educational agency shall establish an application process to select local educational agencies within the State to participate in the demonstration project in accordance with subsection (d)(2).

(5) Local educational agency participation

Subject to the 10,000 statewide student limitation described in paragraph (1), a local educational agency serving students, not less than 50 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), shall be eligible to participate in the demonstration project.

(c) State educational agency applications

(1) In general

Each State educational agency desiring to participate in the demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) Contents

Each application shall include—

(A) a description of the proposed targeted information campaign for the demonstration project and a copy of the plan described in subsection (f)(2);

(B) a description of the student population that will receive an early commitment to receive a Federal Pell Grant under this section;

(C) an assurance that the State educational agency will fully cooperate with the ongoing evaluation of the demonstration project; and

(D) such other information as the Secretary may require.

(d) Selection considerations

(1) Selection of State educational agencies

In selecting State educational agencies to participate in the demonstration program under this section, the Secretary shall consider—

(A) the number and quality of State educational agency applications received;

(B) a State educational agency's—

(i) financial responsibility;

(ii) administrative capability;

(iii) commitment to focusing resources, in addition to any resources provided on students who receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.];

(iv) ability and plans to run an effective and thorough targeted information campaign for students served by local educational agencies eligible to participate in the demonstration project; and

(v) ability to ensure the participation in the demonstration project of a diverse group of students, including with respect to ethnicity and gender.

(2) Local educational agency

In selecting local educational agencies to participate in a demonstration project under this section, the State educational agency shall consider—

(A) the number and quality of local educational agency applications received;

(B) a local educational agency's—

(i) financial responsibility;

(ii) administrative capability;

(iii) commitment to focusing resources on students who receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965;

(iv) ability and plans to run an effective and thorough targeted information campaign for

students served by the local educational agency; and

(v) ability to ensure the participation in the demonstration project of a diverse group of students.

(e) Evaluation

(1) In general

From amounts appropriated under subsection (h) for a fiscal year, the Secretary shall reserve not more than $1,000,000 to award a grant or contract to an organization outside the Department for an independent evaluation of the impact of the demonstration program assisted under this section.

(2) Competitive basis

The grant or contract shall be awarded on a competitive basis.

(3) Matters evaluated

The evaluation described in this subsection shall—

(A) determine the number of students who were encouraged by the demonstration program to pursue higher education;

(B) identify the barriers to the effectiveness of the demonstration program;

(C) assess the cost-effectiveness of the demonstration program in improving access to higher education;

(D) identify the reasons why participants in the demonstration program either received or did not receive a Federal Pell Grant;

(E) identify intermediate outcomes related to postsecondary education attendance, such as whether participants—

(i) were more likely to take a college-preparatory curriculum while in secondary school;

(ii) submitted any applications to institutions of higher education; and

(iii) took the PSAT, SAT, or ACT;

(F) identify the number of students participating in the demonstration program who pursued an associate's degree or a bachelor's degree, or other postsecondary education;

(G) compare the findings of the demonstration program with respect to participants to comparison groups (of similar size and demographics) that did not participate in the demonstration program; and

(H) identify the impact of the demonstration program on the parents of students eligible to participate in the program.

(4) Dissemination

The findings of the evaluation shall be reported to the Secretary, who shall widely disseminate the findings to the public.

(f) Targeted information campaign

(1) In general

Each State educational agency receiving a grant under this section shall, in cooperation with the participating local educational agencies within the State and the Secretary, develop a targeted information campaign for the demonstration project assisted under this section.

(2) Plan

Each State educational agency receiving a grant under this section shall include in the application submitted under subsection (c) a written plan for the State educational agency proposed targeted information campaign. The plan shall include the following:

(A) Outreach

A description of the outreach to students and the students' families at the beginning and end of each academic year of the demonstration project, at a minimum.

(B) Distribution

A description of how the State educational agency plans to provide the outreach described in subparagraph (A) and to provide the information described in subparagraph (C).

(C) Information

The annual provision by the State educational agency to all students and families participating in the demonstration project of information regarding—

(i) the estimated statewide average cost of attendance for an institution of higher education for each academic year, which cost data shall be disaggregated by—

(I) type of institution, including—

(aa) two-year public degree-granting institutions of higher education;

(bb) four-year public degree-granting institutions of higher education; and

(cc) four-year private degree-granting institutions of higher education;

(II) component, including—

(aa) tuition and fees; and

(bb) room and board;

(ii) Federal Pell Grants, including—

(I) the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student may be eligible for each award year;

(II) when and how to apply for a Federal Pell Grant; and

(III) what the application process for a Federal Pell Grant requires;

(iii) State-specific postsecondary education savings programs;

(iv) State merit-based financial aid;

(v) State need-based financial aid; and

(vi) Federal financial aid available to students, including eligibility criteria for such aid and an explanation of the Federal financial aid programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, such as the Student Guide published by the Department (or any successor to such document).

(3) Cohorts

The information described in paragraph (2)(C) shall be provided annually to the two successive cohorts of students described in subsection (b)(1)(A) for the duration of the students' participation in the demonstration project.

(4) Reservation

Each State educational agency receiving a grant under this section shall reserve not more than 15 percent of the grant funds received each fiscal year to carry out the targeted information campaign described in this subsection.

(g) Supplement, not supplant

A State educational agency shall use grant funds received under this section only to supplement the funds that would, in the absence of such grant funds, be made available from non-Federal sources for students participating in the demonstration project under this section, and not to supplant such funds.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §894, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3440; amended Pub. L. 111–39, title VIII, §801(14), July 1, 2009, 123 Stat. 1956; Pub. L. 111–152, title II, §2101(b)(6), Mar. 30, 2010, 124 Stat. 1073.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (b)(1)(B), (5), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (b)(1)(B), (5), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(1)(B)(iii), (2)(B)(iii), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

2010—Subsec. (f)(2)(C)(ii)(I). Pub. L. 111–152 substituted "the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student may be eligible for each award year" for "the maximum Federal Pell Grant for each award year".

2009—Subsec. (b)(2). Pub. L. 111–39 substituted "commonly known as the 'Family Educational Rights and Privacy Act of 1974' " for "the Family Educational Rights and Privacy Act of 1974".

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–152 effective July 1, 2010, see section 2101(c) of Pub. L. 111–152, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

PART Z—HENRY KUUALOHA GIUGNI KUPUNA MEMORIAL ARCHIVES

§1161z. Henry Kuualoha Giugni Kupuna Memorial Archives

(a) Grants authorized

From the amounts appropriated under subsection (c), the Secretary is authorized to award a grant to the University of Hawaii Academy for Creative Media for the establishment, maintenance, and periodic modernization of the Henry Kuualoha Giugni Kupuna Memorial Archives at the University of Hawaii.

(b) Use of funds

The Henry Kuualoha Giugni Kupuna Memorial Archives shall use the grant funds received under this section—

(1) to facilitate the acquisition of a secure web-accessible repository of Native Hawaiian historical data rich in ethnic and cultural significance to the United States for preservation and access by future generations;

(2) to award scholarships to facilitate access to postsecondary education for students who cannot afford such education;

(3) to support programmatic efforts associated with the web-based media projects of the archives;

(4) to create educational materials, from the contents of the archives, that are applicable to a broad range of indigenous students, such as Native Hawaiians, Alaskan Natives, and Native American Indians;

(5) to develop outreach initiatives that introduce the archival collections to elementary schools and secondary schools;

(6) to develop supplemental web-based resources that define terms and cultural practices innate to Native Hawaiians;

(7) to rent, lease, purchase, maintain, or repair educational facilities to house the archival collections;

(8) to rent, lease, purchase, maintain, or repair computer equipment for use by elementary schools and secondary schools in accessing the archival collections;

(9) to provide preservice and in-service teacher training to develop a core group of kindergarten through grade 12 teachers who are able to provide instruction in a way that is relevant to the unique background of indigenous students, such as Native Hawaiians, Alaskan Natives, and Native American Indians, in order to—

(A) facilitate greater understanding by teachers of the unique background of indigenous students; and

(B) improve student achievement; and

(10) to increase the economic and financial literacy of postsecondary education students through the dissemination of best practices used at other institutions of higher education regarding debt and credit management and economic decisionmaking.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89–329, title VIII, §895, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3445.)

PART AA—MASTERS AND POSTBACCALAUREATE PROGRAMS

§1161aa. Masters degree programs

In addition to any amounts appropriated under section 1136c of this title, there are authorized to be appropriated, and there are appropriated, out of any funds in the Treasury not otherwise appropriated, $11,500,000 for fiscal year 2009 and for each of the five succeeding fiscal years to carry out subpart 4 of part A of subchapter VII in order to provide grants under sections 1136a and 1136b of this title, in the minimum amount authorized under such sections, to all institutions eligible for grants under such sections.

(Pub. L. 89–329, title VIII, §897, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3446.)

§1161aa–1. Postbaccalaureate programs

In addition to any amounts appropriated under part B of subchapter V, there are authorized to be appropriated, and there are appropriated, out of any funds in the Treasury not otherwise appropriated, $11,500,000 for fiscal year 2009 and for each of the five succeeding fiscal years to carry out part B of subchapter V.

(Pub. L. 89–329, title VIII, §898, as added Pub. L. 110–315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3446.)

CHAPTER 29—INTERNATIONAL STUDIES AND RESEARCH

§1171. Omitted

CODIFICATION

Section, Pub. L. 89–698, §2, Oct. 29, 1966, 80 Stat. 1066, which set out the Congressional findings and declaration of purpose in providing for a program of international studies and research, was omitted in view of the repeal of the remaining sections of this chapter by Pub. L. 96–374, title VI, §601(c)(2), Oct. 3, 1980, 94 Stat. 1472.

§§1172 to 1174. Repealed. Pub. L. 96–374, title VI, §601(c)(2), Oct. 3, 1980, 94 Stat. 1472

Section 1172, Pub. L. 89–698, title I, §101, Oct. 29, 1966, 80 Stat. 1066, made provision for a program of international studies and research involving operation of centers for advanced international studies. See section 1123 of this title.

Section 1173, Pub. L. 89–698, title I, §102, Oct. 29, 1966, 80 Stat. 1067, provided for undergraduate programs in international studies. See section 1124 of this title.

Section 1174, Pub. L. 89–698, title I, §103, Oct. 29, 1966, 80 Stat. 1068; Pub. L. 91–230, title IV, §401(c)(7), Apr. 13, 1970, 84 Stat. 173, authorized payment in installments and in advance or by way of reimbursement.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§1175. Repealed. Pub. L. 91–230, title IV, §401(f)(7), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–698, title I, §104, Oct. 29, 1966, 80 Stat. 1068, prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution, selection of library resources, and content of any material developed or published), and was superseded by section 1232a of this title.

§§1176, 1177. Repealed. Pub. L. 96–374, title VI, §601(c)(2), Oct. 3, 1980, 94 Stat. 1472

Section 1176, Pub. L. 89–698, title I, §105, Oct. 29, 1966, 80 Stat. 1068; Pub. L. 90–575, title V, §502, Oct. 16, 1968, 82 Stat. 1062; Pub. L. 92–318, title I, §183, June 23, 1972, 86 Stat. 312; Pub. L. 94–482, title III, §303, Oct. 12, 1976, 90 Stat. 2216, authorized appropriations and provided for an annual report to Congress. See section 1125 of this title.

Section 1177, Pub. L. 89–698, title I, §106, Oct. 29, 1966, 80 Stat. 1069; Pub. L. 91–230, title IV, §401(h)(5), Apr. 13, 1970, 84 Stat. 174, provided for creation of a National Advisory Committee on International Studies. See section 1131 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

CHAPTER 30—BASIC EDUCATION FOR ADULTS

SUBCHAPTER I—BASIC PROGRAM PROVISIONS

§§1201 to 1201b. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1201, Pub. L. 89–750, title III, §311, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 302, stated purpose of chapter.

A prior section 1201, Pub. L. 89–750, title III, §302, Nov. 3, 1966, 80 Stat. 1216; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 159; Pub. L. 95–561, title XIII, §1301, Nov. 1, 1978, 92 Stat. 2356; Pub. L. 98–511, title I, §101, Oct. 19, 1984, 98 Stat. 2366, related to Congressional declaration of purpose of chapter, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1201a, Pub. L. 89–750, title III, §312, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 302; amended Pub. L. 101–26, §3(a), May 11, 1989, 103 Stat. 55; Pub. L. 101–589, title VII, §723, Nov. 16, 1990, 104 Stat. 2913; Pub. L. 102–73, title VIII, §802(b)(1), July 25, 1991, 105 Stat. 361, defined terms used in chapter.

Section 1201b, Pub. L. 89–750, title III, §313, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 304; amended Pub. L. 102–73, title III, §301(a), title VIII, §802(b)(2), July 25, 1991, 105 Stat. 345, 361, authorized appropriations and required allotments.

A prior section 1202, Pub. L. 89–750, title III, §303, Nov. 3, 1966, 80 Stat. 1216; Pub. L. 90–576, title III, §302, Oct. 16, 1968, 82 Stat. 1095; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 159; Pub. L. 93–380, title VI, §601, title VIII, §843(c)(1), Aug. 21, 1974, 88 Stat. 576, 611; Pub. L. 95–561, title XIII, §§1302, 1304(a), Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §102(a)–(f)(1), Oct. 19, 1984, 98 Stat. 2366, 2367, related to definitions used in this chapter, prior to the general amendment of this chapter by Pub. L. 100–297.

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–73, §1, July 25, 1991, 105 Stat. 333, provided that Pub. L. 102–73 was to be cited as the "National Literacy Act of 1991", prior to repeal by Pub. L. 105–220, title II, §251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–297, title II, §2101, Apr. 28, 1988, 102 Stat. 302, provided that part B (§§2101, 2102) of title II of Pub. L. 100–297, enacting this chapter, was to be cited as the "Adult Education Amendments of 1988".

SHORT TITLE

Pub. L. 89–750, title III, §301, as added by Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 302, provided that title III of Pub. L. 89–750, enacting this chapter, was to be cited as the "Adult Education Act", prior to repeal by Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079.

CONGRESSIONAL FINDINGS REGARDING NATIONAL LITERACY ACT OF 1991

Pub. L. 102–73, §2, July 25, 1991, 105 Stat. 333, stated findings of Congress regarding the National Literacy Act of 1991, prior to repeal by Pub. L. 105–220, title II, §251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

DEFINITIONS

Pub. L. 102–73, §3, July 25, 1991, 105 Stat. 334, defined the term "literacy" for purposes of Pub. L. 102–73, prior to repeal by Pub. L. 105–220, title II, §251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

SUBCHAPTER II—STATE PROGRAMS

PART A—BASIC STATE GRANTS

§§1203 to 1203b. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1203, Pub. L. 89–750, title III, §321, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 305, authorized basic State grants.

A prior section 1203, Pub. L. 89–750, title III, §304, Nov. 3, 1966, 80 Stat. 1217; Pub. L. 90–247, title V, §502(a), Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 160; Pub. L. 93–380, title VI, §602, Aug. 21, 1974, 88 Stat. 576; Pub. L. 95–561, title XIII, §1303, Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §§102(f)(1), 103, Oct. 19, 1984, 98 Stat. 2366, 2367, related to grants to States, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1203a, Pub. L. 89–750, title III, §322, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 305; amended Pub. L. 102–73, title III, §301(b), July 25, 1991, 105 Stat. 345; Pub. L. 103–382, title III, §393(a), Oct. 20, 1994, 108 Stat. 4026; Pub. L. 104–66, title I, §1041(g), Dec. 21, 1995, 109 Stat. 715, related to use of funds and local applications.

Section 1203b, Pub. L. 89–750, title III, §323, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 306, related to local administrative cost limits.

PART B—PROGRAMS FOR CORRECTIONS EDUCATION AND EDUCATION FOR OTHER INSTITUTIONALIZED INDIVIDUALS

§1204. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section, Pub. L. 89–750, title III, §326, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 306, authorized programs for corrections education and education for other institutionalized individuals.

A prior section 1204, Pub. L. 89–750, title III, §305, Nov. 3, 1966, 80 Stat. 1217; Pub. L. 90–247, title V, §501, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 160; Pub. L. 91–600, §3(a), Dec. 30, 1970, 84 Stat. 1669; Pub. L. 93–380, title VIII, §843(c)(2), (3), Aug. 21, 1974, 88 Stat. 611; Pub. L. 95–561, title XIII, §1304(b), Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §§102(f)(1), 104, Oct. 19, 1984, 98 Stat. 2366, 2367, related to allotment of grant funds, prior to the general amendment of this chapter by Pub. L. 100–297.

PART C—STATE ADMINISTRATIVE RESPONSIBILITIES

§§1205, 1205a. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1205, Pub. L. 89–750, title III, §331, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 307; amended Pub. L. 102–73, title III, §301(c), July 25, 1991, 105 Stat. 346, related to State administration.

A prior section 1205, Pub. L. 89–750, title III, §306, Nov. 3, 1966, 80 Stat. 1218; Pub. L. 90–247, title V, §502(b), Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 161; Pub. L. 93–380, title VI, §§603, 607(a), Aug. 21, 1974, 88 Stat. 576, 578; Pub. L. 95–561, title XIII, §1305, Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §§102(f)(1), 105, Oct. 19, 1984, 98 Stat. 2366, 2367; Pub. L. 98–524, §4(d)(1), Oct. 19, 1984, 98 Stat. 2488; Pub. L. 100–77, title VII, §701(a), July 22, 1987, 101 Stat. 524, related to State plans, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1205a, Pub. L. 89–750, title III, §332, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 307; amended Pub. L. 102–73, title III, §301(d), July 25, 1991, 105 Stat. 346; Pub. L. 102–367, title VI, §601(b)(2), Sept. 7, 1992, 106 Stat. 1103, related to State advisory council on adult education and literacy.

PART D—PLANNING AND APPLICATIONS

§§1206 to 1206b. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1206, Pub. L. 89–750, title III, §341, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 309, related to submission of State plan and application.

A prior section 1206, Pub. L. 89–750, title III, §307, Nov. 3, 1966, 80 Stat. 1219; Pub. L. 90–247, title V, §503, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 162; Pub. L. 94–482, title III, §323(a)(4), Oct. 12, 1976, 90 Stat. 2218; Pub. L. 95–561, title XIII, §1306, Nov. 1, 1978, 92 Stat. 2359; Pub. L. 98–511, title I, §§102(f)(1), 106, Oct. 19, 1984, 98 Stat. 2366, 2368, related to payments to States, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1206a, Pub. L. 89–750, title III, §342, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 309; amended Pub. L. 101–476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 102–73, title III, §301(e), July 25, 1991, 105 Stat. 348; Pub. L. 103–382, title III, §§335(a), 394(a), Oct. 20, 1994, 108 Stat. 3966, 4027, related to formulation and components of State plan.

Section 1206b, Pub. L. 89–750, title III, §343, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 311, related to State application assurances.

PART E—EVALUATION AND STATE PLAN AMENDMENTS

§§1207, 1207a. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1207, Pub. L. 89–750, title III, §351, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 312, related to State plan amendments.

A prior section 1207, Pub. L. 89–750, title III, §308, Nov. 3, 1966, 80 Stat. 1219; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 162; Pub. L. 98–511, title I, §§102(f), 107, Oct. 19, 1984, 98 Stat. 2366, 2368, related to administration of State plans, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1207a, Pub. L. 89–750, title III, §352, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 312; amended Pub. L. 102–73, title III, §301(f), July 25, 1991, 105 Stat. 349, related to evaluation of grant recipients.

A prior section 1207a, Pub. L. 89–750, title III, §309, as added Pub. L. 95–561, title XIII, §1307(b), Nov. 1, 1978, 92 Stat. 2360; amended Pub. L. 98–511, title I, §§102(f)(1), 108, Oct. 19, 1984, 98 Stat. 2366, 2368; Pub. L. 100–77, title VII, §701(b), July 22, 1987, 101 Stat. 524, related to research, development, demonstration, dissemination, and evaluation activities, prior to the general amendment of this chapter by Pub. L. 100–297.

PART F—DEMONSTRATION PROJECTS

§1208. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section, Pub. L. 89–750, title III, §353, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 312; amended Pub. L. 102–73, title III, §301(g), July 25, 1991, 105 Stat. 349, related to special experimental demonstration projects and teacher training.

A prior section 1208, Pub. L. 89–750, title III, §310, formerly §309, Nov. 3, 1966, 80 Stat. 1220; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 163; Pub. L. 93–380, title VI, §§604, 607(b)(1), (2), Aug. 21, 1974, 88 Stat. 577–579; Pub. L. 94–482, title III, §329, Oct. 12, 1976, 90 Stat. 2221; renumbered §310, Pub. L. 95–561, title XIII, §1307(a)(1), Nov. 1, 1978, 92 Stat. 2359, related to use of funds for special experimental demonstration projects and teacher training, prior to the general amendment of this chapter by Pub. L. 100–297.

A prior section 1208–1, Pub. L. 89–750, title III, §309A, as added Pub. L. 93–380, title VI, §605, Aug. 21, 1974, 88 Stat. 577, provided for establishment and operation of a clearinghouse on adult education, prior to repeal by Pub. L. 95–561, title XIII, §1307(a)(2), Nov. 1, 1978, 92 Stat. 2359, eff. Oct. 1, 1978.

A prior section 1208a, Pub. L. 89–750, title III, §311, formerly §310, as added Pub. L. 93–29, title VIII, §804(a), May 3, 1973, 87 Stat. 60; amended Pub. L. 94–135, title II, §202, Nov. 28, 1975, 89 Stat. 726; Pub. L. 95–112, §3(a)(1), Sept. 24, 1977, 91 Stat. 912; renumbered §311, and amended Pub. L. 95–561, title XIII, §§1307(a)(3), 1308, Nov. 1, 1978, 92 Stat. 2360; Pub. L. 98–511, title I, §102(f)(1), Oct. 19, 1984, 98 Stat. 2366, authorized special projects for elderly, providing in: subsec. (a) for grants to public educational and public or private nonprofit agencies; subsec. (b) authorization of appropriations; and subsec. (c) for administrative coordination with programs for older Americans, prior to repeal by Pub. L. 98–511, title I, §109(a)(1), Oct. 19, 1984, 98 Stat. 2369, eff. July 1, 1985.

A prior section 1208b, Pub. L. 89–750, title III, §311, formerly §310A, as added Pub. L. 93–380, title VI, §606, Aug. 21, 1974, 88 Stat. 577; amended Pub. L. 94–482, title V, §501(g), Oct. 12, 1976, 90 Stat. 2237; renumbered §312, Pub. L. 95–561, title XIII, §1307(a)(3), Nov. 1, 1978, 92 Stat. 2360; renumbered §311 and amended Pub. L. 98–511, title I, §§102(f)(1), 109(a)(2), 110, Oct. 19, 1984, 98 Stat. 2366, 2369, related to State advisory councils, prior to the general amendment of this chapter by Pub. L. 100–297.

PART G—STATE LITERACY RESOURCE CENTERS

§1208aa. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section, Pub. L. 89–750, title III, §356, as added Pub. L. 102–73, title I, §103(2), July 25, 1991, 105 Stat. 338, related to State literacy resource centers.

PART H—FEDERAL SHARE; FEDERAL ADMINISTRATIVE RESPONSIBILITIES

§1209. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section, Pub. L. 89–750, title III, §361, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 313; amended Pub. L. 102–73, title III, §301(h), title VIII, §802(b)(2), July 25, 1991, 105 Stat. 350, 361, related to payment of Federal share and Federal administrative responsibilities.

A prior section 1209, Pub. L. 89–750, title III, §312, formerly §310, Nov. 3, 1966, 80 Stat. 1220; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 163; renumbered §311, Pub. L. 93–29, title VIII, §804(a), May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VI, §607(b)(3), title VIII, §845(f), Aug. 21, 1974, 88 Stat. 579, 612; Pub. L. 94–273, §3(10), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title V, §501(a)(22), Oct. 12, 1976, 90 Stat. 2236; Pub. L. 95–112, §3(a)(2), Sept. 24, 1977, 91 Stat. 912; renumbered §313 and amended Pub. L. 95–561, title XIII, §§1307(a)(3), 1309, Nov. 1, 1978, 92 Stat. 2360, 2361; Pub. L. 96–88, title III, §301(c), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered §312 and amended Pub. L. 98–511, title I, §§102(f)(1), 109(a)(2), 111, Oct. 19, 1984, 98 Stat. 2367, 2369, related to the National Advisory Council on Adult Education, prior to the general amendment of this chapter by Pub. L. 100–297.

A prior section 1210, Pub. L. 89–750, title III, §313, Nov. 3, 1966, 80 Stat. 1222; renumbered §311, Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 164; renumbered §312, Pub. L. 93–29, title VIII, §804(a), May 3, 1973, 87 Stat. 59; renumbered §314, Pub. L. 95–561, title XIII, §1307(a)(3), Nov. 1, 1978, 92 Stat. 2360; renumbered §313, Pub. L. 98–511, title I, §109(a)(2), Oct. 19, 1984, 98 Stat. 2369, related to prohibition on grants for sectarian instruction, religious worship, or school or department of divinity, prior to the general amendment of this chapter by Pub. L. 100–297.

Another prior section 1210, Pub. L. 89–750, title III, §311, Nov. 3, 1966, 80 Stat. 1221, provided for delegation of functions and utilization of Federal facilities, prior to the general amendment of this chapter by Pub. L. 91–230.

SUBCHAPTER III—WORKPLACE LITERACY AND ENGLISH LITERACY GRANTS

§§1211 to 1211b. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1211, Pub. L. 89–750, title III, §371, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 314; amended Pub. L. 102–73, title II, §202, title VIII, §802(b)(1), July 25, 1991, 105 Stat. 342, 361, related to business, industry, labor, and education partnerships for workplace literacy.

A prior section 1211, Pub. L. 89–750, title III, §314, Nov. 3, 1966, 80 Stat. 1222; Pub. L. 90–247, title V, §504, Jan. 2, 1968, 81 Stat. 815; renumbered §312 and amended Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 164; Pub. L. 91–600, §3(b), Dec. 30, 1970, 84 Stat. 1669; renumbered §313 and amended Pub. L. 93–29, title VIII, §804, May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VI, §608(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 95–112, §3(b), Sept. 24, 1977, 91 Stat. 912; renumbered §315 and amended Pub. L. 95–561, title XIII, §§1307(a)(3), 1310, Nov. 1, 1978, 92 Stat. 2360, 2361; renumbered §314 and amended Pub. L. 98–511, title I, §§109(a)(2), 112, Oct. 19, 1984, 98 Stat. 2369, authorized appropriations, prior to the general amendment of this chapter by Pub. L. 100–297.

Another prior section 1211, Pub. L. 89–750, title III, §312, Nov. 3, 1966, 80 Stat. 1221, provided for prohibition of Federal control of education (curriculum, program of instruction, administration, personnel, or selection of library resources), and for authorization of the National Advisory Committee on Adult Basic Education to encourage establishment of State and local education advisory committees, prior to the general amendment of this chapter by Pub. L. 91–230.

Section 1211–1, Pub. L. 102–73, title II, §201, July 25, 1991, 105 Stat. 342, related to National Workforce Literacy Assistance Collaborative.

Section 1211–2, Pub. L. 102–73, title VI, §601, July 25, 1991, 105 Stat. 356; Pub. L. 102–103, title III, §313, Aug. 17, 1991, 105 Stat. 505; Pub. L. 103–322, title II, §20408(b), Sept. 13, 1994, 108 Stat. 1827, related to functional literacy and life skills programs for State and local prisoners.

Section 1211a, Pub. L. 89–750, title III, §372, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 316, related to English literacy grants.

A prior section 1211a, Pub. L. 89–750, title III, §315, formerly §314, as added Pub. L. 92–318, title IV, §431, June 23, 1972, 86 Stat. 342; amended Pub. L. 93–380, title VI, §608(b), Aug. 21, 1974, 88 Stat. 579; Pub. L. 95–112, §3(c), Sept. 24, 1977, 91 Stat. 912; renumbered §316 and amended Pub. L. 95–561, title XIII, §§1307(a)(3), 1311, Nov. 1, 1978, 92 Stat. 2360, 2361, as amended by Pub. L. 96–46, §2(a)(6), Aug. 6, 1979, 93 Stat. 340; renumbered §315 and amended Pub. L. 98–511, title I, §§102(f)(1), 109(a)(2), title V, §513(d), Oct. 19, 1984, 98 Stat. 2366, 2369, 2400, related to grants for improvement of educational opportunities for adult Indians, prior to the general amendment of this chapter by section 2102 of Pub. L. 100–297. Section 5352(3) of Pub. L. 100–297, title V, Apr. 28, 1988, 102 Stat. 414, subsequently provided for the repeal of section 315 of Pub. L. 89–750.

Section 1211b, Pub. L. 89–750, title III, §373, as added Pub. L. 102–26, §7, Apr. 9, 1991, 105 Stat. 127, related to education programs for commercial drivers.

A prior section 1211b, Pub. L. 89–750, title III, §317, formerly §315, as added Pub. L. 94–405, title III, §301, Sept. 10, 1976, 90 Stat. 1233; renumbered and amended Pub. L. 95–561, title XIII, §§1307(a)(3), 1312, Nov. 1, 1978, 92 Stat. 2360, 2361; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for operations for special adult education programs for Indochina refugees, prior to repeal by Pub. L. 97–35, title V, §542(3), Aug. 13, 1981, 95 Stat. 459, eff. Oct. 1, 1981.

A prior section 1211c, Pub. L. 89–750, title III, §318, as added Pub. L. 95–561, title XIII, §1313, Nov. 1, 1978, 92 Stat. 2361; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–511, title I, §102(f)(1), Oct. 19, 1984, 98 Stat. 2366; Pub. L. 98–524, §4(d)(2), Oct. 19, 1984, 98 Stat. 2489, authorized adult education programs for adult immigrants, providing in subsec.: (a) for grant and contract authority; (b) for applications to State educational agencies; (c) for time, manner, and form of applications; (d) for payments by Secretary of application costs; (e) for contracts with private nonprofit groups; and (f) for authorization of appropriations for fiscal years 1979 through 1983, prior to repeal by Pub. L. 98–511, title I, §109(a)(1), Oct. 19, 1984, 98 Stat. 2369, eff. July 1, 1985.

SUBCHAPTER IV—NATIONAL PROGRAMS

§§1213 to 1213d. Repealed. Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1213, Pub. L. 89–750, title III, §381, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 317, related to adult migrant farmworker and immigrant education.

Section 1213a, Pub. L. 89–750, title III, §382, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 318, related to adult literacy volunteer training.

Section 1213b, Pub. L. 89–750, title III, §383, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 318, related to State program analysis assistance and policy studies.

Section 1213c, Pub. L. 89–750, title III, §384, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 319; amended Pub. L. 102–73, title I, §102(c), July 25, 1991, 105 Stat. 334; Pub. L. 103–382, title III, §335(b), Oct. 20, 1994, 108 Stat. 3966, related to national research activities and establishment of National Institute for Literacy.

Section 1213d, Pub. L. 89–750, title III, §385, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 319, related to limitation on grants for sectarian instruction or religious worship or to a school or department of divinity.

PURPOSE AND FINDINGS REGARDING LITERACY AMENDMENTS AND NATIONAL INSTITUTE FOR LITERACY

Pub. L. 102–73, title I, §102(a), (b), July 25, 1991, 105 Stat. 334, stated findings of Congress and purpose of amendment by section 102 of Pub. L. 102–73 to former section 1213c of this title, prior to repeal by Pub. L. 105–220, title II, §251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

FAMILY LITERACY PUBLIC BROADCASTING PROGRAM

Pub. L. 102–73, title III, §304, July 25, 1991, 105 Stat. 353, authorized Secretary to contract with the Corporation for Public Broadcasting to arrange for production and dissemination of family literacy programming and materials to assist parents in improving family literacy skills and language development, authorized appropriations, and required report to Congress, prior to repeal by Pub. L. 105–220, title II, §251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

CHAPTER 31—GENERAL PROVISIONS CONCERNING EDUCATION

Sec.

1221. Short title; applicability; definitions.
1221–1. National policy with respect to equal educational opportunity.
1221–2. National policy with respect to museums as educational institutions.
1221–3. Repealed.

SUBCHAPTER I—FUNCTIONS OF DEPARTMENT OF EDUCATION

1221a to 1221e–1c. Repealed.
1221e–1d. Use of Council staff and facilities.
1221e–2. Repealed.
1221e–3. General authority of Secretary.
1221e–4. Educational impact statement.
1221f to 1221i. Repealed.
1221j. Television program assistance.

SUBCHAPTER II—APPROPRIATIONS AND EVALUATIONS

PART 1—APPROPRIATIONS

1222. Repealed.
1223. Forward funding.

1224. Repealed.
1225. Availability of appropriations on academic or school-year basis; additional period for obligation of funds.
1226. Repealed.
1226a. Contingent extension of programs.
1226a–1. Payments; installments, advances or reimbursement, and adjustments.

PART 2—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

1226b. Responsibility of States to furnish information.
1226c. Biennial evaluation report.
1226c–1. Availability of education reports, etc., to Congressional committees.
1226d, Repealed.
1227.
1228. Prohibition against use of appropriated funds for busing.
1228a. Equity for students, teachers, and other program beneficiaries.
1228b. Coordination.
1228c. Disclosure requirements.

SUBCHAPTER III—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF SECRETARY

1230. Repealed.

PART 1—GENERAL AUTHORITY

1231. Joint funding of programs.
1231a. Collection and dissemination of information.
1231b, Repealed.
1231b–1.
1231b–2. Review of applications.
1231c. Advice, counsel, and technical assistance.
1231c–1. Repealed.
1231d. Parental involvement and dissemination.
1231e. Use of funds withheld.
1231f. Repealed.

PART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

1231g. Applications.
1232. Regulations.
1232–1. Repealed.
1232a. Prohibition against Federal control of education.
1232b. Labor standards.

PART 3—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

1232c. State agency monitoring and enforcement.
1232d. Single State application.
1232e. Single local educational agency application.

PART 4—RECORDS; PRIVACY; LIMITATION ON WITHHOLDING FEDERAL FUNDS

1232f. Records.
1232g. Family educational and privacy rights.
1232h. Protection of pupil rights.
1232i. Limitations on withholding of Federal assistance.
1232j. Prohibition on federally sponsored testing.

SUBCHAPTER IV—ENFORCEMENT

1234. Office of Administrative Law Judges.
1234a. Recovery of funds.
1234b. Measure of recovery.

1234c. Remedies for existing violations.
1234d. Withholding.
1234e. Cease and desist orders.
1234f. Compliance agreements.
1234g. Judicial review.
1234h. Use of recovered funds.
1234i. Definitions.
SUBCHAPTER V—READY TO LEARN TELEVISION
1235 to 1235g. Repealed.

AMENDMENTS

1970—Pub. L. 91–230, title IV, §401(a)(1), Apr. 13, 1970, 84 Stat. 164, substituted as chapter heading "GENERAL PROVISIONS CONCERNING EDUCATION" for "LEADTIME AND PLANNING AND EVALUATION IN ELEMENTARY AND SECONDARY EDUCATION PROGRAMS".

§1221. Short title; applicability; definitions

(a) Short title

This chapter may be cited as the "General Education Provisions Act".

(b) Applicability of chapter

(1) Except as otherwise provided, this chapter applies to each applicable program of the Department of Education.

(2) Except as otherwise provided, this chapter does not apply to any contract made by the Department of Education.

(c) Definitions

As used in this chapter, the following terms have the following meanings:

(1) The term "applicable program" means any program for which the Secretary or the Department has administrative responsibility as provided by law or by delegation of authority pursuant to law. The term includes each program for which the Secretary or the Department has administrative responsibility under the Department of Education Organization Act [20 U.S.C. 3401 et seq.] or under Federal law effective after the effective date of that Act.

(2) The term "applicable statute" means—

(A) the Act or the title, part, section, or any other subdivision of an Act, as the case may be, that authorizes the appropriation for an applicable program;

(B) this chapter; and

(C) any other statute that by its terms expressly controls the administration of an applicable program.

(3) The term "Department" means the Department of Education.

(4) The term "Secretary" means the Secretary of Education.

(d) Application of other laws unaffected

Nothing in this chapter shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], the Age Discrimination Act [42 U.S.C. 6101 et seq.], or other statutes prohibiting discrimination, to any applicable program.

(Pub. L. 90–247, title IV, §400, formerly §401, Jan. 2, 1968, 81 Stat. 814; Pub. L. 90–576, title III, §301(a), Oct. 16, 1968, 82 Stat. 1094; Pub. L. 91–230, title IV, §401(a)(2), Apr. 13, 1970, 84 Stat. 164; renumbered §400, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; Pub. L. 93–380, title V, §505(a)(1), Aug. 21, 1974, 88 Stat. 561; Pub. L. 103–382, title II, §211, Oct. 20, 1994, 108 Stat. 3912.)

REFERENCES IN TEXT

The Department of Education Organization Act, referred to in subsec. (c)(1), is Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, as amended, which is classified principally to chapter 48 (§3401 et seq.) of this title. For the effective date of the Act, see Effective Date note set out under section 3401 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in subsec. (d), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Act is classified generally to subchapter V (§790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Age Discrimination Act, referred to in subsec. (d), probably means the Age Discrimination Act of 1975, which is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, and which is classified generally to chapter 76 (§6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

AMENDMENTS

1994—Pub. L. 103–382 amended section generally, inserting provision that this chapter not apply to any contract made by the Department of Education, substituting definition of "Department" as meaning Department of Education for definition of "Director" as meaning Director of the National Institute of Education, striking out reference to the Civil Rights Act of 1964, adding references to title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, and other statutes prohibiting discrimination, and striking out provision authorizing appropriations for any fiscal year of such sums as may be necessary to carry out the provisions of this chapter.

1974—Subsec. (a). Pub. L. 93–380 redesignated subsec. (d) as (a). Former subsec. (a) provisions "The provisions of this chapter shall apply to any program for which the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute. Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments" were incorporated in part in subsec. (b).

Subsec. (b). Pub. L. 93–380 incorporated subsec. (a) provisions in subsec. (b), inserting introductory text "Except where otherwise specified,", substituting "an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law" for "the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute.", deleting "Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments." Former subsec. (b) definition provisions for "Commissioner", "Secretary", and "applicable program" incorporated in subsec. (c)(1).

Subsec. (c). Pub. L. 93–380 incorporated subsec. (b)(3), (1), (2) provisions in par. (1)(A), (D), (F), respectively; inserted in par. (1)(A) ", under the terms of subsection (b) of this section,"; and added pars. (1)(B), (C), (E), (2), and (3). Former subsec. (c) provisions "There are hereby authorized to be appropriated for any fiscal year, as part of the appropriations for salaries and expenses for the Office of Education, such sums as the Congress may determine to be necessary to carry out the provisions of this chapter," incorporated in subsec. (d).

Subsec. (d). Pub. L. 93–380 incorporated subsec. (c) provisions in provisions designated as subsec. (d), inserting introductory text "Except as otherwise limited in this chapter,", and deleting ", as part of the appropriations for salaries and expenses for the Office of Education," after "fiscal year". Former subsec. (d) redesignated (a).

Subsec. (e). Pub. L. 93–380 added subsec. (e).

1970—Pub. L. 91–230, §401(a)(2)(A), provided for definitions and authorization of appropriations in section catchline.

Subsecs. (b), (c). Pub. L. 91–230, §401(a)(2)(B), added subsecs. (b) and (c).

1968—Pub. L. 90–576 substituted general reference to "any program for which the Commissioner of

Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute" for specific references to "title I of the Elementary and Secondary Education Act of 1965 (title II of Pub. L. 81–874), titles II, III, V, VI, VII, and VIII of the Elementary and Secondary Education Act of 1965, and the Adult Education Act of 1966 (title III of the Elementary and Secondary Education Amendments of 1966), as now in effect or hereafter from time to time amended" as the areas in which the provisions of this chapter shall apply and inserted provision that amendments to the programs covered shall not affect the applicability of this chapter unless so specified by such amendments.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–382, §3(a)(2), Oct. 20, 1994, 108 Stat. 3518, provided that: "Title II of this Act [§§211 to 272 of Pub. L. 103–382, see Tables for classification] and the amendments made by title II of this Act shall take effect on the date of enactment of this Act [Oct. 20, 1994], except that section 236 [enacting section 1228a of this title] (equity for students, teachers, and other program beneficiaries) of such title shall be effective—

"(A) July 1, 1995 for noncompetitive programs in which funds are allocated on the basis of a formula; and

"(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years."

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93–380, title V, §505(b), Aug. 21, 1974, 88 Stat. 562, provided that: "The amendments made by subsection (a) [amending this section and section 1221g of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974]."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112–278, §1, Jan. 14, 2013, 126 Stat. 2480, provided that: "This Act [amending section 1232g of this title] may be cited as the 'Uninterrupted Scholars Act (USA)'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–297, title III, §3401, Apr. 28, 1988, 102 Stat. 344, provided that: "This part [part C (§§3401–3403) of title III of Pub. L. 100–297, amending sections 1221e and 1221e–1 of this title and enacting provisions set out as a note under section 1221e–1 of this title] may be cited as the 'National Assessment of Educational Progress Improvement Act'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–561, title XII, §1211, Nov. 1, 1978, 92 Stat. 2338, provided that: "This part [enacting sections 1221–3 and 1231g of this title and amending section 1221e–1 of this title] may be cited as the 'Control of Paperwork Amendments of 1978'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–380, title V, §513(b)(2), Aug. 21, 1974, 88 Stat. 574, provided that: "This section [enacting section 1232g of this title and provisions set out as a note under section 1232g of this title] may be cited as the 'Family Educational Rights and Privacy Act of 1974'."

EX. ORD. NO. 11155. PROVIDING FOR THE RECOGNITION OF CERTAIN STUDENTS AS PRESIDENTIAL SCHOLARS

Ex. Ord. No. 11155, May 23, 1964, 29 F.R. 6909, as amended by Ex. Ord. No. 12158, Sept. 18, 1979, 44 F.R. 54451; Ex. Ord. No. 13697, June 22, 2015, 80 F.R. 36691, provided:

WHEREAS it is necessary in the national interest that the Federal Government encourage high attainment by students in secondary schools, both public and private, throughout the Nation, and

WHEREAS national recognition of scholastic attainments will tend to enhance the accomplishments of such students generally and their potential after graduation:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. There is hereby established the Commission on Presidential Scholars (hereinafter referred to as the Commission). The Commission shall be composed of such members as the President may appoint from time to time from among appropriately qualified citizens of the United States. The person chosen each year, with the cooperation of the Commissioner of Education, Department of Health, Education, and Welfare [now Secretary of Education], as National Teacher of the Year shall be one of the members of the Commission for a period terminating one year after the date of his or her selection as National Teacher of the Year or at such

earlier time as a next-succeeding National Teacher of the Year is chosen. The President shall designate one of the members as chairman of the Commission. Members of the Commission shall serve at the pleasure of the President and without compensation from the United States.

SEC. 2. The Commission, in accordance with such standards and procedures as it may prescribe and on the basis of its independent judgment, shall annually choose Presidential Scholars, subject to the following:

(1) The Presidential Scholars shall be chosen from among persons who have recently been graduated, or are about to be graduated, from secondary schools, public or private.

(2) They shall be chosen on the basis of their outstanding scholarship.

(3) One boy and one girl shall be chosen as Presidential Scholars from each of the following, namely:

(i) Each State of the United States.

(ii) The District of Columbia.

(iii) The Commonwealth of Puerto Rico.

(iv) The following, collectively: American Samoa, Canal Zone, Guam, Virgin Islands, Trust Territory of the Pacific Islands, and, if the Commission in its discretion shall so determine, other places overseas. In respect of the said other places overseas, only children whose parents are citizens of the United States shall be eligible to be chosen hereunder as Presidential Scholars from those places.

(4) In addition to the 106 Presidential Scholars provided for in paragraph (3), above, the Commission may choose other Presidential Scholars, not exceeding fifteen in number for any one year, to be chosen at large from the jurisdictions referred to in that paragraph.

(5) In addition to the Presidential Scholars provided for in paragraphs (3) and (4) above, the Commission may choose other Presidential Scholars not exceeding twenty in any one year. These Scholars shall be chosen at large, from the jurisdictions referred to in paragraph (3), on the basis of outstanding scholarship and demonstrated ability and accomplishment in the visual and performing arts or in creative writing.

(6) In addition to the Presidential Scholars provided for in paragraphs (3), (4), and (5) of this section, the Commission may choose other Presidential Scholars not exceeding twenty in any one year. These Scholars shall be chosen at large, from the jurisdictions referred to in paragraph (3), on the basis of outstanding scholarship and demonstrated ability and accomplishment in career and technical education fields.

SEC. 3. There is hereby established the Presidential Scholars Medallion which shall be of such design and material as the President shall approve and shall be presented to each Presidential Scholar chosen by the Commission under this order.

SEC. 4. As necessary and subject to law, the Office of Education [now Department of Education], Department of Health, Education, and Welfare, shall facilitate, or make arrangements for facilitating the carrying out of the purposes of this order.

EXECUTIVE ORDER NO. 11761

Ex. Ord. No. 11761, Jan. 17, 1974, 39 F.R. 2345, which provided for coordination of Federal educational programs and which continued Federal Interagency Committee on Education, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 12687

Ex. Ord. No. 12687, Aug. 15, 1989, 54 F.R. 34127, as amended by Ex. Ord. No. 12741, Dec. 31, 1990, 56 F.R. 475; Ex. Ord. No. 12785, Dec. 26, 1991, 56 F.R. 67451, which established the President's Education Policy Advisory Committee to advise the President with respect to objectives and conduct of overall education policy of the United States, was revoked by Ex. Ord. No. 12869, §4(e), Sept. 30, 1993, 58 F.R. 51751, formerly set out under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§1221–1. National policy with respect to equal educational opportunity

Recognizing that the Nation's economic, political, and social security require a well-educated citizenry, the Congress (1) reaffirms, as a matter of high priority, the Nation's goal of equal educational opportunity, and (2) declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers.

(Pub. L. 93–380, title VIII, §801, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education

Provisions Act which comprises this chapter.

EFFECTIVE DATE

Pub. L. 93–380, §2(c), Aug. 21, 1974, 88 Stat. 488, provided that:

"(1) Unless otherwise specified, each provision of this Act [see Tables for classification] and each amendment made by this Act shall be effective on and after the sixtieth day after the enactment of this Act [Aug. 21, 1974].

"(2) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1973, or on July 1, 1973, such amendment shall be deemed to have been enacted on June 30, 1973."

STUDY OF CIVILIAN AVIATION TRAINING PROGRAMS

Pub. L. 102–325, title XIV, §1410, July 23, 1992, 106 Stat. 821, directed Secretary of Education to enter into appropriate arrangements with National Academy of Sciences Commission on Behavioral and Social Sciences and Education to study civilian aviation training programs needed to satisfy workforce requirements of commercial aviation industry in year 2000 and beyond, directed Secretary to request that National Academy of Sciences Commission on Behavioral and Social Sciences and Education submit an interim report to Secretary and Congress within 1 year after July 23, 1992, and directed that the study be completed within 2 years of July 23, 1992, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION

Pub. L. 102–325, title XIV, part B, July 23, 1992, 106 Stat. 824, as amended by Pub. L. 103–208, §2(k)(11), Dec. 20, 1993, 107 Stat. 2486, provided that part B could be cited as the "National Independent Colleges and Universities Discovery Act", provided for establishment, membership, etc., of National Commission on Independent Higher Education, which Commission was to develop factual base for understanding status of independent colleges and universities, their contributions to public priorities, and effects of national higher education policies on independent nonprofit sector, to review issuance of Federal regulations regarding independent colleges and universities, and suggest means by which independent colleges and universities can be held accountable for use of public resources without inappropriate intrusion into institutional autonomy, and to address the relationship between Federal and State policies in independent colleges and universities, particularly with respect to student access and choice, finance, institutional subsidies, and institutional accountability, and directed that the Commission terminate 3 years after July 23, 1992, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

NATIONAL COMMISSION ON COST OF HIGHER EDUCATION

Pub. L. 102–325, title XIV, part C, July 23, 1992, 106 Stat. 827, as amended by Pub. L. 103–208, §2(k)(12), Dec. 20, 1993, 107 Stat. 2486, provided for establishment, membership, etc., of National Commission on the Cost of Higher Education, which Commission was to make findings and specific recommendations regarding the increase in tuition costs compared with other commodities and services as well as methods of reducing increased tuition costs, administrative costs of colleges and universities and methods of reducing such costs, the extent to which Federal, State, and local regulations contribute to increased tuition costs and the increase in the cost of higher education, and extent to which the lack of student financial assistance programs contribute to increased tuition costs, and directed that the Commission cease to exist on the date that is 90 days after the Commission submits its final report, which report was to be submitted to the President and Congress not later than Sept. 1, 1994, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

EDUCATION COUNCIL ACT OF 1991

Pub. L. 102–62, June 27, 1991, 105 Stat. 305, as amended by Pub. L. 102–359, §1, Aug. 26, 1992, 106 Stat. 962; Pub. L. 103–290, §1, Aug. 1, 1994, 108 Stat. 1456; Pub. L. 103–382, title III, §362, Oct. 20, 1994, 108 Stat. 3975, provided for establishment, membership, etc., of National Education Commission on Time and Learning, which Commission was to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, the extent and role of homework, how time is being used for academic subjects, year-round professional opportunities for teachers, and use of school facilities for extended learning programs, report to Congress and the Secretary on the results of the study not later than 2 years after the Commission concludes its first meeting, and terminate Sept. 30, 1994, and provided for establishment, membership, etc., of National Council on Education Standards and Testing, which Council was to advise the American people whether suitable specific education standards should be established for the knowledge and skills that students should

possess and that schools should impart in order that American student leave grades 4, 8, and 12 demonstrating competency in challenging subject matters and whether an appropriate system of voluntary national tests or examinations should be established to provide prompt and accurate information on the progress made towards specific education standards by individual students, schools, school systems, States, and the Nation as a whole, submit a final report, as soon as possible, but not later than Dec. 31, 1991, to Congress, Secretary of Education, and National Education Goals Panel, and cease to exist 90 days after submitting its final report.

NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

Pub. L. 99–498, title XIII, §1321, Oct. 17, 1986, 100 Stat. 1584, as amended by Pub. L. 101–324, July 6, 1990, 104 Stat. 300; Pub. L. 102–170, title III, §306, Nov. 26, 1991, 105 Stat. 1136, established as an independent agency in executive branch a commission to be known as National Commission on Responsibilities for Financing Postsecondary Education, directed Commission to study and investigate extent to which (1) there is a consistent and coherent Federal policy regarding the appropriate family role in financing costs of postsecondary education for family members, (2) current Federal laws and regulations promote stated Federal policy, and (3) extent to which State laws which remove parental responsibilities for children over 18 years of age conflict with Federal policy in this area, directed Commission to (A) summarize appropriate findings of National Commission on Student Financial Assistance, (B) recommend to Congress a comprehensive analysis on extent to which consensus exists regarding appropriate role of family in financing postsecondary education, and (C) recommend changes in current law required to achieve desired Federal policy, and provided that Commission would terminate 2 years after first meeting of its member, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

STUDY OF CLASSROOM USE OF VOLUNTEERS

Pub. L. 99–498, title XIII, §1341, Oct. 17, 1986, 100 Stat. 1587, as amended by Pub. L. 100–50, §23(7), June 3, 1987, 101 Stat. 362, directed National Academy of Sciences to conduct a thorough study of how volunteers could best be used in the classroom with the study to (1) feasibility of using recipients of student loans as part of repayment of such loans, (2) use of older Americans as such volunteers, (3) use of business persons and other professionals as volunteers, and (4) place of incentives to encourage volunteerism, and with National Academy of Sciences to prepare and submit to Congress a report, together with a description of programs on use of volunteers and with such recommendations as deemed appropriate not later than one year after entering into a contract to conduct the study, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

NATIVE HAWAIIAN EDUCATION STUDY

Pub. L. 96–374, title XIII, §1331, Oct. 3, 1980, 94 Stat. 1499, established an Advisory Council on Native Hawaiian Education consisting of seven members appointed by Secretary of Education, after consultation with Governor of Hawaii, from among individuals who were professionals in various fields relating to human development, and who were familiar with educational problems of Native Hawaiians, to conduct a study to (A) evaluate effectiveness of State and federally assisted educational programs in serving Native Hawaiian children and extent to which such programs achieve their purposes with respect to such children, and (B) take into account special health, social, and psychological needs of Native Hawaiian children, and to submit a report to Secretary and to Congress not later than Jan. 31, 1983, containing findings and recommendations of the Council, with the Council to terminate 60 days after submission of its report.

APPROPRIATIONS NOT AUTHORIZED FOR NATIVE HAWAIIAN EDUCATION STUDY FOR FISCAL YEAR 1982, 1983, OR 1984

Pub. L. 97–35, title V, §512(a), Aug. 13, 1981, 95 Stat. 444, provided that: "No funds are authorized to be appropriated to carry out part D of title XIII of the Education Amendments of 1980 [section 1331 of Pub. L. 96–374, set out as a note above] for fiscal year 1982, 1983, or 1984."

FINANCING OF ELEMENTARY AND SECONDARY EDUCATION; STUDIES AND SURVEYS; ADVISORY PANEL; REPORTS

Pub. L. 95–561, title XII, §1203, Nov. 1, 1978, 92 Stat. 2335, as amended by Pub. L. 96–46, §2(a)(4), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(2), (b)(1), title V, §501(a), 507, Oct. 17, 1979, 93 Stat. 677, 678, 689, 692, established a 15-member Advisory Panel on Financing Elementary and Secondary Education within Department of Education to provide for (1) availability of reliable and comparative data on status and trends in financing elementary and secondary education, (2) conduct of studies necessary to understand and analyze the trends and problems affecting financing of elementary and secondary education,

both public and non-public, including prospects for adequate financing during the next ten years, and development of recommendations for Federal policies to assist in improving equity and efficiency of Federal and State systems for raising and distributing revenues to support elementary and secondary education, with views and recommendations of the Panel to be presented to 1980 White House Conference on Education.

WHITE HOUSE CONFERENCE ON EDUCATION: REPORT OF FINDINGS AND RECOMMENDATIONS; NATIONAL CONFERENCE COMMITTEE: ESTABLISHMENT, MEMBERSHIP, REPORT TO PRESIDENT AND CONGRESS, TRAVEL EXPENSES; APPORTIONMENT OF FUNDS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–380, title VIII, §804, Aug. 21, 1974, 88 Stat. 597, as amended by Pub. L. 95–272, title III, §301, May 3, 1978, 92 Stat. 227; Pub. L. 95–561, title XII, §1203(c)(8), Nov. 1, 1978, 92 Stat. 2335, directed President to call and conduct a White House Conference on Education in 1980, established a National Conference Committee to provide guidance and planning and to make a final report to President and Congress not later than Dec. 1, 1980, authorized making of grants to States to assist in meeting cost of that State's participation, and authorized appropriations.

§1221–2. National policy with respect to museums as educational institutions

The Congress, recognizing—

(1) that museums serve as sources for schools in providing education for children,

(2) that museums provide educational services of various kinds for educational agencies and institutions and institutions of higher education, and

(3) that the expense of the educational services provided by museums is seldom borne by the educational agencies and institutions taking advantage of the museums' resources,

declares that it is the sense of the Congress that museums be considered educational institutions and that the cost of their educational services be more frequently borne by educational agencies and institutions benefiting from those services.

(Pub. L. 93–380, title VIII, §803, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

§1221–3. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, §400A, as added Pub. L. 95–561, title XII, §1212(b), Nov. 1, 1978, 92 Stat. 2338; amended Pub. L. 96–46, §4(a), Aug. 6, 1979, 93 Stat. 342; Pub. L. 96–88, title III, §301(b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 96–511, §4(a), Dec. 11, 1980, 94 Stat. 2826, related to control of excessive paperwork.

SUBCHAPTER I—FUNCTIONS OF DEPARTMENT OF EDUCATION

AMENDMENTS

1994—Pub. L. 103–382, title II, §221, Oct. 20, 1994, 108 Stat. 3913, amended subchapter heading generally.

§§1221a to 1221c. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1221a, Pub. L. 90–247, title IV, §401, as added Pub. L. 92–318, title III, §301(a)(2), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §504(a), Aug. 21, 1974, 88 Stat. 561, established Education Division of the Department of Health, Education, and Welfare.

Section 1221b, Pub. L. 90–247, title IV, §402, as added Pub. L. 92–318, title III, §301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 93–380, title V, §502(a)(2)(A), Aug. 21, 1974, 88 Stat. 560, established position of and provided for appointment and compensation of Assistant Secretary for Education in the Department of Health, Education, and Welfare.

Section 1221c, Pub. L. 90–247, title IV, §403, as added Pub. L. 92–318, title III, §301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 93–380, title V, §503(a), Aug. 21, 1974, 88 Stat. 560; Pub. L. 94–482, title IV, §409(a), Oct. 12, 1976, 90 Stat. 2233; Pub. L. 95–561, title XII, §1241, Nov. 1, 1978, 92 Stat. 2351; Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692; Pub. L. 96–470, title I, §106(d), Oct. 19, 1980, 94 Stat. 2238, related to nonpublic education.

§1221d. Repealed. Pub. L. 96–374, title X, §1001(c), Oct. 3, 1980, 94 Stat. 1491

Section, Pub. L. 90–247, title IV. §404, as added Pub. L. 92–318, title III, §301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 94–482, title IV, §402, Oct. 12, 1976, 90 Stat. 2226; Pub. L. 96–49, §13, Aug. 13, 1979, 93 Stat. 354, related to grants and contracts for improvement of post-secondary education.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§1221e. Repealed. Pub. L. 103–227, title IX, §911(a), Mar. 31, 1994, 108 Stat. 213

Section, Pub. L. 90–247, title IV, §405, as added Pub. L. 92–318, title III, §301(a)(2), June 23, 1972, 86 Stat. 328; amended Pub. L. 93–380, title V, §502(a)(2)(B), Aug. 21, 1974, 88 Stat. 560; Pub. L. 94–482, title IV, §403, Oct. 12, 1976, 90 Stat. 2227; Pub. L. 95–561, title XII, §1242, Nov. 1, 1978, 92 Stat. 2352; Pub. L. 96–49, §14, Aug. 13, 1979, 93 Stat. 354; Pub. L. 96–374, title XIII, §§1311–1314, Oct. 3, 1980, 94 Stat. 1498, 1499; Pub. L. 98–511, title VII, §§702(a), 703, 704(a), Oct. 19, 1984, 98 Stat. 2405, 2406; Pub. L. 99–498, title XIV, §1401(a), Oct. 17, 1986, 100 Stat. 1589; Pub. L. 100–50, §24(a), June 3, 1987, 101 Stat. 362; Pub. L. 100–297, title III, §§3001(p)(2), 3002, 3403(b), (c), Apr. 28, 1988, 102 Stat. 337, 349; Pub. L. 103–33, §1(b), May 25, 1993, 107 Stat. 94, related to Office of Educational Research and Improvement.

SAVINGS PROVISION

Pub. L. 103–227, title IX, §914, Mar. 31, 1994, 108 Stat. 223, which provided that contracts for regional educational laboratories, Educational Resources Information Center Clearinghouses and research and development centers and regional educational laboratories assisted under this section as in effect on Mar. 30, 1994, would remain in effect until the termination date of such contracts, was repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

EXISTING GRANTS AND CONTRACTS

Pub. L. 103–227, title IX, §915, Mar. 31, 1994, 108 Stat. 223, which provided that grants and contracts for the research and development centers assisted under this section as in effect on Mar. 30, 1994, would remain in effect until the termination date of such grants or contracts, except if extended to implement the provisions of title IX of Pub. L. 103–227 [see section 6001 of this title], and authorized use of funds appropriated pursuant to former section 6011(m)(1) of this title to carry out these provisions, was repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

§§1221e–1 to 1221e–1c. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1221e–1, Pub. L. 90–247, title IV, §406, as added Pub. L. 93–380, title V, §501(a), Aug. 21, 1974,

88 Stat. 556; amended Pub. L. 94–273, §12(1), Apr. 21, 1976, 90 Stat. 378; Pub. L. 94–482, title IV, §§401, 406, title V, §501(q), Oct. 12, 1976, 90 Stat. 2226, 2231, 2238; Sen. Res. 4, Feb. 4, 1977; Pub. L. 95–561, title XII, §§1201, 1212(a), (c), 1243(a), Nov. 1, 1978, 92 Stat. 2333, 2338, 2341, 2353; S. Res. 30, Mar. 7, 1979; Pub. L. 98–511, title VII, §§702(b), 704(b), Oct. 19, 1984, 98 Stat. 2406; Pub. L. 99–498, title XIV, §1402, Oct. 17, 1986, 100 Stat. 1597; Pub. L. 100–50, §24(b), June 3, 1987, 101 Stat. 363; Pub. L. 100–297, title III, §3001(a), (b)(1), (c)–(p)(1), (q), 3403(a), Apr. 28, 1988, 102 Stat. 331–337, 344; Pub. L. 101–589, title II, §252, Nov. 16, 1990, 104 Stat. 2894; Pub. L. 102–325, title XV, §1552, July 23, 1992, 106 Stat. 838; Pub. L. 103–33, §1(a), May 25, 1993, 107 Stat. 93; Pub. L. 103–227, title VII, §707, Mar. 31, 1994, 108 Stat. 209; Pub. L. 103–437, §7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to National Center for Education Statistics. See section 9541 et seq. of this title.

Section 1221e–1a, Pub. L. 90–247, title IV, §406A, formerly §437, as added Pub. L. 93–380, title V, §512(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 94–273, §17, Apr. 21, 1976, 90 Stat. 379; Pub. L. 94–482, title V, §501(f)(2), (3), Oct. 12, 1976, 90 Stat. 2237; S. Res. 4, Feb. 4, 1977; renumbered §406A, Pub. L. 95–561, title XII, §1231(a)(2), Nov. 1, 1978, 92 Stat. 2342; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, §18(b), Dec. 8, 1983, 97 Stat. 1417; Pub. L. 103–437, §7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to responsibility of State to furnish information on uses of Federal funds in State. See section 1226b(a) and (f) of this title.

Section 1221e–1b, Pub. L. 90–247, title IV, §406B, formerly §406A, as added Pub. L. 96–374, title XIII, §1303, Oct. 3, 1980, 94 Stat. 1497; renumbered §406B, Pub. L. 99–159, title IV, §401(1), Nov. 22, 1985, 99 Stat. 903, authorized appropriations for fiscal year 1981 for Pre-College Science Teacher Training Program and Minority Institutions Science Improvement program.

Section 1221e–1c, Pub. L. 90–247, title IV, §406C, as added Pub. L. 99–159, title IV, §401(2), Nov. 22, 1985, 99 Stat. 903, authorized appropriations for fiscal years 1985 and 1986 for Minority Institutions Science Improvement Program.

§1221e–1d. Use of Council staff and facilities

The National Advisory Council on Educational Research and Improvement, the Advisory Council on Education Statistics, and members of such councils may not use any staff, facilities, equipment, supplies, or franking privileges of the councils for activities unrelated to the purposes of the councils.

(Pub. L. 99–498, title XIV, §1403, Oct. 17, 1986, 100 Stat. 1599.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1986, and not as part of the General Education Provisions Act which comprises this chapter.

§1221e–2. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, §407, as added Pub. L. 93–380, title V, §502(a)(1), Aug. 21, 1974, 88 Stat. 559; amended Pub. L. 96–88, title III, §301(b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692, related to education officers of United States.

§1221e–3. General authority of Secretary

The Secretary, in order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department.

(Pub. L. 90–247, title IV, §410, formerly §408, as added Pub. L. 93–380, title V, §502(a)(1), Aug. 21, 1974, 88 Stat. 559; amended Pub. L. 95–561, title XII, §§1243(b), 1244, Nov. 1, 1978, 92 Stat. 2353; renumbered §410 and amended Pub. L. 103–382, title II, §§212(b)(1), 222, Oct. 20, 1994, 108 Stat. 3913, 3914.)

AMENDMENTS

1994—Pub. L. 103–382, §222, amended section generally, substituting single par. relating to general authority of Secretary for former subsecs. (a) to (d) relating to general authority of administrative heads of education agencies.

1978—Subsec. (a). Pub. L. 95–561, §1243(b), inserted "or by delegation of authority pursuant to law" after "vested in him by law" in provisions preceding par. (1) and, in par. (1), inserted ", and governing the applicable programs administered by" after "the manner of operation of".

Subsecs. (b) to (d). Pub. L. 95–561, §1244, added subsec. (b), redesignated former subsecs. (b) and (c) as (c) and (d), and in subsec. (d) as so redesignated substituted "For the purposes of this chapter" for "For the purposes of this section".

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–561, title XV, §1530, Nov. 1, 1978, 92 Stat. 2380, as amended by Pub. L. 96–46, §2(a)(10), Aug. 6, 1979, 93 Stat. 340, provided that:

"(a) Except as otherwise specifically provided in this Act, the provisions of this Act and the amendments and repeals made by this Act [see Tables for classification] shall take effect October 1, 1978.

"(b) The provisions of section 412(b)(2) [now 421(b)(2)] of the General Education Provisions Act [section 1225(b)(2) of this title], as added by section 1245 of this Act, shall not take effect with respect to the use of funds under section 421 of the Elementary and Secondary Education Act of 1965 [former section 3101 of this title] until October 1, 1980, except at the option of local educational agencies."

EFFECTIVE DATE

Pub. L. 93–380, title V, §502(b), Aug. 21, 1974, 88 Stat. 560, provided that: "The amendments made by this section [enacting this section and section 1221e–2 and amending sections 1221b and 1221e of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974]."

§1221e–4. Educational impact statement

Notwithstanding any other provision of law, no regulation affecting any institution of higher education in the United States, promulgated on or after October 3, 1980, shall become effective unless such agency causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States. Notwithstanding the exception provided under section 553(b) of title 5, such statement shall be based upon the record established under the provisions of section 553 of title 5, compiled during the rulemaking proceeding regarding such regulation.

(Pub. L. 90–247, title IV, §411, formerly §409, as added Pub. L. 96–374, title XIII, §1306, Oct. 3, 1980, 94 Stat. 1498; renumbered §411, Pub. L. 103–382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

CODIFICATION

October 3, 1980, referred to in text, was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 96–374, which enacted this section, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 411 of Pub. L. 90–247 was renumbered section 420, and is classified to section 1223 of this title.

Another prior section 411 of Pub. L. 90–247 was classified to section 1222 of this title prior to repeal by Pub. L. 93–380.

Another prior section 411 of Pub. L. 90–247 was renumbered section 430, and is classified to section 1231 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§§1221f to 1221h. Repealed. Pub. L. 100–297, title V, §5352(4), Apr. 28, 1988, 102 Stat. 414

Section 1221f, Pub. L. 92–318, title IV, §441, June 23, 1972, 86 Stat. 343, established Office of Indian Education. See section 2641 of Title 25, Indians.

Section 1221g, Pub. L. 92–318, title IV, §442, June 23, 1972, 86 Stat. 343; Pub. L. 93–380, title V, §505(a)(2), title VIII, §845(d), Aug. 21, 1974, 88 Stat. 562, 612; Pub. L. 94–273, §§3(11), 13(1), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 95–561, title XI, §1141(c)(3), Nov. 1, 1978, 92 Stat. 2329; Pub. L. 98–511, title V, §513(b)(5), Oct. 19, 1984, 98 Stat. 2400, established National Advisory Council on Indian Education. See section 2642 of Title 25.

Section 1221h, Pub. L. 92–318, title IV, §453, June 23, 1972, 86 Stat. 345; Pub. L. 95–561, title XI, §§1147, 1148, 1151, Nov. 1, 1978, 92 Stat. 2330, 2331, 2333; Pub. L. 96–46, §7, Aug. 6, 1979, 93 Stat. 343, defined "Indian" for purposes of the Indian Education Act. See section 2651 of Title 25.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§1221i. Repealed. Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, Pub. L. 93–380, title V, §519, Aug. 21, 1974, 88 Stat. 576; Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to Office of Libraries and Learning Resources.

§1221j. Television program assistance

(a) Granting and contracting authority

The Secretary of Education is authorized to make grants to and contracts with public and private agencies for the production, development, or distribution (or any combination thereof) of programs designed for television systems, whether broadcast or nonbroadcast.

(b) Administration and studies

The Secretary of Education shall be responsible for the administration of this section and shall also conduct surveys, research, and evaluation studies which may assist in decisions to support pilot programs for full scale production.

(Pub. L. 95–561, title XV, §1527, Nov. 1, 1978, 92 Stat. 2379; Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95–561, set out as an Effective Date of 1974 Amendment note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Secretary" in subsec. (a) and "Assistant Secretary for Education" in subsec. (b), pursuant to sections 301 and 507 of Pub. L. 96–88, which are classified to sections 3441 and 3507 of this title and which transferred functions (relating to education) of Secretary of Health, Education, and Welfare, and functions of Assistant Secretary for Education, to Secretary of Education.

SUBCHAPTER II—APPROPRIATIONS AND EVALUATIONS

AMENDMENTS

1972—Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326, redesignated subchapter I as II. Former subchapter II redesignated III.

1970—Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 166, added subchapter II heading.

PART 1—APPROPRIATIONS

AMENDMENTS

1974—Pub. L. 93–380, title V, §506(a)(1)(A), Aug. 21, 1974, 88 Stat. 562, added part 1 heading.

§1222. Repealed. Pub. L. 93–380, title V, §506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562

Section, Pub. L. 90–247, title IV, §411, formerly §402, Jan. 2, 1968, 81 Stat. 814; amended Pub. L. 91–230, title IV, §401(a)(3), Apr. 13, 1970, 84 Stat. 165; renumbered §411, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326, provided for program planning and evaluation and report to Congressional committees.

EFFECTIVE DATE OF REPEAL

Section repealed effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as an Effective Date of 1974 Amendment note under section 1225 of this title.

§1223. Forward funding

(a) To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing education activities and projects, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

(b) In order to effect a transition to the timing of appropriation action authorized by subsection (a) of this section, the application of this section may result in the enactment, in a fiscal year, of separate appropriations for an applicable program (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

(Pub. L. 90–247, title IV, §420, formerly §403, Jan. 2, 1968, 81 Stat. 814; Pub. L. 91–230, title IV, §401(a)(4), Apr. 13, 1970, 84 Stat. 165; renumbered §412, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §411, Pub. L. 93–380, title V, §506(a)(1)(C), Aug. 21, 1974, 88 Stat. 562; renumbered §420 and amended Pub. L. 103–382, title II, §§212(b)(1), 231, Oct. 20, 1994, 108 Stat. 3913, 3914.)

PRIOR PROVISIONS

A prior section 420 of Pub. L. 90–247 was renumbered section 426, and is classified to section 1228 of this title.

AMENDMENTS

1994—Pub. L. 103–382, §231, amended section generally. Prior to amendment, section read as follows: "To the end of affording the responsible State, local, and Federal officers concerned adequate notice of available Federal financial assistance for education, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application under such program will result in the enactment in the same year (whether in the same

appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year."

1970—Pub. L. 91–230 substituted "applicable program" and "under such program" for "Act referred to in section 1221 of this title" and "under any such Act", respectively.

NATIONAL POLICY WITH RESPECT TO ADVANCE FUNDING OF EDUCATION PROGRAMS

Pub. L. 93–380, title VIII, §802, Aug. 21, 1974, 88 Stat. 597, provided that: "The Congress declares it to be the policy of the United States to implement immediately and continually section 411 [now 420] of the General Education Provisions Act [this section], relating to advance funding for education programs, so as to afford responsible State, local, and Federal officers adequate notice of available Federal financial assistance for education authorized under this [Act, Pub. L. 93–380, see Short Title of 1974 Amendment note set out under section 6301 of this title] and other Acts of Congress."

Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as an Effective Date note under section 1221–1 of this title.

§1224. Repealed. Pub. L. 93–380, title V, §506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562

Section, Pub. L. 90–247, title IV, §413, formerly §404, Jan. 2, 1968, 81 Stat. 814; amended Pub. L. 91–230, title IV, §401(a)(5), (6), Apr. 13, 1970, 84 Stat. 165; renumbered §413, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326, provided for annual evaluation reports to Congressional committees, penultimate fiscal year reports, and contingent extension of expiring appropriation authority.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as an Effective Date of 1974 Amendment note under section 1225 of this title.

§1225. Availability of appropriations on academic or school-year basis; additional period for obligation of funds

(a) Academic or differing fiscal year

Appropriations for any fiscal year for grants, loans, contracts, or other payments under any applicable program may, in accordance with regulations of the Secretary, be made available for obligation by the recipient on the basis of an academic or school year differing from such fiscal year.

(b) Succeeding fiscal year

(1) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this chapter is applicable during any fiscal year, which are not obligated and expended by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

(2) Any funds under any applicable program which, pursuant to paragraph (1), are available for obligation and expenditure in the year succeeding the fiscal year for which they were appropriated shall be obligated and expended in accordance with—

(A) the Federal statutory and regulatory provisions relating to such program which are in effect for such succeeding fiscal year, and

(B) any program plan or application submitted by such educational agencies or institutions for such program for such succeeding fiscal year.

(c) Institution of judicial proceedings

If any funds appropriated to carry out any applicable program are not obligated pursuant to a spending plan submitted in accordance with section 1341(a) of title 31 and become available for obligation after the institution of a judicial proceeding seeking the release of such funds, then such

funds shall be available for obligation and expenditure until the end of the fiscal year which begins after the termination of such judicial proceeding.

(Pub. L. 90–247, title IV, §421, formerly §405, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title IV, §401(a)(5), (7), (8), Apr. 13, 1970, 84 Stat. 165; renumbered §414, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §412, and amended Pub. L. 93–380, title V, §506(a)(1)(D), (E), Aug. 21, 1974, 88 Stat. 562; Pub. L. 94–273, §3(12), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, §5, Sept. 24, 1977, 91 Stat. 912; Pub. L. 95–561, title XII, §1245, Nov. 1, 1978, 92 Stat. 2354; renumbered §421 and amended Pub. L. 103–382, title II, §§212(b)(1), 232, Oct. 20, 1994, 108 Stat. 3913, 3914.)

PRIOR PROVISIONS

A prior section 421 of Pub. L. 90–247 was classified to section 1230 of this title prior to repeal by Pub. L. 103–382.

Another prior section 421 of Pub. L. 90–247 was renumbered section 430, and is classified to section 1231 of this title.

Another prior section 421 of Pub. L. 90–247 was renumbered section 437, and is classified to section 1232 of this title.

AMENDMENTS

1994—Pub. L. 103–382, §232(a), amended section catchline generally.

Subsec. (a). Pub. L. 103–382, §232(b)(1), struck out "to educational agencies or institutions" after "other payments" and substituted "obligation" for "expenditure" and "recipient" for "agency or institution concerned".

Subsec. (b). Pub. L. 103–382, §232(b)(2), which directed the substitution in the original of "(b)(1) Notwithstanding" for "(b) Notwithstanding", could not be executed because the original already reads "(b)(1) Notwithstanding".

Subsec. (c). Pub. L. 103–382, §232(b)(3), substituted reference to section 1341(a) of title 31 for reference to section 3679(d)(2) of the Revised Statutes.

1978—Subsec. (b). Pub. L. 95–561 struck out "ending prior to October 1, 1979," after "applicable during any fiscal year," in existing provisions, designated existing provisions as thus amended as par. (1), and added par. (2).

1977—Subsec. (b). Pub. L. 95–112 substituted "October 1, 1979" for "October 1, 1978".

1976—Subsec. (b). Pub. L. 94–273 substituted "October" for "July".

1974—Subsec. (b). Pub. L. 93–380, §506(a)(1)(E), substituted "1978" for "1973" and inserted "by educational agencies or institutions" and "by such agencies and institutions" after "obligated and expended" and "obligation and expenditure", respectively.

Subsec. (c). Pub. L. 93–380, §506(a)(1)(E), added subsec. (c).

1970—Pub. L. 91–230 substituted "applicable program" for "Act referred to in section 1221 of this title", inserted "loans," after "grants," designated existing provisions as thus amended as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, but the provisions of subsec. (b)(2) of this section not to take effect with respect to the use of funds under former section 3101 of this title until Oct. 1, 1980, except at the option of local educational agencies, see section 1530 of Pub. L. 95–561, as amended, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93–380, title V, §506(b), Aug. 21, 1974, 88 Stat. 565, provided that: "The amendments made by subsection (a) of this section [enacting sections 1226a to 1226d of this title, amending this section and section 1227 of this title, and repealing sections 1222 and 1224 of this title] shall become effective on the date of enactment of this Act [Aug. 21, 1974]."

INDOCHINESE REFUGEE CHILDREN EDUCATION ASSISTANCE PROGRAMS; APPLICABILITY OF CONTINGENT EXTENSION PROVISIONS

Pub. L. 94–482, title III, §327, Oct. 12, 1976, 90 Stat. 2220, provided that: "The provisions of section 414 [now 422] of the General Education Provisions Act [section 1226a of this title], relating to the contingent extension of applicable programs, shall not apply to the Indochina Refugee Children Assistance Act of 1976

[former section 1211b of this title], or to any program of financial assistance for educational purposes for Indochinese refugee children."

§1226. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, §413, formerly §406, as added Pub. L. 90–576, title III, §301(b), Oct. 16, 1968, 82 Stat. 1094; amended Pub. L. 91–230, title IV, §401(a)(9), Apr. 13, 1970, 84 Stat. 166; renumbered §415, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §413, Pub. L. 93–380, title V, §506(a)(2)(A), Aug. 21, 1974, 88 Stat. 563, related to availability of appropriations.

§1226a. Contingent extension of programs

(a) Automatic extension

The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for one additional fiscal year unless Congress, in the regular session that ends prior to the beginning of the terminal fiscal year of such authorization or duration, has passed legislation that becomes law and extends or repeals the authorization or duration of such program.

(b) Amount of appropriation

The amount authorized to be appropriated for the period of automatic extension under subsection (a) of this section of an applicable program shall be the amount authorized to be appropriated for such program for the terminal fiscal year of the applicable program.

(c) Acts and determinations necessary for program continuation

If the Secretary is required, in the terminal fiscal year of an applicable program, to carry out certain acts or make certain determinations that are necessary for the continuation of such program, such acts or determinations shall be required to be carried out or made during the period of automatic extension under subsection (a) of this section.

(d) Application to commissions, councils, and committees required by law to terminate

This section shall not apply to the authorization of appropriations for a commission, council, or committee which is required by an applicable statute to terminate on a date certain.

(Pub. L. 90–247, title IV, §422, formerly §414, as added Pub. L. 93–380, title V, §506(a)(2)(B), Aug. 21, 1974, 88 Stat. 563; amended Pub. L. 96–374, title XIII, §1301, Oct. 3, 1980, 94 Stat. 1496; renumbered §422 and amended Pub. L. 103–382, title II, §§212(b)(1), 233, Oct. 20, 1994, 108 Stat. 3913, 3915.)

PRIOR PROVISIONS

A prior section 422 of Pub. L. 90–247 was renumbered section 431, and is classified to section 1231a of this title.

Another prior section 422 of Pub. L. 90–247 was renumbered section 438, and is classified to section 1232a of this title.

AMENDMENTS

1994—Pub. L. 103–382, §233, amended section generally, revising and restating former subsecs. (a) and (b) as subsecs. (a) to (c) and adding subsec. (d).

1980—Subsec. (a). Pub. L. 96–374 inserted provisions for the automatic extension of an authorization or duration of two additional fiscal years for any applicable program authorized to be included in the Appropriation Act for the fiscal year preceding the fiscal year for which appropriations are available for obligation.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

ADDITIONAL EXTENSIONS NOT PERMITTED

Pub. L. 114–105, §2(c), Dec. 18, 2015, 129 Stat. 2220, provided that: "Section 422 of the General Education Provisions Act (20 U.S.C. 1226a) shall not apply to further extend the duration of the authority under paragraph (1) of section 461(b) of the Higher Education Act of 1965 (20 U.S.C. 1087aa(b)), as amended by subsection (a)(1) of this section, beyond September 30, 2017, on the basis of the extension under such subsection."

INDOCHINESE REFUGEE CHILDREN EDUCATION ASSISTANCE PROGRAMS; APPLICABILITY OF CONTINGENT EXTENSION PROVISIONS

Applicability of contingent extension provisions to any program of financial assistance for educational purposes for Indochinese refugee children, see section 327 of Pub. L. 94–482, set out as a note under section 1225 of this title.

LIMITATION ON EXTENSION OF PROGRAMS

Pub. L. 94–328, §2(d), June 30, 1976, 90 Stat. 727, provided that: "The amendments made by this section [amending sections 1070a, 1074, 1078 and 1078a of this title and enacting provisions set out as a note under section 2756 of Title 42, The Public Health and Welfare] shall not be deemed to authorize the automatic extension of the programs so amended, under section 414 [now 422] of the General Education Provisions Act [this section], beyond the date specified in such amendments."

§1226a–1. Payments; installments, advances or reimbursement, and adjustments

Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(Pub. L. 90–247, title IV, §423, formerly §425, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered §435, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §415, Pub. L. 95–561, title XII, §1231(a)(1), Nov. 1, 1978, 92 Stat. 2342; renumbered §423 and amended Pub. L. 103–382, title II, §§212(b)(1), 261(a), Oct. 20, 1994, 108 Stat. 3913, 3927.)

CODIFICATION

Section was formerly classified to section 1232d of this title prior to its renumbering by Pub. L. 95–561.

PRIOR PROVISIONS

A prior section 423 of Pub. L. 90–247 was classified to section 1231b of this title prior to repeal by Pub. L. 103–382.

Another prior section 423 of Pub. L. 90–247 was renumbered section 439, and is classified to section 1232b of this title.

AMENDMENTS

1994—Pub. L. 103–382, §261(a), substituted "Secretary" for "Commissioner".

PART 2—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

AMENDMENTS

1974—Pub. L. 93–380, title V, §506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563, added part 2 heading.

§1226b. Responsibility of States to furnish information

(a) Biennial reports; contents

Each State educational agency shall submit to the Secretary a report on or before March 15 of

every second year. Each such report shall include—

(1) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

(2) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

(b) Additional contents

Each report submitted under subsection (a) of this section shall—

(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

(2) analyze the information included in the report by local educational agency and by program;

(3) include the total amount of funds available to the State under each such program for each fiscal year concerned; and

(4) be made readily available by the State to local educational agencies and institutions within the State and to the public.

(c) Delinquent or incomplete reports

If the Secretary does not receive a report by the date required under subsection (a) of this section, or receives an incomplete report, the Secretary, not later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.

(d) Availability of information

When the Secretary receives a report required under subsection (a) of this section, the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available, at a reasonable cost, to any individual who requests such information.

(e) Congressional telecommunications network

The Secretary shall consult with the Speaker and Minority Leader of the House of Representatives and the Majority and Minority Leaders of the Senate regarding the costs and feasibility of making the information described in subsection (a) of this section available as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.

(f) Reports by Secretary

On or before August 15 of each year in which reports are submitted under subsection (a) of this section, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

(1) an analysis of the content and data quality of such reports;

(2) a compilation of statistical data derived from such reports; and

(3) information obtained by the Secretary with respect to—

(A) direct grants made to local educational agencies by the Federal Government; and

(B) contracts entered into between such agencies and the Federal Government.

(Pub. L. 90–247, title IV, §424, as added Pub. L. 103–382, title II, §234, Oct. 20, 1994, 108 Stat. 3915.)

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a), (b), and (f) of this section were contained in section 1221e–1a of this title prior to repeal by Pub. L. 103–382.

A prior section 1226b, Pub. L. 90–247, title IV, §416, as added Pub. L. 93–380, title V, §506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563, related to program planning and evaluation, prior to repeal by Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913.

A prior section 424 of Pub. L. 90–247 was classified to section 1231b–1 of this title prior to repeal by Pub.

L. 103–382.

Another prior section 424 of Pub. L. 90–247 was renumbered section 433, and is classified to section 1231c of this title.

Another prior section 424 of Pub. L. 90–247 was renumbered section 434, and was classified to section 1232c of this title prior to repeal by Pub. L. 95–561.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§1226c. Biennial evaluation report

Not later than March 31, 1995, and every two years after such date, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate an evaluation report on the effectiveness of applicable programs in achieving such programs' legislated intent and purposes during the two preceding fiscal years. Such report shall—

(1) contain program profiles that include legislative citations, multiyear funding histories, and legislated purposes;

(2) contain recent information on the progress being made toward the achievement of program objectives, including listings of program performance indicators, data from performance measurement based on the indicators, and information on the costs and benefits of the applicable programs being evaluated;

(3) address significant program activities, such as initiatives for program improvement, regulations, and program monitoring and evaluation;

(4) list the principal analyses and studies supporting the major conclusions in such report;

(5) be prepared in concise summary form with necessary detailed data and appendixes, including available data to indicate the effectiveness of the programs and projects by the race, sex, disability and age of beneficiaries of such programs and projects; and

(6) include the results of the program evaluations conducted in accordance with section 7981 of this title.

(Pub. L. 90–247, title IV, §425, formerly §417, as added Pub. L. 93–380, title V, §506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564; amended Pub. L. 95–561, title XII, §1246(a), (b), Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96–46, §4(b), Aug. 6, 1979, 93 Stat. 342; Pub. L. 96–374, title XIII, §1305, Oct. 3, 1980, 94 Stat. 1497; Pub. L. 98–511, title VII, §705, Oct. 19, 1984, 98 Stat. 2406; renumbered §425 and amended Pub. L. 103–382, title II, §§212(b)(1), 235, Oct. 20, 1994, 108 Stat. 3913, 3916; Pub. L. 103–437, §7(a)(2), Nov. 2, 1994, 108 Stat. 4587; Pub. L. 107–110, title X, §1076(h), Jan. 8, 2002, 115 Stat. 2091; Pub. L. 114–95, title IX, §9215(mm)(1), Dec. 10, 2015, 129 Stat. 2176.)

PRIOR PROVISIONS

A prior section 425 of Pub. L. 90–247 was renumbered section 432, and is classified to section 1231b–2 of this title.

Another prior section 425 of Pub. L. 90–247 was renumbered section 434, and is classified to section 1231d of this title.

Another prior section 425 of Pub. L. 90–247 was renumbered section 423, and is classified to section 1226a–1 of this title.

AMENDMENTS

2015—Par. (6). Pub. L. 114–95 substituted "section 7981 of this title" for "section 7941 of this title".

2002—Par. (6). Pub. L. 107–110 substituted "7941" for "8941".

1994—Pub. L. 103–437, which directed that section 417(a) of Pub. L. 90–247 be amended by substituting "Labor and Human Resources" for "Human Resources", could not be executed because this section, which

was section 417 of Pub. L. 90–247, was renumbered section 425 and amended generally by Pub. L. 103–382.

Pub. L. 103–382, §235, amended section generally, substituting single undesignated par. relating to biennial evaluation reports for former subsecs. (a) and (b) relating to annual evaluation reports and including requirement for information on contracts and grants for evaluations of programs.

1984—Subsec. (a). Pub. L. 98–511 substituted "December 31" for "November 1".

1980—Subsec. (a)(F). Pub. L. 96–374 inserted ", including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age of its beneficiaries" after "detailed data and appendices".

1979—Subsec. (a). Pub. L. 96–46 substituted "(a) Not later than" for "(a)(1) Not later than" and struck out par. (2) which provided that, in the case of programs and projects assisted under title I of the Elementary and Secondary Education Act of 1965, the report include a survey of how many children counted under section 103(c) of such Act do or do not participate in such programs and projects and how many disadvantaged children do or do not participate in such programs and projects.

1978—Subsec. (a)(1). Pub. L. 95–561 inserted "(including compliance with provisions of law requiring the maintenance of non-Federal expenditures for the purposes of such applicable programs)" after "effectiveness of applicable programs" and substituted "Committee on Human Resources" for "Committee on Labor and Public Welfare" in provisions preceding subpar. (A).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–511, title VII, §711, Oct. 19, 1984, 98 Stat. 2408, provided that:

"(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Oct. 19, 1984] or October 1, 1984, whichever occurs later.

"(b) The amendments made by title I of this Act [see Tables for classification] shall take effect on July 1, 1985."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–46 effective Oct. 1, 1978, see section 8 of Pub. L. 96–46, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

§1226c–1. Availability of education reports, etc., to Congressional committees

Any evaluation report or data or information collected in preparation of such report, which is paid

for with appropriated funds, shall be made available, upon request, within 4 days to the chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and of the Committee on Labor and Human Resources of the Senate.

(Pub. L. 95–561, title XV, §1523, Nov. 1, 1978, 92 Stat. 2378; Pub. L. 103–437, §7(b), Nov. 2, 1994, 108 Stat. 4587.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Labor and Human Resources" for "Human Resources".

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§1226d. Repealed. Pub. L. 96–470, title I, §106(a), Oct. 19, 1980, 94 Stat. 2238

Section, Pub. L. 90–247, title IV, §418, as added Pub. L. 93–380, title V, §506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564; amended S. Res. 4, Feb. 4, 1977; Pub. L. 95–561, title XII, §1246(c), Nov. 1, 1978, 92 Stat. 2354; S. Res. 30, Mar. 7, 1979, directed Assistant Secretary to submit to Committee on Education and Labor of the House of Representatives and Committee on Labor and Human Resources of the Senate comprehensive renewal evaluation reports for applicable programs.

§1227. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, §419, formerly §417, as added Pub. L. 92–318, title III, §304, June 23, 1972, 86 Stat. 333; renumbered §419 and amended Pub. L. 93–380, title V, §506(a)(3)(A), (B), Aug. 21, 1974, 88 Stat. 563, related to education program evaluations by Comptroller General.

§1228. Prohibition against use of appropriated funds for busing

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title VII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], but not including any portion of such funds as are attributable to children counted under section 7003(d) of such Act [20 U.S.C. 7703(d)] or residing on property described in section 7013(10) of such Act [20 U.S.C. 7713(10)].

(Pub. L. 90–247, title IV, §426, formerly §420, as added Pub. L. 93–380, title II, §252, Aug. 21, 1974, 88 Stat. 519; renumbered §426 and amended Pub. L. 103–382, title II, §§212(b)(1), 261(b),

Oct. 20, 1994, 108 Stat. 3913, 3927; Pub. L. 106–398, §1 [[div. A], title XVIII, §1808(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–382; Pub. L. 114–95, title IX, §9215(mm)(2), Dec. 10, 2015, 129 Stat. 2176.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title VII of the Act is classified generally to subchapter VII (§7701 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 426 of Pub. L. 90–247 was renumbered section 433, and is classified to section 1231c of this title.

Another prior section 426 of Pub. L. 90–247 was renumbered section 435, and is classified to section 1231e of this title.

Another prior section 426 of Pub. L. 90–247 was renumbered section 436, and was classified to section 1232e of this title prior to repeal by Pub. L. 95–561.

AMENDMENTS

2015—Pub. L. 114–95 substituted "title VII of the Elementary and Secondary Education Act of 1965, but not including any portion of such funds as are attributable to children counted under section 7003(d) of such Act or residing on property described in section 7013(10) of such Act." for "title VIII of the Elementary and Secondary Education Act of 1965, but not including any portion of such funds as are attributable to children counted under section 8003(d) of such Act or residing on property described in section 8013(10) of such Act."

2000—Pub. L. 106–398 substituted "section 8003(d) of such Act" for "subsections (d) and (g) of section 8003 of such Act".

1994—Pub. L. 103–382, §261(b), substituted "title VIII of the Elementary and Secondary Education Act of 1965" for "subchapter I of chapter 13 of this title" and "subsections (d) and (g) of section 8003 of such Act or residing on property described in section 8013(10) of such Act" for "subparagraph (C) of section 238(d)(2) of this title or section 244(1)(C) of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

§1228a. Equity for students, teachers, and other program beneficiaries

(a) Purpose

The purpose of this section is to assist the Department in implementing the Department's mission to ensure equal access to education and to promote educational excellence throughout the Nation, by—

(1) ensuring equal opportunities to participate for all eligible students, teachers, and other program beneficiaries in any project or activity carried out under an applicable program; and

(2) promoting the ability of such students, teachers, and beneficiaries to meet high standards.

(b) Requirement to develop steps to ensure equity

The Secretary shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to

be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.

(c) Establishment of criteria

The Secretary may establish criteria and provide technical assistance for meeting the requirements of this section.

(d) Effect on other laws

Nothing in this section shall be construed to alter in any way the rights or responsibilities established under the laws cited in section 1221(d) of this title.

(Pub. L. 90–247, title IV, §427, as added Pub. L. 103–382, title II, §236, Oct. 20, 1994, 108 Stat. 3917.)

PRIOR PROVISIONS

A prior section 427 of Pub. L. 90–247 was renumbered section 434, and is classified to section 1231d of this title.

Another prior section 427 of Pub. L. 90–247 was renumbered section 429, and was classified to section 1231f of this title prior to repeal by Pub. L. 103–382.

EFFECTIVE DATE

Section effective July 1, 1995, for noncompetitive programs in which funds are allocated on the basis of a formula and for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years, see section 3(a)(2) of Pub. L. 103–382, set out as an Effective Date of 1994 Amendment note under section 1221 of this title.

§1228b. Coordination

The National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, and any other board established to analyze, address, or approve education content or student performance standards and assessments shall coordinate and interact with one another in order to ensure that each such entity does not duplicate activities to assist the States in reforming their educational systems.

(Pub. L. 90–247, title IV, §428, as added Pub. L. 103–382, title II, §237, Oct. 20, 1994, 108 Stat. 3917; amended Pub. L. 104–134, title I, §101(d) [title VII, §703(c)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

PRIOR PROVISIONS

A prior section 428 of Pub. L. 90–247 was renumbered section 435, and is classified to section 1231e of this title.

AMENDMENTS

1996—Pub. L. 104–134 struck out "the National Education Standards and Improvement Council," before "and any other board".

§1228c. Disclosure requirements

(a) In general

Each educational organization, prior to enrolling a minor and prior to accepting funds for the cost of a minor's participation in an educational program operated by such organization, shall disclose the following information in written form to the minor or the minor's parent.

(1) Method of solicitation and selection

The method of solicitation and selection of participants in the educational program, including—

(A) the origin of any mailing list used for such solicitation and selection;

(B) any recruitment through a local school official, teacher, or school personnel, including any compensation or other benefit offered to such official, teacher, or personnel for the recommendation of a minor for participation in the educational program;

(C) any open enrollment activity, including the method of outreach; and

(D) any cooperation with, or sponsorship by, a membership organization, including a description of the cooperation or sponsorship and the name of each such organization.

(2) Cost and fees

Information regarding the cost of the educational program and information regarding the distribution of any enrollment fee, including—

(A) the amount paid for, and the percentage of the total educational program cost of, each feature of the educational program, including—

(i) food;

(ii) lodging;

(iii) transportation;

(iv) program staffing;

(v) textbooks, syllabi, or other scholastic educational program materials;

(vi) speaker fees; and

(vii) administrative expenses, including expenses related to—

(I) the preparation of nonscholastic educational program materials;

(II) the provision of financial assistance;

(III) mailing list rental or other recruitment activity; and

(IV) administrative salaries and consulting fees;

(B) the identity of the organization or business providing each of the features described in clauses (i) through (vii) of subparagraph (A); and

(C) the nature of any relationship of any board member, officer, or employee of the educational organization to any organization or business described in subparagraph (B), including the salary or other compensation paid by such organization or business to such board member, officer, or employee.

(b) Nondiscriminatory enrollment and service policy

(1) In general

Each educational organization shall include a verifiable statement in all enrollment or recruitment material that the educational organization does not—

(A) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment; or

(B) exclude any student from participation in an educational program, discriminate against any student in providing the benefits associated with such program (including any scholarship or financial assistance, and use of any facility), or subject the student to discrimination under such program, on the basis of race, disability, or residence in a low-income area.

(2) Construction

Nothing in this subsection shall be construed to entitle a student to—

(A) participation in an educational program or any benefit associated with such program; or

(B) a waiver of any fee charged for such participation or benefit.

(c) Enforcement

The Secretary shall—

(1)(A) widely disseminate information about the requirements of this section to State and local school officials and parents; and

(B) require educational organizations to submit appropriate information or assurances regarding such organizations' compliance with this section; and

(2) take whatever other steps the Secretary determines are appropriate to enforce this section,

including—

(A) promulgating regulations;

(B) establishing a complaint process;

(C) referring complaints to the relevant Federal, State, or local authorities for appropriate action;

(D) alerting educational agencies, schools, and parents to the practices of educational organizations that violate the provisions of this section; and

(E) imposing civil fines (not to exceed $1,000 per violation) on educational organizations that knowingly violate this section.

(d) Definitions

As used in this section:

(1) Disability

The term "disability" has the same meaning given to such term by section 12102(2) of title 42.

(2) Educational organization

(A) Except as provided in subparagraphs (B) and (C), the term "educational organization" means any organization or entity that—

(i) provides an educational program for a fee; and

(ii) recruits students through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers or staff, or current or former participants in an educational program offered by such organization or entity.

(B) The definition in subparagraph (A) shall not include—

(i) a local educational agency, State educational agency, a State department of education, or an elementary or secondary school (as defined by the terms "elementary school" and "secondary school" in section 7801 of this title);

(ii) an institution of higher education as defined by section 1001 of this title; or

(iii) a local organization sponsored by an elementary or secondary school, a recreational organization, an entertainment organization, a local sports activity group, or a social club.

(C) For the purpose of subsection (a) of this section only, such term does not include an organization or entity that provides an educational program if such organization or entity—

(i) recruits, for participation in such program, solely through a local school official; and

(ii) does not offer a local school official, teacher, or other school personnel compensation (other than compensation for actual expenses incurred in performing chaperon activities or for participating in separate, professionally-staffed teacher training and technical assistance seminars and workshops related to such program) or any other benefit for such recruitment.

(3) Educational program

(A) Except as provided in subparagraph (B), the term "educational program" means a special honors program, seminar, citizenship experience, government study program, educational vacation, student exchange program, or other educational experience or honor—

(i) that is generally directed toward minors or secondary school students;

(ii) for which a tuition or enrollment fee is charged;

(iii) that is offered away from a student's regular place of school attendance;

(iv) that includes not less than one supervised night away from home; and

(v) that is intended to enhance a student's regular course of study.

(B) Such term does not include a recreational program,[1] or a social or religious activity.

(4) Local school official

The term "local school official" means the highest administrative official serving a school district, or such individual's designee.

(5) Minor

The term "minor" means an individual who has not attained the age of 18 years.

(6) Membership organization

The term "membership organization" includes any organization that maintains a membership list or collects dues or membership fees from its members.

(7) Recreational organization

The term "recreational organization" includes any organization or entity that has as its primary function pleasure, amusement, or sports activities.

(8) Recreational program

The term "recreational program" includes any activity or service that is intended as an entertainment pastime.

(Pub. L. 90–247, title IV, §429, as added Pub. L. 103–382, title II, §238, Oct. 20, 1994, 108 Stat. 3918; amended Pub. L. 105–244, title I, §102(a)(6)(C), Oct. 7, 1998, 112 Stat. 1618; Pub. L. 114–95, title IX, §9215(mm)(3), Dec. 10, 2015, 129 Stat. 2176.)

PRIOR PROVISIONS

A prior section 429 of Pub. L. 90–247 was classified to section 1231f of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (d)(2)(B)(i). Pub. L. 114–95 substituted "an elementary or secondary school (as defined by the terms 'elementary school' and 'secondary school' in section 7801 of this title)" for "an elementary or secondary school as defined by the Elementary and Secondary Education Act of 1965".

1998—Subsec. (d)(2)(B)(ii). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

[1] So in original. The comma probably should not appear.

SUBCHAPTER III—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF SECRETARY

AMENDMENTS

1994—Pub. L. 103–382, title II, §261(c), Oct. 20, 1994, 108 Stat. 3927, substituted "SECRETARY" for "COMMISSIONER OF EDUCATION".

1972—Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326, redesignated former subchapter II as III. Former subchapter III redesignated IV.

§1230. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, §421, as added Pub. L. 93–380, title V, §507(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 94–482, title IV, §404(a), Oct. 12, 1976, 90 Stat. 2230; Pub. L. 96–88, title III,

§301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, specified programs subject to provisions of this subchapter.

PART 1—GENERAL AUTHORITY

§1231. Joint funding of programs

(a) Joint projects; transfers of appropriations; contracts or grants; criteria

(1) The Secretary is authorized to enter into arrangements with other Federal agencies to jointly carry out projects of common interest, to transfer to such agencies funds appropriated under any applicable program, and to receive and use funds from such agencies, for projects of common interest.

(2) Funds transferred or received pursuant to paragraph (1) shall be used only in accordance with the statutes authorizing the appropriation of such funds, and shall be made available by contract or grant only to recipients eligible to receive such funds under such statutes.

(3) If the Secretary enters into an agreement under this subsection for the administration of a project, the agency administering the project shall use such agency's procedures to award contracts or grants and to administer such awards, unless the parties to the agreement specify the use of procedures of another agency that is a party to the agreement.

(4) If the Secretary has entered into an agreement authorized under this subsection and the Secretary and the heads of the other agencies participating in the agreement determine that joint funding is necessary to address a special need consistent with the purposes and authorized activities of each program that provides funding under the joint project, the Secretary and the heads of the other participating agencies may develop a single set of criteria for the jointly funded project and require each applicant for such project to submit a single application for review by the participating agencies.

(b) Joint applications

The Secretary may develop the criteria for, and require the submission of, joint applications under two or more applicable programs under which funds are awarded on a competitive basis, and may jointly review and approve such applications separately from other applications under such programs, when the Secretary determines that such joint awards are necessary to address a special need consistent with the purposes and authorized activities of each such program. Any applicant for such a joint award shall meet the eligibility requirements of each such program.

(c) Limitations on joint funding

The Secretary may not construe the provisions of this section to take precedence over a limitation on joint funding contained in an applicable statute.

(d) Congressional notice

(1) The Secretary shall provide notice to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate of each joint funding agreement made with other Federal agencies not later than 60 days after the making of such agreements.

(2) Such notice shall include—

(A) a description of the purpose and objectives of the joint funding arrangement;

(B) the amounts and sources, by program, of the funds dedicated to such arrangement; and

(C) the criteria developed to govern the award of contracts and grants.

(Pub. L. 90–247, title IV, §430, formerly §411, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 166; renumbered §421 and amended Pub. L. 92–318, title III, §§301(a)(1), 302(a), June 23, 1972, 86 Stat. 326, 332; renumbered §421A, Pub. L. 93–380, title V, §507(a), Aug. 21,

1974, 88 Stat. 565; renumbered §430 and amended Pub. L. 103–382, title II, §§212(b)(1), 241, Oct. 20, 1994, 108 Stat. 3913, 3921.)

PRIOR PROVISIONS

A prior section 430 of Pub. L. 90–247 was renumbered section 436, and is classified to section 1231g of this title.

AMENDMENTS

1994—Pub. L. 103–382, §241, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to administration of education programs, delegations of authority, utilization of services and facilities of other agencies, and consolidation of programs.

1972—Subsec. (c). Pub. L. 92–318, §302(a), added subsec. (c).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1972 AMENDMENT; INCONSISTENT PROVISIONS INEFFECTIVE

Pub. L. 92–318, title III, §302(c), June 23, 1972, 86 Stat. 333, provided that: "The provisions of section 421(c) [now 430(c)] of the General Education Provisions Act [subsec. (c) of this section] shall be effective upon the date of enactment of this Act [June 23, 1972]. No provision of any law which is inconsistent with such section 421(c) shall be effective nor shall any such provision control to the extent of such inconsistency, unless such a law is enacted after the date of enactment of this Act."

§1231a. Collection and dissemination of information

The Secretary shall—

(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs, and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

(2) inform the public regarding federally supported education programs; and

(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving the intended purposes of such programs.

(Pub. L. 90–247, title IV, §431, formerly §412, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 166; renumbered §422 and amended Pub. L. 92–318, title III, §301(a)(1), (b)(2)(B), June 23, 1972, 86 Stat. 326, 332; Pub. L. 94–482, title IV, §409(b), Oct. 12, 1976, 90 Stat. 2233; renumbered §431, renumbered §422, and amended Pub. L. 103–382, title II, §§212(b)(1), 242, Oct. 20, 1994, 108 Stat. 3913, 3922; renumbered §431, Pub. L. 107–110, title X, §1062(1), Jan. 8, 2002, 115 Stat. 2087.)

PRIOR PROVISIONS

A prior section 431 of Pub. L. 90–247 was renumbered section 437, and is classified to section 1232 of this title.

Another prior section 431 of Pub. L. 90–247 was renumbered section 441, and was classified to section 1233 of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, §242, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to duty to collect and disseminate information about applicable programs and to submit an annual report to Congress and authorizing use of contract to carry out this section.

1976—Subsec. (b). Pub. L. 94–482 substituted "June 30" for "March 31".

1972—Subsec. (a)(4). Pub. L. 92–318, §301(b)(2)(B), substituted "(as set forth in section 1221c(a) of this

title)" for "(as set forth in section 1 of this title)".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92–318, title III, §301(b)(2)(B), June 23, 1972, 86 Stat. 332, provided that the amendment made by Pub. L. 92–318 is effective July 1, 1972.

EVALUATION PRACTICES AND PROCEDURES AT NATIONAL, STATE, AND LOCAL LEVELS FOR FEDERALLY FUNDED ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS; REPORT TO CONGRESS

Pub. L. 95–561, title XV, §1526, Nov. 1, 1978, 92 Stat. 2379, as amended by Pub. L. 96–46, §2(a)(9), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, directed Secretary of Education to conduct a study of evaluation practices and procedures at the national, State, and local levels with respect to federally funded elementary and secondary educational programs and include in the first annual report to Congress submitted more than eighteen months after Nov. 1, 1978, proposals and recommendations for the revision or modification of any part or all of such practices and procedures.

§§1231b, 1231b–1. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1231b, Pub. L. 90–247, title IV, §423, formerly §413, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered §423, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to catalog of Federal education assistance programs.

Section 1231b–1, Pub. L. 90–247, title IV, §424, as added Pub. L. 93–380, title V, §508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to compilation of assisted innovative projects.

§1231b–2. Review of applications

(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions

In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Secretary, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law, rules, regulations, or guidelines governing the applicable program, in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, (3) ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or (4) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing, the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines governing such applicable program, it shall rescind such final action.

(b) Appeals to Secretary; persons aggrieved; notice; orders prescribing appropriate agency actions; finality of agency fact findings; interim orders pending appeal or review

Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its

final action after a review under subsection (a) of this section may appeal such action to the Secretary. An appeal under this subsection may be taken only if notice of such appeal is filed with the Secretary within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a) of this section. If, on such appeal, the Secretary determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Secretary may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Records; availability

Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) Termination of assistance for noncompliance with provisions or orders

If any State educational agency fails or refuses to comply with any provision of this section, or with any order of the Secretary under subsection (b) of this section, the Secretary shall forthwith terminate all assistance to the State educational agency under the applicable program affected or issue such other orders as the Secretary may deem appropriate to achieve such compliance.

(Pub. L. 90–247, title IV, §432, formerly §425, as added Pub. L. 93–380, title V, §508(a), Aug. 21, 1974, 88 Stat. 566; amended Pub. L. 95–561, title XII, §1247, Nov. 1, 1978, 92 Stat. 2354; renumbered §432 and amended Pub. L. 103–382, title II, §§212(b)(1), 243, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 432 of Pub. L. 90–247 was renumbered section 438, and is classified to section 1232a of this title.

Another prior section 432 of Pub. L. 90–247 was renumbered section 442, and was classified to section 1233a of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, §243(1)(C), (D), inserted comma after "the hearing" in third sentence and substituted "guidelines governing such applicable program, it" for "guidelines, governing such applicable program it" in fourth sentence.

Pub. L. 103–382, §243(1)(A), (B), substituted "Secretary, any applicant" for "Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant".

Subsec. (b). Pub. L. 103–382, §243(2), substituted "Secretary" for "Commissioner" wherever appearing.

Subsec. (d). Pub. L. 103–382, §243(3), substituted "Secretary under" for "Commissioner under" and "Secretary shall" for "Commissioner shall" and inserted before period at end "or issue such other orders as the Secretary may deem appropriate to achieve such compliance".

1978—Subsec. (a). Pub. L. 95–561 added cl. (3) relating to the ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, and redesignated former cl. (3) as (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE

Pub. L. 93–380, title V, §508(b), Aug. 21, 1974, 88 Stat. 566, provided that: "The amendments made by subsection (a) [enacting this section and section 1231b–1 of this title] shall be effective on the date of enactment of this Act [Aug. 21, 1974]."

§1231c. Advice, counsel, and technical assistance

(a) State educational agencies, institutions of higher education

For the purpose of carrying out more effectively Federal education programs, the Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

(1) in determining benefits available to them under Federal law;

(2) in preparing applications for, and meeting requirements of, applicable programs;

(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

(b) Cost allocation, collection, etc., by local educational agencies

The Secretary shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

(c) Dissemination

In awarding contracts and grants for the development of curricula or instructional materials, the Secretary and the Director of the National Institute of Education shall—

(1) encourage applicants to assure that such curricula or instructional materials will be developed in a manner conducive to dissemination through continuing consultations with publishers, personnel of State and local educational agencies, teachers, administrators, community representatives, and other individuals experienced in such dissemination;

(2) permit applicants to include provision for reasonable consultation fees or planning costs; and

(3) insure that grants to public agencies and nonprofit private organizations and contracts with public agencies and private organizations for publication and dissemination of curricula or instructional materials, or both, are awarded competitively to such agencies and organizations which provide assurances that the curricula and instructional materials will reach the target populations for which they were developed.

(d) Annual report by Secretary

The Secretary's annual report shall contain a statement of the Secretary's activities under this section.

(Pub. L. 90–247, title IV, §433, formerly §414, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered §424, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §426, Pub. L. 93–380, title V, §508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 95–561, title XII, §1248, Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered §433, Pub. L. 103–382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 433 of Pub. L. 90–247 was renumbered section 439, and is classified to section 1232b of this title.

Another prior section 433 of Pub. L. 90–247 was renumbered section 443, and was classified to section 1233b of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1978—Subsecs. (c), (d). Pub. L. 95–561 added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

"Secretary" and "Secretary's", meaning the Secretary of Education, substituted for "Commissioner" and "Commissioner's", respectively, in subsecs. (a) to (d) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

NATIONAL INSTITUTE OF EDUCATION

The National Institute of Education consisting of a National Council on Educational Research and a Director of the Institute was established by section 1221e of this title which, as amended generally by Pub. L. 99–498, title XIV, §1401(a), Oct. 17, 1986, 100 Stat. 1589, provided objectives and duties for the Office of Educational Research and Improvement and established the National Advisory Council on Educational Research and Improvement, and section 1401(b) of Pub. L. 99–498 transferred the property and records of the National Institute of Education to the Office of Educational Research and Improvement.

§1231c–1. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, §426A, as added Pub. L. 95–561, title XII, §1202, Nov. 1, 1978, 92 Stat. 2334; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to equalization assistance.

§1231d. Parental involvement and dissemination

In the case of any applicable program in which the Secretary determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, the Secretary shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination is made provides for payments to local educational agencies, applications for such payments shall—

(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by such programs and projects;

(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

(Pub. L. 90–247, title IV, §434, formerly §415, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered §425, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §427, Pub. L. 93–380, title V, §508(a), Aug. 21, 1974, 88 Stat. 565; renumbered §434 and amended Pub. L. 103–382, title II, §§212(b)(1), 244, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 434 of Pub. L. 90–247 was renumbered section 440, and is classified to section 1232c of this title.

Another prior section 434 of Pub. L. 90–247 was renumbered section 444, and was classified to section 1233c of this title prior to repeal by Pub. L. 103–382.

Another prior section 434 of Pub. L. 90–247 was classified to section 1232c of this title prior to repeal by Pub. L. 95–561.

AMENDMENTS

1994—Pub. L. 103–382, §244, substituted "Secretary determines" for "Commissioner determines" and "the Secretary shall" for "he shall" and inserted "is made" after "such determination".

§1231e. Use of funds withheld

(a) At any time that the Secretary makes an allotment or reallotment to any State under any applicable program, the Secretary shall reduce such allotment or reallotment by such amount as the Secretary determines such allotment or reallotment would have been reduced, had the data on which such allotment or reallotment is based excluded all data relating to local educational agencies of the State that, on the date of the Secretary's action, are ineligible to receive the Federal financial assistance involved because of failure to comply with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 794 of title 29, or the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.].

(b) The Secretary may use any funds withheld under subsection (a) of this section—

(1) to increase the allotments or reallotments of local educational agencies within the State that are not described in subsection (a) of this section, or the allotments or reallotment of all States, in accordance with the Federal law governing the program; or

(2) for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964 [42 U.S.C. 2000c–4], or for any other program administered by the Department that is designed to enhance equity in education or redress discrimination on the basis of race, color, national origin, sex, age, or disability.

(Pub. L. 90–247, title IV, §435, formerly §416, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered §426, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §428, Pub. L. 93–380, title V, §508(a), Aug. 21, 1974, 88 Stat. 565; renumbered §435 and amended Pub. L. 103–382, title II, §§212(b)(1), 245, Oct. 20, 1994, 108 Stat. 3913, 3922.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in subsec. (a), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this Title 42 and Tables.

PRIOR PROVISIONS

A prior section 435 of Pub. L. 90–247 was renumbered section 441, and is classified to section 1232d of this title.

Another prior section 435 of Pub. L. 90–247 was renumbered section 423, and is classified to section 1226a–1 of this title.

Another prior section 435 of Pub. L. 90–247 was renumbered section 445, and is classified to section 1233d of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, §245, amended section generally. Prior to amendment, section consisted of single par. relating to use of funds withheld for failure to comply with title VI of the Civil Rights Act of 1964.

§1231f. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, §429, formerly §417, as added Pub. L. 91–230, title IV §401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered §427, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §429 and amended Pub. L. 93–380, title V, §§501(b)(2), 508(a), Aug. 21, 1974, 88 Stat. 558, 565; Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, authorized transfer of information.

PART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

§1231g. Applications

(a) Submission and amendments of applications

Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, the Secretary is authorized to provide for the submission of applications for assistance effective for more than one fiscal year under any applicable program with whatever amendments to such applications being required as the Secretary determines essential.

(b) Uniform dates

The Secretary shall, insofar as is practicable, establish uniform dates during the year for the submission of applications under all applicable programs and for the approval of such applications.

(c) Development of common applications

The Secretary shall, insofar as is practicable, develop and require the use of—

(1) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies pursuant to some objective formula, and such application shall be used as the single application for as many of these programs as is practicable;

(2) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies on a competitive or discretionary basis, and such application shall be used as the single application for as many of such programs as is practicable; and

(3) a common application for grants to local educational agencies in applicable programs which are directly administered by the Secretary, and such application shall be used as the single application for as many of these programs as is practicable.

(Pub. L. 90–247, title IV, §436, formerly §430, as added Pub. L. 95–561, title XII, §1213, Nov. 1, 1978, 92 Stat. 2342; renumbered §436 and amended Pub. L. 103–382, title II, §§212(b)(1), 246, Oct. 20, 1994, 108 Stat. 3913, 3923.)

PRIOR PROVISIONS

A prior section 436 of Pub. L. 90–247 was renumbered section 442, and is classified to section 1232e of this title.

Another prior section 436 of Pub. L. 90–247 was classified to section 1232e of this title prior to repeal by Pub. L. 95–561.

Another prior section 436 of Pub. L. 90–247 was renumbered section 446, and was classified to section 1233e of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, §246(2), substituted "Secretary" for "Commissioner" wherever appearing.

Subsec. (a). Pub. L. 103–382, §246(1), substituted "for more than one fiscal year" for "for three fiscal years".

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§1232. Regulations

(a) "Regulation" defined

For the purpose of this section, the term "regulation" means any generally applicable rule, regulation, guideline, interpretation, or other requirement that—

(1) is prescribed by the Secretary or the Department; and

(2) has legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program.

(b) Citation of authority

Regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority on which such provision is based.

(c) Uniform application

All regulations shall be uniformly applied and enforced throughout the 50 States.

(d) Application of exemption

The exemption for public property, loans, grants and benefits in section 553(a)(2) of title 5 shall apply only to regulations—

(1) that govern the first grant competition under a new or substantially revised program authority as determined by the Secretary; or

(2) where the Secretary determines that the requirements of this subsection will cause extreme hardship to the intended beneficiaries of the program affected by such regulations.

(e) Schedule for promulgation of final regulations

Not later than 60 days after the date of enactment of any Act, or any portion of any Act, affecting the administration of any applicable program, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Secretary plans to promulgate final regulations that the Secretary determines are necessary to implement such Act or portion of such Act. Such schedule shall provide that all such final regulations shall be promulgated within 360 days after the date of enactment of such Act or portion of such Act.

(f) Transmittal of final regulations

Concurrently with the publication of any final regulations, the Secretary shall transmit a copy of such final regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(Pub. L. 90–247, title IV, §437, formerly §421, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered §431, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §509(a), Aug. 21, 1974, 88 Stat. 566; Pub. L. 94–142, §7, Nov. 29, 1975, 89 Stat. 796; Pub. L. 94–482, title IV, §405, Oct. 12, 1976, 90 Stat. 2231; Pub. L. 96–374, title XIII, §1302, Oct. 3, 1980, 94 Stat. 1497; Pub. L. 97–35, title V, §533(a)(3), Aug. 13, 1981, 95 Stat. 453; renumbered §437 and amended Pub. L. 103–382, title II, §§212(b)(1), 247, Oct. 20, 1994, 108 Stat. 3913, 3923; Pub. L. 103–437, §7(a)(1), Nov. 2, 1994, 108 Stat. 4587.)

PRIOR PROVISIONS

A prior section 437 of Pub. L. 90–247 was renumbered section 443, and is classified to section 1232f of this title.

Another prior section 437 of Pub. L. 90–247 was renumbered section 406A, and was classified to section 1221e–1a of this title prior to repeal by Pub. L. 103–382.

Another prior section 437 of Pub. L. 90–247 was renumbered section 447, and was classified to section

1233f of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–437, which directed that section 431(b)(2)(B), (d)(2), and (g) of Pub. L. 90–247 be amended by substituting "Labor and Human Resources" for "Labor and Public Welfare", could not be executed because this section, which was section 431 of Pub. L. 90–247, was renumbered section 437 and amended generally by Pub. L. 103–382.

Pub. L. 103–382, §247, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (g) relating to promulgation of regulations by Secretary, and their publication, application, disapproval by Congress, and modification subsequent to disapproval.

1981—Subsec. (d)(1). Pub. L. 97–35 substituted "final regulation (except expected family contribution schedules and any amendments thereto promulgated pursuant to sections 1078(a)(2)(D) and (E) and 1089(a)(1) of this title) as required" for "final regulation as required".

1980—Subsec. (d)(1). Pub. L. 96–374 inserted ", in whole or in part" after "disapprove such final regulation".

1976—Subsec. (a). Pub. L. 94–482, §405(a), added par. (1), designated existing provisions which constituted entire subsec. (a) as par. (2) and, as so redesignated, struck out applicability to rules, guidelines, interpretations, or orders.

Subsec. (b)(1). Pub. L. 94–482, §405(b)(1), substituted "proposed regulation" for "standard, rule, regulation, or requirement of general applicability".

Subsec. (b)(2)(A). Pub. L. 94–482, §405(b)(2), substituted "regulation" for "standard, rule, regulation, or general requirement" in two places.

Subsec. (c). Pub. L. 94–482, §405(c), struck out applicability to rules, guidelines, interpretations, or orders.

Subsec. (d)(1). Pub. L. 94–482, §405(d)(1), (2), struck out applicability to standards, rules, requirements, or requirements of general applicability.

Subsec. (d)(2). Pub. L. 94–482, §405(d)(3), substituted "regulation" for "standard, rule, regulation, or requirement" wherever appearing.

Subsec. (e). Pub. L. 94–482, §405(e), substituted "regulation" for "standard, rule, regulation, or requirement" wherever appearing and "final regulation" for "proposed standard, rule, regulation, or requirement of general applicability".

Subsec. (g). Pub. L. 94–482, §405(f), substituted "final regulations" for "rules, regulations, and guidelines" wherever appearing.

1975—Subsec. (d)(1). Pub. L. 94–142, §7(a)(1), (b), inserted "final" before "standard" wherever appearing in existing provisions and inserted provisions covering the effect of the failure of Congress to adopt the concurrent resolution with respect to any final standard, rule, regulation, or requirement.

Subsec. (d)(2). Pub. L. 94–142, §7(a)(2), (3), substituted "objection to the final standard" for "objection to the proposed standard", "effective date of the final standard" for "effective date of the standard", and "In no event shall the final standard" for "In no event shall the standard".

1974—Subsec. (b). Pub. L. 93–380, §509(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d) to (g). Pub. L. 93–380, §509(a)(2), added subsecs. (d) to (g).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–35, title V, §540(a), Aug. 13, 1981, 95 Stat. 458, provided that the amendment made by Pub. L. 97–35 is effective Oct. 1, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise

provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94–142, §8, Nov. 29, 1975, 89 Stat. 796, provided that:

"(a) Notwithstanding any other provision of law, the amendments made by sections 2(a), 2(b), and 2(c) [amending sections 1411 and 1412 of this title as in effect through Sept. 30, 1977, and amending provisions set out as notes under sections 1411 to 1413 of this title] shall take effect on July 1, 1975.

"(b) The amendments made by sections 2(d), 2(e), 3, 6, and 7 [enacting sections 1405 and 1406 of this title, amending this section and sections 1412 and 1453 of this title, enacting provisions set out as a note under section 1411 of this title, and amending provisions set out as a note under section 1401 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

"(c) The amendments made by sections 4 and 5(a) [enacting sections 1415 to 1420 of this title and amending sections 1401, 1411, 1412, 1413, and 1414 of this title] shall take effect on October 1, 1977, except that the provisions of clauses (A), (C), (D), and (E) of paragraph (2) of section 612 of the Act [section 1412 of this title], as amended by this Act, section 617(a)(1)(D) of the Act [section 1417(a)(1)(D) of this title], as amended by this Act, section 617(b) of the Act [section 1417(b) of this title], as amended by this Act, and section 618(a) of the Act [section 1418(a) of this title], as amended by this Act, shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

"(d) The provisions of section 5(b) [amending section 1411 of this title and enacting provisions set out as notes under section 1411 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975]."

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93–380, title V, §509(b), Aug. 21, 1974, 88 Stat. 568, provided that: "The amendment made by paragraph (2) of subsection (a) [amending this section] shall be effective on the date of enactment of this [Aug. 21, 1974] and shall be effective with respect to the provisions of this Act [see Short Title note set out under section 821 of this title]."

STUDY AND REPORT ON RULES AND REGULATIONS

Pub. L. 92–318, title V, §503, June 23, 1972, 86 Stat. 346, provided for a study by the Commissioner of all rules, regulations, etc., in connection with the administration of any program to which the General Education Provisions Act [this chapter] applies, with a report to be submitted to Congress not later than one year after June 23, 1972. Such section further mandated the publication of all rules, regulations, etc., in the Federal Register not later than 60 days after submission of such report, followed by a public hearing on such matters within the 60 day period following such publication. Such section then required a subsequent report to the relevant Congressional Committees on such hearings, and a republication of all rules and regulations in the Federal Register, such republished rules, etc., to supercede all preceding rules and regulations.

§1232–1. Repealed. Pub. L. 98–511, title I, §109(b), Oct. 19, 1984, 98 Stat. 2369

Section, Pub. L. 90–247, title IV, §431A, as added Pub. L. 94–482, title III, §323(b), Oct. 12, 1976, 90 Stat. 2218; amended Pub. L. 95–561, title XII, §1249, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for maintenance of effort determinations, providing in subsection: (a) for promulgation of regulations and determination of amount expended, (b) for waiver of requirements, (c) for objective criteria in carrying out waiver authority, and (d) for duration of effectiveness of requirements.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1985, see section 711(b) of Pub. L. 98–511, set out as an Effective Date of 1984 Amendment note under section 1226c of this title.

§1232a. Prohibition against Federal control of education

No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the

curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 90–247, title IV, §438, formerly §422, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered §432 and amended Pub. L. 92–318, title III, §301(a)(1), title VII, §717(b), June 23, 1972, 86 Stat. 326, 369; Pub. L. 94–482, title IV, §404(b), Oct. 12, 1976, 90 Stat. 2230; renumbered §438, Pub. L. 103–382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 438 of Pub. L. 90–247 was renumbered section 444, and is classified to section 1232g of this title.

Another prior section 438 of Pub. L. 90–247 was renumbered section 448, and was classified to section 1233g of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1976—Pub. L. 94–482 substituted provisions prohibiting any applicable program from exercising Federal control of education, for provisions prohibiting such specific Federal laws as the Act of Sept. 30, 1950, National Defense Education Act of 1958, Act of Sept. 23, 1950, Higher Education Facilities Act of 1963, Elementary and Secondary Education Act of 1965, Higher Education Act of 1965, International Education Act of 1966, Emergency School Aid Act, and the Vocational Education Act of 1963 from exercising such Federal control.

1972—Pub. L. 92–318, §717(b), inserted "the Emergency School Aid Act;" after "the International Education Act of 1966;".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

§1232b. Labor standards

All laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 3145 of title 40.

(Pub. L. 90–247, title IV, §439, formerly §423, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered §433, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §439 and amended Pub. L. 103–382, title II, §§212(b)(1), 261(d), Oct. 20, 1994, 108 Stat. 3913, 3927.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

"Sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

A prior section 439 of Pub. L. 90–247 was renumbered section 445, and is classified to section 1232h of this title.

AMENDMENTS

1994—Pub. L. 103–382, §261(d), substituted "All laborers" for "Except for emergency relief under section 241–1 of this title, all laborers".

PART 3—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

§1232c. State agency monitoring and enforcement

(a) State plan

In the case of any applicable program in which Federal funds are made available to local agencies in a State through or under the supervision of a State board or agency, the Secretary may require the State to submit a plan for monitoring compliance by local agencies with Federal requirements under such program and for enforcement by the State of such requirements. The Secretary may require such plan to provide—

(1) for periodic visits by State personnel of programs administered by local agencies to determine whether such programs are being conducted in accordance with such requirements;

(2) for periodic audits of expenditures under such programs by auditors of the State or other auditors not under the control, direction, or supervision of the local educational agency; and

(3) that the State investigate and resolve all complaints received by the State, or referred to the State by the Secretary, relating to the administration of such programs.

(b) State enforcement of Federal requirements

In order to enforce the Federal requirements under any applicable program the State may—

(1) withhold approval, in whole or in part, of the application of a local agency for funds under the program until the State is satisfied that such requirements will be met; except that the State shall not finally disapprove such an application unless the State provides the local agency an opportunity for a hearing before an impartial hearing officer and such officer determines that there has been a substantial failure by the local agency to comply with any of such requirements;

(2) suspend payments to any local agency, in whole or in part, under the program if the State has reason to believe that the local agency has failed substantially to comply with any of such requirements, except that (A) the State shall not suspend such payments until fifteen days after the State provides the local agency an opportunity to show cause why such action should not be taken and (B) no such suspension shall continue in effect longer than sixty days unless the State within such period provides the notice for a hearing required under paragraph (3) of this subsection;

(3) withhold payments, in whole or in part, under any such program if the State finds, after reasonable notice and opportunity for a hearing before an impartial hearing officer, that the local agency has failed substantially to comply with any of such requirements.

(c) Withholding of payments

Any withholding of payments under subsection (b)(3) of this subsection [1] shall continue until the State is satisfied that there is no longer a failure to comply substantially with any of such requirements.

(Pub. L. 90–247, title IV, §440, formerly §434, as added Pub. L. 95–561, title XII, §1231(a)(3), Nov. 1, 1978, 92 Stat. 2342; renumbered §440 and amended Pub. L. 103–382, title II, §§212(b)(1), 261(e), Oct. 20, 1994, 108 Stat. 3913, 3927.)

PRIOR PROVISIONS

A prior section 1232c, Pub. L. 90–247, title IV, §434, formerly §424, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered §434 and amended Pub. L. 92–318, title III, §301(a)(1), title V, §501, June 23, 1972, 86 Stat. 326, 345; Pub. L. 93–380, title V, §§510, 511(a), Aug. 21, 1974, 88 Stat. 568, 569; Pub. L. 94–482, title V, §501(f)(1), Oct. 12, 1976, 90 Stat. 2237, related to administration of education programs and projects, prior to repeal by section 1231(a)(3) of Pub. L. 95–561.

A prior section 440 of Pub. L. 90–247 was renumbered section 446, and is classified to section 1232i of this title.

AMENDMENTS

1994—Pub. L. 103–382, §261(e)(1), struck out "educational" after "State" in section catchline.

Subsec. (a). Pub. L. 103–382, §261(e)(2)(A), substituted "Secretary" for "Commissioner" wherever appearing.

Subsecs. (b), (c). Pub. L. 103–382, §261(e)(2)(B), (C), redesignated provision following par. (3) of subsec. (b) as subsec. (c) and substituted "subsection (b)(3)" for "paragraph (3)".

EFFECTIVE DATE

Pub. L. 95–561, title XII, §1261, Nov. 1, 1978, 92 Stat. 2356, provided that: "The amendments made by section 1231 [enacting this section and sections 1232d, 1232e, and 1232f of this title and amending section 1088f–1 of this title] shall take effect with respect to appropriations for fiscal year 1980 and subsequent fiscal years. The amendments made by section 1232 [enacting sections 1234, 1234a, 1234b, 1234c, 1234d, and 1234e of this title] shall take effect 120 days after the enactment of this Act [Nov. 1, 1978]."

APPLICABILITY OF ADMINISTRATIVE PROCEDURE TO OFFICE OF EDUCATION OR ACTIONS BY COMMISSIONER UNAFFECTED BY SUBSECTIONS (B) TO (E)

Pub. L. 93–380, title V, §511(b)(2), Aug. 21, 1974, 88 Stat. 571, provided that nothing in the amendment made by subsec. (a) of section 511 of Pub. L. 93–380, which enacted prior subsecs. (b) to (e) and deleted former subsec. (b) of this section, would be construed to affect the applicability of chapter 5 of Title 5, Government Organization and Employees, to the Office of Education or actions by the Commissioner.

[1] *So in original. Probably should be "section".*

§1232d. Single State application

(a) Submission of general application; approval by State supervisory authority

In the case of any State which applies, contracts, or submits a plan for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of, the State educational agency of that State, such State shall submit (subject to the provisions of part D of title IV of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7231 et seq.]) to the Secretary a general application containing the assurances set forth in subsection (b) of this section. Such application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

(b) Assurances

An application submitted under subsection (a) of this section shall set forth assurances, satisfactory to the Secretary—

(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or

organization if the statute authorizing the program provides for grants to such entities, and that the public agency or nonprofit private agency, institution, or organization will administer such funds and property;

(3) that the State will adopt and use proper methods of administering each applicable program, including—

(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

(B) providing technical assistance, where necessary, to such agencies, institutions, and organizations,

(C) encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations,

(D) the dissemination throughout the State of information on program requirements and successful practices, and

(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Secretary may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

(5) that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

(6) that the State will make reports to the Secretary (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Secretary to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 1232f of this title, and afford access to the records as the Secretary may find necessary to carry out his duties;

(7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

(A) the State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Secretary or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

(C) the State will hold public hearings on the proposed plans if required by the Secretary by regulation; and

(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations; and

(8) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

(c) Effective term of general application

Each general application submitted under this section shall remain in effect for the duration of any program it covers. The Secretary shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant changes in the

circumstances affecting an assurance in that application.

(Pub. L. 90–247, title IV, §441, formerly §435, as added Pub. L. 95–561, title XII, §1231(a)(3), Nov. 1, 1978, 92 Stat. 2343; amended Pub. L. 98–511, title VII, §706(a), Oct. 19, 1984, 98 Stat. 2406; Pub. L. 100–297, title III, §3501(c), Apr. 28, 1988, 102 Stat. 357; renumbered §441 and amended Pub. L. 103–382, title II, §§212(b)(1), (3)(A), 261(f), Oct. 20, 1994, 108 Stat. 3913, 3928; Pub. L. 107–110, title X, §1062(2), Jan. 8, 2002, 115 Stat. 2087; Pub. L. 114–95, title IX, §9215(mm)(4), Dec. 10, 2015, 129 Stat. 2176.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part D of title IV of the Act is classified generally to part D (§7231 et seq.) of subchapter IV of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

A prior section 1232d was renumbered by Pub. L. 95–561, §1231(a)(1), and was transferred to section 1226a–1 of this title.

PRIOR PROVISIONS

Another prior section 441 of Pub. L. 90–247 was classified to section 1233 of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95 substituted "part D of title IV of the Elementary and Secondary Education Act of 1965) to the Secretary a general application" for "part C of title V of the Elementary and Secondary Education Act of 1965) to the Secretary a general application".

2002—Subsec. (a). Pub. L. 107–110 made technical correction to directory language of Pub. L. 100–297. See 1988 Amendment note below.

1994—Pub. L. 103–382, §261(f)(1), substituted "Secretary" for "Commissioner" wherever appearing.

Subsec. (a). Pub. L. 103–382, §261(f)(2)(C), substituted "part C of title V of the Elementary and Secondary Education Act of 1965" for "title V of such Act".

Pub. L. 103–382, §261(f)(2)(B), which directed amendment of first sentence of subsec. (a) by striking ", in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965," was executed by striking ", in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)," after "(subject" to reflect the probable intent of Congress.

Pub. L. 103–382, §261(f)(2)(A), struck out the comma after "submits a plan".

Subsec. (b)(6). Pub. L. 103–382, §212(b)(3), made technical amendment to reference to section 1232f of this title to reflect renumbering of corresponding section of original act.

1988—Subsec. (a). Pub. L. 100–297, as amended by Pub. L. 107–110, substituted "chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)" for "titles I and IV of the Elementary and Secondary Education Act of 1965".

1984—Subsec. (b)(8). Pub. L. 98–511 added par. (8).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–110, title X, §1062(2), Jan. 8, 2002, 115 Stat. 2087, provided that the amendment made by section 1062(2) is effective as of the date of enactment of Pub. L. 100–297, which was approved Apr. 28, 1988.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

§1232e. Single local educational agency application

(a) General application to State agency or board

Each local educational agency which participates in an applicable program under which Federal funds are made available to such agency through a State agency or board shall submit to such agency or board a general application containing the assurances set forth in subsection (b) of this section. That application shall cover the participation by that local educational agency in all such programs.

(b) Assurances

The general application submitted by a local educational agency under subsection (a) of this section shall set forth assurances—

(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided to the local educational agency under each program, and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

(4) that the local educational agency will make reports to the State agency or board and to the Secretary as may reasonably be necessary to enable the State agency or board and the Secretary to perform their duties and that the local educational agency will maintain such records, including the records required under section 1232f of this title, and provide access to those records, as the State agency or board or the Secretary deem necessary to perform their duties;

(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) that in the case of any project involving construction—

(A) the project is not inconsistent with overall State plans for the construction of school facilities, and

(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities;

(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and

(9) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

(c) Effective term of general application

A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the submission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.

(Pub. L. 90–247, title IV, §442, formerly §436, as added Pub. L. 95–561, title XII, §1231(a)(3), Nov. 1, 1978, 92 Stat. 2345; amended Pub. L. 98–511, title VII, §706(b), Oct. 19, 1984, 98 Stat. 2407; renumbered §442 and amended Pub. L. 103–382, title II, §§212(b)(1), (3)(B), 261(g), Oct. 20, 1994, 108 Stat. 3913, 3928.)

PRIOR PROVISIONS

A prior section 1232e, Pub. L. 90–247, title IV, §436, formerly §426, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered §436, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326, related to authority of Commissioner to vest title in equipment, prior to repeal by section 1231(a)(3) of Pub. L. 95–561.

A prior section 442 of Pub. L. 90–247 was classified to section 1233a of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, §261(g)(1), substituted "that local educational agency" for "that local education agency".

Subsec. (b)(2). Pub. L. 103–382, §261(g)(2)(A), inserted comma after "program".

Subsec. (b)(4). Pub. L. 103–382, §261(g)(2)(B), substituted "Secretary" for "Commissioner" wherever appearing.

Pub. L. 103–382, §212(b)(3)(B), made technical amendment to reference to section 1232f of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(7)(B). Pub. L. 103–382, §261(g)(2)(C), substituted "individuals with disabilities" for "handicapped individuals".

1984—Subsec. (b)(9). Pub. L. 98–511 added par. (9).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

PART 4—RECORDS; PRIVACY; LIMITATION ON WITHHOLDING FEDERAL FUNDS

§1232f. Records

(a) Records kept by recipient; full disclosure; maintenance period

Each recipient of Federal funds under any applicable program through any grant, subgrant, cooperative agreement, loan, or other arrangement shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective financial or programmatic audit. The recipient shall maintain such records for three years after the completion of the activity for which the funds are used.

(b) Audit examination

The Secretary and the Comptroller General of the United States, or any of their duly authorized

representatives, shall have access, for the purpose of audit examination, to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements to which reference is made in subsection (a) of this section, or which may relate to the compliance of the recipient with any requirement of an applicable program.

(Pub. L. 90–247, title IV, §443, formerly §437, as added Pub. L. 95–561, title XII, §1231(c), Nov. 1, 1978, 92 Stat. 2346; renumbered §443 and amended Pub. L. 103–382, title II, §§212(b)(1), 248, Oct. 20, 1994, 108 Stat. 3913, 3924.)

PRIOR PROVISIONS

A prior section 443 of Pub. L. 90–247 was classified to section 1233b of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, §248(1), substituted "grant, subgrant, cooperative agreement, loan, or other arrangement" for "grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency)", inserted "financial or programmatic" before "audit.", and substituted "three years" for "five years".

Subsec. (b). Pub. L. 103–382, §248(2), substituted "to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements" for "to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements".

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

§1232g. Family educational and privacy rights

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

(C) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than

those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (D), confidential recommendations—

(I) respecting admission to any educational agency or institution,

(II) respecting an application for employment, and

(III) respecting the receipt of an honor or honorary recognition.

(D) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (C), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

(B) The term "education records" does not include—

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major

field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C)(i) authorized representatives of (I) the Comptroller General of the United States, (II) the Secretary, or (III) State educational authorities, under the conditions set forth in paragraph (3), or (ii) authorized representatives of the Attorney General for law enforcement purposes under the same conditions as apply to the Secretary under paragraph (3);

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted—

(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

(ii) after November 19, 1974, if—

(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.[1]

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of title 26;

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons;

(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena;

(K) the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on behalf of the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of State and local educational and other agencies and institutions receiving funding or providing benefits of 1 or more programs authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for which the results will be reported in an aggregate form that does not identify any individual, on the conditions that—

(i) any data collected under this subparagraph shall be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary; and

(ii) any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements; and

(L) an agency caseworker or other representative of a State or local child welfare agency, or tribal organization (as defined in section 450b of title 25), who has the right to access a student's case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records, of the student will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student's education needs and authorized by such agency or organization to receive such disclosure and such disclosure is consistent with the State or tribal laws applicable to protecting the confidentiality of a student's education records.

Nothing in subparagraph (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless—

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) except as provided in paragraph (1)(J), such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency, except when a parent is a party to a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act

(42 U.S.C. 5101 note)) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the educational agency or institution is not required.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, or (C) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: *Provided,* That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.

(5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).

(6)(A) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(B) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(C) For the purpose of this paragraph, the final results of any disciplinary proceeding—

(i) shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student; and

(ii) may include the name of any other student, such as a victim or witness, only with the written consent of that other student.

(7)(A) Nothing in this section may be construed to prohibit an educational institution from disclosing information provided to the institution under section 14071 [2] of title 42 concerning

registered sex offenders who are required to register under such section.

(B) The Secretary shall take appropriate steps to notify educational institutions that disclosure of information described in subparagraph (A) is permitted.

(c) Surveys or data-gathering activities; regulations

Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) Students' rather than parents' permission or consent

For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) Informing parents or students of rights under this section

No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution effectively informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) Enforcement; termination of assistance

The Secretary shall take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with this section, and he has determined that compliance cannot be secured by voluntary means.

(g) Office and review board; creation; functions

The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

(h) Disciplinary records; disclosure

Nothing in this section shall prohibit an educational agency or institution from—

(1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

(2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

(i) Drug and alcohol violation disclosures

(1) In general

Nothing in this Act or the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] shall be construed to prohibit an institution of higher education from disclosing, to a parent or legal guardian of a student, information regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records, if—

(A) the student is under the age of 21; and

(B) the institution determines that the student has committed a disciplinary violation with respect to such use or possession.

(2) State law regarding disclosure

Nothing in paragraph (1) shall be construed to supersede any provision of State law that prohibits an institution of higher education from making the disclosure described in subsection (a) of this section.

(j) Investigation and prosecution of terrorism

(1) In general

Notwithstanding subsections (a) through (i) of this section or any provision of State law, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring an educational agency or institution to permit the Attorney General (or his designee) to—

(A) collect education records in the possession of the educational agency or institution that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18, or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such records, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) Application and approval

(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the education records are likely to contain information described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) Protection of educational agency or institution

An educational agency or institution that, in good faith, produces education records in accordance with an order issued under this subsection shall not be liable to any person for that production.

(4) Record-keeping

Subsection (b)(4) of this section does not apply to education records subject to a court order under this subsection.

(Pub. L. 90–247, title IV, §444, formerly §438, as added Pub. L. 93–380, title V, §513(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 93–568, §2(a), Dec. 31, 1974, 88 Stat. 1858; Pub. L. 96–46, §4(c), Aug. 6, 1979, 93 Stat. 342; Pub. L. 101–542, title II, §203, Nov. 8, 1990, 104 Stat. 2385; Pub. L. 102–325, title XV, §1555(a), July 23, 1992, 106 Stat. 840; renumbered §444 and amended Pub. L. 103–382, title II, §§212(b)(1), 249, 261(h), Oct. 20, 1994, 108 Stat. 3913, 3924, 3928; Pub. L. 105–244, title IX, §§951, 952, Oct. 7, 1998, 112 Stat. 1835, 1836; Pub. L. 106–386, div. B, title VI, §1601(d), Oct. 28, 2000, 114 Stat. 1538; Pub. L. 107–56, title V, §507, Oct. 26, 2001, 115 Stat. 367; Pub. L. 107–110, title X, §1062(3), Jan. 8, 2002, 115 Stat. 2088; Pub. L. 111–296, title I, §103(d), Dec. 13, 2010, 124 Stat. 3192; Pub. L. 112–278, §2, Jan. 14, 2013, 126 Stat. 2480.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (b)(1)(K), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (b)(1)(K), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat.

885, which is classified generally to chapter 13A (§1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

Section 3 of the Child Abuse Prevention and Treatment Act, referred to in subsec. (b)(2)(B), is section 3 of Pub. L. 93–247, which is set out as a note under section 5101 of Title 42, The Public Health and Welfare.

Section 14071 of title 42, referred to in subsec. (b)(7)(A), was repealed by Pub. L. 109–248, title I, §129(a), July 27, 2006, 120 Stat. 600.

This Act, referred to in subsec. (i)(1), is Pub. L. 90–247, Jan. 2, 1968, 80 Stat. 783, known as the Elementary and Secondary Education Amendments of 1967. Title IV of the Act, known as the General Education Provisions Act, is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (i)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 444 of Pub. L. 90–247 was classified to section 1233c of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

2013—Subsec. (b)(1)(L). Pub. L. 112–278, §2(1), added subpar. (L).

Subsec. (b)(2)(B). Pub. L. 112–278, §2(2), inserted ", except when a parent is a party to a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note)) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the educational agency or institution is not required" after "educational institution or agency".

2010—Subsec. (b)(1)(K). Pub. L. 111–296, which directed that par. (1) be amended by adding subpar. (K) "at the end", was executed by adding subpar. (K) after subpar. (J), to reflect the probable intent of Congress.

2002—Subsec. (a)(1)(B). Pub. L. 107–110, §1062(3)(A), realigned margins.

Subsec. (b)(1). Pub. L. 107–110, §1062(3)(C), substituted "subparagraph (E)" for "clause (E)" in concluding provisions.

Subsec. (b)(1)(J). Pub. L. 107–110, §1062(3)(B), realigned margins.

Subsec. (b)(7). Pub. L. 107–110, §1062(3)(D), realigned margins.

2001—Subsec. (j). Pub. L. 107–56 added subsec. (j).

2000—Subsec. (b)(7). Pub. L. 106–386 added par. (7).

1998—Subsec. (b)(1)(C). Pub. L. 105–244, §951(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, or (iii) State educational authorities, under the conditions set forth in paragraph (3) of this subsection;".

Subsec. (b)(6). Pub. L. 105–244, §951(2), designated existing provisions as subpar. (A), substituted "or a nonforcible sex offense, the final results" for "the results", substituted "such crime or offense" for "such crime" in two places, and added subpars. (B) and (C).

Subsec. (i). Pub. L. 105–244, §952, added subsec. (i).

1994—Subsec. (a)(1)(B). Pub. L. 103–382, §249(1)(A)(ii), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (a)(1)(C). Pub. L. 103–382, §249(1)(A)(i), (iii), redesignated subpar. (B) as (C) and substituted "subparagraph (D)" for "subparagraph (C)" in cl. (iii). Former subpar. (C) redesignated (D).

Subsec. (a)(1)(D). Pub. L. 103–382, §249(1)(A)(i), (iv), redesignated subpar. (C) as (D) and substituted "subparagraph (C)" for "subparagraph (B)".

Subsec. (a)(2). Pub. L. 103–382, §249(1)(B), substituted "privacy rights" for "privacy or other rights".

Subsec. (a)(4)(B)(ii). Pub. L. 103–382, §261(h)(1), substituted semicolon for period at end.

Subsec. (b)(1)(A). Pub. L. 103–382, §249(2)(A)(i), inserted before semicolon ", including the educational interests of the child for whom consent would otherwise be required".

Subsec. (b)(1)(C). Pub. L. 103–382, §261(h)(2)(A), substituted "or (iii)" for "(iii) an administrative head of an education agency (as defined in section 1221e–3(c) of this title), or (iv)".

Subsec. (b)(1)(E). Pub. L. 103–382, §249(2)(A)(ii), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "State and local officials or authorities to whom such information is specifically

required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;".

Subsec. (b)(1)(H). Pub. L. 103–382, §261(h)(2)(B), substituted "the Internal Revenue Code of 1986" for "the Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Subsec. (b)(1)(J). Pub. L. 103–382, §249(2)(A)(iii)–(v), added subpar. (J).

Subsec. (b)(2). Pub. L. 103–382, §249(2)(B)(i), which directed amendment of matter preceding subpar. (A) by substituting ", unless—" for the period, was executed by substituting a comma for the period before "unless—" to reflect the probable intent of Congress.

Subsec. (b)(2)(B). Pub. L. 103–382, §249(2)(B)(ii), inserted "except as provided in paragraph (1)(J)," before "such information".

Subsec. (b)(3). Pub. L. 103–382, §261(h)(2)(C), substituted "or (C)" for "(C) an administrative head of an education agency or (D)" and "education programs" for "education program".

Subsec. (b)(4). Pub. L. 103–382, §249(2)(C), inserted at end "If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years."

Subsec. (c). Pub. L. 103–382, §249(3), substituted "Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which" for "The Secretary shall adopt appropriate regulations to".

Subsec. (d). Pub. L. 103–382, §261(h)(3), inserted a comma after "education".

Subsec. (e). Pub. L. 103–382, §249(4), inserted "effectively" before "informs".

Subsec. (f). Pub. L. 103–382, §261(h)(4), struck out ", or an administrative head of an education agency," after "The Secretary" and substituted "enforce this section" for "enforce provisions of this section", "in accordance with" for "according to the provisions of", and "comply with this section" for "comply with the provisions of this section".

Subsec. (g). Pub. L. 103–382, §261(h)(5), struck out "of Health, Education, and Welfare" after "the Department" and "the provisions of" after "adjudicating violations of".

Subsec. (h). Pub. L. 103–382, §249(5), added subsec. (h).

1992—Subsec. (a)(4)(B)(ii). Pub. L. 102–325 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1) of this section, the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;".

1990—Subsec. (b)(6). Pub. L. 101–542 added par. (6).

1979—Subsec. (b)(5). Pub. L. 96–46 added par. (5).

1974—Subsec. (a)(1). Pub. L. 93–568, §2(a)(1)(A)–(C), (2)(A)–(C), (3), designated existing par. (1) as subpar. (A), substituted reference to educational agencies and institutions for reference to state or local educational agencies, institutions of higher education, community colleges, schools, agencies offering preschool programs, and other educational institutions, substituted the generic term education records for the enumeration of such records, and extended the right to inspect and review such records to parents of children who have been in attendance, and added subpars. (B) and (C).

Subsec. (a)(2). Pub. L. 93–568, §2(a)(4), substituted provisions making the availability of funds to educational agencies and institutions conditional on the granting of an opportunity for a hearing to parents of students who are or have been in attendance at such institution or agency to challenge the contents of the student's education records for provisions granting the parents an opportunity for such hearing, and inserted provisions authorizing insertion into the records a written explanation of the parents respecting the content of such records.

Subsec. (a)(3) to (6). Pub. L. 93–568, §2(a)(1)(G), (2)(F), (5), added pars. (3) to (6).

Subsec. (b)(1). Pub. L. 93–568, §2(a)(1)(D), (2)(D), (6), (8)(A)–(C), (10)(A), in provisions preceding subpar. (A), substituted "educational agency or institution which has a policy of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section)" for "state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of permitting the release of personally identifiable records or files (or personal information contained therein)", in subpar. (A), substituted "educational agency, who have been determined by such agency or institution to have" for "educational

agency who have", in subpar. (B), substituted "the student seeks or intends to" for "the student intends to", in subpar. (C), substituted reference to "section 408(c)" for reference to "section 409 of this Act" which for purposes of codification has been translated as "section 1221e–3(c) of this title", and added subpars. (E) to (I).

Subsec. (b)(2). Pub. L. 93–568, §2(a)(1)(E), (2)(E), substituted "educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection" for "state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b)(1) of this section".

Subsec. (b)(3). Pub. L. 93–568, §2(a)(8)(D), substituted "information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements" for "data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected".

Subsec. (b)(4). Pub. L. 93–568, §2(a)(9), substituted provisions that each educational agency or institution maintain a record, kept with the education records of each student, indicating individuals, agencies, or organizations who obtained access to the student's record and the legitimate interest in obtaining such information, that such record of access shall be available only to parents, school officials, and their assistants having responsibility for the custody of such records, and as a means of auditing the operation of the system, for provisions that with respect to subsecs. (c)(1), (c)(2), and (c)(3) of this section, all persons, agencies, or organizations desiring access to the records of a student shall be required to sign forms to be kept with the records of the student, but only for inspection by the parents or the student, indicating specifically the legitimate educational or other interest of the person seeking such information, and that the form shall be available to parents and school officials having responsibility for record maintenance as a means of auditing the operation of the system.

Subsec. (e). Pub. L. 93–568, §2(a)(1)(F), substituted "to any educational agency or institution unless such agency or institution" for "unless the recipient of such funds".

Subsec. (g). Pub. L. 93–568, §2(a)(7), (10)(B), struck out reference to sections 1232c and 1232f of this title and inserted provisions that except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–325, title XV, §1555(b), July 23, 1992, 106 Stat. 840, provided that: "The amendment made by this section [amending this section] shall take effect on the date of enactment of this Act [July 23, 1992]."

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–46 effective Oct. 1, 1978, see section 8 of Pub. L. 96–46, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93–568, §2(b), Dec. 31, 1974, 88 Stat. 1862, provided that: "The amendments made by subsection

(a) [amending this section] shall be effective, and retroactive to, November 19, 1974."

EFFECTIVE DATE

Pub. L. 93–380, title V, §513(b)(1), Aug. 21, 1974, 88 Stat. 574, provided that: "The provisions of this section [enacting this section and provisions set out as a note under section 1221 of this title] shall become effective ninety days after the date of enactment [Aug. 21, 1974] of section 438 [now 444] of the General Education Provisions Act [this section]."

[1] *So in original. The period probably should be a semicolon.*

[2] *See References in Text note below.*

§1232h. Protection of pupil rights

(a) Inspection of instructional materials by parents or guardians

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

(b) Limits on survey, analysis, or evaluations

No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning—

(1) political affiliations or beliefs of the student or the student's parent;

(2) mental or psychological problems of the student or the student's family;

(3) sex behavior or attitudes;

(4) illegal, anti-social, self-incriminating, or demeaning behavior;

(5) critical appraisals of other individuals with whom respondents have close family relationships;

(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;

(7) religious practices, affiliations, or beliefs of the student or student's parent; or

(8) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent.

(c) Development of local policies concerning student privacy, parental access to information, and administration of certain physical examinations to minors

(1) Development and adoption of local policies

Except as provided in subsections (a) and (b) of this section, a local educational agency that receives funds under any applicable program shall develop and adopt policies, in consultation with parents, regarding the following:

(A)(i) The right of a parent of a student to inspect, upon the request of the parent, a survey created by a third party before the survey is administered or distributed by a school to a student; and

(ii) any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.

(B) Arrangements to protect student privacy that are provided by the agency in the event of the administration or distribution of a survey to a student containing one or more of the following items (including the right of a parent of a student to inspect, upon the request of the parent, any survey containing one or more of such items):

(i) Political affiliations or beliefs of the student or the student's parent.

(ii) Mental or psychological problems of the student or the student's family.

(iii) Sex behavior or attitudes.

(iv) Illegal, anti-social, self-incriminating, or demeaning behavior.

(v) Critical appraisals of other individuals with whom respondents have close family relationships.

(vi) Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.

(vii) Religious practices, affiliations, or beliefs of the student or the student's parent.

(viii) Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

(C)(i) The right of a parent of a student to inspect, upon the request of the parent, any instructional material used as part of the educational curriculum for the student; and

(ii) any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.

(D) The administration of physical examinations or screenings that the school or agency may administer to a student.

(E) The collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose), including arrangements to protect student privacy that are provided by the agency in the event of such collection, disclosure, or use.

(F)(i) The right of a parent of a student to inspect, upon the request of the parent, any instrument used in the collection of personal information under subparagraph (E) before the instrument is administered or distributed to a student; and

(ii) any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

(2) Parental notification

(A) Notification of policies

The policies developed by a local educational agency under paragraph (1) shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of students enrolled in schools served by that agency. At a minimum, the agency shall—

(i) provide such notice at least annually, at the beginning of the school year, and within a reasonable period of time after any substantive change in such policies; and

(ii) offer an opportunity for the parent (and for purposes of an activity described in subparagraph (C)(i), in the case of a student of an appropriate age, the student) to opt the student out of participation in an activity described in subparagraph (C).

(B) Notification of specific events

The local educational agency shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities described in subparagraph (C) are scheduled, or expected to be scheduled.

(C) Activities requiring notification

The following activities require notification under this paragraph:

(i) Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose).

(ii) The administration of any survey containing one or more items described in clauses (i) through (viii) of paragraph (1)(B).

(iii) Any nonemergency, invasive physical examination or screening that is—

(I) required as a condition of attendance;

(II) administered by the school and scheduled by the school in advance; and

(III) not necessary to protect the immediate health and safety of the student, or of other

students.

(3) Existing policies

A local educational agency need not develop and adopt new policies if the State educational agency or local educational agency has in place, on January 8, 2002, policies covering the requirements of paragraph (1). The agency shall provide reasonable notice of such existing policies to parents and guardians of students, in accordance with paragraph (2).

(4) Exceptions

(A) Educational products or services

Paragraph (1)(E) does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following:

(i) College or other postsecondary education recruitment, or military recruitment.

(ii) Book clubs, magazines, and programs providing access to low-cost literary products.

(iii) Curriculum and instructional materials used by elementary schools and secondary schools.

(iv) Tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.

(v) The sale by students of products or services to raise funds for school-related or education-related activities.

(vi) Student recognition programs.

(B) State law exception

The provisions of this subsection—

(i) shall not be construed to preempt applicable provisions of State law that require parental notification; and

(ii) do not apply to any physical examination or screening that is permitted or required by an applicable State law, including physical examinations or screenings that are permitted without parental notification.

(5) General provisions

(A) Rules of construction

(i) This section does not supersede section 1232g of this title.

(ii) Paragraph (1)(D) does not apply to a survey administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) Student rights

The rights provided to parents under this section transfer to the student when the student turns 18 years old, or is an emancipated minor (under an applicable State law) at any age.

(C) Information activities

The Secretary shall annually inform each State educational agency and each local educational agency of the educational agency's obligations under this section and section 1232g of this title.

(D) Funding

A State educational agency or local educational agency may use funds provided under part A of title IV of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7101 et seq.] to enhance parental involvement in areas affecting the in-school privacy of students.

(6) Definitions

As used in this subsection:

(A) Instructional material

The term "instructional material" means instructional content that is provided to a student, regardless of its format, including printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

(B) Invasive physical examination

The term "invasive physical examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

(C) Local educational agency

The term "local educational agency" means an elementary school, secondary school, school district, or local board of education that is the recipient of funds under an applicable program, but does not include a postsecondary institution.

(D) Parent

The term "parent" includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child).

(E) Personal information

The term "personal information" means individually identifiable information including—

(i) a student or parent's first and last name;

(ii) a home or other physical address (including street name and the name of the city or town);

(iii) a telephone number; or

(iv) a Social Security identification number.

(F) Student

The term "student" means any elementary school or secondary school student.

(G) Survey

The term "survey" includes an evaluation.

(d) Notice

Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

(e) Enforcement

The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that—

(1) there has been a failure to comply with such section; and

(2) compliance with such section cannot be secured by voluntary means.

(f) Office and review board

The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.

(Pub. L. 90–247, title IV, §445, formerly §439, as added Pub. L. 93–380, title V, §514(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 95–561, title XII, §1250, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 103–227, title X, §1017, Mar. 31, 1994, 108 Stat. 268; renumbered §445, Pub. L. 103–382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913; amended Pub. L. 107–110, title X, §1061, Jan. 8, 2002, 115 Stat. 2083; Pub. L. 114–95, title IX, §9215(mm)(5), Dec. 10, 2015, 129 Stat. 2176.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c)(5)(A)(ii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(5)(D), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title IV of the Act is classified generally to part A (§7101 et seq.) of subchapter IV of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 445 of Pub. L. 90–247 was classified to section 1233d of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (c)(5)(D). Pub. L. 114–95 substituted "part A of title IV" for "part A of title V".

2002—Subsec. (b)(1) to (8). Pub. L. 107–110, §1061(1), added pars. (1) to (8) and struck out former pars. (1) to (7) which read as follows:

"(1) political affiliations;

"(2) mental and psychological problems potentially embarrassing to the student or his family;

"(3) sex behavior and attitudes;

"(4) illegal, anti-social, self-incriminating and demeaning behavior;

"(5) critical appraisals of other individuals with whom respondents have close family relationships;

"(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or

"(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),".

Subsec. (c) to (f). Pub. L. 107–110, §1061(2), (3), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

1994—Pub. L. 103–227 amended section generally, substituting in subsec. (a), provisions relating to inspection of instructional materials by parents or guardians for similar provisions, in subsec. (b), provisions relating to limits on survey, analysis, or evaluations for provisions relating to psychiatric or psychological examinations, testing, or treatment, and adding subsecs. (c) to (e).

1978—Pub. L. 95–561 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE

Pub. L. 93–380, title V, §514(b), Aug. 21, 1974, 88 Stat. 574, provided that: "The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974]."

§1232i. Limitations on withholding of Federal assistance

(a) Refusal to supply personal data on students or families

Except as provided in section 1232g(b)(1)(D) of this title, the refusal of a State or local educational agency or institution of higher education, community college, school, agency offering a

preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

(b) Noncompliance with nondiscrimination provisions of Federal law

The extension of Federal financial assistance to a local educational agency may not be limited, deferred, or terminated by the Secretary on the ground of noncompliance with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] or any other nondiscrimination provision of Federal law unless such agency is accorded the right of due process of law, which shall include—

(1) at least 30 days prior written notice of deferral to the agency, setting forth the particular program or programs which the Secretary finds to be operated in noncompliance with a specific provision of Federal law;

(2) the opportunity for a hearing on the record before a duly appointed administrative law judge within a 60-day period (unless such period is extended by mutual consent of the Secretary and such agency) from the commencement of any deferral;

(3) the conclusion of such hearing and the rendering of a decision on the merits by the administrative law judge within a period not to exceed 90 days from the commencement of such hearing, unless the judge finds by a decision that such hearing cannot be concluded or such decision cannot be rendered within such period, in which case such judge may extend such period for not to exceed 60 additional days;

(4) the limitation of any deferral of Federal financial assistance which may be imposed by the Secretary to a period not to exceed 15 days after the rendering of such decision unless there has been an express finding on such record that such agency has failed to comply with any such nondiscrimination provision of Federal law; and

(5) procedures, which shall be established by the Secretary, to ensure the availability of sufficient funds, without regard to any fiscal year limitations, to comply with the decision of such judge.

(c) Failure to comply with imposition of quotas

It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas (or any other numerical requirements which have the effect of imposing quotas) on the student admission practices of an institution of higher education or community college receiving Federal financial assistance.

(Pub. L. 90–247, title IV, §446, formerly §440, as added Pub. L. 93–380, title V, §515(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 94–482, title IV, §§407, 408, Oct. 12, 1976, 90 Stat. 2232, 2233; renumbered §446 and amended Pub. L. 103–382, title II, §212(b)(1), (3)(C), Oct. 20, 1994, 108 Stat. 3913.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

PRIOR PROVISIONS

A prior section 446 of Pub. L. 90–247 was classified to section 1233e of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, §212(b)(3)(C), made technical amendment to reference to section

1232g(b)(1)(D) of this title to reflect renumbering of corresponding section of original act.

1976—Pub. L. 94–482 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Pub. L. 93–380, title V, §515(b), Aug. 21, 1974, 88 Stat. 574, provided that: "The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974]."

§1232j. Prohibition on federally sponsored testing

(a) General prohibition

Notwithstanding any other provision of Federal law and except as provided in subsection (b) of this section, no funds provided to the Department of Education or to an applicable program, may be used to pilot test, field test, implement, administer or distribute in any way any federally sponsored national test in reading, mathematics, or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law.

(b) Exceptions

Subsection (a) of this section shall not apply to the Third International Mathematics and Science Study or other international comparative assessments developed under the authority of section 9543(a)(6) of this title and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 90–247, title IV, §447, as added Pub. L. 105–277, div. A, §101(f) [title III, §305(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–374; amended Pub. L. 107–110, title X, §1062(4), Jan. 8, 2002, 115 Stat. 2088; Pub. L. 107–279, title IV, §404(c), Nov. 5, 2002, 116 Stat. 1985.)

PRIOR PROVISIONS

A prior section 447 of Pub. L. 90–247 was classified to section 1233f of this title prior to repeal by Pub. L. 103–382.

Prior sections 1233 to 1233h comprising a former subchapter IV of this chapter were repealed by Pub. L. 103–382, title II, §212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

Section 1233, Pub. L. 90–247, title IV, §441, formerly §431, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered §441, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms for purposes of former subchapter IV of this chapter.

Section 1233a, Pub. L. 90–247, title IV, §442, formerly §432, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §442, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, authorized Secretary to establish necessary advisory councils.

Section 1233b, Pub. L. 90–247, title IV, §443, formerly §433, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §443, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §516(a), Aug. 21, 1974, 88 Stat. 575; Pub. L. 94–482, title IV, §411, title V, §501(a)(10), Oct. 12, 1976, 90 Stat. 2234, 2235; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to statutory advisory councils.

Section 1233c, Pub. L. 90–247, title IV, §444, formerly §434, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §444, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to compensation and travel expenses of members of advisory councils.

Section 1233d, Pub. L. 90–247, title IV, §445, formerly §435, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §445, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §517(a), Aug. 21, 1974, 88 Stat. 575; Pub. L. 96–88, title

III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to professional, technical, and clerical staff of advisory councils.

Section 1233e, Pub. L. 90–247, title IV, §446, formerly §436, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered §446, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to advisory council meetings.

Section 1233f, Pub. L. 90–247, title IV, §447, formerly §437, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered §447, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §517(b), Aug. 21, 1974, 88 Stat. 575; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to auditing and review of advisory council activities.

Section 1233g, Pub. L. 90–247, title IV, §448, formerly §438, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered §448, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, §1(d), June 15, 1977, 91 Stat. 219; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 103–437, §7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to reports by Secretary.

Section 1233h, Pub. L. 90–247, title IV, §449, as added Pub. L. 93–380, title V, §518(a), Aug. 21, 1974, 88 Stat. 575, related to application of other laws to advisory councils under former subchapter IV of this chapter.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–279 substituted "section 9543(a)(6) of this title" for "section 9003(a)(6) of this title".

Pub. L. 107–110 made technical amendment to reference in original act which appears in text as reference to section 9003(a)(6) of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SUBCHAPTER IV—ENFORCEMENT

PRIOR PROVISIONS

A prior subchapter IV, consisting of sections 1233 to 1233h, was repealed by Pub. L. 103–382, title II, §212(a)(2), Oct. 20, 1994, 108 Stat. 3913. See note set out under section 1232j of this title.

AMENDMENTS

1994—Pub. L. 103–382, title II, §212(b)(2), Oct. 20, 1994, 108 Stat. 3913, redesignated subchapter V of this chapter as this subchapter.

§1234. Office of Administrative Law Judges

(a) Establishment; duties

The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this subchapter referred to as the "Office") which shall conduct—

(1) recovery of funds hearings pursuant to section 1234a of this title,

(2) withholding hearings pursuant to section 1234d of this title,

(3) cease and desist hearings pursuant to section 1234e of this title, and

(4) other proceedings designated by the Secretary.

(b) Appointment

The administrative law judges (hereinafter "judges") of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5.

(c) Employment requirements; chief judge

The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local educational agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

(d) Assignment of judges

For the purposes of conducting hearings described in subsection (a) of this section, the chief judge shall assign a judge to each case or class of cases. A judge shall be disqualified in any case in which the judge has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or the party's attorney as to make it improper for the judge to be assigned to the case.

(e) Review and evidentiary functions

The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 1234a of this title.

(f) Conduct of proceedings; costs and fees of parties

(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, sections 554, 556, and 557.

(2) The provisions of title 5, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

(g) Discovery; scope, time, etc.; issue and enforcement of subpoenas

(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

(A) produce relevant documents;

(B) answer written interrogatories that inquire into relevant matters; and

(C) have depositions taken.

The judge shall set a time limit of 90 days on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

(2) In order to carry out the provisions of subsections (f)(1) and (g)(1) of this section, the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

(h) Mediation of disputes

The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute. In the mediation of disputes the Secretary shall consider mitigating circumstances and proportion of harm pursuant to section 1234b of this title. In accordance with rule 408 of the Federal Rules of Evidence, evidence of conduct or statements made in compromise negotiations shall not be admissible in proceedings before the Office. Mediation shall be limited to 120 days, except that the mediator may grant extensions of such period.

(i) Professional personnel; employment, assignment, or transfer

The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

(Pub. L. 90–247, title IV, §451, as added Pub. L. 95–561, title XII, §1232, Nov. 1, 1978, 92 Stat. 2346; amended Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 349.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (h), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to Office of Administrative Law Judges for provisions relating to Education Appeal Board.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–297, title III, §3501(b), Apr. 28, 1988, 102 Stat. 357, provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [enacting sections 1234f to 1234i of this title and amending this section and sections 1232d and 1234a to 1234e of this title] shall be effective 180 days after the date of enactment of this Act [Apr. 28, 1988].

"(2) The amendments made by this part [part D (§3501) of title III of Pub. L. 100–297, enacting sections 1234f to 1234i of this title and amending this section and sections 1232d and 1234a to 1234e of this title] shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department."

EFFECTIVE DATE

Subchapter effective 120 days after Nov. 1, 1978, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

§1234a. Recovery of funds

(a) Preliminary departmental decision; grounds of determination; notice requirements; prima facie case; amount of funds recoverable

(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

(2) In a preliminary departmental decision, the Secretary shall have the burden of establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 1234b of this title.

(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

(b) Review of preliminary departmental decision; form and contents of application for review; inadequate preliminary decisions; duties of recipient to subrecipients after preliminary decision; burden of proof

(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 60 days after receipt of notice of the preliminary departmental decision. The application shall be in the form and contain the information specified by the Office. As expeditiously as possible, the Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which the Office determines does not meet the requirements of subsection (a)(2) of this section.

(2) In cases where the preliminary departmental decision requests a recovery of funds from a State

recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within 10 days of the date that the State recipient in a State administered program received such written notice; and

(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a) of this section.

(c) Time for hearing

A hearing shall be set 90 days after receipt of a request for review of a preliminary departmental decision by the Office, except that such 90-day requirement may be waived at the discretion of the judge for good cause.

(d) Review of findings of fact in preliminary decision; conclusiveness; remand; new or modified findings

(1) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(2) During the conduct of such review, there shall not be any ex parte contact between the Secretary and individuals representing the Department or the recipient.

(e) Time for filing petition for review of preliminary decision

Parties to the proceeding shall have 30 days to file a petition for review of a decision of the administrative law judges with the Office of the Secretary.

(f) Stay of collection or other adverse action by Secretary against recipient

(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (g) of this section.

(2) If a recipient files a timely petition for judicial review under section 1234g of this title, the Secretary shall take no collection action until judicial review is completed.

(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this subchapter against the recipient.

(g) Preliminary decision as final agency action

A decision of the Office regarding the review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

(2) remands the decision to the Office.

(h) Publication of decisions as final agency actions

The Secretary shall publish decisions that have become final agency action under subsection (g) of this section in the Federal Register or in another appropriate publication within 60 days.

(i) Collection amounts and procedures

The amount of a preliminary departmental decision under subsection (a) of this section for which review has not been requested in accordance with subsection (b) of this section, and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (g) of this section, may be collected by the Secretary in accordance with chapter 37 of title 31.

(j) Compromise of preliminary departmental decisions; preconditions; notice requirements

(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

(k) Limitation period respecting return of funds

No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.

(l) Foregoing of interest during period of administrative review

No interest shall be charged arising from a claim during the administrative review of the preliminary departmental decision.

(Pub. L. 90–247, title IV, §452, as added Pub. L. 95–561, title XII, §1232, Nov. 1, 1978, 92 Stat. 2347; amended Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 350; Pub. L. 103–382, title II, §250(a), Oct. 20, 1994, 108 Stat. 3926.)

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103–382, §250(a)(1), substituted "establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest." for "stating a prima facie case for the recovery of funds."

Subsec. (b)(1). Pub. L. 103–382, §250(a)(2), substituted "60 days" for "30 days".

Subsec. (d). Pub. L. 103–382, §250(a)(3), designated existing provisions as par. (1) and added par. (2).

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to recovery of funds for provisions relating to audit determinations.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§1234b. Measure of recovery

(a) Amount returned proportionate to extent of harm violation caused to an identifiable Federal interest; reduction; determination of identifiable Federal interest

(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award. Such amount shall be reduced in whole or in part by an amount that is proportionate to the extent the mitigating circumstances caused the violation.

(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

(b) Reduction or waiver of amount based on mitigating circumstances; burden of proof; determination of mitigating circumstances; weight, etc., of written request for guidance

(1) When a State or local educational agency is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (2), the judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

(B) made an expenditure or engaged in a practice after—

(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

(C) actually and reasonably relied upon a judicial decree issued to the recipient.

(3) A written request for guidance as described in paragraph (2) sent by certified mail (return receipt requested) shall be conclusive proof of receipt by the Department.

(4) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

(5) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was permissible under then applicable State and Federal law.

(6) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (5), that reflect significant interpretations of applicable law or policy.

(c) Review of written requests for guidance on periodic basis

The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

(Pub. L. 90–247, title IV, §453, as added Pub. L. 95–561, title XII, §1232, Nov. 1, 1978, 92 Stat. 2349; amended Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 353.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to measure of recovery for provisions relating to withholdings. See section 1234d of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§1234c. Remedies for existing violations

(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

(1) withhold further payments under that program, as authorized by section 1234d of this title;

(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 1234e of this title;

(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 1234f of this title; or

(4) take any other action authorized by law with respect to the recipient.

(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 1234a of this title.

(Pub. L. 90–247, title IV, §454, as added Pub. L. 95–561, title XII, §1232, Nov. 1, 1978, 92 Stat. 2349; amended Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 354.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to remedies for existing violations for provisions relating to cease and desist orders. See section 1234e of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§1234d. Withholding

(a) Discretionary authority over further payments under applicable program

In accordance with section 1234c of this title, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

(b) Notice requirements

Before withholding payments, the Secretary shall notify the recipient, in writing, of—

(1) the intent to withhold payments;

(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

(c) Hearing

The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 1234 of this title.

(d) Suspension of payments, authorities, etc.

Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

(e) Findings of fact

Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(f) Final agency action

The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

(2) remands the decision of the Office.

(Pub. L. 90–247, title IV, §455, as added Pub. L. 95–561, title XII, §1232, Nov. 1, 1978, 92 Stat. 2350; amended Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 354.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to withholding for provisions relating to judicial review. See section 1234g of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§1234e. Cease and desist orders

(a) Issuance and contents of complaint

In accordance with section 1234c of this title, the Secretary may issue to a recipient under an applicable program a complaint which—

(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

(b) Appearance contesting order

The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

(c) Report; issuance of cease and desist order

The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

(1) make a report in writing stating its findings of fact; and

(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

(d) Report and order as final agency action

The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

(e) Enforcement of final order

The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

(Pub. L. 90–247, title IV, §456, as added Pub. L. 95–561, title XII, §1232, Nov. 1, 1978, 92 Stat. 2351; amended Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 355.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to cease and desist orders for provisions relating to use of recovered funds. See section 1234h of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§1234f. Compliance agreements

(a) Discretionary authority; purposes of agreement

In accordance with section 1234c of this title, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

(b) Procedures applicable

(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

(c) Contents

A compliance agreement under this section shall contain—

(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2) of this section, by which the recipient shall be in full compliance with the applicable requirements of law, and

(2) those terms and conditions with which the recipient must comply until it is in full compliance.

(d) Failure of recipient to comply with terms and conditions

If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

(Pub. L. 90–247, title IV, §457, as added Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 355.)

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

§1234g. Judicial review

(a) Recipients entitled to review; stay of action by Secretary

Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 1234a, 1234d, or 1234e of this title, and any State entitled to receive funds under a program described in section 1232d(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

(b) Petition for review; filing of record

A recipient that desires judicial review of an action described in subsection (a) of this section shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28.

(c) Findings of fact

The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(d) Scope of review; review by Supreme Court

The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 90–247, title IV, §458, as added Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103–382, title II, §212(b)(3)(D), Oct. 20, 1994, 108 Stat. 3913.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382 made technical amendment to reference to section 1232d(a) of this title to reflect renumbering of corresponding section of original act.

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

§1234h. Use of recovered funds

(a) Repayment to recipient; factors considered

Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the

Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program, provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance;

(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

(b) Terms and conditions of repayment

Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

(1) the submission of periodic reports on the use of funds provided under this section; and

(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

(c) Availability of funds

Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the later of—

(1) the fiscal year in which final agency action under section 1234a(e) of this title is taken; or

(2) if such recipient files a petition for judicial review, the fiscal year in which final judicial action under section 1234g of this title is taken.

(d) Publication in Federal Register of notice of intent to enter into repayment arrangement

At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

(Pub. L. 90–247, title IV, §459, as added Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103–382, title II, §250(b), Oct. 20, 1994, 108 Stat. 3927.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–382, §250(b)(1), inserted before semicolon ", provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance".

Subsec. (c). Pub. L. 103–382, §250(b)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 1234a(e) of this title is taken."

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

§1234i. Definitions

For purposes of this subchapter:

(1) The term "recipient" means a recipient of a grant or cooperative agreement under an applicable program.

(2) The term "applicable program" excludes programs authorized by the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] and assistance programs provided under the Act of September 30, 1950 [1] (Public Law 874, 81st Congress), and the Act of September 23, 1950 [1] (Public Law 815, 81st Congress).

(Pub. L. 90–247, title IV, §460, as added Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 357.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in par. (2), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in par. (2), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, which was classified generally to chapter 13 (§236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Act of September 23, 1950 (Public Law 815, 81st Congress), referred to in par. (2), is act Sept. 23, 1950, ch. 995, as amended generally by act Aug. 12, 1958, Pub. L. 85–620, title I, 72 Stat. 548, which was classified generally to chapter 19 (§631 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, §331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

[1] *See References in Text note below.*

SUBCHAPTER V—READY TO LEARN TELEVISION

CODIFICATION

This subchapter was classified to part G (§3161 et seq.) of subchapter IV of chapter 47 of this title prior to its renumbering by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649.

PRIOR PROVISIONS

A prior subchapter V, consisting of sections 1234 to 1234i, was renumbered subchapter IV by Pub. L. 103–382, title II, §212(b)(2), Oct. 20, 1994, 108 Stat. 3913.

§§1235 to 1235g. Repealed. Pub. L. 107–110, title X, §1011(3), Jan. 8, 2002, 115 Stat. 1986

Section 1235, Pub. L. 90–247, title IV, §471, formerly Pub. L. 89–10, title IV, §4701, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3586; renumbered §471 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (2)(A), May 18, 1994, 108 Stat. 649, authorized contracts, cooperative agreements, and grants to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents.

Section 1235a, Pub. L. 90–247, title IV, §472, formerly Pub. L. 89–10, title IV, §4702, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3586; renumbered §472 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (b), May 18, 1994, 108 Stat. 649, related to development and dissemination of educational programming.

Section 1235b, Pub. L. 90–247, title IV, §473, formerly Pub. L. 89–10, title IV, §4703, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3587; renumbered §473 of Pub. L. 90–247, Pub. L. 103–252, title I,

§121(a)(1), May 18, 1994, 108 Stat. 649, set forth duties of Secretary of Education.

Section 1235c, Pub. L. 90–247, title IV, §474, formerly Pub. L. 89–10, title IV, §4704, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3588; renumbered §474 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (2)(B), May 18, 1994, 108 Stat. 649, related to submission of applications.

Section 1235d, Pub. L. 90–247, title IV, §475, formerly Pub. L. 89–10, title IV, §4705, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3588; renumbered §475 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (2)(C), May 18, 1994, 108 Stat. 649; Pub. L. 107–110, title X, §1062(5), Jan. 8, 2002, 115 Stat. 2088, required annual report to Secretary by any entity receiving funds and biannual report to Congress by Secretary.

Section 1235e, Pub. L. 90–247, title IV, §476, formerly Pub. L. 89–10, title IV, §4706, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589; renumbered §476 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (2)(D), (c), May 18, 1994, 108 Stat. 649, authorized appropriations.

Section 1235f, Pub. L. 90–247, title IV, §477, formerly Pub. L. 89–10, title IV, §4707, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589; renumbered §477 of Pub. L. 90–247, Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649; Pub. L. 107–110, title X, §1062(6), Jan. 8, 2002, 115 Stat. 2088, related to administrative costs.

Section 1235g, Pub. L. 90–247, title IV, §478, formerly Pub. L. 89–10, title IV, §4708, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589; renumbered §478 of Pub. L. 90–247, Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, defined "distance learning" for purposes of this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

CHAPTER 32—VOCATIONAL EDUCATION

CODIFICATION

The Vocational Education Act of 1963, Pub. L. 88–210, title I, as added Pub. L. 90–576, title I, Oct. 16, 1968, 82 Stat. 1064, formerly classified to this chapter, was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94–482, title II, §202(a), Oct. 12, 1976, 90 Stat. 2169, and was classified to section 2301 et seq. of this title. For subsequent revisions of Pub. L. 88–210 and redesignation as the Carl D. Perkins Career and Technical Education Act of 2006, see note set out preceding section 2301 of this title.

§§1241 to 1244. Omitted

CODIFICATION

Section 1241, Pub. L. 88–210, title I, §101, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1064, set forth Congressional declaration of purpose for vocational education assistance by Federal government.

Section 1242, Pub. L. 88–210, title I, §102, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1064; amended Pub. L. 91–230, title VII, §701, Apr. 13, 1970, 84 Stat. 188; Pub. L. 92–318, title II, §201, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, §841(a)(1), Aug. 21, 1974, 88 Stat. 606; Pub. L. 94–482, title II, §201(a)–(c), Oct. 12, 1976, 90 Stat. 2168, authorized appropriations for vocational education assistance programs, etc.

Section 1243, Pub. L. 88–210, title I, §103, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1065; amended Pub. L. 91–230, title VII, §702, Apr. 13, 1970, 84 Stat. 189; Pub. L. 94–273, §9(3), Apr. 21, 1976, 90 Stat. 378; Pub. L. 94–482, title II, §201(d), Oct. 12, 1976, 90 Stat. 2168, set forth provisions relating to allotments among States of vocational education assistance.

Section 1244, Pub. L. 88–210, title I, §104, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1066; amended Pub. L. 91–230, title IV, §401(h)(6), title VII, §703, Apr. 13, 1970, 84 Stat. 174, 189; Pub. L. 92–318, title II, §209, title V, §509(b), June 23, 1972, 86 Stat. 326, 353; Pub. L. 93–380, title VIII, §§841(a)(1)–(3), 845(g), Aug. 21, 1974, 88 Stat. 606, 607, 612; Pub. L. 93–567, title I, §108, Dec. 31, 1974,

88 Stat. 1849; Pub. L. 94–273, §3(13), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title II, §201(e), (f), Oct. 12, 1976, 90 Stat. 2168, authorized establishment of National and State Advisory Councils on Vocational Education and set forth provisions relating to membership, functions, etc., of such councils.

§§1245, 1246. Repealed. Pub. L. 91–230, title IV, §401(f)(8), (g)(6), Apr. 13, 1970, 84 Stat. 174

Sections 1245, 1246, Pub. L. 88–210, title I, §§105, 106, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1069, prohibited Federal control of education (curriculum, program of instruction, administration, or personnel of any educational institution or school system), and related to labor standards requirement (prevailing wage rates), and were superseded by sections 1232a and 1232b of this title, respectively.

§§1247 to 1393f. Omitted

CODIFICATION

Section 1247, Pub. L. 88–210, title I, §107, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1069, set forth limitations on payments for vocational education assistance.

Section 1248, Pub. L. 88–210, title I, §108, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1069; amended Pub. L. 92–318, title II, §202, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, §841(a)(4), Aug. 21, 1974, 88 Stat. 607, defined "vocational education", "area vocational education school", "school facilities", "construction". "Commissioner", "handicapped", "State", "State board", "local educational agency", "high school", "private vocational training institution", "Vocational Education Act of 1946", "supplementary vocational education Acts", "vocational training", and "postsecondary educational institution".

Section 1261, Pub. L. 88–210, title I, §121, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1072, authorized grants for State vocational education programs.

Section 1262, Pub. L. 88–210, title I, §122, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1072; amended Pub. L. 93–380, title VIII, §841(a)(1), (5), Aug. 21, 1974, 88 Stat. 606, 607, set forth authorized purposes for use of Federal grants for State vocational education programs.

Section 1263, Pub. L. 88–210, title I, §123, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1073, set forth requirements for and procedures applicable to State plans.

Section 1264, Pub. L. 88–210, title I, §124, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1078, set forth procedures applicable to payments to States for covered State vocational education programs.

Section 1281, Pub. L. 88–210, title I, §131, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1078, authorized grants and contracts for research and training in vocational education.

Section 1282, Pub. L. 88–210, title I, §132, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1079, set forth authorized purposes for use of Federal funds in grants and contracts for research and training in vocational education.

Section 1283, Pub. L. 88–210, title I, §133, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1079, set forth requirements for applications for grants and contracts for research and training in vocational education.

Section 1284, Pub. L. 88–210, title I, §134, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080, authorized payments for amounts expended by applicants for grants and contracts for research and training in vocational education.

Section 1301, Pub. L. 88–210, title I, §141, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080, set forth Congressional findings and declaration of purpose of exemplary programs and projects in vocational education.

Section 1302, Pub. L. 88–210, title I, §142, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080; amended Pub. L. 92–318, title II, §203, June 23, 1972, 86 Stat. 325; Pub. L. 94–482, title II, §201(g), Oct. 12, 1976, 90 Stat. 2168, set forth funding provisions for exemplary programs and projects in vocational education.

Section 1303, Pub. L. 88–210, title I, §143, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1081, set forth authorized purposes for uses of funds for grants and contracts for exemplary programs and projects in vocational education.

Section 1304, Pub. L. 88–210, title I, §144, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082, authorized payments for amounts expended by applicants for grants and contracts for exemplary

programs and projects in vocational education.

Section 1305, Pub. L. 88–210, title I, §145, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082, limited duration of assistance for exemplary programs and projects in vocational education.

Section 1321, Pub. L. 88–210, title I, §151, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082; amended Pub. L. 92–318, title II, §204(a), June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(h), Oct. 12, 1976, 90 Stat. 2168, authorized establishment of demonstration schools for residential vocational education programs.

Section 1322, Pub. L. 88–210, title I, §152, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1083; amended Pub. L. 91–230, title VII, §704(a), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §204(b), June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(i), Oct. 12, 1976, 90 Stat. 2168, set forth funding provisions for State programs for residential vocational education facilities.

Section 1323, Pub. L. 88–210, title I, §153, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1084; amended Pub. L. 91–230, title VII, §704(b), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §204(c), June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(j), Oct. 12, 1976, 90 Stat. 2168, authorized grants for the reduction of borrowing costs for construction of schools and dormitories for residential vocational education programs.

Section 1341, Pub. L. 88–210, title I, §161, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1085; amended Pub. L. 91–230, title VII, §705, Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §205, June 23, 1972, 86 Stat. 326; Pub. L. 94–135, title II, §204, Nov. 28, 1975, 89 Stat. 727; Pub. L. 94–482, title II, §201(k), (l), Oct. 12, 1976, 90 Stat. 2168, set forth authorization and funding provisions for consumer and homemaking education programs.

Section 1351, Pub. L. 88–210, title I, §171, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1086, set forth Congressional findings and declaration of purpose for cooperative vocational education programs.

Section 1352, Pub. L. 88–210, title I, §172, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1086; amended Pub. L. 92–318, title II, §206, June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(m), Oct. 12, 1976, 90 Stat. 2169, set forth funding provisions for cooperative vocational education programs.

Section 1353, Pub. L. 88–210, title I, §173, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, set forth requirements of State plan for participation in cooperative vocational education program funding.

Section 1354, Pub. L. 88–210, title I, §174, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, limited use of funds for cooperative vocational education programs.

Section 1355, Pub. L. 88–210, title I, §175, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, defined "cooperative work-study program".

Section 1371, Pub. L. 88–210, title I, §181, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1088; amended Pub. L. 91–230, title VII, §706(a), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §207, June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(n), Oct. 12, 1976, 90 Stat. 2169, set forth funding provisions for work-study programs for vocational education students.

Section 1372, Pub. L. 88–210, title I, §182, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1088, set forth requirements of State plan for participation in student work-study program funding.

Section 1373, Pub. L. 88–210, title I, §183, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1089; amended Pub. L. 91–230, title VII, §706(b), Apr. 13, 1970, 84 Stat. 189, authorized manner of payments for State work-study programs for vocational education students.

Section 1374, Pub. L. 88–210, title I, §184, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1090, set forth status of participants in work-study programs.

Section 1391, Pub. L. 88–210, title I, §189, formerly §191, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1090; amended Pub. L. 91–230, title VII, §707, Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §208, June 23, 1972, 86 Stat. 326; renumbered Pub. L. 93–380, title VIII, §841(a)(6), Aug. 21, 1974, 88 Stat. 607; amended Pub. L. 94–482, title II, §201(o), Oct. 12, 1976, 90 Stat. 2169, set forth requirements for curriculum development programs in vocational and technical education and authorized funding for such programs.

Section 1393, Pub. L. 88–210, title I, §191, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 607, set forth congressional findings for establishment of bilingual vocational training programs.

Section 1393a, Pub. L. 88–210, title I, §192, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608, set out general responsibilities of Commissioner and Secretary of Labor in administering bilingual vocational training programs.

Section 1393b, Pub. L. 88–210, title I, §193, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608; amended Pub. L. 94–482, title II, §201(p), Oct. 12, 1976, 90 Stat. 2169, authorized

appropriations for bilingual vocational training programs.

Section 1393c, Pub. L. 88–210, title I, §194, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608; amended Pub. L. 94–482, title V, §501(j)(1), Oct. 12, 1976, 90 Stat. 2237, authorized grants and contracts for bilingual vocational training programs.

Section 1393d, Pub. L. 88–210, title I, §195, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608, set forth authorized purposes of grants and contracts for bilingual vocational training programs.

Section 1393e, Pub. L. 88–210, title I, §196, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 609, set forth application requirements for grants and contracts for bilingual vocational training programs.

Section 1393f, Pub. L. 88–210, title I, §197, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 609; amended Pub. L. 94–482, title V, §501(j)(2), Oct. 12, 1976, 90 Stat. 2237, set forth criteria for approval by Commissioner of applications for grants and contracts for bilingual vocational training programs.

CHAPTER 33—EDUCATION OF INDIVIDUALS WITH DISABILITIES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

1400. Short title; findings; purposes.
1401. Definitions.
1402. Office of Special Education Programs.
1403. Abrogation of State sovereign immunity.
1404. Acquisition of equipment; construction or alteration of facilities.
1405. Employment of individuals with disabilities.
1406. Requirements for prescribing regulations.
1407. State administration.
1408. Paperwork reduction.
1409. Freely associated States.

SUBCHAPTER II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

1411. Authorization; allotment; use of funds; authorization of appropriations.
1412. State eligibility.
1413. Local educational agency eligibility.
1414. Evaluations, eligibility determinations, individualized education programs, and educational placements.
1415. Procedural safeguards.
1416. Monitoring, technical assistance, and enforcement.
1417. Administration.
1418. Program information.
1419. Preschool grants.

SUBCHAPTER III—INFANTS AND TODDLERS WITH DISABILITIES

1431. Findings and policy.
1432. Definitions.
1433. General authority.
1434. Eligibility.
1435. Requirements for statewide system.
1436. Individualized family service plan.
1437. State application and assurances.
1438. Uses of funds.
1439. Procedural safeguards.
1440. Payor of last resort.
1441. State interagency coordinating council.
1442. Federal administration.

1443. Allocation of funds.
1444. Authorization of appropriations.

SUBCHAPTER IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

1450. Findings.

PART A—STATE PERSONNEL DEVELOPMENT GRANTS

1451. Purpose; definition of personnel; program authority.
1452. Eligibility and collaborative process.
1453. Applications.
1454. Use of funds.
1455. Authorization of appropriations.

PART B—PERSONNEL PREPARATION, TECHNICAL ASSISTANCE, MODEL DEMONSTRATION PROJECTS, AND DISSEMINATION OF INFORMATION

1461. Purpose; definition of eligible entity.
1462. Personnel development to improve services and results for children with disabilities.
1463. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.
1464. Studies and evaluations.
1465. Interim alternative educational settings, behavioral supports, and systemic school interventions.
1466. Authorization of appropriations.

PART C—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES

1470. Purposes.
1471. Parent training and information centers.
1472. Community parent resource centers.
1473. Technical assistance for parent training and information centers.
1474. Technology development, demonstration, and utilization; media services; and instructional materials.
1475. Authorization of appropriations.

PART D—GENERAL PROVISIONS

1481. Comprehensive plan for parts B and C.
1482. Administrative provisions.

CODIFICATION

The Individuals with Disabilities Education Act, comprising this chapter, was originally enacted as title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, known as the Education of the Handicapped Act, and amended by Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–142, Nov. 29, 1975, 89 Stat. 773; Pub. L. 95–49, June 17, 1977, 91 Stat. 230; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–270, June 14, 1980, 94 Stat. 487; Pub. L. 98–199, Dec. 2, 1983, 97 Stat. 1357; Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887; Pub. L. 99–362, July 9, 1986, 100 Stat. 769; Pub. L. 99–372, Aug. 5, 1986, 100 Stat. 796; Pub. L. 99–457, Oct. 8, 1986, 100 Stat. 1145; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 102–73, July 25, 1991, 105 Stat. 333; Pub. L. 102–119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 102–421, Oct. 16, 1992, 106 Stat. 2151; Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103–73, Aug. 11, 1993, 107 Stat. 718; Pub. L. 103–218, Mar. 9, 1994, 108 Stat. 50; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 105–17, June 4, 1997, 111 Stat. 37; Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581; Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41; Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677; Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1425; Pub. L. 108–173, Dec. 8, 2003, 117 Stat. 2066. Title VI is shown herein, however, as having been added by Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2647, without reference to those intervening amendments because of the extensive revision of title VI by Pub. L. 108–446.

SUBCHAPTER I—GENERAL PROVISIONS

§1400. Short title; findings; purposes

(a) Short title

This chapter may be cited as the "Individuals with Disabilities Education Act".

(b) Omitted

(c) Findings

Congress finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

(2) Before the date of enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142), the educational needs of millions of children with disabilities were not being fully met because—

(A) the children did not receive appropriate educational services;

(B) the children were excluded entirely from the public school system and from being educated with their peers;

(C) undiagnosed disabilities prevented the children from having a successful educational experience; or

(D) a lack of adequate resources within the public school system forced families to find services outside the public school system.

(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this chapter has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

(4) However, the implementation of this chapter has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

(5) Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—

(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible, in order to—

(i) meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and

(ii) be prepared to lead productive and independent adult lives, to the maximum extent possible;

(B) strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

(C) coordinating this chapter with other local, educational service agency, State, and Federal school improvement efforts, including improvement efforts under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where such children are sent;

(D) providing appropriate special education and related services, and aids and supports in the regular classroom, to such children, whenever appropriate;

(E) supporting high-quality, intensive preservice preparation and professional development for all personnel who work with children with disabilities in order to ensure that such personnel

have the skills and knowledge necessary to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices, to the maximum extent possible;

(F) providing incentives for whole-school approaches, scientifically based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children;

(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and

(H) supporting the development and use of technology, including assistive technology devices and assistive technology services, to maximize accessibility for children with disabilities.

(6) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

(7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways.

(9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes.

(10)(A) The Federal Government must be responsive to the growing needs of an increasingly diverse society.

(B) America's ethnic profile is rapidly changing. In 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient.

(C) Minority children comprise an increasing percentage of public school students.

(D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession in order to provide appropriate role models with sufficient knowledge to address the special education needs of these students.

(11)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.

(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

(C) Such discrepancies pose a special challenge for special education in the referral of, assessment of, and provision of services for, our Nation's students from non-English language backgrounds.

(12)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

(C) African-American children are identified as having intellectual disabilities and emotional disturbance at rates greater than their White counterparts.

(D) In the 1998–1999 school year, African-American children represented just 14.8 percent of the population aged 6 through 21, but comprised 20.2 percent of all children with disabilities.

(E) Studies have found that schools with predominately White students and teachers have placed disproportionately high numbers of their minority students into special education.

(13)(A) As the number of minority students in special education increases, the number of minority teachers and related services personnel produced in colleges and universities continues to decrease.

(B) The opportunity for full participation by minority individuals, minority organizations, and Historically Black Colleges and Universities in awards for grants and contracts, boards of organizations receiving assistance under this chapter, peer review panels, and training of professionals in the area of special education is essential to obtain greater success in the education of minority children with disabilities.

(14) As the graduation rates for children with disabilities continue to climb, providing effective transition services to promote successful post-school employment or education is an important measure of accountability for children with disabilities.

(d) Purposes

The purposes of this chapter are—

(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

(Pub. L. 91–230, title VI, §601, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2647; amended Pub. L. 111–256, §2(b)(1), Oct. 5, 2010, 124 Stat. 2643.)

REFERENCES IN TEXT

The Education for All Handicapped Children Act of 1975, referred to in subsec. (c)(2), (3), is Pub. L. 94–142, Nov. 29, 1975, 89 Stat. 773. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out below and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(5)(C), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

Section is comprised of section 601 of Pub. L. 91–230. Subsec. (b) of section 601 of Pub. L. 91–230 set out the table of contents for the Individuals with Disabilities Education Act.

PRIOR PROVISIONS

A prior section 1400, Pub. L. 91–230, title VI, §601, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 37, contained short title for this chapter and related to congressional findings and purposes, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1400, Pub. L. 91–230, title VI, §601, Apr. 13, 1970, 84 Stat. 175; Pub. L. 94–142, §3, Nov. 29, 1975, 89 Stat. 774; Pub. L. 101–476, title IX, §901(a)(1), (b)(1)–(9), Oct. 30, 1990, 104 Stat. 1141, 1142; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, contained short title for this chapter and related to congressional statements and declarations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17. This section had been classified as a note under former section 1401 of this title prior to being amended by Pub. L. 94–142.

AMENDMENTS

2010—Subsec. (c)(12)(C). Pub. L. 111–256 substituted "having intellectual disabilities" for "having mental retardation".

EFFECTIVE DATE

Pub. L. 108–446, title III, §302(a), (b), Dec. 3, 2004, 118 Stat. 2803, as amended by Pub. L. 114–95, title IX, §9214(e), Dec. 10, 2015, 129 Stat. 2166, provided that:

"(a) PARTS A, B, AND C, AND SUBPART 1 OF PART D.—Parts A, B, and C, and subpart 1 of part D, of the Individuals with Disabilities Education Act [subchapters I, II, and III and part A of subchapter IV of this chapter], as amended by title I, shall take effect on July 1, 2005.

"(b) SUBPARTS 2, 3, AND 4 OF PART D.—Subparts 2, 3, and 4 of part D of the Individuals with Disabilities Education Act [parts B, C, and D of subchapter IV of this chapter], as amended by title I, shall take effect on the date of enactment of this Act [Dec. 3, 2004]."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–256, §1, Oct. 5, 2010, 124 Stat. 2643, provided that: "This Act [amending this section, sections 1140, 1401, and 7512 of this title, sections 705, 764, and 791 of Title 29, Labor, and sections 217a–1, 247b–4, 285g, 285g–2, 291k, 294c, and 300d–52 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section, and amending provisions set out as notes under sections 280f, 285g, 300b–1, and 2000ff of Title 42] may be cited as 'Rosa's Law'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–446, §1, Dec. 3, 2004, 118 Stat. 2647, provided that: "This Act [enacting subchapters I to IV of this chapter, part E of subchapter I of chapter 76 of this title, and sections 9567 to 9567b of this title, amending sections 927, 1087ee, 1087ii, 4304, 5802, 6103, 6311, 6317, 7221g, 7273b, 9511, 9515, 9516, and 9605 of this title, section 2164 of Title 10, Armed Forces, section 121 of Title 17, Copyrights, sections 721, 725, 772, and 773 of Title 29, Labor, and sections 280c–6, 290bb–25, 290ff–1, 290ff–2, 1396b, 1396n, 5011, 9835, 9836, 9837, 12511, 15025, and 15064 of Title 42, The Public Health and Welfare, repealing section 1444 of this title, redesignating former part E of subchapter I of chapter 76 of this title as part F, omitting sections 1445, 1456, and 1483 to 1487 of this title, enacting provisions set out as notes under this section and section 9567b of this title, and amending provisions set out as a note under section 285g of Title 42] may be cited as the 'Individuals with Disabilities Education Improvement Act of 2004'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–17, §1, June 4, 1997, 111 Stat. 37, provided that: "This Act [enacting subchapters I to IV of this chapter, repealing former subchapters III and V to IX of this chapter, and enacting provisions set out as notes under this section and sections 1431 and 1451 of this title] may be cited as the 'Individuals with Disabilities Education Act Amendments of 1997'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–119, §1, Oct. 7, 1991, 105 Stat. 587, provided that: "This Act [see Tables for classification] may be cited as the 'Individuals with Disabilities Education Act Amendments of 1991'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–476, §1(a), Oct. 30, 1990, 104 Stat. 1103, provided that: "This Act [see Tables for classification] may be cited as the 'Education of the Handicapped Act Amendments of 1990'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–630, §1, Nov. 7, 1988, 102 Stat. 3289, provided that: "This Act [amending sections 101, 1401, 1404, 1406, 1407, 1411 to 1419, 1421 to 1425, 1431 to 1433, 1441, 1443, 1451, 1452, 1461, 1471, 1472, and 1475 to 1482 of this title, sections 702, 705, 706, 709, 711, 713, 717, 720 to 723, 731, 732, 740, 741, 750, 752, 761 to 762, 770, 772, 774 to 776, 777 to 777b, 777d, 777f, 780, 781 to 783, 791 to 794, 794b, 794d, 795a, 795g to 795i, 795l to 795n, 795q, 796a to 796g, 796i, and 1904 of Title 29, Labor, and section 155 of Title 36, Patriotic Societies and Observances, enacting provisions set out as notes under sections 101, 1419, and 1432 of this title and sections 731 and 777c of Title 29, and repealing provisions set out as a note under section 795m of Title 29] may be cited as the 'Handicapped Programs Technical Amendments Act of 1988'."

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–457, §1(a), Oct. 8, 1986, 100 Stat. 1145, provided that: "This Act [enacting sections 1408, 1461, 1462, and 1471 to 1485 of this title, amending sections 1401, 1406, 1411 to 1413, 1418, 1419, 1421 to 1424, 1424a, 1425, 1427, 1431 to 1433, 1435, 1441, 1443, 1444, 1452, and 1454 of this title, repealing sections 1403 and 1453 of this title, and enacting provisions set out as notes under sections 1419 and 1485 of this title] may be cited as the 'Education of the Handicapped Act Amendments of 1986'."

Pub. L. 99–372, §1, Aug. 5, 1986, 100 Stat. 796, provided that: "This Act [amending section 1415 of this

title and enacting provisions set out as notes under section 1415 of this title] may be cited as the 'Handicapped Children's Protection Act of 1986'."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–199, §1, Dec. 2, 1983, 97 Stat. 1357, provided: "That this Act [enacting sections 1407 and 1427 of this title, amending sections 1401 to 1404, 1406, 1411 to 1414, 1416 to 1426, 1431 to 1435, 1441 to 1444, 1452, 1454, and 1461 of this title, repealing section 1461 of this title, omitting section 1436 of this title, enacting a provision set out as a note under section 1401 of this title, and amending provisions set out as notes under sections 101, 681, and 1411 of this title] may be cited as the 'Education of the Handicapped Act Amendments of 1983'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–49, §1, June 17, 1977, 91 Stat. 230, provided: "That this Act [amending sections 1426, 1436, 1441, 1444, and 1454 of this title, and enacting provisions set out as a note under section 1426 of this title] may be cited as the 'Education of the Handicapped Amendments of 1977'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–142, §1, Nov. 29, 1975, 89 Stat. 773, provided: "That this Act [enacting sections 1405, 1406, 1415, 1416, 1417, 1418, 1419, and 1420 of this title, amending this section and sections 1232, 1401, 1411, 1411 notes, 1412, 1412 note, 1413, 1413 note, 1414, and 1453 of this title, and enacting provisions set out as a note under section 1411 of this title] may be cited as the 'Education for All Handicapped Children Act of 1975'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–380, title VI, §611, Aug. 21, 1974, 88 Stat. 579, provided that: "This title [enacting section 1424a of this title, amending sections 1402, 1403, 1411 to 1413, 1426, 1436, 1444, 1452, 1454, and 1461 of this title, and enacting provisions set out as notes under sections 1402 and 1411 to 1413 of this title] may be cited as the 'Education of the Handicapped Amendments of 1974'."

REGULATIONS

Pub. L. 111–256, §3, Oct. 5, 2010, 124 Stat. 2645, provided that: "For purposes of regulations issued to carry out a provision amended by this Act [see Short Title of 2010 Amendment note above]—

"(1) before the regulations are amended to carry out this Act—

"(A) a reference in the regulations to mental retardation shall be considered to be a reference to an intellectual disability; and

"(B) a reference in the regulations to the mentally retarded, or individuals who are mentally retarded, shall be considered to be a reference to individuals with intellectual disabilities; and

"(2) in amending the regulations to carry out this Act, a Federal agency shall ensure that the regulations clearly state—

"(A) that an intellectual disability was formerly termed mental retardation; and

"(B) that individuals with intellectual disabilities were formerly termed individuals who are mentally retarded."

CONSTRUCTION OF 2010 AMENDMENT

Pub. L. 111–256, §4, Oct. 5, 2010, 124 Stat. 2645, provided that: "This Act [see Short Title of 2010 Amendment note above] shall be construed to make amendments to provisions of Federal law to substitute the term 'an intellectual disability' for 'mental retardation', and 'individuals with intellectual disabilities' for 'the mentally retarded' or 'individuals who are mentally retarded', without any intent to—

"(1) change the coverage, eligibility, rights, responsibilities, or definitions referred to in the amended provisions; or

"(2) compel States to change terminology in State laws for individuals covered by a provision amended by this Act."

TRANSITION

Pub. L. 108–446, title III, §303, Dec. 3, 2004, 118 Stat. 2803, provided that:

"(a) ORDERLY TRANSITION.—

"(1) IN GENERAL.—The Secretary of Education (in this section referred to as 'the Secretary') shall take such steps as are necessary to provide for the orderly transition from the Individuals with Disabilities Education Act [this chapter], as such Act was in effect on the day preceding the date of enactment of this

Act [Dec. 3, 2004], to the Individuals with Disabilities Education Act [this chapter] and part E of the Education Sciences Reform Act of 2002 [20 U.S.C. 9567 et seq.], as amended by this Act.

"(2) LIMITATION.—The Secretary's authority in paragraph (1) shall terminate 1 year after the date of enactment of this Act.

"(b) MULTI-YEAR AWARDS.—Notwithstanding any other provision of law, the Secretary may use funds appropriated under part D of the Individuals with Disabilities Education Act [subchapter IV of this chapter] to make continuation awards for projects that were funded under section 618 [20 U.S.C. 1418], and part D, of the Individuals with Disabilities Education Act (as such section and part were in effect on September 30, 2004), in accordance with the terms of the original awards.

"(c) RESEARCH.—Notwithstanding section 302(b) [set out as a note above] or any other provision of law, the Secretary may award funds that are appropriated under the Department of Education Appropriations Act, 2005 [Pub. L. 108–447, div. F, title III, 118 Stat. 3142, see Tables for classification] for special education research under either of the headings 'SPECIAL EDUCATION' or 'INSTITUTE OF EDUCATION SCIENCES' in accordance with sections 672 and 674 of the Individuals with Disabilities Education Act [20 U.S.C. 1472, 1474], as such sections were in effect on October 1, 2004."

REFERENCES TO EDUCATION OF THE HANDICAPPED ACT

Pub. L. 101–476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: "Any other Act and any regulation which refers to the Education of the Handicapped Act shall be considered to refer to the Individuals with Disabilities Education Act."

DEFINITIONS

Pub. L. 111–256, §2(k), Oct. 5, 2010, 124 Stat. 2644, provided that: "For purposes of each provision amended by this section [amending this section, sections 1140, 1401, and 7512 of this title, sections 705, 764, and 791 of Title 29, Labor, and sections 217a–1, 247b–4, 285g, 285g–2, 291k, 294c, and 300d–52 of Title 42, The Public Health and Welfare, and amending provisions set out as notes under sections 280f, 285g, 300b–1, and 2000ff of Title 42]—

"(1) a reference to 'an intellectual disability' shall mean a condition previously referred to as 'mental retardation', or a variation of this term, and shall have the same meaning with respect to programs, or qualifications for programs, for individuals with such a condition; and

"(2) a reference to individuals with intellectual disabilities shall mean individuals who were previously referred to as individuals who are 'individuals with mental retardation' or 'the mentally retarded', or variations of those terms."

§1401. Definitions

Except as otherwise provided, in this chapter:

(1) Assistive technology device

(A) In general

The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

(B) Exception

The term does not include a medical device that is surgically implanted, or the replacement of such device.

(2) Assistive technology service

The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or

replacing assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

(3) Child with a disability

(A) In general

The term "child with a disability" means a child—

(i) with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as "emotional disturbance"), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) who, by reason thereof, needs special education and related services.

(B) Child aged 3 through 9

The term "child with a disability" for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child—

(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and

(ii) who, by reason thereof, needs special education and related services.

(4) Repealed. Pub. L. 114–95, title IX, §9215(ss)(1)(A), Dec. 10, 2015, 129 Stat. 2181

(5) Educational service agency

The term "educational service agency"—

(A) means a regional public multiservice agency—

(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State; and

(B) includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school.

(6) Elementary school

The term "elementary school" means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

(7) Equipment

The term "equipment" includes—

(A) machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications,

sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

(8) Excess costs

The term "excess costs" means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary school or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A) amounts received—

(i) under subchapter II;

(ii) under part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.]; and

(iii) under part A of title III of that Act [20 U.S.C. 6811 et seq.]; and

(B) any State or local funds expended for programs that would qualify for assistance under any of those parts.

(9) Free appropriate public education

The term "free appropriate public education" means special education and related services that—

(A) have been provided at public expense, under public supervision and direction, and without charge;

(B) meet the standards of the State educational agency;

(C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and

(D) are provided in conformity with the individualized education program required under section 1414(d) of this title.

(10) Repealed. Pub. L. 114–95, title IX, §9214(d)(1), Dec. 10, 2015, 129 Stat. 2164

(11) Homeless children

The term "homeless children" has the meaning given the term "homeless children and youths" in section 11434a of title 42.

(12) Indian

The term "Indian" means an individual who is a member of an Indian tribe.

(13) Indian tribe

The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)).

(14) Individualized education program; IEP

The term "individualized education program" or "IEP" means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 1414(d) of this title.

(15) Individualized family service plan

The term "individualized family service plan" has the meaning given the term in section 1436 of this title.

(16) Infant or toddler with a disability

The term "infant or toddler with a disability" has the meaning given the term in section 1432 of this title.

(17) Institution of higher education

The term "institution of higher education"—

(A) has the meaning given the term in section 1001 of this title; and

(B) also includes any college or university receiving funding from the Secretary of the Interior under the Tribally Controlled Colleges and Universities Assistance Act of 1978 [25 U.S.C. 1801 et seq.].

(18) Limited English proficient

The term "limited English proficient" has the meaning given the term "English learner" in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801].

(19) Local educational agency

(A) In general

The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(B) Educational service agencies and other public institutions or agencies

The term includes—

(i) an educational service agency; and

(ii) any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(C) BIA funded schools

The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this chapter with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(20) Native language

The term "native language", when used with respect to an individual who is limited English proficient, means the language normally used by the individual or, in the case of a child, the language normally used by the parents of the child.

(21) Nonprofit

The term "nonprofit", as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by 1 or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(22) Outlying area

The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(23) Parent

The term "parent" means—

(A) a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent);

(B) a guardian (but not the State if the child is a ward of the State);

(C) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(D) except as used in sections 1415(b)(2) and 1439(a)(5) of this title, an individual assigned

under either of those sections to be a surrogate parent.

(24) Parent organization

The term "parent organization" has the meaning given the term in section 1471(g) of this title.

(25) Parent training and information center

The term "parent training and information center" means a center assisted under section 1471 or 1472 of this title.

(26) Related services

(A) In general

The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(B) Exception

The term does not include a medical device that is surgically implanted, or the replacement of such device.

(27) Secondary school

The term "secondary school" means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

(28) Secretary

The term "Secretary" means the Secretary of Education.

(29) Special education

The term "special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education.

(30) Specific learning disability

(A) In general

The term "specific learning disability" means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

(B) Disorders included

Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(C) Disorders not included

Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of intellectual disabilities, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(31) State

The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(32) State educational agency

The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(33) Supplementary aids and services

The term "supplementary aids and services" means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 1412(a)(5) of this title.

(34) Transition services

The term "transition services" means a coordinated set of activities for a child with a disability that—

(A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and

(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(35) Universal design

The term "universal design" has the meaning given the term in section 3002 of title 29.

(36) Ward of the State

(A) In general

The term "ward of the State" means a child who, as determined by the State where the child resides, is a foster child, is a ward of the State, or is in the custody of a public child welfare agency.

(B) Exception

The term does not include a foster child who has a foster parent who meets the definition of a parent in paragraph (23).

(Pub. L. 91–230, title VI, §602, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2652; amended Pub. L. 110–315, title IX, §941(k)(2)(C), Aug. 14, 2008, 122 Stat. 3466; Pub. L. 111–256, §2(b)(2), Oct. 5, 2010, 124 Stat. 2643; Pub. L. 114–95, title IX, §§9214(d)(1), 9215(ss)(1), Dec. 10, 2015, 129 Stat. 2164, 2181.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in par. (8)(A)(ii), (iii), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. Part A of title III of the Act is classified generally to part A (§6811 et seq.) of subchapter III of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (13), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in par. (17)(B), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 1401, Pub. L. 91–230, title VI, §602, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 42; amended Pub. L. 105–244, title IX, §901(d), Oct. 7, 1998, 112 Stat. 1828, related to definitions of terms used in this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1401, Pub. L. 91–230, title VI, §602, Apr. 13, 1970, 84 Stat. 175; Pub. L. 94–142, §4(a), Nov. 29, 1975, 89 Stat. 775; Pub. L. 98–199, §§2, 3(b), Dec. 2, 1983, 97 Stat. 1357, 1358; Pub. L. 99–457, title IV, §402, Oct. 8, 1986, 100 Stat. 1172; Pub. L. 100–630, title I, §101(a), Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101–476, title I, §101, title IX, §901(b)(10)–(20), Oct. 30, 1990, 104 Stat. 1103, 1142, 1143; Pub. L. 102–73, title VIII, §802(d)(1), July 25, 1991, 105 Stat. 361; Pub. L. 102–119, §§3, 25(a)(1), (b), Oct. 7, 1991, 105 Stat. 587, 605, 607; Pub. L. 103–382, title III, §391(f)(1), Oct. 20, 1994, 108 Stat. 4023, related to definitions of terms used in this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

AMENDMENTS

2015—Par. (4). Pub. L. 114–95, §9215(ss)(1)(A), struck out par. (4). Text read as follows: "The term 'core academic subjects' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965."

Par. (8)(A)(iii). Pub. L. 114–95, §9215(ss)(1)(B), which directed substitution of "under part A of title III of that Act" for "under parts A and B of title III of that Act" in "paragraph (8)(a)(3)", was executed to par. (8)(A)(iii) to reflect the probable intent of Congress.

Par. (10). Pub. L. 114–95, §9214(d)(1), struck out par. (10) which related to definition of highly qualified.

Par. (18). Pub. L. 114–95, §9215(ss)(1)(C), added par. (18) and struck out former par. (18). Prior to amendment, text read as follows: "The term 'limited English proficient' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965."

2010—Par. (3)(A)(i). Pub. L. 111–256, §2(b)(2)(A), substituted "with intellectual disabilities" for "with mental retardation".

Par. (30)(C). Pub. L. 111–256, §2(b)(2)(B), substituted "of intellectual disabilities" for "of mental retardation".

2008—Par. (17)(B). Pub. L. 110–315 substituted "college or university" for "community college" and "the Tribally Controlled Colleges and Universities Assistance Act of 1978" for "the Tribally Controlled College or University Assistance Act of 1978".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE

Section effective July 1, 2005, see section 302(a) of Pub. L. 108–446, set out as a note under section 1400 of this title.

DEFINITIONS

For meaning of references to an intellectual disability and to individuals with intellectual disabilities in provisions amended by section 2 of Pub. L. 111–256, see section 2(k) of Pub. L. 111–256, set out as a note under section 1400 of this title.

§1402. Office of Special Education Programs

(a) Establishment

There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal

agency in the Department for administering and carrying out this chapter and other programs and activities concerning the education of children with disabilities.

(b) Director

The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

(c) Voluntary and uncompensated services

Notwithstanding section 1342 of title 31, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this chapter.

(Pub. L. 91–230, title VI, §603, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1402, Pub. L. 91–230, title VI, §603, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 46, related to the Office of Special Education Programs, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1402, Pub. L. 91–230, title VI, §603, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93–380, title VI, §612(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 98–199, §3(a), Dec. 2, 1983, 97 Stat. 1357; Pub. L. 101–476, title IX, §901(b)(21), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to the Office of Special Education Programs, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1403. Abrogation of State sovereign immunity

(a) In general

A State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this chapter.

(b) Remedies

In a suit against a State for a violation of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

(c) Effective date

Subsections (a) and (b) apply with respect to violations that occur in whole or part after October 30, 1990.

(Pub. L. 91–230, title VI, §604, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1403, Pub. L. 91–230, title VI, §604, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 47, related to abrogation of State sovereign immunity, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1403, Pub. L. 91–230, title VI, §604, as added Pub. L. 101–476, title I, §103, Oct. 30, 1990, 104 Stat. 1106, related to abrogation of State sovereign immunity, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

Another prior section 1403, Pub. L. 91–230, title VI, §604, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93–380, title VI, §613, Aug. 21, 1974, 88 Stat. 580; Pub. L. 94–273, §§3(14), 13(2), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 98–199, §4, Dec. 2, 1983, 97 Stat. 1358, established the National Advisory Committee on the Education of Handicapped Children and Youth, prior to repeal by Pub. L. 99–457, title IV, §407, Oct. 8, 1986, 100 Stat. 1177.

§1404. Acquisition of equipment; construction or alteration of facilities

(a) In general

If the Secretary determines that a program authorized under this chapter will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

(b) Compliance with certain regulations

Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the "Americans with Disabilities Accessibility Guidelines for Buildings and Facilities"); or

(2) appendix A of subpart 101–19.6 of title 41, Code of Federal Regulations (commonly known as the "Uniform Federal Accessibility Standards").

(Pub. L. 91–230, title VI, §605, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1404, Pub. L. 91–230, title VI, §605, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 47, related to the acquisition of equipment and construction or alteration of facilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1404, Pub. L. 91–230, title VI, §605, Apr. 13, 1970, 84 Stat. 177; Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, §101(b), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 102–119, §25(a)(2), Oct. 7, 1991, 105 Stat. 605, related to acquisition of equipment and construction of necessary facilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1405. Employment of individuals with disabilities

The Secretary shall ensure that each recipient of assistance under this chapter makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this chapter.

(Pub. L. 91–230, title VI, §606, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1405, Pub. L. 91–230, title VI, §606, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 47, related to employment of individuals with disabilities by recipients of assistance under this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1405, Pub. L. 91–230, title VI, §606, as added Pub. L. 94–142, §6(a), Nov. 29, 1975, 89 Stat. 795; amended Pub. L. 101–476, title IX, §901(b)(22), (23), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to employment of individuals with disabilities by recipients of assistance under this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1406. Requirements for prescribing regulations

(a) In general

In carrying out the provisions of this chapter, the Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this chapter.

(b) Protections provided to children

The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to

this chapter that—

(1) violates or contradicts any provision of this chapter; or

(2) procedurally or substantively lessens the protections provided to children with disabilities under this chapter, as embodied in regulations in effect on July 20, 1983 (particularly as such protections related to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of Congress in legislation.

(c) Public comment period

The Secretary shall provide a public comment period of not less than 75 days on any regulation proposed under subchapter II or subchapter III on which an opportunity for public comment is otherwise required by law.

(d) Policy letters and statements

The Secretary may not issue policy letters or other statements (including letters or statements regarding issues of national significance) that—

(1) violate or contradict any provision of this chapter; or

(2) establish a rule that is required for compliance with, and eligibility under, this chapter without following the requirements of section 553 of title 5.

(e) Explanation and assurances

Any written response by the Secretary under subsection (d) regarding a policy, question, or interpretation under subchapter II shall include an explanation in the written response that—

(1) such response is provided as informal guidance and is not legally binding;

(2) when required, such response is issued in compliance with the requirements of section 553 of title 5; and

(3) such response represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented.

(f) Correspondence from Department of Education describing interpretations of this chapter

(1) In general

The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this chapter or the regulations implemented pursuant to this chapter.

(2) Additional information

For each item of correspondence published in a list under paragraph (1), the Secretary shall—

(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and

(B) ensure that all such correspondence is issued, where applicable, in compliance with the requirements of section 553 of title 5.

(Pub. L. 91–230, title VI, §607, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1406, Pub. L. 91–230, title VI, §607, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 47, related to requirements for prescribing regulations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another section 1406, Pub. L. 91–230, title VI, §607, as added Pub. L. 94–142, §6(a), Nov. 29, 1975, 89 Stat. 795; amended Pub. L. 98–199, §§3(b), 5, Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99–457, title IV, §401, Oct. 8, 1986, 100 Stat. 1172; Pub. L. 100–630, title I, §101(c), Nov. 7, 1988, 102 Stat. 3290, related to grants for removal of architectural barriers, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1407. State administration

(a) Rulemaking

Each State that receives funds under this chapter shall—

(1) ensure that any State rules, regulations, and policies relating to this chapter conform to the purposes of this chapter;

(2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this chapter and Federal regulations; and

(3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this chapter.

(b) Support and facilitation

State rules, regulations, and policies under this chapter shall support and facilitate local educational agency and school-level system improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.

(Pub. L. 91–230, title VI, §608, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2661.)

PRIOR PROVISIONS

A prior section 1407, Pub. L. 91–230, title VI, §608, as added Pub. L. 98–199, §6, Dec. 2, 1983, 97 Stat. 1359; amended Pub. L. 100–630, title I, §101(d), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 101–476, title IX, §901(b)(24), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to regulation requirements, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1408. Paperwork reduction

(a) Pilot program

(1) Purpose

The purpose of this section is to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of this chapter, in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

(2) Authorization

(A) In general

In order to carry out the purpose of this section, the Secretary is authorized to grant waivers of statutory requirements of, or regulatory requirements relating to, subchapter II for a period of time not to exceed 4 years with respect to not more than 15 States based on proposals submitted by States to reduce excessive paperwork and noninstructional time burdens that do not assist in improving educational and functional results for children with disabilities.

(B) Exception

The Secretary shall not waive under this section any statutory requirements of, or regulatory requirements relating to, applicable civil rights requirements.

(C) Rule of construction

Nothing in this section shall be construed to—

(i) affect the right of a child with a disability to receive a free appropriate public education under subchapter II; and

(ii) permit a State or local educational agency to waive procedural safeguards under section 1415 of this title.

(3) Proposal

(A) In general

A State desiring to participate in the program under this section shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

(B) Content

The proposal shall include—

(i) a list of any statutory requirements of, or regulatory requirements relating to, subchapter II that the State desires the Secretary to waive, in whole or in part; and

(ii) a list of any State requirements that the State proposes to waive or change, in whole or in part, to carry out a waiver granted to the State by the Secretary.

(4) Termination of waiver

The Secretary shall terminate a State's waiver under this section if the Secretary determines that the State—

(A) needs assistance under section 1416(d)(2)(A)(ii) of this title and that the waiver has contributed to or caused such need for assistance;

(B) needs intervention under section 1416(d)(2)(A)(iii) of this title or needs substantial intervention under section 1416(d)(2)(A)(iv) of this title; or

(C) failed to appropriately implement its waiver.

(b) Report

Beginning 2 years after December 3, 2004, the Secretary shall include in the annual report to Congress submitted pursuant to section 3486 of this title information related to the effectiveness of waivers granted under subsection (a), including any specific recommendations for broader implementation of such waivers, in—

(1) reducing—

(A) the paperwork burden on teachers, principals, administrators, and related service providers; and

(B) noninstructional time spent by teachers in complying with subchapter II;

(2) enhancing longer-term educational planning;

(3) improving positive outcomes for children with disabilities;

(4) promoting collaboration between IEP Team members; and

(5) ensuring satisfaction of family members.

(Pub. L. 91–230, title VI, §609, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2661.)

PRIOR PROVISIONS

A prior section 1408, Pub. L. 91–230, title VI, §609, as added Pub. L. 99–457, title II, §202, Oct. 8, 1986, 100 Stat. 1158, related to eligibility for financial assistance, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1409. Freely associated States

The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall continue to be eligible for competitive grants administered by the Secretary under this chapter to the extent that such grants continue to be available to States and local educational agencies under this chapter.

(Pub. L. 91–230, title VI, §610, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2662.)

PRIOR PROVISIONS

A prior section 1409, Pub. L. 91–230, title VI, §610, as added Pub. L. 101–476, title I, §104, Oct. 30, 1990, 104 Stat. 1106, provided administrative provisions applicable to former subchapters III to VII of this chapter and former section 1418 of this title, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SUBCHAPTER II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

§1411. Authorization; allotment; use of funds; authorization of appropriations

(a) Grants to States

(1) Purpose of grants

The Secretary shall make grants to States, outlying areas, and freely associated States, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this subchapter.

(2) Maximum amount

The maximum amount of the grant a State may receive under this section—

(A) for fiscal years 2005 and 2006 is—

(i) the number of children with disabilities in the State who are receiving special education and related services—

(I) aged 3 through 5 if the State is eligible for a grant under section 1419 of this title; and

(II) aged 6 through 21; multiplied by

(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; and

(B) for fiscal year 2007 and subsequent fiscal years is—

(i) the number of children with disabilities in the 2004–2005 school year in the State who received special education and related services—

(I) aged 3 through 5 if the State is eligible for a grant under section 1419 of this title; and

(II) aged 6 through 21; multiplied by

(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; adjusted by

(iii) the rate of annual change in the sum of—

(I) 85 percent of such State's population described in subsection (d)(3)(A)(i)(II); and

(II) 15 percent of such State's population described in subsection (d)(3)(A)(i)(III).

(b) Outlying areas and freely associated States; Secretary of the Interior

(1) Outlying areas and freely associated States

(A) Funds reserved

From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than 1 percent, which shall be used—

(i) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and

(ii) to provide each freely associated State a grant in the amount that such freely associated State received for fiscal year 2003 under this subchapter, but only if the freely associated State meets the applicable requirements of this subchapter, as well as the requirements of

section 1411(b)(2)(C) of this title as such section was in effect on the day before December 3, 2004.

(B) Special rule

The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the outlying areas or the freely associated States under this section.

(C) Definition

In this paragraph, the term "freely associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(2) Secretary of the Interior

From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (h).

(c) Technical assistance

(1) In general

The Secretary may reserve not more than ½ of 1 percent of the amounts appropriated under this subchapter for each fiscal year to provide technical assistance activities authorized under section 1416(i) of this title.

(2) Maximum amount

The maximum amount the Secretary may reserve under paragraph (1) for any fiscal year is $25,000,000, cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(d) Allocations to States

(1) In general

After reserving funds for technical assistance, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under subsections (b) and (c) for a fiscal year, the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

(2) Special rule for use of fiscal year 1999 amount

If a State received any funds under this section for fiscal year 1999 on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

(3) Increase in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is equal to or greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

(A) Allocation of increase

(i) In general

Except as provided in subparagraph (B), the Secretary shall allocate for the fiscal year—

(I) to each State the amount the State received under this section for fiscal year 1999;

(II) 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public

education under this subchapter; and

(III) 15 percent of those remaining funds to States on the basis of the States' relative populations of children described in subclause (II) who are living in poverty.

(ii) Data

For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

(B) Limitations

Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

(i) Preceding year allocation

No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

(ii) Minimum

No State's allocation shall be less than the greatest of—

(I) the sum of—

(aa) the amount the State received under this section for fiscal year 1999; and

(bb) 1/3 of 1 percent of the amount by which the amount appropriated under subsection (i) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1999;

(II) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated for this section from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated for this section from the preceding fiscal year.

(iii) Maximum

Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

(I) the amount the State received under this section for the preceding fiscal year; and

(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.

(C) Ratable reduction

If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

(4) Decrease in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A) Amounts greater than fiscal year 1999 allocations

If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1999, each State shall be allocated the sum of—

(i) the amount the State received under this section for fiscal year 1999; and

(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1999 bears to the

total of all such increases for all States.

(B) Amounts equal to or less than fiscal year 1999 allocations

(i) In general

If the amount available for allocations under this paragraph is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount the State received for fiscal year 1999.

(ii) Ratable reduction

If the amount available for allocations under this paragraph is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.

(e) State-level activities

(1) State administration

(A) In general

For the purpose of administering this subchapter, including paragraph (3), section 1419 of this title, and the coordination of activities under this subchapter with, and providing technical assistance to, other programs that provide services to children with disabilities—

(i) each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or $800,000 (adjusted in accordance with subparagraph (B)), whichever is greater; and

(ii) each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under subsection (b)(1) for the fiscal year or $35,000, whichever is greater.

(B) Cumulative annual adjustments

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust—

(i) the maximum amount the State was eligible to reserve for State administration under this subchapter for fiscal year 2004; and

(ii) $800,000,

by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(C) Certification

Prior to expenditure of funds under this paragraph, the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 1412(a)(12)(A) of this title are current.

(D) Subchapter III

Funds reserved under subparagraph (A) may be used for the administration of subchapter III, if the State educational agency is the lead agency for the State under such subchapter.

(2) Other State-level activities

(A) State-level activities

(i) In general

Except as provided in clause (iii), for the purpose of carrying out State-level activities, each State may reserve for each of the fiscal years 2005 and 2006 not more than 10 percent from the amount of the State's allocation under subsection (d) for each of the fiscal years 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, the State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (cumulatively adjusted by the rate of inflation as measured by

the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).

(ii) Small State adjustment

Notwithstanding clause (i) and except as provided in clause (iii), in the case of a State for which the maximum amount reserved for State administration is not greater than $850,000, the State may reserve for the purpose of carrying out State-level activities for each of the fiscal years 2005 and 2006, not more than 10.5 percent from the amount of the State's allocation under subsection (d) for each of the fiscal years 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, such State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).

(iii) Exception

If a State does not reserve funds under paragraph (3) for a fiscal year, then—

(I) in the case of a State that is not described in clause (ii), for fiscal year 2005 or 2006, clause (i) shall be applied by substituting "9.0 percent" for "10 percent"; and

(II) in the case of a State that is described in clause (ii), for fiscal year 2005 or 2006, clause (ii) shall be applied by substituting "9.5 percent" for "10.5 percent".

(B) Required activities

Funds reserved under subparagraph (A) shall be used to carry out the following activities:

(i) For monitoring, enforcement, and complaint investigation.

(ii) To establish and implement the mediation process required by section 1415(e) of this title, including providing for the cost of mediators and support personnel.

(C) Authorized activities

Funds reserved under subparagraph (A) may be used to carry out the following activities:

(i) For support and direct services, including technical assistance, personnel preparation, and professional development and training.

(ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process.

(iii) To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.

(iv) To improve the use of technology in the classroom by children with disabilities to enhance learning.

(v) To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities.

(vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities.

(vii) To assist local educational agencies in meeting personnel shortages.

(viii) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

(ix) Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools.

(x) To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 6311(b) and 6361 of this title.

(xi) To provide technical assistance to schools and local educational agencies, and direct services, including direct student services described in section 6303b(c)(3) of this title to children with disabilities, to schools or local educational agencies implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title on the basis of consistent underperformance of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement based on the challenging academic standards described in section 6311(b)(1) of this title.

(3) Local educational agency risk pool

(A) In general

(i) Reservation of funds

For the purpose of assisting local educational agencies (including a charter school that is a local educational agency or a consortium of local educational agencies) in addressing the needs of high need children with disabilities, each State shall have the option to reserve for each fiscal year 10 percent of the amount of funds the State reserves for State-level activities under paragraph (2)(A)—

(I) to establish and make disbursements from the high cost fund to local educational agencies in accordance with this paragraph during the first and succeeding fiscal years of the high cost fund; and

(II) to support innovative and effective ways of cost sharing by the State, by a local educational agency, or among a consortium of local educational agencies, as determined by the State in coordination with representatives from local educational agencies, subject to subparagraph (B)(ii).

(ii) Definition of local educational agency

In this paragraph the term "local educational agency" includes a charter school that is a local educational agency, or a consortium of local educational agencies.

(B) Limitation on uses of funds

(i) Establishment of high cost fund

A State shall not use any of the funds the State reserves pursuant to subparagraph (A)(i), but may use the funds the State reserves under paragraph (1), to establish and support the high cost fund.

(ii) Innovative and effective cost sharing

A State shall not use more than 5 percent of the funds the State reserves pursuant to subparagraph (A)(i) for each fiscal year to support innovative and effective ways of cost sharing among consortia of local educational agencies.

(C) State plan for high cost fund

(i) Definition

The State educational agency shall establish the State's definition of a high need child with a disability, which definition shall be developed in consultation with local educational agencies.

(ii) State plan

The State educational agency shall develop, not later than 90 days after the State reserves funds under this paragraph, annually review, and amend as necessary, a State plan for the high cost fund. Such State plan shall—

(I) establish, in coordination with representatives from local educational agencies, a definition of a high need child with a disability that, at a minimum—

(aa) addresses the financial impact a high need child with a disability has on the budget of the child's local educational agency; and

(bb) ensures that the cost of the high need child with a disability is greater than 3 times the average per pupil expenditure (as defined in section 7801 of this title) in that State;

(II) establish eligibility criteria for the participation of a local educational agency that, at a minimum, takes into account the number and percentage of high need children with disabilities served by a local educational agency;

(III) develop a funding mechanism that provides distributions each fiscal year to local educational agencies that meet the criteria developed by the State under subclause (II); and

(IV) establish an annual schedule by which the State educational agency shall make its distributions from the high cost fund each fiscal year.

(iii) Public availability

The State shall make its final State plan publicly available not less than 30 days before the beginning of the school year, including dissemination of such information on the State website.

(D) Disbursements from the high cost fund

(i) In general

Each State educational agency shall make all annual disbursements from the high cost fund established under subparagraph (A)(i) in accordance with the State plan published pursuant to subparagraph (C).

(ii) Use of disbursements

Each State educational agency shall make annual disbursements to eligible local educational agencies in accordance with its State plan under subparagraph (C)(ii).

(iii) Appropriate costs

The costs associated with educating a high need child with a disability under subparagraph (C)(i) are only those costs associated with providing direct special education and related services to such child that are identified in such child's IEP.

(E) Legal fees

The disbursements under subparagraph (D) shall not support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child with a disability to ensure a free appropriate public education for such child.

(F) Assurance of a free appropriate public education

Nothing in this paragraph shall be construed—

(i) to limit or condition the right of a child with a disability who is assisted under this subchapter to receive a free appropriate public education pursuant to section 1412(a)(1) of this title in the least restrictive environment pursuant to section 1412(a)(5) of this title; or

(ii) to authorize a State educational agency or local educational agency to establish a limit on what may be spent on the education of a child with a disability.

(G) Special rule for risk pool and high need assistance programs in effect as of January 1, 2004

Notwithstanding the provisions of subparagraphs (A) through (F), a State may use funds reserved pursuant to this paragraph for implementing a placement neutral cost sharing and reimbursement program of high need, low incidence, catastrophic, or extraordinary aid to local educational agencies that provides services to high need students based on eligibility criteria for such programs that were created not later than January 1, 2004, and are currently in operation, if such program serves children that meet the requirement of the definition of a high need child with a disability as described in subparagraph (C)(ii)(I).

(H) Medicaid services not affected

Disbursements provided under this paragraph shall not be used to pay costs that otherwise would be reimbursed as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(I) Remaining funds

Funds reserved under subparagraph (A) in any fiscal year but not expended in that fiscal year pursuant to subparagraph (D) shall be allocated to local educational agencies for the succeeding fiscal year in the same manner as funds are allocated to local educational agencies under subsection (f) for the succeeding fiscal year.

(4) Inapplicability of certain prohibitions

A State may use funds the State reserves under paragraphs (1) and (2) without regard to—

(A) the prohibition on commingling of funds in section 1412(a)(17)(B) of this title; and

(B) the prohibition on supplanting other funds in section 1412(a)(17)(C) of this title.

(5) Report on use of funds

As part of the information required to be submitted to the Secretary under section 1412 of this title, each State shall annually describe how amounts under this section—

(A) will be used to meet the requirements of this chapter; and

(B) will be allocated among the activities described in this section to meet State priorities based on input from local educational agencies.

(6) Special rule for increased funds

A State may use funds the State reserves under paragraph (1)(A) as a result of inflationary increases under paragraph (1)(B) to carry out activities authorized under clause (i), (iii), (vii), or (viii) of paragraph (2)(C).

(7) Flexibility in using funds for subchapter III

Any State eligible to receive a grant under section 1419 of this title may use funds made available under paragraph (1)(A), subsection (f)(3), or section 1419(f)(5) of this title to develop and implement a State policy jointly with the lead agency under subchapter III and the State educational agency to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with subchapter III to children with disabilities who are eligible for services under section 1419 of this title and who previously received services under subchapter III until such children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.

(f) Subgrants to local educational agencies

(1) Subgrants required

Each State that receives a grant under this section for any fiscal year shall distribute any funds the State does not reserve under subsection (e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 1413 of this title for use in accordance with this subchapter.

(2) Procedure for allocations to local educational agencies

For each fiscal year for which funds are allocated to States under subsection (d), each State shall allocate funds under paragraph (1) as follows:

(A) Base payments

The State shall first award each local educational agency described in paragraph (1) the amount the local educational agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 1411(d) of this title as section 1411(d) was then in effect.

(B) Allocation of remaining funds

After making allocations under subparagraph (A), the State shall—

(i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and

(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

(3) Reallocation of funds

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this subchapter that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other local educational agencies.

(g) Definitions

In this section:

(1) Average per-pupil expenditure in public elementary schools and secondary schools in the United States

The term "average per-pupil expenditure in public elementary schools and secondary schools in the United States" means—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia; plus

(ii) any direct expenditures by the State for the operation of those agencies; divided by

(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(2) State

The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(h) Use of amounts by Secretary of the Interior

(1) Provision of amounts for assistance

(A) In general

The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (b)(2) for that fiscal year. Of the amount described in the preceding sentence—

(i) 80 percent shall be allocated to such schools by July 1 of that fiscal year; and

(ii) 20 percent shall be allocated to such schools by September 30 of that fiscal year.

(B) Calculation of number of children

In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (referred to in this subsection as the "BIA") schools and that are required by the States in which such schools are located to attain or maintain State

accreditation, and which schools have such accreditation prior to October 7, 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this subchapter for those children, in accordance with paragraph (2).

(C) Additional requirement

With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this subchapter are implemented.

(2) Submission of information

The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 1412 of this title (including monitoring and evaluation activities) and 1413 of this title;

(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this subchapter with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures related to the requirements described in subparagraph (A);

(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 1418 of this title;

(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs, including child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this subchapter, and will fulfill its duties under this subchapter.

(3) Applicability

The Secretary shall withhold payments under this subsection with respect to the information described in paragraph (2) in the same manner as the Secretary withholds payments under section 1416(e)(6) of this title.

(4) Payments for education and services for Indian children with disabilities aged 3 through 5

(A) In general

With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 450b of title 25) or consortia of tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary schools and secondary

schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (b)(2).

(B) Distribution of funds

The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe, tribal organization, or consortium an amount based on the number of children with disabilities aged 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

(C) Submission of information

To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

(D) Use of funds

The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The tribe or tribal organization shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(E) Biennial report

To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior a biennial report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

(F) Prohibitions

None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

(5) Plan for coordination of services

The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this chapter. Such plan shall provide for the coordination of services benefiting those children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. The plan shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State educational agencies and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

(6) Establishment of advisory board

To meet the requirements of section 1412(a)(21) of this title, the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with

disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 1441 of this title in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

(B) advise and assist the Secretary of the Interior in the performance of the Secretary of the Interior's responsibilities described in this subsection;

(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention services or educational programming for Indian infants, toddlers, and children with disabilities; and

(E) provide assistance in the preparation of information required under paragraph (2)(D).

(7) Annual reports

(A) In general

The advisory board established under paragraph (6) shall prepare and submit to the Secretary of the Interior and to Congress an annual report containing a description of the activities of the advisory board for the preceding year.

(B) Availability

The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

(i) Authorization of appropriations

For the purpose of carrying out this subchapter, other than section 1419 of this title, there are authorized to be appropriated—

(1) $12,358,376,571 for fiscal year 2005;
(2) $14,648,647,143 for fiscal year 2006;
(3) $16,938,917,714 for fiscal year 2007;
(4) $19,229,188,286 for fiscal year 2008;
(5) $21,519,458,857 for fiscal year 2009;
(6) $23,809,729,429 for fiscal year 2010;
(7) $26,100,000,000 for fiscal year 2011; and
(8) such sums as may be necessary for fiscal year 2012 and each succeeding fiscal year.

(Pub. L. 91–230, title VI, §611, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2662; amended Pub. L. 114–95, title IX, §9215(ss)(2), Dec. 10, 2015, 129 Stat. 2181.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (b)(1)(B), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

The Social Security Act, referred to in subsec. (e)(3)(H), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1411, Pub. L. 91–230, title VI, §611, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 49, related to authorization, allotment, use of funds, and authorization of appropriations, prior to the

general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1411, Pub. L. 91–230, title VI, §611, Apr. 13, 1970, 84 Stat. 178; Pub. L. 93–380, title VI, §614(a), (e)(1), (2), Aug. 21, 1974, 88 Stat. 580, 582; Pub. L. 94–142, §§2(a)(1)–(3), 5(a), (c), Nov. 29, 1975, 89 Stat. 773, 776, 794; Pub. L. 95–561, title XIII, §1341(a), Nov. 1, 1978, 92 Stat. 2364; Pub. L. 96–270, §13, June 14, 1980, 94 Stat. 498; Pub. L. 98–199, §§3(b), 15, Dec. 2, 1983, 97 Stat. 1358, 1374; Pub. L. 99–159, title VI, §601, Nov. 22, 1985, 99 Stat. 904; Pub. L. 99–362, §2, July 9, 1986, 100 Stat. 769; Pub. L. 99–457, title II, §201(b), title IV, §§403, 404, Oct. 8, 1986, 100 Stat. 1158, 1173; Pub. L. 100–630, title I, §102(a), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 101–476, title II, §201, title IX, §901(b)(25)–(32), Oct. 30, 1990, 104 Stat. 1111, 1143; Pub. L. 102–73, title VIII, §802(d)(2), (3), July 25, 1991, 105 Stat. 361; Pub. L. 102–119, §§4, 25(a)(4), (19), (b), Oct. 7, 1991, 105 Stat. 587, 606, 607; Pub. L. 103–382, title III, §311, Oct. 20, 1994, 108 Stat. 3931, related to entitlements and allocations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

AMENDMENTS

2015—Subsec. (e)(2)(C)(x). Pub. L. 114–95, §9215(ss)(2)(A)(i), substituted "6361 of this title" for "7301 of this title".

Subsec. (e)(2)(C)(xi). Pub. L. 114–95, §9215(ss)(2)(A)(ii), substituted "including direct student services described in section 6303b(c)(3) of this title to children with disabilities, to schools or local educational agencies implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title on the basis of consistent underperformance of the disaggregated subgroup of children with disabilities" for "including supplemental educational services as defined in 6316(e) of this title to children with disabilities, in schools or local educational agencies identified for improvement under section 6316 of this title on the sole basis of the assessment results of the disaggregated subgroup of children with disabilities" and "based on the challenging academic standards described in section 6311(b)(1) of this title" for "to meet or exceed the objectives established by the State under section 6311(b)(2)(G) of this title".

Subsec. (e)(3)(C)(ii)(I)(bb). Pub. L. 114–95, §9215(ss)(2)(B), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE

Subchapter effective July 1, 2005, see section 302(a) of Pub. L. 108–446, set out as a note under section 1400 of this title.

EFFECT OF REDUCTION

Pub. L. 114–113, div. H, title III, Dec. 18, 2015, 129 Stat. 2633, provided in part: "That the Secretary [of Education] may, in any fiscal year in which a State's allocation under section 611 [20 U.S.C. 1411] is reduced in accordance with section 612(a)(18)(B) [20 U.S.C. 1412(a)(18)(B)], reduce the amount a State may reserve under section 611(e)(1) [20 U.S.C. 1411(e)(1)] by an amount that bears the same relation to the maximum amount described in that paragraph as the reduction under section 612(a)(18)(B) bears to the total allocation the State would have received in that fiscal year under section 611(d) [20 U.S.C. 1411(d)] in the absence of the reduction: *Provided further*, That the Secretary shall either reduce the allocation of funds under section 611 for any fiscal year following the fiscal year for which the State fails to comply with the requirement of section 612(a)(18)(A) [20 U.S.C. 1412(a)(18)(A)] as authorized by section 612(a)(18)(B), or seek to recover funds under section 452 of the General Education Provisions Act (20 U.S.C. 1234a)".

Pub. L. 114–113, div. H, title III, Dec. 18, 2015, 129 Stat. 2633, provided in part: "That the amount by which a State's allocation under section 611(d) of the IDEA [Individuals with Disabilities Education Act, 20 U.S.C. 1411(d)] is reduced under section 612(a)(18)(B) [20 U.S.C. 1412(a)(18)(B)] and the amounts distributed to States under the previous provisos in fiscal year 2012 or any subsequent year shall not be considered in calculating the awards under section 611(d) for fiscal year 2013 or for any subsequent fiscal years".

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 113–235, div. G, title III, Dec. 16, 2014, 128 Stat. 2499.

Pub. L. 113–76, div. H, title III, Jan. 17, 2014, 128 Stat. 394.

§1412. State eligibility

(a) In general

A State is eligible for assistance under this subchapter for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the following conditions:

(1) Free appropriate public education

(A) In general

A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

(B) Limitation

The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—

(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this subchapter be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

(I) were not actually identified as being a child with a disability under section 1401 of this title; or

(II) did not have an individualized education program under this subchapter.

(C) State flexibility

A State that provides early intervention services in accordance with subchapter III to a child who is eligible for services under section 1419 of this title, is not required to provide such child with a free appropriate public education.

(2) Full educational opportunity goal

The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

(3) Child find

(A) In general

All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

(B) Construction

Nothing in this chapter requires that children be classified by their disability so long as each child who has a disability listed in section 1401 of this title and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this subchapter.

(4) Individualized education program

An individualized education program, or an individualized family service plan that meets the requirements of section 1436(d) of this title, is developed, reviewed, and revised for each child with a disability in accordance with section 1414(d) of this title.

(5) Least restrictive environment

(A) In general

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(B) Additional requirement

(i) In general

A State funding mechanism shall not result in placements that violate the requirements of subparagraph (A), and a State shall not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability a free appropriate public education according to the unique needs of the child as described in the child's IEP.

(ii) Assurance

If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.

(6) Procedural safeguards

(A) In general

Children with disabilities and their parents are afforded the procedural safeguards required by section 1415 of this title.

(B) Additional procedural safeguards

Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities for services under this chapter will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(7) Evaluation

Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 1414 of this title.

(8) Confidentiality

Agencies in the State comply with section 1417(c) of this title (relating to the confidentiality of records and information).

(9) Transition from subchapter III to preschool programs

Children participating in early intervention programs assisted under subchapter III, and who will participate in preschool programs assisted under this subchapter, experience a smooth and effective transition to those preschool programs in a manner consistent with section 1437(a)(9) of this title. By the third birthday of such a child, an individualized education program or, if consistent with sections 1414(d)(2)(B) and 1436(d) of this title, an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 1435(a)(10) of this title.

(10) Children in private schools

(A) Children enrolled in private schools by their parents

(i) In general

To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this subchapter by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

(I) Amounts to be expended for the provision of those services (including direct services to parentally placed private school children) by the local educational agency shall be equal to a proportionate amount of Federal funds made available under this subchapter.

(II) In calculating the proportionate amount of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of private schools as described in clause (iii), shall conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools located in the local educational agency.

(III) Such services to parentally placed private school children with disabilities may be provided to the children on the premises of private, including religious, schools, to the extent consistent with law.

(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this subparagraph.

(V) Each local educational agency shall maintain in its records and provide to the State educational agency the number of children evaluated under this subparagraph, the number of children determined to be children with disabilities under this paragraph, and the number of children served under this paragraph.

(ii) Child find requirement

(I) In general

The requirements of paragraph (3) (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary schools and secondary schools.

(II) Equitable participation

The child find process shall be designed to ensure the equitable participation of parentally placed private school children with disabilities and an accurate count of such children.

(III) Activities

In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for the agency's public school children.

(IV) Cost

The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local educational agency has met its obligations under clause (i).

(V) Completion period

Such child find process shall be completed in a time period comparable to that for other students attending public schools in the local educational agency.

(iii) Consultation

To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a State educational agency, shall consult with private school representatives and

representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children, including regarding—

(I) the child find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

(II) the determination of the proportionate amount of Federal funds available to serve parentally placed private school children with disabilities under this subparagraph, including the determination of how the amount was calculated;

(III) the consultation process among the local educational agency, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;

(IV) how, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and

(V) how, if the local educational agency disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services directly or through a contract.

(iv) Written affirmation

When timely and meaningful consultation as required by clause (iii) has occurred, the local educational agency shall obtain a written affirmation signed by the representatives of participating private schools, and if such representatives do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation of the consultation process to the State educational agency.

(v) Compliance

(I) In general

A private school official shall have the right to submit a complaint to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

(II) Procedure

If the private school official wishes to submit a complaint, the official shall provide the basis of the noncompliance with this subparagraph by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may submit a complaint to the Secretary by providing the basis of the noncompliance with this subparagraph by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.

(vi) Provision of equitable services

(I) Directly or through contracts

The provision of services pursuant to this subparagraph shall be provided—

(aa) by employees of a public agency; or

(bb) through contract by the public agency with an individual, association, agency,

organization, or other entity.

(II) Secular, neutral, nonideological

Special education and related services provided to parentally placed private school children with disabilities, including materials and equipment, shall be secular, neutral, and nonideological.

(vii) Public control of funds

The control of funds used to provide special education and related services under this subparagraph, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer the funds and property.

(B) Children placed in, or referred to, private schools by public agencies

(i) In general

Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this subchapter or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

(ii) Standards

In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State educational agencies and local educational agencies and that children so served have all the rights the children would have if served by such agencies.

(C) Payment for education of children enrolled in private schools without consent of or referral by the public agency

(i) In general

Subject to subparagraph (A), this subchapter does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

(ii) Reimbursement for private school placement

If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary school or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

(iii) Limitation on reimbursement

The cost of reimbursement described in clause (ii) may be reduced or denied—

(I) if—

(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(bb) 10 business days (including any holidays that occur on a business day) prior to

the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in item (aa);

(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 1415(b)(3) of this title, of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(iv) Exception

Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement—

(I) shall not be reduced or denied for failure to provide such notice if—

(aa) the school prevented the parent from providing such notice;

(bb) the parents had not received notice, pursuant to section 1415 of this title, of the notice requirement in clause (iii)(I); or

(cc) compliance with clause (iii)(I) would likely result in physical harm to the child; and

(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—

(aa) the parent is illiterate or cannot write in English; or

(bb) compliance with clause (iii)(I) would likely result in serious emotional harm to the child.

(11) State educational agency responsible for general supervision

(A) In general

The State educational agency is responsible for ensuring that—

(i) the requirements of this subchapter are met;

(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State agency or local agency—

(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

(II) meet the educational standards of the State educational agency; and

(iii) in carrying out this subchapter with respect to homeless children, the requirements of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) are met.

(B) Limitation

Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.

(C) Exception

Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this subchapter are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.

(12) Obligations related to and methods of ensuring services

(A) Establishing responsibility for services

The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following:

(i) Agency financial responsibility

An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP).

(ii) Conditions and terms of reimbursement

The conditions, terms, and procedures under which a local educational agency shall be reimbursed by other agencies.

(iii) Interagency disputes

Procedures for resolving interagency disputes (including procedures under which local educational agencies may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

(iv) Coordination of services procedures

Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in subparagraph (B)(i).

(B) Obligation of public agency

(i) In general

If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy pursuant to subparagraph (A), to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in section 1401(1) relating to assistive technology devices, 1401(2) relating to assistive technology services, 1401(26) relating to related services, 1401(33) relating to supplementary aids and services, and 1401(34) of this title relating to transition services) that are necessary for ensuring a free appropriate public education to children with disabilities within the State, such public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to subparagraph (A) or an agreement pursuant to subparagraph (C).

(ii) Reimbursement for services by public agency

If a public agency other than an educational agency fails to provide or pay for the special education and related services described in clause (i), the local educational agency (or State agency responsible for developing the child's IEP) shall provide or pay for such services to the child. Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism described in subparagraph (A)(i) according to the procedures established in such agreement pursuant to subparagraph (A)(ii).

(C) Special rule

The requirements of subparagraph (A) may be met through—

(i) State statute or regulation;

(ii) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(iii) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary.

(13) Procedural requirements relating to local educational agency eligibility

The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this subchapter without first affording that agency reasonable notice and an opportunity for a hearing.

(14) Personnel qualifications

(A) In general

The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this subchapter are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

(B) Related services personnel and paraprofessionals

The qualifications under subparagraph (A) include qualifications for related services personnel and paraprofessionals that—

(i) are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;

(ii) ensure that related services personnel who deliver services in their discipline or profession meet the requirements of clause (i) and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this subchapter to be used to assist in the provision of special education and related services under this subchapter to children with disabilities.

(C) Qualifications for special education teachers

The qualifications described in subparagraph (A) shall ensure that each person employed as a special education teacher in the State who teaches elementary school, middle school, or secondary school—

(i) has obtained full State certification as a special education teacher (including participating in an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in section 2005.56(a)(2)(ii) of title 34, Code of Federal Regulations, as such section was in effect on November 28, 2008), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except with respect to any teacher teaching in a public charter school who shall meet the requirements set forth in the State's public charter school law;

(ii) has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) holds at least a bachelor's degree..[1]

(D) Policy

In implementing this section, a State shall adopt a policy that includes a requirement that local educational agencies in the State take measurable steps to recruit, hire, train, and retain personnel who meet the applicable requirements described in this paragraph to provide special education and related services under this subchapter to children with disabilities.

(E) Rule of construction

Notwithstanding any other individual right of action that a parent or student may maintain under this subchapter, nothing in this paragraph shall be construed to create a right of action on behalf of an individual student for the failure of a particular State educational agency or local educational agency staff person to meet the applicable requirements described in this paragraph, or to prevent a parent from filing a complaint about staff qualifications with the State educational agency as provided for under this subchapter.

(15) Performance goals and indicators

The State—

(A) has established goals for the performance of children with disabilities in the State that—

(i) promote the purposes of this chapter, as stated in section 1400(d) of this title;

(ii) are the same as the State's long-term goals and measurements of interim progress for children with disabilities under section 6311(c)(4)(A)(i) of this title;

(iii) address graduation rates and dropout rates, as well as such other factors as the State may determine; and

(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;

(B) has established performance indicators the State will use to assess progress toward achieving the goals described in subparagraph (A), including measurements of interim progress for children with disabilities under section 6311(c)(4)(A)(i) of this title; and

(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A), which may include elements of the reports required under section 6311(h) of this title.

(16) Participation in assessments

(A) In general

All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 6311 of this title, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs.

(B) Accommodation guidelines

The State (or, in the case of a districtwide assessment, the local educational agency) has developed guidelines for the provision of appropriate accommodations.

(C) Alternate assessments

(i) In general

The State (or, in the case of a districtwide assessment, the local educational agency) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under subparagraph (A) with accommodations as indicated in their respective individualized education programs.

(ii) Requirements for alternate assessments

The guidelines under clause (i) shall provide for alternate assessments that—

(I) are aligned with the challenging State academic content standards under section 6311(b)(1) of this title and alternate academic achievement standards under section 6311(b)(1)(E) of this title; and

(II) if the State has adopted alternate academic achievement standards permitted under section 6311(b)(1)(E) of this title, measure the achievement of children with disabilities against those standards.

(iii) Conduct of alternate assessments

The State conducts the alternate assessments described in this subparagraph.

(D) Reports

The State educational agency (or, in the case of a districtwide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.

(ii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(I).

(iii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(II).

(iv) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information will not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.

(E) Universal design

The State educational agency (or, in the case of a districtwide assessment, the local educational agency) shall, to the extent feasible, use universal design principles in developing and administering any assessments under this paragraph.

(17) Supplementation of State, local, and other Federal funds

(A) Expenditures

Funds paid to a State under this subchapter will be expended in accordance with all the provisions of this subchapter.

(B) Prohibition against commingling

Funds paid to a State under this subchapter will not be commingled with State funds.

(C) Prohibition against supplantation and conditions for waiver by Secretary

Except as provided in section 1413 of this title, funds paid to a State under this subchapter will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this subchapter and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

(18) Maintenance of State financial support

(A) In general

The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

(B) Reduction of funds for failure to maintain support

The Secretary shall reduce the allocation of funds under section 1411 of this title for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

(C) Waivers for exceptional or uncontrollable circumstances

The Secretary may waive the requirement of subparagraph (A) for a State, for 1 fiscal year at a time, if the Secretary determines that—

(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

(ii) the State meets the standard in paragraph (17)(C) for a waiver of the requirement to supplement, and not to supplant, funds received under this subchapter.

(D) Subsequent years

If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

(19) Public participation

Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

(20) Rule of construction

In complying with paragraphs (17) and (18), a State may not use funds paid to it under this subchapter to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation.

(21) State advisory panel

(A) In general

The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

(B) Membership

Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, be representative of the State population, and be composed of individuals involved in, or concerned with, the education of children with disabilities, including—

(i) parents of children with disabilities (ages birth through 26);

(ii) individuals with disabilities;

(iii) teachers;

(iv) representatives of institutions of higher education that prepare special education and related services personnel;

(v) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.);

(vi) administrators of programs for children with disabilities;

(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

(viii) representatives of private schools and public charter schools;

(ix) not less than 1 representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;

(x) a representative from the State child welfare agency responsible for foster care; and

(xi) representatives from the State juvenile and adult corrections agencies.

(C) Special rule

A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities (ages birth through 26).

(D) Duties

The advisory panel shall—

(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 1418 of this title;

(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this subchapter; and

(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

(22) Suspension and expulsion rates

(A) In general

The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—

(i) among local educational agencies in the State; or

(ii) compared to such rates for nondisabled children within such agencies.

(B) Review and revision of policies

If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this chapter.

(23) Access to instructional materials

(A) In general

The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register.

(B) Rights of State educational agency

Nothing in this paragraph shall be construed to require any State educational agency to coordinate with the National Instructional Materials Access Center. If a State educational agency chooses not to coordinate with the National Instructional Materials Access Center, such agency shall provide an assurance to the Secretary that the agency will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(C) Preparation and delivery of files

If a State educational agency chooses to coordinate with the National Instructional Materials Access Center, not later than 2 years after December 3, 2004, the agency, as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, shall enter into a written contract with the publisher of the print instructional materials to—

(i) require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or

(ii) purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

(D) Assistive technology

In carrying out this paragraph, the State educational agency, to the maximum extent possible, shall work collaboratively with the State agency responsible for assistive technology programs.

(E) Definitions

In this paragraph:

(i) National Instructional Materials Access Center

The term "National Instructional Materials Access Center" means the center established pursuant to section 1474(e) of this title.

(ii) National Instructional Materials Accessibility Standard

The term "National Instructional Materials Accessibility Standard" has the meaning given the term in section 1474(e)(3)(A) of this title.

(iii) Specialized formats

The term "specialized formats" has the meaning given the term in section 1474(e)(3)(D) of this title.

(24) Overidentification and disproportionality

The State has in effect, consistent with the purposes of this chapter and with section 1418(d) of this title, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in section 1401 of this title.

(25) Prohibition on mandatory medication

(A) In general

The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation under subsection (a) or (c) of section 1414 of this title, or receiving services under this chapter.

(B) Rule of construction

Nothing in subparagraph (A) shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under paragraph (3).

(b) State educational agency as provider of free appropriate public education or direct services

If the State educational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency—

(1) shall comply with any additional requirements of section 1413(a) of this title, as if such agency were a local educational agency; and

(2) may use amounts that are otherwise available to such agency under this subchapter to serve those children without regard to section 1413(a)(2)(A)(i) of this title (relating to excess costs).

(c) Exception for prior State plans

(1) In general

If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this subchapter as in effect before the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this subchapter.

(2) Modifications made by State

Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

(3) Modifications required by the Secretary

If, after the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the provisions of this chapter are amended (or the regulations developed to carry out this chapter are amended), there is a new interpretation of this chapter by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, then the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this subchapter.

(d) Approval by the Secretary

(1) In general

If the Secretary determines that a State is eligible to receive a grant under this subchapter, the Secretary shall notify the State of that determination.

(2) Notice and hearing

The Secretary shall not make a final determination that a State is not eligible to receive a grant under this subchapter until after providing the State—

(A) with reasonable notice; and

(B) with an opportunity for a hearing.

(e) Assistance under other Federal programs

Nothing in this chapter permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act [42 U.S.C. 701 et seq., 1396 et seq.] with respect to the provision of a free appropriate public education for children with disabilities in the State.

(f) By-pass for children in private schools

(1) In general

If, on December 2, 1983, a State educational agency was prohibited by law from providing for the equitable participation in special programs of children with disabilities enrolled in private elementary schools and secondary schools as required by subsection (a)(10)(A), or if the Secretary determines that a State educational agency, local educational agency, or other entity has substantially failed or is unwilling to provide for such equitable participation, then the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements that shall be subject to the requirements of such subsection.

(2) Payments

(A) Determination of amounts

If the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services for a fiscal year an amount per child that does not exceed the amount determined by dividing—

(i) the total amount received by the State under this subchapter for such fiscal year; by

(ii) the number of children with disabilities served in the prior year, as reported to the Secretary by the State under section 1418 of this title.

(B) Withholding of certain amounts

Pending final resolution of any investigation or complaint that may result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates will be necessary to pay the cost of services described in subparagraph (A).

(C) Period of payments

The period under which payments are made under subparagraph (A) shall continue until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(10)(A).

(3) Notice and hearing

(A) In general

The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

(B) Review of action

If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28.

(C) Review of findings of fact

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Jurisdiction of court of appeals; review by United States Supreme Court

Upon the filing of a petition under subparagraph (B), the United States court of appeals shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 91–230, title VI, §612, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2676; amended Pub. L. 114–95, title IX, §§9214(d)(2), 9215(ss)(3), Dec. 10, 2015, 129 Stat. 2164, 2182.)

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(11)(A)(iii), (21)(B)(v), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended. Subtitle B of title VII of the Act is classified generally to part B (§11431 et seq.) of subchapter VI of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

The Controlled Substances Act, referred to in subsec. (a)(25)(A), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

For the effective date of the Individuals with Disabilities Education Improvement Act of 2004, referred to in subsec. (c)(1), (3), see section 302(a), (b) of Pub. L. 108–446, set out as an Effective Date note under section 1400 of this title.

The Social Security Act, referred to in subsec. (e), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Act are classified generally to subchapters V (§701 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1412, Pub. L. 91–230, title VI, §612, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 60, related to State eligibility for assistance, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1412, Pub. L. 91–230, title VI, §612, Apr. 13, 1970, 84 Stat. 178; Pub. L. 92–318, title IV, §421(b)(1)(C), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title VI, §§614(b), (f)(1), 615(a), title VIII, §843(b), Aug. 21, 1974, 88 Stat. 581, 582, 611; Pub. L. 94–142, §§2(a)(4), (c), (d), 5(a), Nov. 29, 1975, 89 Stat. 773, 774, 780; Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99–457, title II, §203(a), Oct. 8, 1986, 100 Stat. 1158; Pub. L. 100–630, title I, §102(b), Nov. 7, 1988, 102 Stat. 3291; Pub. L. 101–476, title IX, §901(b)(33)–(46), (c), Oct. 30, 1990, 104 Stat. 1143, 1144, 1151; Pub. L. 102–119, §25(a)(5), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to eligibility requirements, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

AMENDMENTS

2015—Subsec. (a)(14)(C). Pub. L. 114–95, §9214(d)(2)(A), substituted "secondary school—" for "secondary school is highly qualified by the deadline established in section 6319(a)(2) of this title" and added cls. (i) to (iii).

Subsec. (a)(14)(D). Pub. L. 114–95, §9214(d)(2)(B), substituted "personnel who meet the applicable requirements described in this paragraph" for "highly qualified personnel".

Subsec. (a)(14)(E). Pub. L. 114–95, §9214(d)(2)(C), substituted "staff person to meet the applicable requirements described in this paragraph" for "staff person to be highly qualified".

Subsec. (a)(15)(A)(ii). Pub. L. 114–95, §9215(ss)(3)(A)(i), added cl. (ii) and struck out former cl. (ii) which read as follows: "are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 6311(b)(2)(C) of this title;".

Subsec. (a)(15)(B). Pub. L. 114–95, §9215(ss)(3)(A)(ii), which directed substitution of "including measurements of interim progress for children with disabilities under section 6311(c)(4)(A)(i)" for "including measurable annual objectives for progress by children with disabilities under section 6311(b)(2)(C)(v)(II)", was executed by making the substitution for "including measurable annual objectives for progress by children with disabilities under section 6311(b)(2)(C)(v)(II)(cc)", to reflect the probable intent of Congress.

Subsec. (a)(16)(C)(ii)(I). Pub. L. 114–95, §9215(ss)(3)(B)(i), substituted "challenging State academic content standards under section 6311(b)(1) of this title and alternate academic achievement standards under section 6311(b)(1)(E) of this title" for "State's challenging academic content standards and challenging student academic achievement standards".

Subsec. (a)(16)(C)(ii)(II). Pub. L. 114–95, §9215(ss)(3)(B)(ii), substituted "section 6311(b)(1)(E) of this title," for "the regulations promulgated to carry out section 6311(b)(1) of this title,".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original.*

§1413. Local educational agency eligibility

(a) In general

A local educational agency is eligible for assistance under this subchapter for a fiscal year if such agency submits a plan that provides assurances to the State educational agency that the local educational agency meets each of the following conditions:

(1) Consistency with State policies

The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 1412 of this title.

(2) Use of amounts

(A) In general

Amounts provided to the local educational agency under this subchapter shall be expended in accordance with the applicable provisions of this subchapter and—

(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

(B) Exception

Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

(ii) a decrease in the enrollment of children with disabilities;

(iii) the termination of the obligation of the agency, consistent with this subchapter, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

(I) has left the jurisdiction of the agency;

(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

(III) no longer needs such program of special education; or

(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

(C) Adjustment to local fiscal effort in certain fiscal years

(i) Amounts in excess

Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which the allocation received by a local educational agency under section 1411(f) of this title exceeds the amount the local educational agency received for the previous fiscal year, the local educational agency may reduce the level of expenditures otherwise required by subparagraph (A)(iii) by not more than 50 percent of the amount of such excess.

(ii) Use of amounts to carry out activities under ESEA

If a local educational agency exercises the authority under clause (i), the agency shall use an amount of local funds equal to the reduction in expenditures under clause (i) to carry out activities authorized under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(iii) State prohibition

Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a) or the State educational agency has taken action against the local educational agency under section 1416 of this title, the State educational agency shall prohibit the local educational agency from reducing the level of expenditures under clause (i) for that fiscal year.

(iv) Special rule

The amount of funds expended by a local educational agency under subsection (f) shall count toward the maximum amount of expenditures such local educational agency may reduce under clause (i).

(D) Schoolwide programs under title I of the ESEA

Notwithstanding subparagraph (A) or any other provision of this subchapter, a local educational agency may use funds received under this subchapter for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6314], except that the amount so used in any such program shall not exceed—

(i) the number of children with disabilities participating in the schoolwide program; multiplied by

(ii)(I) the amount received by the local educational agency under this subchapter for that fiscal year; divided by

(II) the number of children with disabilities in the jurisdiction of that agency.

(3) Personnel development

The local educational agency shall ensure that all personnel necessary to carry out this subchapter are appropriately and adequately prepared, subject to the requirements of section 1412(a)(14) of this title and section 2102(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6612(b)].

(4) Permissive use of funds

(A) Uses

Notwithstanding paragraph (2)(A) or section 1412(a)(17)(B) of this title (relating to commingled funds), funds provided to the local educational agency under this subchapter may be used for the following activities:

(i) Services and aids that also benefit nondisabled children

For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if 1 or more nondisabled children benefit from such services.

(ii) Early intervening services

To develop and implement coordinated, early intervening educational services in accordance with subsection (f).

(iii) High cost education and related services

To establish and implement cost or risk sharing funds, consortia, or cooperatives for the local educational agency itself, or for local educational agencies working in a consortium of which the local educational agency is a part, to pay for high cost special education and related services.

(B) Administrative case management

A local educational agency may use funds received under this subchapter to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the individualized education program of children with disabilities, that is needed for the implementation of such case management activities.

(5) Treatment of charter schools and their students

In carrying out this subchapter with respect to charter schools that are public schools of the local educational agency, the local educational agency—

(A) serves children with disabilities attending those charter schools in the same manner as the local educational agency serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools; and

(B) provides funds under this subchapter to those charter schools—

(i) on the same basis as the local educational agency provides funds to the local educational agency's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and

(ii) at the same time as the agency distributes other Federal funds to the agency's other public schools, consistent with the State's charter school law.

(6) Purchase of instructional materials

(A) In general

Not later than 2 years after December 3, 2004, a local educational agency that chooses to coordinate with the National Instructional Materials Access Center, when purchasing print instructional materials, shall acquire the print instructional materials in the same manner and subject to the same conditions as a State educational agency acquires print instructional materials under section 1412(a)(23) of this title.

(B) Rights of local educational agency

Nothing in this paragraph shall be construed to require a local educational agency to coordinate with the National Instructional Materials Access Center. If a local educational agency chooses not to coordinate with the National Instructional Materials Access Center, the local educational agency shall provide an assurance to the State educational agency that the local educational agency will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(7) Information for State educational agency

The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this subchapter, including, with respect to paragraphs (15) and (16) of section 1412(a) of this title, information relating to the performance of children with disabilities participating in programs carried out under this subchapter.

(8) Public information

The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this subchapter.

(9) Records regarding migratory children with disabilities

The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6398] to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.

(b) Exception for prior local plans

(1) In general

If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this subchapter as in effect before the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this subchapter.

(2) Modification made by local educational agency

Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until the local educational agency submits to the State educational agency such modifications as the local educational agency determines necessary.

(3) Modifications required by State educational agency

If, after the effective date of the Individuals with Disabilities Education Improvement Act of

2004, the provisions of this chapter are amended (or the regulations developed to carry out this chapter are amended), there is a new interpretation of this chapter by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, then the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this subchapter or State law.

(c) Notification of local educational agency or State agency in case of ineligibility

If the State educational agency determines that a local educational agency or State agency is not eligible under this section, then the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

(d) Local educational agency compliance

(1) In general

If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

(2) Additional requirement

Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

(3) Consideration

In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 1415 of this title that is adverse to the local educational agency or State agency involved in that decision.

(e) Joint establishment of eligibility

(1) Joint establishment

(A) In general

A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency will be ineligible under this section because the local educational agency will not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

(B) Charter school exception

A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless the charter school is explicitly permitted to do so under the State's charter school law.

(2) Amount of payments

If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 1411(f) of this title if such agencies were eligible for such payments.

(3) Requirements

Local educational agencies that establish joint eligibility under this subsection shall—

(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 1412(a) of this title; and

(B) be jointly responsible for implementing programs that receive assistance under this subchapter.

(4) Requirements for educational service agencies

(A) In general

If an educational service agency is required by State law to carry out programs under this subchapter, the joint responsibilities given to local educational agencies under this subsection shall—

(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

(ii) be carried out only by that educational service agency.

(B) Additional requirement

Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 1412(a)(5) of this title.

(f) Early intervening services

(1) In general

A local educational agency may not use more than 15 percent of the amount such agency receives under this subchapter for any fiscal year, less any amount reduced by the agency pursuant to subsection (a)(2)(C), if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

(2) Activities

In implementing coordinated, early intervening services under this subsection, a local educational agency may carry out activities that include—

(A) professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and

(B) providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

(3) Construction

Nothing in this subsection shall be construed to limit or create a right to a free appropriate public education under this subchapter.

(4) Reporting

Each local educational agency that develops and maintains coordinated, early intervening services under this subsection shall annually report to the State educational agency on—

(A) the number of students served under this subsection; and

(B) the number of students served under this subsection who subsequently receive special education and related services under this chapter during the preceding 2-year period.

(5) Coordination with Elementary and Secondary Education Act of 1965

Funds made available to carry out this subsection may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under, the Elementary and

Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] if such funds are used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965 for the activities and services assisted under this subsection.

(g) Direct services by the State educational agency

(1) In general

A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local educational agency, or for whom that State agency is responsible, if the State educational agency determines that the local educational agency or State agency, as the case may be—

(A) has not provided the information needed to establish the eligibility of such local educational agency or State agency under this section;

(B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a);

(C) is unable or unwilling to be consolidated with 1 or more local educational agencies in order to establish and maintain such programs; or

(D) has 1 or more children with disabilities who can best be served by a regional or State program or service delivery system designed to meet the needs of such children.

(2) Manner and location of education and services

The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State educational agency considers appropriate. Such education and services shall be provided in accordance with this subchapter.

(h) State agency eligibility

Any State agency that desires to receive a subgrant for any fiscal year under section 1411(f) of this title shall demonstrate to the satisfaction of the State educational agency that—

(1) all children with disabilities who are participating in programs and projects funded under this subchapter receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this subchapter; and

(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

(i) Disciplinary information

The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from 1 school to another, the transmission of any of the child's records shall include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.

(j) State agency flexibility

(1) Adjustment to State fiscal effort in certain fiscal years

For any fiscal year for which the allotment received by a State under section 1411 of this title exceeds the amount the State received for the previous fiscal year and if the State in school year 2003–2004 or any subsequent school year pays or reimburses all local educational agencies within the State from State revenue 100 percent of the non-Federal share of the costs of special education and related services, the State educational agency, notwithstanding paragraphs (17) and (18) of

section 1412(a) of this title and section 1412(b) of this title, may reduce the level of expenditures from State sources for the education of children with disabilities by not more than 50 percent of the amount of such excess.

(2) Prohibition

Notwithstanding paragraph (1), if the Secretary determines that a State educational agency is unable to establish, maintain, or oversee programs of free appropriate public education that meet the requirements of this subchapter, or that the State needs assistance, intervention, or substantial intervention under section 1416(d)(2)(A) of this title, the Secretary shall prohibit the State educational agency from exercising the authority in paragraph (1).

(3) Education activities

If a State educational agency exercises the authority under paragraph (1), the agency shall use funds from State sources, in an amount equal to the amount of the reduction under paragraph (1), to support activities authorized under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] or to support need based student or teacher higher education programs.

(4) Report

For each fiscal year for which a State educational agency exercises the authority under paragraph (1), the State educational agency shall report to the Secretary the amount of expenditures reduced pursuant to such paragraph and the activities that were funded pursuant to paragraph (3).

(5) Limitation

Notwithstanding paragraph (1), a State educational agency may not reduce the level of expenditures described in paragraph (1) if any local educational agency in the State would, as a result of such reduction, receive less than 100 percent of the amount necessary to ensure that all children with disabilities served by the local educational agency receive a free appropriate public education from the combination of Federal funds received under this chapter and State funds received from the State educational agency.

(Pub. L. 91–230, title VI, §613, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2694; amended Pub. L. 114–95, title IX, §9215(ss)(4), Dec. 10, 2015, 129 Stat. 2182.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a)(2)(C)(ii), (f)(5), and (j)(3), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

For the effective date of the Individuals with Disabilities Education Improvement Act of 2004, referred to in subsec. (b)(1), (3), see section 302(a), (b) of Pub. L. 108–446, set out as an Effective Date note under section 1400 of this title.

PRIOR PROVISIONS

A prior section 1413, Pub. L. 91–230, title VI, §613, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 73; amended Pub. L. 107–110, title X, §1076(i), Jan. 8, 2002, 115 Stat. 2091, related to local educational agency eligibility, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1413, Pub. L. 91–230, title VI, §613, Apr. 13, 1970, 84 Stat. 179; Pub. L. 93–380, title VI, §§614(c), (d), 615(b), (c), title VIII, §843(b)(2), Aug. 21, 1974, 88 Stat. 581, 583, 611; Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 782; Pub. L. 98–199, §§3(b), 7, Dec. 2, 1983, 97 Stat. 1358, 1359; Pub. L. 99–457, title II, §203(b), title IV, §405, Oct. 8, 1986, 100 Stat. 1159, 1174; Pub. L. 100–630, title I, §102(c), Nov. 7, 1988, 102 Stat. 3291; Pub. L. 101–476, title II, §202, title IX, §901(b)(47)–(58), Oct. 30, 1990, 104 Stat. 1111, 1144; Pub. L. 102–119, §§5, 25(a)(6), (b), Oct. 7, 1991, 105 Stat. 591, 606, 607; Pub. L. 103–382, title III, §391(f)(2), Oct. 20, 1994, 108 Stat. 4023, related to requisite features of a State plan, approval of State plan by Secretary, and participation of children with disabilities enrolled in private schools, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114–95 substituted "subject to the requirements of section 1412(a)(14) of this title and section 2102(b) of the Elementary and Secondary Education Act of 1965" for "subject to the requirements of section 1412(a)(14) of this title and section 2122 of the Elementary and Secondary Education Act of 1965".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1414. Evaluations, eligibility determinations, individualized education programs, and educational placements

(a) Evaluations, parental consent, and reevaluations

(1) Initial evaluations

(A) In general

A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this subchapter.

(B) Request for initial evaluation

Consistent with subparagraph (D), either a parent of a child, or a State educational agency, other State agency, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

(C) Procedures

(i) In general

Such initial evaluation shall consist of procedures—

(I) to determine whether a child is a child with a disability (as defined in 1401 of this title) within 60 days of receiving parental consent for the evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within such timeframe; and

(II) to determine the educational needs of such child.

(ii) Exception

The relevant timeframe in clause (i)(I) shall not apply to a local educational agency if—

(I) a child enrolls in a school served by the local educational agency after the relevant timeframe in clause (i)(I) has begun and prior to a determination by the child's previous local educational agency as to whether the child is a child with a disability (as defined in section 1401 of this title), but only if the subsequent local educational agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent local educational agency agree to a specific time when the evaluation will be completed; or

(II) the parent of a child repeatedly fails or refuses to produce the child for the evaluation.

(D) Parental consent

(i) In general

(I) Consent for initial evaluation

The agency proposing to conduct an initial evaluation to determine if the child qualifies

as a child with a disability as defined in section 1401 of this title shall obtain informed consent from the parent of such child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

(II) Consent for services

An agency that is responsible for making a free appropriate public education available to a child with a disability under this subchapter shall seek to obtain informed consent from the parent of such child before providing special education and related services to the child.

(ii) Absence of consent

(I) For initial evaluation

If the parent of such child does not provide consent for an initial evaluation under clause (i)(I), or the parent fails to respond to a request to provide the consent, the local educational agency may pursue the initial evaluation of the child by utilizing the procedures described in section 1415 of this title, except to the extent inconsistent with State law relating to such parental consent.

(II) For services

If the parent of such child refuses to consent to services under clause (i)(II), the local educational agency shall not provide special education and related services to the child by utilizing the procedures described in section 1415 of this title.

(III) Effect on agency obligations

If the parent of such child refuses to consent to the receipt of special education and related services, or the parent fails to respond to a request to provide such consent—

(aa) the local educational agency shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide such child with the special education and related services for which the local educational agency requests such consent; and

(bb) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child for the special education and related services for which the local educational agency requests such consent.

(iii) Consent for wards of the State

(I) In general

If the child is a ward of the State and is not residing with the child's parent, the agency shall make reasonable efforts to obtain the informed consent from the parent (as defined in section 1401 of this title) of the child for an initial evaluation to determine whether the child is a child with a disability.

(II) Exception

The agency shall not be required to obtain informed consent from the parent of a child for an initial evaluation to determine whether the child is a child with a disability if—

(aa) despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parent of the child;

(bb) the rights of the parents of the child have been terminated in accordance with State law; or

(cc) the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

(E) Rule of construction

The screening of a student by a teacher or specialist to determine appropriate instructional

strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

(2) Reevaluations

(A) In general

A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)—

(i) if the local educational agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(ii) if the child's parents or teacher requests a reevaluation.

(B) Limitation

A reevaluation conducted under subparagraph (A) shall occur—

(i) not more frequently than once a year, unless the parent and the local educational agency agree otherwise; and

(ii) at least once every 3 years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.

(b) Evaluation procedures

(1) Notice

The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 1415 of this title, that describes any evaluation procedures such agency proposes to conduct.

(2) Conduct of evaluation

In conducting the evaluation, the local educational agency shall—

(A) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining—

(i) whether the child is a child with a disability; and

(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum, or, for preschool children, to participate in appropriate activities;

(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(3) Additional requirements

Each local educational agency shall ensure that—

(A) assessments and other evaluation materials used to assess a child under this section—

(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;

(iii) are used for purposes for which the assessments or measures are valid and reliable;

(iv) are administered by trained and knowledgeable personnel; and

(v) are administered in accordance with any instructions provided by the producer of such assessments;

(B) the child is assessed in all areas of suspected disability;

(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided; and

(D) assessments of children with disabilities who transfer from 1 school district to another school district in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

(4) Determination of eligibility and educational need

Upon completion of the administration of assessments and other evaluation measures—

(A) the determination of whether the child is a child with a disability as defined in section 1401(3) of this title and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

(B) a copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent.

(5) Special rule for eligibility determination

In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is—

(A) lack of appropriate instruction in reading, including in the essential components of reading instruction (as defined in section 6368(3) of this title, as such section was in effect on the day before December 10, 2015);

(B) lack of instruction in math; or

(C) limited English proficiency.

(6) Specific learning disabilities

(A) In general

Notwithstanding section 1406(b) of this title, when determining whether a child has a specific learning disability as defined in section 1401 of this title, a local educational agency shall not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

(B) Additional authority

In determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures described in paragraphs (2) and (3).

(c) Additional requirements for evaluation and reevaluations

(1) Review of existing evaluation data

As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team and other qualified professionals, as appropriate, shall—

(A) review existing evaluation data on the child, including—

(i) evaluations and information provided by the parents of the child;

(ii) current classroom-based, local, or State assessments, and classroom-based observations; and

(iii) observations by teachers and related services providers; and

(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

(i) whether the child is a child with a disability as defined in section 1401(3) of this title, and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;

(ii) the present levels of academic achievement and related developmental needs of the

child;

(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.

(2) Source of data

The local educational agency shall administer such assessments and other evaluation measures as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

(3) Parental consent

Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(D), prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

(4) Requirements if additional data are not needed

If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the local educational agency—

(A) shall notify the child's parents of—

(i) that determination and the reasons for the determination; and

(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and

(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

(5) Evaluations before change in eligibility

(A) In general

Except as provided in subparagraph (B), a local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.

(B) Exception

(i) In general

The evaluation described in subparagraph (A) shall not be required before the termination of a child's eligibility under this subchapter due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education under State law.

(ii) Summary of performance

For a child whose eligibility under this subchapter terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

(d) Individualized education programs

(1) Definitions

In this chapter:

(A) Individualized education program

(i) In general

The term "individualized education program" or "IEP" means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

(I) a statement of the child's present levels of academic achievement and functional performance, including—

(aa) how the child's disability affects the child's involvement and progress in the general education curriculum;

(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and

(cc) for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(II) a statement of measurable annual goals, including academic and functional goals, designed to—

(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(bb) meet each of the child's other educational needs that result from the child's disability;

(III) a description of how the child's progress toward meeting the annual goals described in subclause (II) will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(IV) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

(aa) to advance appropriately toward attaining the annual goals;

(bb) to be involved in and make progress in the general education curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and

(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this subparagraph;

(V) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (IV)(cc);

(VI)(aa) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 1412(a)(16)(A) of this title; and

(bb) if the IEP Team determines that the child shall take an alternate assessment on a particular State or districtwide assessment of student achievement, a statement of why—

(AA) the child cannot participate in the regular assessment; and

(BB) the particular alternate assessment selected is appropriate for the child;

(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications; and

(VIII) beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter—

(aa) appropriate measurable postsecondary goals based upon age appropriate

transition assessments related to training, education, employment, and, where appropriate, independent living skills;

(bb) the transition services (including courses of study) needed to assist the child in reaching those goals; and

(cc) beginning not later than 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this chapter, if any, that will transfer to the child on reaching the age of majority under section 1415(m) of this title.

(ii) Rule of construction

Nothing in this section shall be construed to require—

(I) that additional information be included in a child's IEP beyond what is explicitly required in this section; and

(II) the IEP Team to include information under 1 component of a child's IEP that is already contained under another component of such IEP.

(B) Individualized education program team

The term "individualized education program team" or "IEP Team" means a group of individuals composed of—

(i) the parents of a child with a disability;

(ii) not less than 1 regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

(iii) not less than 1 special education teacher, or where appropriate, not less than 1 special education provider of such child;

(iv) a representative of the local educational agency who—

(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(II) is knowledgeable about the general education curriculum; and

(III) is knowledgeable about the availability of resources of the local educational agency;

(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(vii) whenever appropriate, the child with a disability.

(C) IEP Team attendance

(i) Attendance not necessary

A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(ii) Excusal

A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if—

(I) the parent and the local educational agency consent to the excusal; and

(II) the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

(iii) Written agreement and consent required

A parent's agreement under clause (i) and consent under clause (ii) shall be in writing.

(D) IEP Team transition

In the case of a child who was previously served under subchapter III, an invitation to the initial IEP meeting shall, at the request of the parent, be sent to the subchapter III service coordinator or other representatives of the subchapter III system to assist with the smooth transition of services.

(2) Requirement that program be in effect

(A) In general

At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in the agency's jurisdiction, an individualized education program, as defined in paragraph (1)(A).

(B) Program for child aged 3 through 5

In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2-year-old child with a disability who will turn age 3 during the school year), the IEP Team shall consider the individualized family service plan that contains the material described in section 1436 of this title, and that is developed in accordance with this section, and the individualized family service plan may serve as the IEP of the child if using that plan as the IEP is—

(i) consistent with State policy; and

(ii) agreed to by the agency and the child's parents.

(C) Program for children who transfer school districts

(i) In general

(I) Transfer within the same State

In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in the same State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law.

(II) Transfer outside State

In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in another State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency conducts an evaluation pursuant to subsection (a)(1), if determined to be necessary by such agency, and develops a new IEP, if appropriate, that is consistent with Federal and State law.

(ii) Transmittal of records

To facilitate the transition for a child described in clause (i)—

(I) the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled, pursuant to section 99.31(a)(2) of title 34, Code of Federal Regulations; and

(II) the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school.

(3) Development of IEP

(A) In general

In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

(i) the strengths of the child;

(ii) the concerns of the parents for enhancing the education of their child;

(iii) the results of the initial evaluation or most recent evaluation of the child; and

(iv) the academic, developmental, and functional needs of the child.

(B) Consideration of special factors

The IEP Team shall—

(i) in the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

(v) consider whether the child needs assistive technology devices and services.

(C) Requirement with respect to regular education teacher

A regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(IV).

(D) Agreement

In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the local educational agency may agree not to convene an IEP meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP.

(E) Consolidation of IEP Team meetings

To the extent possible, the local educational agency shall encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

(F) Amendments

Changes to the IEP may be made either by the entire IEP Team or, as provided in subparagraph (D), by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.

(4) Review and revision of IEP

(A) In general

The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

(i) reviews the child's IEP periodically, but not less frequently than annually, to determine whether the annual goals for the child are being achieved; and

(ii) revises the IEP as appropriate to address—

(I) any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;

(II) the results of any reevaluation conducted under this section;

(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B);

(IV) the child's anticipated needs; or

(V) other matters.

(B) Requirement with respect to regular education teacher

A regular education teacher of the child, as a member of the IEP Team, shall, consistent with paragraph (1)(C), participate in the review and revision of the IEP of the child.

(5) Multi-year IEP demonstration

(A) Pilot program

(i) Purpose

The purpose of this paragraph is to provide an opportunity for States to allow parents and local educational agencies the opportunity for long-term planning by offering the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to coincide with the natural transition points for the child.

(ii) Authorization

In order to carry out the purpose of this paragraph, the Secretary is authorized to approve not more than 15 proposals from States to carry out the activity described in clause (i).

(iii) Proposal

(I) In general

A State desiring to participate in the program under this paragraph shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

(II) Content

The proposal shall include—

(aa) assurances that the development of a multi-year IEP under this paragraph is optional for parents;

(bb) assurances that the parent is required to provide informed consent before a comprehensive multi-year IEP is developed;

(cc) a list of required elements for each multi-year IEP, including—

(AA) measurable goals pursuant to paragraph (1)(A)(i)(II), coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability; and

(BB) measurable annual goals for determining progress toward meeting the goals described in subitem (AA); and

(dd) a description of the process for the review and revision of each multi-year IEP, including—

(AA) a review by the IEP Team of the child's multi-year IEP at each of the child's natural transition points;

(BB) in years other than a child's natural transition points, an annual review of the child's IEP to determine the child's current levels of progress and whether the annual goals for the child are being achieved, and a requirement to amend the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP;

(CC) if the IEP Team determines on the basis of a review that the child is not

making sufficient progress toward the goals described in the multi-year IEP, a requirement that the local educational agency shall ensure that the IEP Team carries out a more thorough review of the IEP in accordance with paragraph (4) within 30 calendar days; and

(DD) at the request of the parent, a requirement that the IEP Team shall conduct a review of the child's multi-year IEP rather than or subsequent to an annual review.

(B) Report

Beginning 2 years after December 3, 2004, the Secretary shall submit an annual report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate regarding the effectiveness of the program under this paragraph and any specific recommendations for broader implementation of such program, including—

(i) reducing—

(I) the paperwork burden on teachers, principals, administrators, and related service providers; and

(II) noninstructional time spent by teachers in complying with this subchapter;

(ii) enhancing longer-term educational planning;

(iii) improving positive outcomes for children with disabilities;

(iv) promoting collaboration between IEP Team members; and

(v) ensuring satisfaction of family members.

(C) Definition

In this paragraph, the term "natural transition points" means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to secondary school grades, and from secondary school grades to post-secondary activities, but in no case a period longer than 3 years.

(6) Failure to meet transition objectives

If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VIII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

(7) Children with disabilities in adult prisons

(A) In general

The following requirements shall not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

(i) The requirements contained in section 1412(a)(16) of this title and paragraph (1)(A)(i)(VI) (relating to participation of children with disabilities in general assessments).

(ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VIII) (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this subchapter will end, because of such children's age, before such children will be released from prison.

(B) Additional requirement

If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections [1] 1412(a)(5)(A) of this title and paragraph (1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(e) Educational placements

Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

(f) Alternative means of meeting participation

When conducting IEP team [2] meetings and placement meetings pursuant to this section, section 1415(e) of this title, and section 1415(f)(1)(B) of this title, and carrying out administrative matters under section 1415 of this title (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

(Pub. L. 91–230, title VI, §614, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2702; amended Pub. L. 114–95, title IX, §9215(ss)(5), Dec. 10, 2015, 129 Stat. 2182.)

REFERENCES IN TEXT

Section 6368(3) of this title, as such section was in effect on the day before December 10, 2015, referred to in subsec. (b)(5)(A), means section 6368(3) of this title prior to being omitted in the general amendment of part B of subchapter I of chapter 70 of this title by Pub. L. 114–95, title I, §1201, Dec. 10, 2015, 129 Stat. 1879.

PRIOR PROVISIONS

A prior section 1414, Pub. L. 91–230, title VI, §614, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 81, related to evaluations, eligibility determinations, individualized education programs, and educational placements, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1414, Pub. L. 91–230, title VI, §614, Apr. 13, 1970, 84 Stat. 181; Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 784; Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, §102(d), Nov. 7, 1988, 102 Stat. 3293; Pub. L. 101–476, title IX, §901(b)(59)–(70), Oct. 30, 1990, 104 Stat. 1144, 1145; Pub. L. 102–119, §§6, 25(b), Oct. 7, 1991, 105 Stat. 591, 607, related to requisite features of an application, approval of application by State educational agency, consolidated applications of local educational agencies, and provision of special education and related services directly to children with disabilities in areas not served by local educational agency, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

A prior section 1414a, Pub. L. 91–230, title VI, §614A, as added Pub. L. 103–382, title III, §312, Oct. 20, 1994, 108 Stat. 3934, which related to treatment of State agencies that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in existence on the day preceding Oct. 20, 1994), was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

AMENDMENTS

2015—Subsec. (b)(5)(A). Pub. L. 114–95 inserted ", as such section was in effect on the day before December 10, 2015" after "of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] So in original. Probably should be "section".

[2] So in original. Probably should be capitalized.

§1415. Procedural safeguards

(a) Establishment of procedures

Any State educational agency, State agency, or local educational agency that receives assistance

under this subchapter shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education by such agencies.

(b) Types of procedures

The procedures required by this section shall include the following:

(1) An opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child.

(2)(A) Procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents, which surrogate shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child. In the case of—

(i) a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of this paragraph; and

(ii) an unaccompanied homeless youth as defined in section 11434a(6) of title 42, the local educational agency shall appoint a surrogate in accordance with this paragraph.

(B) The State shall make reasonable efforts to ensure the assignment of a surrogate not more than 30 days after there is a determination by the agency that the child needs a surrogate.

(3) Written prior notice to the parents of the child, in accordance with subsection (c)(1), whenever the local educational agency—

(A) proposes to initiate or change; or

(B) refuses to initiate or change,

the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child.

(4) Procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so.

(5) An opportunity for mediation, in accordance with subsection (e).

(6) An opportunity for any party to present a complaint—

(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and

(B) which sets forth an alleged violation that occurred not more than 2 years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for presenting such a complaint under this subchapter, in such time as the State law allows, except that the exceptions to the timeline described in subsection (f)(3)(D) shall apply to the timeline described in this subparagraph.

(7)(A) Procedures that require either party, or the attorney representing a party, to provide due process complaint notice in accordance with subsection (c)(2) (which shall remain confidential)—

(i) to the other party, in the complaint filed under paragraph (6), and forward a copy of such notice to the State educational agency; and

(ii) that shall include—

(I) the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending;

(II) in the case of a homeless child or youth (within the meaning of section 11434a(2) of title 42), available contact information for the child and the name of the school the child is attending;

(III) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

(IV) a proposed resolution of the problem to the extent known and available to the party at the time.

(B) A requirement that a party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirements of subparagraph (A)(ii).

(8) Procedures that require the State educational agency to develop a model form to assist parents in filing a complaint and due process complaint notice in accordance with paragraphs (6) and (7), respectively.

(c) Notification requirements

(1) Content of prior written notice

The notice required by subsection (b)(3) shall include—

(A) a description of the action proposed or refused by the agency;

(B) an explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;

(C) a statement that the parents of a child with a disability have protection under the procedural safeguards of this subchapter and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

(D) sources for parents to contact to obtain assistance in understanding the provisions of this subchapter;

(E) a description of other options considered by the IEP Team and the reason why those options were rejected; and

(F) a description of the factors that are relevant to the agency's proposal or refusal.

(2) Due process complaint notice

(A) Complaint

The due process complaint notice required under subsection (b)(7)(A) shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the receiving party believes the notice has not met the requirements of subsection (b)(7)(A).

(B) Response to complaint

(i) Local educational agency response

(I) In general

If the local educational agency has not sent a prior written notice to the parent regarding the subject matter contained in the parent's due process complaint notice, such local educational agency shall, within 10 days of receiving the complaint, send to the parent a response that shall include—

(aa) an explanation of why the agency proposed or refused to take the action raised in the complaint;

(bb) a description of other options that the IEP Team considered and the reasons why those options were rejected;

(cc) a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and

(dd) a description of the factors that are relevant to the agency's proposal or refusal.

(II) Sufficiency

A response filed by a local educational agency pursuant to subclause (I) shall not be construed to preclude such local educational agency from asserting that the parent's due

process complaint notice was insufficient where appropriate.

(ii) Other party response

Except as provided in clause (i), the non-complaining party shall, within 10 days of receiving the complaint, send to the complaint a response that specifically addresses the issues raised in the complaint.

(C) Timing

The party providing a hearing officer notification under subparagraph (A) shall provide the notification within 15 days of receiving the complaint.

(D) Determination

Within 5 days of receipt of the notification provided under subparagraph (C), the hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of subsection (b)(7)(A), and shall immediately notify the parties in writing of such determination.

(E) Amended complaint notice

(i) In general

A party may amend its due process complaint notice only if—

(I) the other party consents in writing to such amendment and is given the opportunity to resolve the complaint through a meeting held pursuant to subsection (f)(1)(B); or

(II) the hearing officer grants permission, except that the hearing officer may only grant such permission at any time not later than 5 days before a due process hearing occurs.

(ii) Applicable timeline

The applicable timeline for a due process hearing under this subchapter shall recommence at the time the party files an amended notice, including the timeline under subsection (f)(1)(B).

(d) Procedural safeguards notice

(1) In general

(A) Copy to parents

A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents only 1 time a year, except that a copy also shall be given to the parents—

(i) upon initial referral or parental request for evaluation;

(ii) upon the first occurrence of the filing of a complaint under subsection (b)(6); and

(iii) upon request by a parent.

(B) Internet website

A local educational agency may place a current copy of the procedural safeguards notice on its Internet website if such website exists.

(2) Contents

The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents (unless it clearly is not feasible to do so) and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

(A) independent educational evaluation;

(B) prior written notice;

(C) parental consent;

(D) access to educational records;

(E) the opportunity to present and resolve complaints, including—

(i) the time period in which to make a complaint;

(ii) the opportunity for the agency to resolve the complaint; and

(iii) the availability of mediation;

(F) the child's placement during pendency of due process proceedings;
(G) procedures for students who are subject to placement in an interim alternative educational setting;
(H) requirements for unilateral placement by parents of children in private schools at public expense;
(I) due process hearings, including requirements for disclosure of evaluation results and recommendations;
(J) State-level appeals (if applicable in that State);
(K) civil actions, including the time period in which to file such actions; and
(L) attorneys' fees.

(e) Mediation

(1) In general

Any State educational agency or local educational agency that receives assistance under this subchapter shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.

(2) Requirements

Such procedures shall meet the following requirements:
(A) The procedures shall ensure that the mediation process—
(i) is voluntary on the part of the parties;
(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this subchapter; and
(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(B) OPPORTUNITY TO MEET WITH A DISINTERESTED PARTY.—A local educational agency or a State agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—
(i) a parent training and information center or community parent resource center in the State established under section 1471 or 1472 of this title; or
(ii) an appropriate alternative dispute resolution entity,

to encourage the use, and explain the benefits, of the mediation process to the parents.
(C) LIST OF QUALIFIED MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.
(D) COSTS.—The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).
(E) SCHEDULING AND LOCATION.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.
(F) WRITTEN AGREEMENT.—In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that sets forth such resolution and that—
(i) states that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding;
(ii) is signed by both the parent and a representative of the agency who has the authority to bind such agency; and

(iii) is enforceable in any State court of competent jurisdiction or in a district court of the United States.

(G) MEDIATION DISCUSSIONS.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding.

(f) Impartial due process hearing

(1) In general

(A) Hearing

Whenever a complaint has been received under subsection (b)(6) or (k), the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.

(B) Resolution session

(i) Preliminary meeting

Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the complaint—

(I) within 15 days of receiving notice of the parents' complaint;

(II) which shall include a representative of the agency who has decisionmaking authority on behalf of such agency;

(III) which may not include an attorney of the local educational agency unless the parent is accompanied by an attorney; and

(IV) where the parents of the child discuss their complaint, and the facts that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint,

unless the parents and the local educational agency agree in writing to waive such meeting, or agree to use the mediation process described in subsection (e).

(ii) Hearing

If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing under this subchapter shall commence.

(iii) Written settlement agreement

In the case that a resolution is reached to resolve the complaint at a meeting described in clause (i), the parties shall execute a legally binding agreement that is—

(I) signed by both the parent and a representative of the agency who has the authority to bind such agency; and

(II) enforceable in any State court of competent jurisdiction or in a district court of the United States.

(iv) Review period

If the parties execute an agreement pursuant to clause (iii), a party may void such agreement within 3 business days of the agreement's execution.

(2) Disclosure of evaluations and recommendations

(A) In general

Not less than 5 business days prior to a hearing conducted pursuant to paragraph (1), each

party shall disclose to all other parties all evaluations completed by that date, and recommendations based on the offering party's evaluations, that the party intends to use at the hearing.

(B) Failure to disclose

A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(3) Limitations on hearing

(A) Person conducting hearing

A hearing officer conducting a hearing pursuant to paragraph (1)(A) shall, at a minimum—

(i) not be—

(I) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

(II) a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

(ii) possess knowledge of, and the ability to understand, the provisions of this chapter, Federal and State regulations pertaining to this chapter, and legal interpretations of this chapter by Federal and State courts;

(iii) possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

(iv) possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

(B) Subject matter of hearing

The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under subsection (b)(7), unless the other party agrees otherwise.

(C) Timeline for requesting hearing

A parent or agency shall request an impartial due process hearing within 2 years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for requesting such a hearing under this subchapter, in such time as the State law allows.

(D) Exceptions to the timeline

The timeline described in subparagraph (C) shall not apply to a parent if the parent was prevented from requesting the hearing due to—

(i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint; or

(ii) the local educational agency's withholding of information from the parent that was required under this subchapter to be provided to the parent.

(E) Decision of hearing officer

(i) In general

Subject to clause (ii), a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education.

(ii) Procedural issues

In matters alleging a procedural violation, a hearing officer may find that a child did not receive a free appropriate public education only if the procedural inadequacies—

(I) impeded the child's right to a free appropriate public education;

(II) significantly impeded the parents' opportunity to participate in the decisionmaking process regarding the provision of a free appropriate public education to the parents' child; or

(III) caused a deprivation of educational benefits.

(iii) Rule of construction

Nothing in this subparagraph shall be construed to preclude a hearing officer from ordering a local educational agency to comply with procedural requirements under this section.

(F) Rule of construction

Nothing in this paragraph shall be construed to affect the right of a parent to file a complaint with the State educational agency.

(g) Appeal

(1) In general

If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency.

(2) Impartial review and independent decision

The State educational agency shall conduct an impartial review of the findings and decision appealed under paragraph (1). The officer conducting such review shall make an independent decision upon completion of such review.

(h) Safeguards

Any party to a hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded—

(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions, which findings and decisions—

(A) shall be made available to the public consistent with the requirements of section 1417(b) of this title (relating to the confidentiality of data, information, and records); and

(B) shall be transmitted to the advisory panel established pursuant to section 1412(a)(21) of this title.

(i) Administrative procedures

(1) In general

(A) Decision made in hearing

A decision made in a hearing conducted pursuant to subsection (f) or (k) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) and paragraph (2).

(B) Decision made at appeal

A decision made under subsection (g) shall be final, except that any party may bring an action under paragraph (2).

(2) Right to bring civil action

(A) In general

Any party aggrieved by the findings and decision made under subsection (f) or (k) who does not have the right to an appeal under subsection (g), and any party aggrieved by the findings

and decision made under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States, without regard to the amount in controversy.

(B) Limitation

The party bringing the action shall have 90 days from the date of the decision of the hearing officer to bring such an action, or, if the State has an explicit time limitation for bringing such action under this subchapter, in such time as the State law allows.

(C) Additional requirements

In any action brought under this paragraph, the court—

(i) shall receive the records of the administrative proceedings;

(ii) shall hear additional evidence at the request of a party; and

(iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(3) Jurisdiction of district courts; attorneys' fees

(A) In general

The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.

(B) Award of attorneys' fees

(i) In general

In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs—

(I) to a prevailing party who is the parent of a child with a disability;

(II) to a prevailing party who is a State educational agency or local educational agency against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

(III) to a prevailing State educational agency or local educational agency against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(ii) Rule of construction

Nothing in this subparagraph shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005.

(C) Determination of amount of attorneys' fees

Fees awarded under this paragraph shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(D) Prohibition of attorneys' fees and related costs for certain services

(i) In general

Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this section for services performed subsequent to the time of a written offer of settlement to a parent if—

(I) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;

(II) the offer is not accepted within 10 days; and

(III) the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(ii) IEP Team meetings

Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection (e).

(iii) Opportunity to resolve complaints

A meeting conducted pursuant to subsection (f)(1)(B)(i) shall not be considered—

(I) a meeting convened as a result of an administrative hearing or judicial action; or

(II) an administrative hearing or judicial action for purposes of this paragraph.

(E) Exception to prohibition on attorneys' fees and related costs

Notwithstanding subparagraph (D), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(F) Reduction in amount of attorneys' fees

Except as provided in subparagraph (G), whenever the court finds that—

(i) the parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

(iv) the attorney representing the parent did not provide to the local educational agency the appropriate information in the notice of the complaint described in subsection (b)(7)(A),

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this section.

(G) Exception to reduction in amount of attorneys' fees

The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.

(j) Maintenance of current educational placement

Except as provided in subsection (k)(4), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of the child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.

(k) Placement in alternative educational setting

(1) Authority of school personnel

(A) Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

(B) Authority

School personnel under this subsection may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).

(C) Additional authority

If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to subparagraph (E), the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities, except as provided in section 1412(a)(1) of this title although it may be provided in an interim alternative educational setting.

(D) Services

A child with a disability who is removed from the child's current placement under subparagraph (G) (irrespective of whether the behavior is determined to be a manifestation of the child's disability) or subparagraph (C) shall—

(i) continue to receive educational services, as provided in section 1412(a)(1) of this title, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(E) Manifestation determination

(i) In general

Except as provided in subparagraph (B), within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the local educational agency, the parent, and relevant members of the IEP Team (as determined by the parent and the local educational agency) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine—

(I) if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(II) if the conduct in question was the direct result of the local educational agency's failure to implement the IEP.

(ii) Manifestation

If the local educational agency, the parent, and relevant members of the IEP Team determine that either subclause (I) or (II) of clause (i) is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

(F) Determination that behavior was a manifestation

If the local educational agency, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team shall—

(i) conduct a functional behavioral assessment, and implement a behavioral intervention plan for such child, provided that the local educational agency had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement described in subparagraph (C) or (G);

(ii) in the situation where a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(iii) except as provided in subparagraph (G), return the child to the placement from which the child was removed, unless the parent and the local educational agency agree to a change of placement as part of the modification of the behavioral intervention plan.

(G) Special circumstances

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where a child—

(i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency;

(ii) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or

(iii) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

(H) Notification

Not later than the date on which the decision to take disciplinary action is made, the local educational agency shall notify the parents of that decision, and of all procedural safeguards accorded under this section.

(2) Determination of setting

The interim alternative educational setting in subparagraphs (C) and (G) of paragraph (1) shall be determined by the IEP Team.

(3) Appeal

(A) In general

The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination under this subsection, or a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing.

(B) Authority of hearing officer

(i) In general

A hearing officer shall hear, and make a determination regarding, an appeal requested under subparagraph (A).

(ii) Change of placement order

In making the determination under clause (i), the hearing officer may order a change in placement of a child with a disability. In such situations, the hearing officer may—

(I) return a child with a disability to the placement from which the child was removed; or

(II) order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

(4) Placement during appeals

When an appeal under paragraph (3) has been requested by either the parent or the local educational agency—

(A) the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(C), whichever occurs first, unless the parent and the State or local educational agency agree otherwise; and

(B) the State or local educational agency shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

(5) Protections for children not yet eligible for special education and related services

(A) In general

A child who has not been determined to be eligible for special education and related services under this subchapter and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for in this subchapter if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(B) Basis of knowledge

A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

(i) the parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;

(ii) the parent of the child has requested an evaluation of the child pursuant to section 1414(a)(1)(B) of this title; or

(iii) the teacher of the child, or other personnel of the local educational agency, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

(C) Exception

A local educational agency shall not be deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child pursuant to section 1414 of this title or has refused services under this subchapter or the child has been evaluated and it was determined that the child was not a child with a disability under this subchapter.

(D) Conditions that apply if no basis of knowledge

(i) In general

If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B) or (C)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

(ii) Limitations

If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this subsection, the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this subchapter, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

(6) Referral to and action by law enforcement and judicial authorities

(A) Rule of construction

Nothing in this subchapter shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(B) Transmittal of records

An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(7) Definitions

In this subsection:

(A) Controlled substance

The term "controlled substance" means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(B) Illegal drug

The term "illegal drug" means a controlled substance but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act [21 U.S.C. 801 et seq.] or under any other provision of Federal law.

(C) Weapon

The term "weapon" has the meaning given the term "dangerous weapon" under section 930(g)(2) of title 18.

(D) Serious bodily injury

The term "serious bodily injury" has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18.

(l) Rule of construction

Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this subchapter.

(m) Transfer of parental rights at age of majority

(1) In general

A State that receives amounts from a grant under this subchapter may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

(A) the agency shall provide any notice required by this section to both the individual and the parents;

(B) all other rights accorded to parents under this subchapter transfer to the child;

(C) the agency shall notify the individual and the parents of the transfer of rights; and

(D) all rights accorded to parents under this subchapter transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

(2) Special rule

If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this subchapter.

(n) Electronic mail

A parent of a child with a disability may elect to receive notices required under this section by an electronic mail (e-mail) communication, if the agency makes such option available.

(o) Separate complaint

Nothing in this section shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

(Pub. L. 91–230, title VI, §615, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2715.)

REFERENCES IN TEXT

Section 327 of the District of Columbia Appropriations Act, 2005, referred to in subsec. (i)(3)(B)(ii), is section 327 of Pub. L. 108–335, title III, Oct. 18, 2004, 118 Stat. 1344, which is not classified to the Code.

The Federal Rules of Civil Procedure, referred to in subsec. (i)(3)(D)(i)(I), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Controlled Substances Act, referred to in subsec. (k)(7)(B), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (l), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (l), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Act is classified generally to subchapter V (§790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 1415, Pub. L. 91–230, title VI, §615, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 88; amended Pub. L. 106–25, §6(a), Apr. 29, 1999, 113 Stat. 49, related to procedural safeguards, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1415, Pub. L. 91–230, title VI, §615, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 788; amended Pub. L. 99–372, §§2, 3, Aug. 5, 1986, 100 Stat. 796, 797; Pub. L. 100–630, title I, §102(e), Nov. 7, 1988, 102 Stat. 3294; Pub. L. 101–476, title IX, §901(b)(71)–(75), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103–382, title III, §314(a)(1), Oct. 20, 1994, 108 Stat. 3936, related to procedural safeguards, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1416. Monitoring, technical assistance, and enforcement

(a) Federal and State monitoring

(1) In general

The Secretary shall—

(A) monitor implementation of this subchapter through—

(i) oversight of the exercise of general supervision by the States, as required in section 1412(a)(11) of this title; and

(ii) the State performance plans, described in subsection (b);

(B) enforce this subchapter in accordance with subsection (e); and

(C) require States to—

(i) monitor implementation of this subchapter by local educational agencies; and

(ii) enforce this subchapter in accordance with paragraph (3) and subsection (e).

(2) Focused monitoring

The primary focus of Federal and State monitoring activities described in paragraph (1) shall be on—

(A) improving educational results and functional outcomes for all children with disabilities; and

(B) ensuring that States meet the program requirements under this subchapter, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

(3) Monitoring priorities

The Secretary shall monitor the States, and shall require each State to monitor the local educational agencies located in the State (except the State exercise of general supervisory responsibility), using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in the following priority areas:

(A) Provision of a free appropriate public education in the least restrictive environment.

(B) State exercise of general supervisory authority, including child find, effective monitoring, the use of resolution sessions, mediation, voluntary binding arbitration, and a system of transition services as defined in sections 1401(34) and 1437(a)(9) of this title.

(C) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

(4) Permissive areas of review

The Secretary shall consider other relevant information and data, including data provided by States under section 1418 of this title.

(b) State performance plans

(1) Plan

(A) In general

Not later than 1 year after December 3, 2004, each State shall have in place a performance plan that evaluates that State's efforts to implement the requirements and purposes of this subchapter and describes how the State will improve such implementation.

(B) Submission for approval

Each State shall submit the State's performance plan to the Secretary for approval in accordance with the approval process described in subsection (c).

(C) Review

Each State shall review its State performance plan at least once every 6 years and submit any amendments to the Secretary.

(2) Targets

(A) In general

As a part of the State performance plan described under paragraph (1), each State shall establish measurable and rigorous targets for the indicators established under the priority areas described in subsection (a)(3).

(B) Data collection

(i) In general

Each State shall collect valid and reliable information as needed to report annually to the Secretary on the priority areas described in subsection (a)(3).

(ii) Rule of construction

Nothing in this chapter shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this subchapter.

(C) Public reporting and privacy

(i) In general

The State shall use the targets established in the plan and priority areas described in subsection (a)(3) to analyze the performance of each local educational agency in the State in implementing this subchapter.

(ii) Report

(I) Public report

The State shall report annually to the public on the performance of each local educational agency located in the State on the targets in the State's performance plan. The State shall make the State's performance plan available through public means, including by posting on the website of the State educational agency, distribution to the media, and distribution through public agencies.

(II) State performance report

The State shall report annually to the Secretary on the performance of the State under the State's performance plan.

(iii) Privacy

The State shall not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children or where the available data is insufficient to yield statistically reliable information.

(c) Approval process

(1) Deemed approval

The Secretary shall review (including the specific provisions described in subsection (b)) each performance plan submitted by a State pursuant to subsection (b)(1)(B) and the plan shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the plan, that the plan does not meet the requirements of this section, including the specific provisions described in subsection (b).

(2) Disapproval

The Secretary shall not finally disapprove a performance plan, except after giving the State notice and an opportunity for a hearing.

(3) Notification

If the Secretary finds that the plan does not meet the requirements, in whole or in part, of this section, the Secretary shall—

(A) give the State notice and an opportunity for a hearing; and

(B) notify the State of the finding, and in such notification shall—

(i) cite the specific provisions in the plan that do not meet the requirements; and

(ii) request additional information, only as to the provisions not meeting the requirements, needed for the plan to meet the requirements of this section.

(4) Response

If the State responds to the Secretary's notification described in paragraph (3)(B) during the 30-day period beginning on the date on which the State received the notification, and resubmits the plan with the requested information described in paragraph (3)(B)(ii), the Secretary shall approve or disapprove such plan prior to the later of—

(A) the expiration of the 30-day period beginning on the date on which the plan is resubmitted; or

(B) the expiration of the 120-day period described in paragraph (1).

(5) Failure to respond

If the State does not respond to the Secretary's notification described in paragraph (3)(B) during the 30-day period beginning on the date on which the State received the notification, such plan shall be deemed to be disapproved.

(d) Secretary's review and determination

(1) Review

The Secretary shall annually review the State performance report submitted pursuant to

subsection (b)(2)(C)(ii)(II) in accordance with this section.

(2) Determination

(A) In general

Based on the information provided by the State in the State performance report, information obtained through monitoring visits, and any other public information made available, the Secretary shall determine if the State—

(i) meets the requirements and purposes of this subchapter;

(ii) needs assistance in implementing the requirements of this subchapter;

(iii) needs intervention in implementing the requirements of this subchapter; or

(iv) needs substantial intervention in implementing the requirements of this subchapter.

(B) Notice and opportunity for a hearing

For determinations made under clause (iii) or (iv) of subparagraph (A), the Secretary shall provide reasonable notice and an opportunity for a hearing on such determination.

(e) Enforcement

(1) Needs assistance

If the Secretary determines, for 2 consecutive years, that a State needs assistance under subsection (d)(2)(A)(ii) in implementing the requirements of this subchapter, the Secretary shall take 1 or more of the following actions:

(A) Advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, and require the State to work with appropriate entities. Such technical assistance may include—

(i) the provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the area for concern within a specified period of time;

(ii) assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(iii) designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

(iv) devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under subchapter IV, and private providers of scientifically based technical assistance.

(B) Direct the use of State-level funds under section 1411(e) of this title on the area or areas in which the State needs assistance.

(C) Identify the State as a high-risk grantee and impose special conditions on the State's grant under this subchapter.

(2) Needs intervention

If the Secretary determines, for 3 or more consecutive years, that a State needs intervention under subsection (d)(2)(A)(iii) in implementing the requirements of this subchapter, the following shall apply:

(A) The Secretary may take any of the actions described in paragraph (1).

(B) The Secretary shall take 1 or more of the following actions:

(i) Require the State to prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within 1 year.

(ii) Require the State to enter into a compliance agreement under section 457 of the

General Education Provisions Act [20 U.S.C. 1234f], if the Secretary has reason to believe that the State cannot correct the problem within 1 year.

(iii) For each year of the determination, withhold not less than 20 percent and not more than 50 percent of the State's funds under section 1411(e) of this title, until the Secretary determines the State has sufficiently addressed the areas in which the State needs intervention.

(iv) Seek to recover funds under section 452 of the General Education Provisions Act [20 U.S.C. 1234a].

(v) Withhold, in whole or in part, any further payments to the State under this subchapter pursuant to paragraph (5).

(vi) Refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(3) Needs substantial intervention

Notwithstanding paragraph (1) or (2), at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of this subchapter or that there is a substantial failure to comply with any condition of a State educational agency's or local educational agency's eligibility under this subchapter, the Secretary shall take 1 or more of the following actions:

(A) Recover funds under section 452 of the General Education Provisions Act [20 U.S.C. 1234a].

(B) Withhold, in whole or in part, any further payments to the State under this subchapter.

(C) Refer the case to the Office of the Inspector General at the Department of Education.

(D) Refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(4) Opportunity for hearing

(A) Withholding funds

Prior to withholding any funds under this section, the Secretary shall provide reasonable notice and an opportunity for a hearing to the State educational agency involved.

(B) Suspension

Pending the outcome of any hearing to withhold payments under subsection (b), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under this subchapter, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under this subchapter should not be suspended.

(5) Report to Congress

The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 30 days of taking enforcement action pursuant to paragraph (1), (2), or (3), on the specific action taken and the reasons why enforcement action was taken.

(6) Nature of withholding

(A) Limitation

If the Secretary withholds further payments pursuant to paragraph (2) or (3), the Secretary may determine—

(i) that such withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary's determination under subsection (d)(2); or

(ii) that the State educational agency shall not make further payments under this subchapter to specified State agencies or local educational agencies that caused or were involved in the Secretary's determination under subsection (d)(2).

(B) Withholding until rectified

Until the Secretary is satisfied that the condition that caused the initial withholding has been substantially rectified—

(i) payments to the State under this subchapter shall be withheld in whole or in part; and

(ii) payments by the State educational agency under this subchapter shall be limited to State agencies and local educational agencies whose actions did not cause or were not involved in the Secretary's determination under subsection (d)(2), as the case may be.

(7) Public attention

Any State that has received notice under subsection (d)(2) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the State.

(8) Judicial review

(A) In general

If any State is dissatisfied with the Secretary's action with respect to the eligibility of the State under section 1412 of this title, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28.

(B) Jurisdiction; review by United States Supreme Court

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(C) Standard of review

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

(f) State enforcement

If a State educational agency determines that a local educational agency is not meeting the requirements of this subchapter, including the targets in the State's performance plan, the State educational agency shall prohibit the local educational agency from reducing the local educational agency's maintenance of effort under section 1413(a)(2)(C) of this title for any fiscal year.

(g) Rule of construction

Nothing in this section shall be construed to restrict the Secretary from utilizing any authority under the General Education Provisions Act [20 U.S.C. 1221 et seq.] to monitor and enforce the requirements of this chapter.

(h) Divided State agency responsibility

For purposes of this section, where responsibility for ensuring that the requirements of this subchapter are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 1412(a)(11)(C) of this title, the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this subchapter are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this subchapter, except that—

(1) any reduction or withholding of payments to the State shall be proportionate to the total

funds allotted under section 1411 of this title to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and

(2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this subchapter.

(i) Data capacity and technical assistance review

The Secretary shall—

(1) review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of this section is collected, analyzed, and accurately reported to the Secretary; and

(2) provide technical assistance (from funds reserved under section 1411(c) of this title), where needed, to improve the capacity of States to meet the data collection requirements.

(Pub. L. 91–230, title VI, §616, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2731.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (g), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

A prior section 1416, Pub. L. 91–230, title VI, §616, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 99, related to withholding of payments and judicial review, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1416, Pub. L. 91–230, title VI, §616, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 789; amended Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, §102(f), Nov. 7, 1988, 102 Stat. 3294; Pub. L. 101–476, title IX, §901(b)(76), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to withholding of payments, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1417. Administration

(a) Responsibilities of Secretary

The Secretary shall—

(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, a State in matters relating to—

(A) the education of children with disabilities; and

(B) carrying out this subchapter; and

(2) provide short-term training programs and institutes.

(b) Prohibition against Federal mandates, direction, or control

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

(c) Confidentiality

The Secretary shall take appropriate action, in accordance with section 1232g of this title, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State educational agencies and local educational agencies pursuant to this subchapter.

(d) Personnel

The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a), under section 1418 of this title, and under part D of subchapter IV, without regard to the provisions of title 5 relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than 20 such personnel shall be employed at any time.

(e) Model forms

Not later than the date that the Secretary publishes final regulations under this chapter, to implement amendments made by the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall publish and disseminate widely to States, local educational agencies, and parent and community training and information centers—

(1) a model IEP form;

(2) a model individualized family service plan (IFSP) form;

(3) a model form of the notice of procedural safeguards described in section 1415(d) of this title; and

(4) a model form of the prior written notice described in subsections (b)(3) and (c)(1) of section 1415 of this title that is consistent with the requirements of this subchapter and is sufficient to meet such requirements.

(Pub. L. 91–230, title VI, §617, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2737.)

REFERENCES IN TEXT

The provisions of title 5 relating to appointments in the competitive service, referred to in subsec. (d), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Individuals with Disabilities Education Improvement Act of 2004, referred to in subsec. (e), is Pub. L. 108–446, Dec. 3, 2004, 118 Stat. 2647. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 1417, Pub. L. 91–230, title VI, §617, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 100, related to Secretary's administrative duties, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1417, Pub. L. 91–230, title VI, §617, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, §102(g), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101–476, title IX, §901(b)(77), (78), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102–119, §25(a)(7), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to Secretary's administrative duties, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1418. Program information

(a) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on the following:

(1)(A) The number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in each of the following separate categories:

(i) Receiving a free appropriate public education.

(ii) Participating in regular education.

(iii) In separate classes, separate schools or facilities, or public or private residential facilities.

(iv) For each year of age from age 14 through 21, stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special

education and related services.

(v)(I) Removed to an interim alternative educational setting under section 1415(k)(1) of this title.

(II) The acts or items precipitating those removals.

(III) The number of children with disabilities who are subject to long-term suspensions or expulsions.

(B) The number and percentage of children with disabilities, by race, gender, and ethnicity, who are receiving early intervention services.

(C) The number and percentage of children with disabilities, by race, gender, and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons.

(D) The incidence and duration of disciplinary actions by race, ethnicity, limited English proficiency status, gender, and disability category, of children with disabilities, including suspensions of 1 day or more.

(E) The number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled.

(F) The number of due process complaints filed under section 1415 of this title and the number of hearings conducted.

(G) The number of hearings requested under section 1415(k) of this title and the number of changes in placements ordered as a result of those hearings.

(H) The number of mediations held and the number of settlement agreements reached through such mediations.

(2) The number and percentage of infants and toddlers, by race, and ethnicity, who are at risk of having substantial developmental delays (as defined in section 1432 of this title), and who are receiving early intervention services under subchapter III.

(3) Any other information that may be required by the Secretary.

(b) Data reporting

(1) Protection of identifiable data

The data described in subsection (a) shall be publicly reported by each State in a manner that does not result in the disclosure of data identifiable to individual children.

(2) Sampling

The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

(c) Technical assistance

The Secretary may provide technical assistance to States to ensure compliance with the data collection and reporting requirements under this chapter.

(d) Disproportionality

(1) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 1401(3) of this title;

(B) the placement in particular educational settings of such children; and

(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

(2) Review and revision of policies, practices, and procedures

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall—

(A) provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this chapter;

(B) require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 1413(f) of this title to provide comprehensive coordinated early intervening services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and

(C) require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).

(Pub. L. 91–230, title VI, §618, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2738.)

PRIOR PROVISIONS

A prior section 1418, Pub. L. 91–230, title VI, §618, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 101, related to program information, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1418, Pub. L. 91–230, title VI, §618, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98–199, §§3(b), 8, Dec. 2, 1983, 97 Stat. 1358, 1360; Pub. L. 99–457, title IV, §406, Oct. 8, 1986, 100 Stat. 1174; Pub. L. 100–630, title I, §102(h), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101–476, title II, §203, Oct. 30, 1990, 104 Stat. 1112, related to evaluation and program information, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1419. Preschool grants

(a) In general

The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this subchapter—

(1) to children with disabilities aged 3 through 5, inclusive; and

(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

(b) Eligibility

A State shall be eligible for a grant under this section if such State—

(1) is eligible under section 1412 of this title to receive a grant under this subchapter; and

(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

(c) Allocations to States

(1) In general

The Secretary shall allocate the amount made available to carry out this section for a fiscal year among the States in accordance with paragraph (2) or (3), as the case may be.

(2) Increase in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A) Allocation

(i) In general

Except as provided in subparagraph (B), the Secretary shall—

(I) allocate to each State the amount the State received under this section for fiscal year 1997;

(II) allocate 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 5; and

(III) allocate 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged 3 through 5 who are living in poverty.

(ii) Data

For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

(B) Limitations

Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

(i) Preceding years

No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

(ii) Minimum

No State's allocation shall be less than the greatest of—

(I) the sum of—

(aa) the amount the State received under this section for fiscal year 1997; and

(bb) 1/3 of 1 percent of the amount by which the amount appropriated under subsection (j) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1997;

(II) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated under this section from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated under this section from the preceding fiscal year.

(iii) Maximum

Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

(I) the amount the State received under this section for the preceding fiscal year; and

(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.

(C) Ratable reductions

If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

(3) Decrease in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A) Allocations

If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

(i) the amount the State received under this section for fiscal year 1997; and

(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

(B) Ratable reductions

If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount the State received for fiscal year 1997, ratably reduced, if necessary.

(d) Reservation for State activities

(1) In general

Each State may reserve not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

(2) Amount described

For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(e) State administration

(1) In general

For the purpose of administering this section (including the coordination of activities under this subchapter with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount the State may reserve under subsection (d) for any fiscal year.

(2) Administration of subchapter III

Funds described in paragraph (1) may also be used for the administration of subchapter III.

(f) Other State-level activities

Each State shall use any funds the State reserves under subsection (d) and does not use for administration under subsection (e)—

(1) for support services (including establishing and implementing the mediation process required by section 1415(e) of this title), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

(2) for direct services for children eligible for services under this section;

(3) for activities at the State and local levels to meet the performance goals established by the State under section 1412(a)(15) of this title;

(4) to supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not more than 1 percent of the amount received by the State under this section for a fiscal year;

(5) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in

accordance with subchapter III to children with disabilities who are eligible for services under this section and who previously received services under subchapter III until such children enter, or are eligible under State law to enter, kindergarten; or

(6) at the State's discretion, to continue service coordination or case management for families who receive services under subchapter III.

(g) Subgrants to local educational agencies

(1) Subgrants required

Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that the State does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 1413 of this title, as follows:

(A) Base payments

The State shall first award each local educational agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 1419(c)(3) of this title, as such section was then in effect.

(B) Allocation of remaining funds

After making allocations under subparagraph (A), the State shall—

(i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and

(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

(2) Reallocation of funds

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by the local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas the other local educational agencies serve.

(h) Subchapter III inapplicable

Subchapter III does not apply to any child with a disability receiving a free appropriate public education, in accordance with this subchapter, with funds received under this section.

(i) State defined

In this section, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(j) Authorization of appropriations

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

(Pub. L. 91–230, title VI, §619, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2740.)

PRIOR PROVISIONS

A prior section 1419, Pub. L. 91–230, title VI, §619, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 102, related to preschool grants, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1419, Pub. L. 91–230, title VI, §619, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 793; amended Pub. L. 98–199, §§3(b), 9, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99–457, title II,

§201(a), Oct. 8, 1986, 100 Stat. 1155; Pub. L. 100–630, title I, §102(i), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101–476, title IX, §901(b)(79)–(93), Oct. 30, 1990, 104 Stat. 1145, 1146; Pub. L. 102–119, §§7, 25(b), Oct. 7, 1991, 105 Stat. 591, 607, related to preschool grants, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

A prior section 1420, Pub. L. 91–230, title VI, §620, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 793; amended Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358, which related to payments to States and distribution by States to local educational agencies and intermediate educational units, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

Prior sections 1421 to 1427, which comprised former subchapter III of this chapter, were repealed by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

Section 1421, Pub. L. 91–230, title VI, §621, Apr. 13, 1970, 84 Stat. 181; Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99–457, title III, §301, Oct. 8, 1986, 100 Stat. 1159; Pub. L. 100–630, title I, §103(b), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101–476, title III, §301, title IX, §901(b)(95)–(99), Oct. 30, 1990, 104 Stat. 1117, 1146; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment and operation of regional and Federal resource centers.

Section 1422, Pub. L. 91–230, title VI, §622, Apr. 13, 1970, 84 Stat. 182; Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1364; Pub. L. 99–457, title III, §302, Oct. 8, 1986, 100 Stat. 1160; Pub. L. 100–630, title I, §103(c), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, §302, Oct. 30, 1990, 104 Stat. 1118; Pub. L. 102–119, §25(a)(8), Oct. 7, 1991, 105 Stat. 606; Pub. L. 103–382, title III, §391(f)(3), Oct. 20, 1994, 108 Stat. 4023, related to services for deaf-blind children and youth.

Section 1423, Pub. L. 91–230, title VI, §623, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1365; Pub. L. 99–457, title III, §303, Oct. 8, 1986, 100 Stat. 1161; Pub. L. 100–630, title I, §103(d), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, §303, title IX, §901(b)(100)–(106), Oct. 30, 1990, 104 Stat. 1121, 1146, 1147; Pub. L. 102–119, §§8, 25(a)(9), (b), Oct. 7, 1991, 105 Stat. 592, 606, 607, related to early education for children with disabilities.

Section 1424, Pub. L. 91–230, title VI, §624, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1366; Pub. L. 99–457, title III, §304, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100–630, title I, §103(e), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, §304, title IX, §901(b)(107)–(110), Oct. 30, 1990, 104 Stat. 1122, 1147; Pub. L. 102–119, §25(a)(10), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to programs for children with severe disabilities.

Section 1424a, Pub. L. 91–230, title VI, §625, as added Pub. L. 93–380, title VI, §616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99–457, title III, §305, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100–630, title I, §103(f), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, §305, title IX, §901(b)(111)–(118), Oct. 30, 1990, 104 Stat. 1123, 1147; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–421, title II, §201(a), Oct. 16, 1992, 106 Stat. 2164, related to programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities.

Section 1425, Pub. L. 91–230, title VI, §626, formerly §625, Apr. 13, 1970, 84 Stat. 183, renumbered §626, Pub. L. 93–380, title VI, §616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98–199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99–457, title III, §306, Oct. 8, 1986, 100 Stat. 1163; Pub. L. 100–630, title I, §103(g), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title III, §306, title IX, §901(b)(119)–(127), Oct. 30, 1990, 104 Stat. 1124, 1147, 1148; Pub. L. 102–119, §25(a)(11), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to secondary education and transitional services for youth with disabilities.

Section 1426, Pub. L. 91–230, title VI, §627, formerly §626, Apr. 13, 1970, 84 Stat. 184, renumbered §627 and amended Pub. L. 93–380, title VI, §§616, 617, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95–49, §2, June 17, 1977, 91 Stat. 230; Pub. L. 98–199, §10, Dec. 2, 1983, 97 Stat. 1368; Pub. L. 101–476, title III, §307, Oct. 30, 1990, 104 Stat. 1127, related to programs for children and youth with serious emotional disturbance.

Section 1427, Pub. L. 91–230, title VI, §628, as added Pub. L. 98–199, §10, Dec. 2, 1983, 97 Stat. 1368; amended Pub. L. 99–457, title III, §307, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 101–476, title III, §308, Oct. 30, 1990, 104 Stat. 1128, authorized appropriations.

PRESCHOOL GRANTS

Pub. L. 100–630, title I, §110, Nov. 7, 1988, 102 Stat. 3303, as amended by Pub. L. 101–476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: "The provisions of section 300.300(b)(3) of title 34, Code of Federal Regulations, shall not apply with respect to children aged 3 through 5, inclusive, in any State for any fiscal year for which the State receives a grant under section 619(a)(1) of the Individuals with Disabilities Education Act [20 U.S.C. 1419(a)(1)]."

SUBCHAPTER III—INFANTS AND TODDLERS WITH DISABILITIES

§1431. Findings and policy

(a) Findings

Congress finds that there is an urgent and substantial need—

(1) to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first 3 years of life;

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

(3) to maximize the potential for individuals with disabilities to live independently in society;

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, particularly minority, low-income, inner city, and rural children, and infants and toddlers in foster care.

(b) Policy

It is the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

(3) to enhance State capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

(Pub. L. 91–230, title VI, §631, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2744.)

PRIOR PROVISIONS

A prior section 1431, Pub. L. 91–230, title VI, §631, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 106, set out findings and policy, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1431, Pub. L. 91–230, title VI, §631, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1369; Pub. L. 99–457, title III, §308, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 100–630, title I, §104(b), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title IV, §401, title IX, §901(b)(129)–(142), Oct. 30, 1990, 104 Stat. 1129, 1148; Pub. L. 102–119, §§9(a), (b), 25(a)(12), (b), Oct. 7, 1991, 105 Stat. 593, 594, 606, 607; Pub. L. 102–421, title II, §202, Oct. 16, 1992, 106 Stat. 2165; Pub. L. 102–569, title IX, §912(a), Oct. 29, 1992, 106 Stat. 4486; Pub. L. 103–73, title III, §302, Aug. 11, 1993, 107 Stat. 736; Pub. L. 103–218, title IV, §401, Mar. 9, 1994, 108 Stat. 95, related to grants for personnel training, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Subchapter effective July 1, 2005, see section 302(a) of Pub. L. 108–446, set out as a note under section 1400 of this title.

§1432. Definitions

In this subchapter:

(1) At-risk infant or toddler

The term "at-risk infant or toddler" means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

(2) Council

The term "council" means a State interagency coordinating council established under section 1441 of this title.

(3) Developmental delay

The term "developmental delay", when used with respect to an individual residing in a State, has the meaning given such term by the State under section 1435(a)(1) of this title.

(4) Early intervention services

The term "early intervention services" means developmental services that—

(A) are provided under public supervision;

(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

(C) are designed to meet the developmental needs of an infant or toddler with a disability, as identified by the individualized family service plan team, in any 1 or more of the following areas:

(i) physical development;
(ii) cognitive development;
(iii) communication development;
(iv) social or emotional development; or
(v) adaptive development;

(D) meet the standards of the State in which the services are provided, including the requirements of this subchapter;

(E) include—

(i) family training, counseling, and home visits;
(ii) special instruction;
(iii) speech-language pathology and audiology services, and sign language and cued language services;
(iv) occupational therapy;
(v) physical therapy;
(vi) psychological services;
(vii) service coordination services;
(viii) medical services only for diagnostic or evaluation purposes;
(ix) early identification, screening, and assessment services;
(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;
(xi) social work services;
(xii) vision services;
(xiii) assistive technology devices and assistive technology services; and
(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

(F) are provided by qualified personnel, including—

(i) special educators;
(ii) speech-language pathologists and audiologists;
(iii) occupational therapists;

(iv) physical therapists;
(v) psychologists;
(vi) social workers;
(vii) nurses;
(viii) registered dietitians;
(ix) family therapists;
(x) vision specialists, including ophthalmologists and optometrists;
(xi) orientation and mobility specialists; and
(xii) pediatricians and other physicians;

(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and

(H) are provided in conformity with an individualized family service plan adopted in accordance with section 1436 of this title.

(5) Infant or toddler with a disability

The term "infant or toddler with a disability"—

(A) means an individual under 3 years of age who needs early intervention services because the individual—

(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in 1 or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

(ii) has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and

(B) may also include, at a State's discretion—

(i) at-risk infants and toddlers; and

(ii) children with disabilities who are eligible for services under section 1419 of this title and who previously received services under this subchapter until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under this subchapter serving such children shall include—

(I) an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and

(II) a written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under this subchapter or participate in preschool programs under section 1419 of this title.

(Pub. L. 91–230, title VI, §632, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2744.)

PRIOR PROVISIONS

A prior section 1432, Pub. L. 91–230, title VI, §632, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 106, set out definitions for this subchapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1432, Pub. L. 91–230, title VI, §632, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1371; Pub. L. 99–457, title III, §309, Oct. 8, 1986, 100 Stat. 1168; Pub. L. 100–630, title I, §104(c), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title IV, §402, title IX, §901(b)(143), Oct. 30, 1990, 104 Stat. 1132, 1148; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to grants to State educational agencies and institutions for traineeships, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1433. General authority

The Secretary shall, in accordance with this subchapter, make grants to States (from their

allotments under section 1443 of this title) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(Pub. L. 91–230, title VI, §633, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2746.)

PRIOR PROVISIONS

A prior section 1433, Pub. L. 91–230, title VI, §633, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 108, related to the general authority of the Secretary, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1433, Pub. L. 91–230, title VI, §633, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1371; Pub. L. 99–457, title III, §310, Oct. 8, 1986, 100 Stat. 1168; Pub. L. 100–630, title I, §104(e), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101–476, title IV, §403, title IX, §901(b)(144), Oct. 30, 1990, 104 Stat. 1133, 1149; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment of national clearinghouses, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1434. Eligibility

In order to be eligible for a grant under section 1433 of this title, a State shall provide assurances to the Secretary that the State—

(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and infants and toddlers with disabilities who are wards of the State; and

(2) has in effect a statewide system that meets the requirements of section 1435 of this title.

(Pub. L. 91–230, title VI, §634, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2746.)

PRIOR PROVISIONS

A prior section 1434, Pub. L. 91–230, title VI, §634, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 108, related to grant eligibility, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1434, Pub. L. 91–230, title VI, §634, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 101–476, title IV, §404, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102–119, §9(c)(1), Oct. 7, 1991, 105 Stat. 595, related to reports to Secretary by recipients of grants and contracts, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1435. Requirements for statewide system

(a) In general

A statewide system described in section 1433 of this title shall include, at a minimum, the following components:

(1) A rigorous definition of the term "developmental delay" that will be used by the State in carrying out programs under this subchapter in order to appropriately identify infants and toddlers with disabilities that are in need of services under this subchapter.

(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research, to the extent practicable, are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State and infants and toddlers with disabilities who are homeless children and their families.

(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or

toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to assist appropriately in the development of the infant or toddler.

(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 1436 of this title, including service coordination services in accordance with such service plan.

(5) A comprehensive child find system, consistent with subchapter II, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources and that ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for services under this subchapter that will reduce the need for future services.

(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this subchapter and of services under section 1419 of this title, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers with disabilities.

(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State that—

(A) shall include—

(i) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

(ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this subchapter; and

(iii) training personnel to coordinate transition services for infants and toddlers served under this subchapter from a program providing early intervention services under this subchapter and under subchapter II (other than section 1419 of this title), to a preschool program receiving funds under section 1419 of this title, or another appropriate program; and

(B) may include—

(i) training personnel to work in rural and inner-city areas; and

(ii) training personnel in the emotional and social development of young children.

(9) Policies and procedures relating to the establishment and maintenance of qualifications to ensure that personnel necessary to carry out this subchapter are appropriately and adequately prepared and trained, including the establishment and maintenance of qualifications that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services, except that nothing in this subchapter (including this paragraph) shall be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under this subchapter to infants and toddlers with disabilities.

(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

(A) the general administration and supervision of programs and activities receiving assistance under section 1433 of this title, and the monitoring of programs and activities used by the State to carry out this subchapter, whether or not such programs or activities are receiving assistance

made available under section 1433 of this title, to ensure that the State complies with this subchapter;

(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

(C) the assignment of financial responsibility in accordance with section 1437(a)(2) of this title to the appropriate agencies;

(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this subchapter in a timely manner pending the resolution of any disputes among public agencies or service providers;

(E) the resolution of intra- and interagency disputes; and

(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this subchapter, including the contents of the application used and the conditions of the contract or other arrangements.

(12) A procedure for securing timely reimbursements of funds used under this subchapter in accordance with section 1440(a) of this title.

(13) Procedural safeguards with respect to programs under this subchapter, as required by section 1439 of this title.

(14) A system for compiling data requested by the Secretary under section 1418 of this title that relates to this subchapter.

(15) A State interagency coordinating council that meets the requirements of section 1441 of this title.

(16) Policies and procedures to ensure that, consistent with section 1436(d)(5) of this title—

(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

(B) the provision of early intervention services for any infant or toddler with a disability occurs in a setting other than a natural environment that is most appropriate, as determined by the parent and the individualized family service plan team, only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

(b) Policy

In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9).

(c) Flexibility to serve children 3 years of age until entrance into elementary school

(1) In general

A statewide system described in section 1433 of this title may include a State policy, developed and implemented jointly by the lead agency and the State educational agency, under which parents of children with disabilities who are eligible for services under section 1419 of this title and previously received services under this subchapter, may choose the continuation of early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) for such children under this subchapter until such children enter, or are eligible under State law to enter, kindergarten.

(2) Requirements

If a statewide system includes a State policy described in paragraph (1), the statewide system shall ensure that—

(A) parents of children with disabilities served pursuant to this subsection are provided annual notice that contains—

(i) a description of the rights of such parents to elect to receive services pursuant to this subsection or under subchapter II; and

(ii) an explanation of the differences between services provided pursuant to this subsection and services provided under subchapter II, including—

(I) types of services and the locations at which the services are provided;

(II) applicable procedural safeguards; and

(III) possible costs (including any fees to be charged to families as described in section 1432(4)(B) of this title), if any, to parents of infants or toddlers with disabilities;

(B) services provided pursuant to this subsection include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills;

(C) the State policy will not affect the right of any child served pursuant to this subsection to instead receive a free appropriate public education under subchapter II;

(D) all early intervention services outlined in the child's individualized family service plan under section 1436 of this title are continued while any eligibility determination is being made for services under this subsection;

(E) the parents of infants or toddlers with disabilities (as defined in section 1432(5)(A) of this title) provide informed written consent to the State, before such infants or toddlers reach 3 years of age, as to whether such parents intend to choose the continuation of early intervention services pursuant to this subsection for such infants or toddlers;

(F) the requirements under section 1437(a)(9) of this title shall not apply with respect to a child who is receiving services in accordance with this subsection until not less than 90 days (and at the discretion of the parties to the conference, not more than 9 months) before the time the child will no longer receive those services; and

(G) there will be a referral for evaluation for early intervention services of a child who experiences a substantiated case of trauma due to exposure to family violence (as defined in section 10402 of title 42).

(3) Reporting requirement

If a statewide system includes a State policy described in paragraph (1), the State shall submit to the Secretary, in the State's report under section 1437(b)(4)(A) of this title, a report on the number and percentage of children with disabilities who are eligible for services under section 1419 of this title but whose parents choose for such children to continue to receive early intervention services under this subchapter.

(4) Available funds

If a statewide system includes a State policy described in paragraph (1), the policy shall describe the funds (including an identification as Federal, State, or local funds) that will be used to ensure that the option described in paragraph (1) is available to eligible children and families who provide the consent described in paragraph (2)(E), including fees (if any) to be charged to families as described in section 1432(4)(B) of this title.

(5) Rules of construction

(A) Services under subchapter II

If a statewide system includes a State policy described in paragraph (1), a State that provides services in accordance with this subsection to a child with a disability who is eligible for services under section 1419 of this title shall not be required to provide the child with a free appropriate public education under subchapter II for the period of time in which the child is receiving services under this subchapter.

(B) Services under this subchapter

Nothing in this subsection shall be construed to require a provider of services under this subchapter to provide a child served under this subchapter with a free appropriate public education.

(Pub. L. 91–230, title VI, §635, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2747; amended Pub. L. 111–320, title II, §202(b), Dec. 20, 2010, 124 Stat. 3509.)

PRIOR PROVISIONS

A prior section 1435, Pub. L. 91–230, title VI, §635, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 108, related to requirements for statewide system, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1435, Pub. L. 91–230, title VI, §635, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 99–457, title III, §311, Oct. 8, 1986, 100 Stat. 1169; Pub. L. 101–476, title IV, §405, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102–119, §§9(c)(2), 10, 25(a)(13), Oct. 7, 1991, 105 Stat. 595, 606, authorized appropriations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

AMENDMENTS

2010—Subsec. (c)(2)(G). Pub. L. 111–320 substituted "section 10402 of title 42" for "section 10421 of title 42".

§1436. Individualized family service plan

(a) Assessment and program development

A statewide system described in section 1433 of this title shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the infant or toddler.

(b) Periodic review

The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

(c) Promptness after assessment

The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

(d) Content of plan

The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

(3) a statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate

for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the results or outcomes or services are necessary;

(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;

(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this subchapter) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and

(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

(e) Parental consent

The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.

(Pub. L. 91–230, title VI, §636, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2751.)

PRIOR PROVISIONS

A prior section 1436, Pub. L. 91–230, title VI, §636, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 111, related to individualized family service plans, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1436, Pub. L. 91–230, title VI, §636, Apr. 13, 1970, 84 Stat. 185; Pub. L. 93–380, title VI, §618, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95–49, §3, June 17, 1977, 91 Stat. 230, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 98–199, §11, Dec. 2, 1983, 97 Stat. 1369.

§1437. State application and assurances

(a) Application

A State desiring to receive a grant under section 1433 of this title shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 1433 of this title;

(2) a certification to the Secretary that the arrangements to establish financial responsibility for services provided under this subchapter pursuant to section 1440(b) of this title are current as of the date of submission of the certification;

(3) information demonstrating eligibility of the State under section 1434 of this title, including—

(A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 1433 of this title; and

(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system;

(4) if the State provides services to at-risk infants and toddlers through the statewide system, a description of such services;

(5) a description of the uses for which funds will be expended in accordance with this subchapter;

(6) a description of the State policies and procedures that require the referral for early intervention services under this subchapter of a child under the age of 3 who—

(A) is involved in a substantiated case of child abuse or neglect; or

(B) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure;

(7) a description of the procedure used to ensure that resources are made available under this subchapter for all geographic areas within the State;

(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this subchapter, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

(9) a description of the policies and procedures to be used—

(A) to ensure a smooth transition for toddlers receiving early intervention services under this subchapter (and children receiving those services under section 1435(c) of this title) to preschool, school, other appropriate services, or exiting the program, including a description of how—

(i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and

(ii) the lead agency designated or established under section 1435(a)(10) of this title will—

(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under subchapter II, as determined in accordance with State law;

(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under subchapter II, to discuss the appropriate services that the child may receive;

(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(C) to establish a transition plan, including, as appropriate, steps to exit from the program;

(10) a description of State efforts to promote collaboration among Early Head Start programs under section 9840a of title 42, early education and child care programs, and services under this subchapter; and

(11) such other information and assurances as the Secretary may reasonably require.

(b) Assurances

The application described in subsection (a)—

(1) shall provide satisfactory assurance that Federal funds made available under section 1443 of this title to the State will be expended in accordance with this subchapter;

(2) shall contain an assurance that the State will comply with the requirements of section 1440

of this title;

(3) shall provide satisfactory assurance that the control of funds provided under section 1443 of this title, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this subchapter and that a public agency will administer such funds and property;

(4) shall provide for—

(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this subchapter; and

(B) keeping such reports and affording such access to the reports as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this subchapter;

(5) provide satisfactory assurance that Federal funds made available under section 1443 of this title to the State—

(A) will not be commingled with State funds; and

(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 1443 of this title to the State;

(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, in the planning and implementation of all the requirements of this subchapter; and

(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

(c) Standard for disapproval of application

The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

(d) Subsequent State application

If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under this subchapter (as in effect before December 3, 2004), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this subchapter.

(e) Modification of application

An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

(f) Modifications required by the Secretary

The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this subchapter, if—

(1) an amendment is made to this chapter, or a Federal regulation issued under this chapter;

(2) a new interpretation of this chapter is made by a Federal court or the State's highest court; or

(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

(Pub. L. 91–230, title VI, §637, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2752.)

PRIOR PROVISIONS

A prior section 1437, Pub. L. 91–230, title VI, §637, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 112, related to State application and assurances, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

§1438. Uses of funds

In addition to using funds provided under section 1433 of this title to maintain and implement the statewide system required by such section, a State may use such funds—

(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this subchapter that are not otherwise funded through other public or private sources;

(2) to expand and improve on services for infants and toddlers and their families under this subchapter that are otherwise available;

(3) to provide a free appropriate public education, in accordance with subchapter II, to children with disabilities from their third birthday to the beginning of the following school year;

(4) with the written consent of the parents, to continue to provide early intervention services under this subchapter to children with disabilities from their 3rd birthday until such children enter, or are eligible under State law to enter, kindergarten, in lieu of a free appropriate public education provided in accordance with subchapter II; and

(5) in any State that does not provide services for at-risk infants and toddlers under section 1437(a)(4) of this title, to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

(A) identifying and evaluating at-risk infants and toddlers;

(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

(C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this subchapter.

(Pub. L. 91–230, title VI, §638, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2755.)

PRIOR PROVISIONS

A prior section 1438, Pub. L. 91–230, title VI, §638, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 114, related to uses of funds, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

§1439. Procedural safeguards

(a) Minimum procedures

The procedural safeguards required to be included in a statewide system under section 1435(a)(13) of this title shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(2) The right to confidentiality of personally identifiable information, including the right of

parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

(3) The right of the parents to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this subchapter in accordance with State law without jeopardizing other early intervention services under this subchapter.

(4) The opportunity for parents to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

(5) Procedures to protect the rights of the infant or toddler whenever the parents of the infant or toddler are not known or cannot be found or the infant or toddler is a ward of the State, including the assignment of an individual (who shall not be an employee of the State lead agency, or other State agency, and who shall not be any person, or any employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler) to act as a surrogate for the parents.

(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or placement of the infant or toddler with a disability, or the provision of appropriate early intervention services to the infant or toddler.

(7) Procedures designed to ensure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

(8) The right of parents to use mediation in accordance with section 1415 of this title, except that—

(A) any reference in the section to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 1435(a)(10) of this title;

(B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this subchapter, as the case may be; and

(C) any reference in the section to the provision of a free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

(b) Services during pendency of proceedings

During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

(Pub. L. 91–230, title VI, §639, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2755.)

PRIOR PROVISIONS

A prior section 1439, Pub. L. 91–230, title VI, §639, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 115, set out procedural safeguards, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

§1440. Payor of last resort

(a) Nonsubstitution

Funds provided under section 1443 of this title may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this subchapter, except that whenever considered necessary to prevent a delay in the receipt of appropriate early

intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 1443 of this title may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.

(b) Obligations related to and methods of ensuring services

(1) Establishing financial responsibility for services

(A) In general

The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency and the designated lead agency, in order to ensure—

(i) the provision of, and financial responsibility for, services provided under this subchapter; and

(ii) such services are consistent with the requirements of section 1435 of this title and the State's application pursuant to section 1437 of this title, including the provision of such services during the pendency of any such dispute.

(B) Consistency between agreements or mechanisms under subchapter II

The Chief Executive Officer of a State or designee of the officer shall ensure that the terms and conditions of such agreement or mechanism are consistent with the terms and conditions of the State's agreement or mechanism under section 1412(a)(12) of this title, where appropriate.

(2) Reimbursement for services by public agency

(A) In general

If a public agency other than an educational agency fails to provide or pay for the services pursuant to an agreement required under paragraph (1), the local educational agency or State agency (as determined by the Chief Executive Officer or designee) shall provide or pay for the provision of such services to the child.

(B) Reimbursement

Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism required under paragraph (1).

(3) Special rule

The requirements of paragraph (1) may be met through—

(A) State statute or regulation;

(B) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(C) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary through the review and approval of the State's application pursuant to section 1437 of this title.

(c) Reduction of other benefits

Nothing in this subchapter shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act [42 U.S.C. 701 et seq.] (relating to maternal and child health) or title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (relating to medicaid for infants or toddlers with disabilities) within the State.

(Pub. L. 91–230, title VI, §640, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2757.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Act are classified generally to subchapters V (§701 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act

to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1440, Pub. L. 91–230, title VI, §640, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 116, related to the payor of last resort, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

§1441. State interagency coordinating council

(a) Establishment

(1) In general

A State that desires to receive financial assistance under this subchapter shall establish a State interagency coordinating council.

(2) Appointment

The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

(3) Chairperson

The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 1435(a)(10) of this title may not serve as the chairperson of the council.

(b) Composition

(1) In general

The council shall be composed as follows:

(A) Parents

Not less than 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. Not less than 1 such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) Service providers

Not less than 20 percent of the members shall be public or private providers of early intervention services.

(C) State legislature

Not less than 1 member shall be from the State legislature.

(D) Personnel preparation

Not less than 1 member shall be involved in personnel preparation.

(E) Agency for early intervention services

Not less than 1 member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) Agency for preschool services

Not less than 1 member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(G) State medicaid agency

Not less than 1 member shall be from the agency responsible for the State medicaid program.

(H) Head Start agency

Not less than 1 member shall be a representative from a Head Start agency or program in the State.

(I) Child care agency

Not less than 1 member shall be a representative from a State agency responsible for child care.

(J) Agency for health insurance

Not less than 1 member shall be from the agency responsible for the State regulation of health insurance.

(K) Office of the Coordinator of Education of Homeless Children and Youth

Not less than 1 member shall be a representative designated by the Office of Coordinator for Education of Homeless Children and Youths.

(L) State foster care representative

Not less than 1 member shall be a representative from the State child welfare agency responsible for foster care.

(M) Mental health agency

Not less than 1 member shall be a representative from the State agency responsible for children's mental health.

(2) Other members

The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs (BIA), or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

(c) Meetings

The council shall meet, at a minimum, on a quarterly basis, and in such places as the council determines necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) Management authority

Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this subchapter to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this subchapter.

(e) Functions of council

(1) Duties

The council shall—

(A) advise and assist the lead agency designated or established under section 1435(a)(10) of this title in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

(C) advise and assist the State educational agency regarding the transition of toddlers with

disabilities to preschool and other appropriate services; and

(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(2) Authorized activity

The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

(f) Conflict of interest

No member of the council shall cast a vote on any matter that is likely to provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(Pub. L. 91–230, title VI, §641, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2758.)

PRIOR PROVISIONS

A prior section 1441, Pub. L. 91–230, title VI, §641, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 116, related to State interagency coordinating councils, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1441, Pub. L. 91–230, title VI, §641, Apr. 13, 1970, 84 Stat. 185; Pub. L. 95–49, §4, June 17, 1977, 91 Stat. 230; Pub. L. 98–199, §§3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 99–457, title III, §312, Oct. 8, 1986, 100 Stat. 1169; Pub. L. 100–630, title I, §105(b), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101–476, title V, §501, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102–421, title II, §203, Oct. 16, 1992, 106 Stat. 2165, related to grants, contracts, and cooperative agreements for research and related activities, attention deficit disorder centers, and model demonstration programs, prior to repeal by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§1442. Federal administration

Sections 1416, 1417, and 1418 of this title shall, to the extent not inconsistent with this subchapter, apply to the program authorized by this subchapter, except that—

(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 1435(a)(10) of this title;

(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this subchapter; and

(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

(Pub. L. 91–230, title VI, §642, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2760.)

PRIOR PROVISIONS

A prior section 1442, Pub. L. 91–230, title VI, §642, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 118, related to Federal administration, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1442, Pub. L. 91–230, title VI, §642, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 101–476, title V, §502, Oct. 30, 1990, 104 Stat. 1138; Pub. L. 102–119, §25(a)(14), Oct. 7, 1991, 105 Stat. 606, related to research and demonstration projects in physical education and recreation for children with disabilities, prior to repeal by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§1443. Allocation of funds

(a) Reservation of funds for outlying areas

(1) In general

From the sums appropriated to carry out this subchapter for any fiscal year, the Secretary may reserve not more than 1 percent for payments to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs for assistance under this subchapter.

(2) Consolidation of funds

The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this subchapter.

(b) Payments to Indians

(1) In general

The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 450b of title 25), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this subchapter for such fiscal year.

(2) Allocation

For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

(3) Information

To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

(4) Use of funds

The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this subchapter. Such activities may be carried out directly or through contracts or cooperative agreements with the Bureau of Indian Affairs, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(5) Reports

To be eligible to receive a payment under paragraph (2), a tribe, tribal organization, or consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of infants and toddlers contacted and receiving services for each year, and the estimated number of infants and toddlers needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 1411(h)(3)(E) of this title. The Secretary of Education may require any additional information from the Secretary of the Interior.

(6) Prohibited uses of funds

None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(c) State allotments

(1) In general

Except as provided in paragraphs (2) and (3), from the funds remaining for each fiscal year after the reservation and payments under subsections (a), (b), and (e), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(2) Minimum allotments

Except as provided in paragraph (3), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) ½ of 1 percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Ratable reduction

(A) In general

If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

(B) Additional funds

If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis the allotments were reduced.

(4) Definitions

In this subsection—

(A) the terms "infants" and "toddlers" mean children under 3 years of age; and

(B) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) Reallotment of funds

If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

(e) Reservation for State incentive grants

(1) In general

For any fiscal year for which the amount appropriated pursuant to the authorization of appropriations under section 1444 of this title exceeds $460,000,000, the Secretary shall reserve 15 percent of such appropriated amount to provide grants to States that are carrying out the policy described in section 1435(c) of this title in order to facilitate the implementation of such policy.

(2) Amount of grant

(A) In general

Notwithstanding paragraphs (2) and (3) of subsection (c), the Secretary shall provide a grant to each State under paragraph (1) in an amount that bears the same ratio to the amount reserved under such paragraph as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States receiving grants under such paragraph.

(B) Maximum amount

No State shall receive a grant under paragraph (1) for any fiscal year in an amount that is greater than 20 percent of the amount reserved under such paragraph for the fiscal year.

(3) Carryover of amounts

(A) First succeeding fiscal year

Pursuant to section 1225(b) of this title, amounts under a grant provided under paragraph (1) that are not obligated and expended prior to the beginning of the first fiscal year succeeding the fiscal year for which such amounts were appropriated shall remain available for obligation and expenditure during such first succeeding fiscal year.

(B) Second succeeding fiscal year

Amounts under a grant provided under paragraph (1) that are not obligated and expended prior to the beginning of the second fiscal year succeeding the fiscal year for which such amounts were appropriated shall be returned to the Secretary and used to make grants to States under section 1433 of this title (from their allotments under this section) during such second succeeding fiscal year.

(Pub. L. 91–230, title VI, §643, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2760.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (a)(2), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1443, Pub. L. 91–230, title VI, §643, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 118, related to allocation of funds, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1443, Pub. L. 91–230, title VI, §643, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 99–457, title III, §313, Oct. 8, 1986, 100 Stat. 1170; Pub. L. 100–630, title I, §105(c), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101–476, title IX, §901(b)(145), (146), Oct. 30, 1990, 104 Stat. 1149; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to requirement of the Secretary to convene panels of experts to evaluate proposals for projects, prior to repeal by Pub. L. 101–476, title V, §§503, 1001, Oct. 30, 1990, 104 Stat. 1138, 1151, effective Oct. 1, 1990.

§1444. Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2005 through 2010.

(Pub. L. 91–230, title VI, §644, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2763.)

PRIOR PROVISIONS

A prior section 1444, Pub. L. 91–230, title VI, §644, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 121; amended Pub. L. 106–402, title IV, §401(b)(1), Oct. 30, 2000, 114 Stat. 1737; Pub. L. 108–173, title IX, §900(e)(6)(C), Dec. 8, 2003, 117 Stat. 2373, which related to the Federal Interagency Coordinating Council, was repealed, as such section was in effect on the day before Dec. 3, 2004, by Pub. L. 108–446, title III, §304, Dec. 3, 2004, 118 Stat. 2804.

Another prior section 1444, Pub. L. 91–230, title VI, §643, formerly §644, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93–380, title VI, §619, Aug. 21, 1974, 88 Stat. 585; Pub. L. 95–49, §5, June 17, 1977, 91 Stat. 231; Pub. L. 98–199, §12, Dec. 2, 1983, 97 Stat. 1374; Pub. L. 99–457, title III, §314, Oct. 8, 1986, 100 Stat. 1171; renumbered §643 and amended Pub. L. 101–476, title V, §§503, 504, title IX, §901(b)(147), (148), Oct. 30, 1990, 104 Stat. 1138, 1149; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, authorized appropriations, prior to repeal by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

A prior section 1445, Pub. L. 91–230, title VI, §645, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 123, which authorized appropriations, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

SUBCHAPTER IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

§1450. Findings

Congress finds the following:

(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling those children to lead productive and independent adult lives.

(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations to develop and implement comprehensive strategies that improve educational results for children with disabilities.

(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.

(4) An effective educational system serving students with disabilities should—

(A) maintain high academic achievement standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals;

(B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and

(C) promote transition services and coordinate State and local education, social, health, mental health, and other services, in addressing the full range of student needs, particularly the needs of children with disabilities who need significant levels of support to participate and learn in school and the community.

(5) The availability of an adequate number of qualified personnel is critical—

(A) to serve effectively children with disabilities;

(B) to assume leadership positions in administration and direct services;

(C) to provide teacher training; and

(D) to conduct high quality research to improve special education.

(6) High quality, comprehensive professional development programs are essential to ensure that the persons responsible for the education or transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children.

(7) Models of professional development should be scientifically based and reflect successful practices, including strategies for recruiting, preparing, and retaining personnel.

(8) Continued support is essential for the development and maintenance of a coordinated and high quality program of research to inform successful teaching practices and model curricula for educating children with disabilities.

(9) Training, technical assistance, support, and dissemination activities are necessary to ensure that subchapters II and III are fully implemented and achieve high quality early intervention, educational, and transitional results for children with disabilities and their families.

(10) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

(11) Parent training and information activities assist parents of a child with a disability in

dealing with the multiple pressures of parenting such a child and are of particular importance in—

(A) playing a vital role in creating and preserving constructive relationships between parents of children with disabilities and schools by facilitating open communication between the parents and schools; encouraging dispute resolution at the earliest possible point in time; and discouraging the escalation of an adversarial process between the parents and schools;

(B) ensuring the involvement of parents in planning and decisionmaking with respect to early intervention, educational, and transitional services;

(C) achieving high quality early intervention, educational, and transitional results for children with disabilities;

(D) providing such parents information on their rights, protections, and responsibilities under this chapter to ensure improved early intervention, educational, and transitional results for children with disabilities;

(E) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 1473(b)(6) of this title;

(F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and

(G) supporting such parents who may have limited access to services and supports, due to economic, cultural, or linguistic barriers.

(12) Support is needed to improve technological resources and integrate technology, including universally designed technologies, into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.

(Pub. L. 91–230, title VI, §650, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2763.)

TRANSITION PROVISIONS

Pub. L. 105–17, title II, §202, June 4, 1997, 111 Stat. 156, provided that: "Notwithstanding any other provision of law, beginning on October 1, 1997, the Secretary of Education may use funds appropriated under part D of the Individuals with Disabilities Education Act [this subchapter] to make continuation awards for projects that were funded under section 618 [former 20 U.S.C. 1418] and parts C through G of such Act [former subchapters III to VII of this chapter] (as in effect on September 30, 1997)."

PART A—STATE PERSONNEL DEVELOPMENT GRANTS

§1451. Purpose; definition of personnel; program authority

(a) Purpose

The purpose of this part is to assist State educational agencies in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

(b) Definition of personnel

In this part the term "personnel" means special education teachers, regular education teachers, principals, administrators, related services personnel, paraprofessionals, and early intervention personnel serving infants, toddlers, preschoolers, or children with disabilities, except where a particular category of personnel, such as related services personnel, is identified.

(c) Competitive grants

(1) In general

Except as provided in subsection (d), for any fiscal year for which the amount appropriated under section 1455 of this title, that remains after the Secretary reserves funds under subsection (e) for the fiscal year, is less than $100,000,000, the Secretary shall award grants, on a competitive basis, to State educational agencies to carry out the activities described in the State plan submitted under section 1453 of this title.

(2) Priority

In awarding grants under paragraph (1), the Secretary may give priority to State educational agencies that—

(A) are in States with the greatest personnel shortages; or

(B) demonstrate the greatest difficulty meeting the requirements of section 1412(a)(14) of this title.

(3) Minimum amount

The Secretary shall make a grant to each State educational agency selected under paragraph (1) in an amount for each fiscal year that is—

(A) not less than $500,000, nor more than $4,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) not less than $80,000 in the case of an outlying area.

(4) Increase in amount

The Secretary may increase the amounts of grants under paragraph (4) to account for inflation.

(5) Factors

The Secretary shall determine the amount of a grant under paragraph (1) after considering—

(A) the amount of funds available for making the grants;

(B) the relative population of the State or outlying area;

(C) the types of activities proposed by the State or outlying area;

(D) the alignment of proposed activities with section 1412(a)(14) of this title;

(E) the alignment of proposed activities with the State plans and applications submitted under sections 6311 and 6611(d) [1] respectively, of this title; and

(F) the use, as appropriate, of scientifically based research activities.

(d) Formula grants

(1) In general

Except as provided in paragraphs (2) and (3), for the first fiscal year for which the amount appropriated under section 1455 of this title, that remains after the Secretary reserves funds under subsection (e) for the fiscal year, is equal to or greater than $100,000,000, and for each fiscal year thereafter, the Secretary shall allot to each State educational agency, whose application meets the requirements of this part, an amount that bears the same relation to the amount remaining as the amount the State received under section 1411(d) of this title for that fiscal year bears to the amount of funds received by all States (whose applications meet the requirements of this part) under section 1411(d) of this title for that fiscal year.

(2) Minimum allotments for States that received competitive grants

(A) In general

The amount allotted under this subsection to any State educational agency that received a competitive multi-year grant under subsection (c) for which the grant period has not expired shall be not less than the amount specified for that fiscal year in the State educational agency's grant award document under that subsection.

(B) Special rule

Each such State educational agency shall use the minimum amount described in subparagraph (A) for the activities described in the State educational agency's competitive grant award

document for that year, unless the Secretary approves a request from the State educational agency to spend the funds on other activities.

(3) Minimum allotment

The amount of any State educational agency's allotment under this subsection for any fiscal year shall not be less than—

(A) the greater of $500,000 or ½ of 1 percent of the total amount available under this subsection for that year, in the case of each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) $80,000, in the case of an outlying area.

(4) Direct benefit

In using grant funds allotted under paragraph (1), a State educational agency shall, through grants, contracts, or cooperative agreements, undertake activities that significantly and directly benefit the local educational agencies in the State.

(e) Continuation awards

(1) In general

Notwithstanding any other provision of this part, from funds appropriated under section 1455 of this title for each fiscal year, the Secretary shall reserve the amount that is necessary to make a continuation award to any State educational agency (at the request of the State educational agency) that received a multi-year award under this subchapter (as this subchapter was in effect on the day before December 3, 2004), to enable the State educational agency to carry out activities in accordance with the terms of the multi-year award.

(2) Prohibition

A State educational agency that receives a continuation award under paragraph (1) for any fiscal year may not receive any other award under this part for that fiscal year.

(Pub. L. 91–230, title VI, §651, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2765; amended Pub. L. 114–95, title IX, §9215(ss)(6), Dec. 10, 2015, 129 Stat. 2183.)

PRIOR PROVISIONS

A prior section 1451, Pub. L. 91–230, title VI, §651, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 123, related to the findings and purposes of part A of former subchapter IV of this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1451, Pub. L. 91–230, title VI, §651, Apr. 13, 1970, 84 Stat. 186; Pub. L. 100–630, title I, §106(b), Nov. 7, 1988, 102 Stat. 3300; Pub. L. 101–476, title VI, §601, title IX, §901(b)(150), Oct. 30, 1990, 104 Stat. 1138, 1149; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to the purposes of former subchapter VI of this chapter, which included promoting general welfare of deaf and hard of hearing individuals and visually impaired individuals and educational advancement of individuals with disabilities, prior to repeal by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

AMENDMENTS

2015—Subsec. (c)(5)(E). Pub. L. 114–95 substituted "and 6611(d)" for "and 6612,".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE

Part effective July 1, 2005, see section 302(a) of Pub. L. 108–446, set out as a note under section 1400 of this title.

[1] *So in original. Probably should be followed by a comma.*

§1452. Eligibility and collaborative process

(a) Eligible applicants

A State educational agency may apply for a grant under this part for a grant period of not less than 1 year and not more than 5 years.

(b) Partners

(1) In general

In order to be considered for a grant under this part, a State educational agency shall establish a partnership with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities, including—

(A) not less than 1 institution of higher education; and

(B) the State agencies responsible for administering subchapter III, early education, child care, and vocational rehabilitation programs.

(2) Other partners

In order to be considered for a grant under this part, a State educational agency shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, which may include—

(A) the Governor;

(B) parents of children with disabilities ages birth through 26;

(C) parents of nondisabled children ages birth through 26;

(D) individuals with disabilities;

(E) parent training and information centers or community parent resource centers funded under sections 1471 and 1472 of this title, respectively;

(F) community based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

(G) personnel as defined in section 1451(b) of this title;

(H) the State advisory panel established under subchapter II;

(I) the State interagency coordinating council established under subchapter III;

(J) individuals knowledgeable about vocational education;

(K) the State agency for higher education;

(L) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice;

(M) other providers of professional development that work with infants, toddlers, preschoolers, and children with disabilities; and

(N) other individuals.

(3) Required partner

If State law assigns responsibility for teacher preparation and certification to an individual, entity, or agency other than the State educational agency, the State educational agency shall—

(A) include that individual, entity, or agency as a partner in the partnership under this subsection; and

(B) ensure that any activities the State educational agency will carry out under this part that are within that partner's jurisdiction (which may include activities described in section 1454(b) of this title) are carried out by that partner.

(Pub. L. 91–230, title VI, §652, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2767.)

PRIOR PROVISIONS

A prior section 1452, Pub. L. 91–230, title VI, §652, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 124, related to eligibility and collaborative process, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1452, Pub. L. 91–230, title VI, §652, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93–380,

title VI, §620(1), Aug. 21, 1974, 88 Stat. 585; Pub. L. 94–482, title V, §501(h), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99–457, title III, §315, Oct. 8, 1986, 100 Stat. 1171; Pub. L. 100–630, title I, §106(c), Nov. 7, 1988, 102 Stat. 3300; Pub. L. 101–476, title VI, §602, title IX, §901(b)(151), (152), Oct. 30, 1990, 104 Stat. 1139, 1149; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment of a loan service of captioned films, television, descriptive video, and educational media for individuals with disabilities, prior to repeal by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§1453. Applications

(a) In general

(1) Submission

A State educational agency that desires to receive a grant under this part shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

(2) State plan

The application shall include a plan that identifies and addresses the State and local needs for the personnel preparation and professional development of personnel, as well as individuals who provide direct supplementary aids and services to children with disabilities, and that—

(A) is designed to enable the State to meet the requirements of section 1412(a)(14) of this title and section 1435(a)(8) and (9) of this title;

(B) is based on an assessment of State and local needs that identifies critical aspects and areas in need of improvement related to the preparation, ongoing training, and professional development of personnel who serve infants, toddlers, preschoolers, and children with disabilities within the State, including—

(i) current and anticipated personnel vacancies and shortages; and

(ii) the number of preservice and inservice programs; and

(C) is integrated and aligned, to the maximum extent possible, with State plans and activities under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.].

(3) Requirement

The State application shall contain an assurance that the State educational agency will carry out each of the strategies described in subsection (b)(4).

(b) Elements of State personnel development plan

Each State personnel development plan under subsection (a)(2) shall—

(1) describe a partnership agreement that is in effect for the period of the grant, which agreement shall specify—

(A) the nature and extent of the partnership described in section 1452(b) of this title and the respective roles of each member of the partnership, including the partner described in section 1452(b)(3) of this title if applicable; and

(B) how the State educational agency will work with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of the persons and organizations;

(2) describe how the strategies and activities described in paragraph (4) will be coordinated with activities supported with other public resources (including part B [subchapter II] and part C [subchapter III] funds retained for use at the State level for personnel and professional development purposes) and private resources;

(3) describe how the State educational agency will align its personnel development plan under

this part with the plan and application submitted under sections 1111 and 2101(d), respectively, of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311, 6611(d)];

(4) describe those strategies the State educational agency will use to address the professional development and personnel needs identified under subsection (a)(2) and how such strategies will be implemented, including—

(A) a description of the programs and activities to be supported under this part that will provide personnel with the knowledge and skills to meet the needs of, and improve the performance and achievement of, infants, toddlers, preschoolers, and children with disabilities; and

(B) how such strategies will be integrated, to the maximum extent possible, with other activities supported by grants funded under section 1462 of this title;

(5) provide an assurance that the State educational agency will provide technical assistance to local educational agencies to improve the quality of professional development available to meet the needs of personnel who serve children with disabilities;

(6) provide an assurance that the State educational agency will provide technical assistance to entities that provide services to infants and toddlers with disabilities to improve the quality of professional development available to meet the needs of personnel serving such children;

(7) describe how the State educational agency will recruit and retain teachers who meet the qualifications described in section 1412(a)(14)(C) of this title and other qualified personnel in geographic areas of greatest need;

(8) describe the steps the State educational agency will take to ensure that poor and minority children are not taught at higher rates by teachers who do not meet the qualifications described in section 1412(a)(14)(C) of this title; and

(9) describe how the State educational agency will assess, on a regular basis, the extent to which the strategies implemented under this part have been effective in meeting the performance goals described in section 1412(a)(15) of this title.

(c) Peer review

(1) In general

The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications for grants under section 1451(c)(1) of this title.

(2) Composition of panel

A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

(3) Payment of fees and expenses of certain members

The Secretary may use available funds appropriated to carry out this part to pay the expenses and fees of panel members who are not employees of the Federal Government.

(d) Reporting procedures

Each State educational agency that receives a grant under this part shall submit annual performance reports to the Secretary. The reports shall—

(1) describe the progress of the State educational agency in implementing its plan;

(2) analyze the effectiveness of the State educational agency's activities under this part and of the State educational agency's strategies for meeting its goals under section 1412(a)(15) of this title; and

(3) identify changes in the strategies used by the State educational agency and described in subsection (b)(4), if any, to improve the State educational agency's performance.

(Pub. L. 91–230, title VI, §653, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2768; amended Pub. L. 114–95, title IX, §§9214(d)(3), 9215(ss)(7), Dec. 10, 2015, 129 Stat. 2165, 2183.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(C), is Pub. L. 89–10,

Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(2)(C), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(2)(C), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1453, Pub. L. 91–230, title VI, §653, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 125, related to grant applications, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1453, Pub. L. 91–230, title VI, §653, Apr. 13, 1970, 84 Stat. 187; Pub. L. 94–142, §6(b), Nov. 29, 1975, 89 Stat. 795; Pub. L. 99–386, title II, §204, Aug. 22, 1986, 100 Stat. 823, related to establishment and operation of centers on educational media and materials for handicapped, prior to repeal by Pub. L. 99–457, title III, §316, Oct. 8, 1986, 100 Stat. 1171.

AMENDMENTS

2015—Subsec. (b)(3). Pub. L. 114–95, §9215(ss)(7), substituted "and 2101(d)," for "and 2112,".

Subsec. (b)(7). Pub. L. 114–95, §9214(d)(3)(A), substituted "teachers who meet the qualifications described in section 1412(a)(14)(C) of this title" for "highly qualified teachers".

Subsec. (b)(8). Pub. L. 114–95, §9214(d)(3)(B), substituted "teachers who do not meet the qualifications described in section 1412(a)(14)(C) of this title" for "teachers who are not highly qualified".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1454. Use of funds

(a) Professional development activities

A State educational agency that receives a grant under this part shall use the grant funds to support activities in accordance with the State's plan described in section 1453 of this title, including 1 or more of the following:

(1) Carrying out programs that provide support to both special education and regular education teachers of children with disabilities and principals, such as programs that—

(A) provide teacher mentoring, team teaching, reduced class schedules and case loads, and intensive professional development;

(B) use standards or assessments for guiding beginning teachers that are consistent with challenging State academic achievement standards and with the requirements for professional development, as defined in section 7801 of this title; and

(C) encourage collaborative and consultative models of providing early intervention, special education, and related services.

(2) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively use and integrate technology—

(A) into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability;

(B) to enhance learning by children with disabilities; and

(C) to effectively communicate with parents.

(3) Providing professional development activities that—

(A) improve the knowledge of special education and regular education teachers concerning—

(i) the academic and developmental or functional needs of students with disabilities; or

(ii) effective instructional strategies, methods, and skills, and the use of State academic content standards and student academic achievement and functional standards, and State assessments, to improve teaching practices and student academic achievement;

(B) improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices, and that—

(i) provide training in how to teach and address the needs of children with different learning styles and children who are limited English proficient;

(ii) involve collaborative groups of teachers, administrators, and, in appropriate cases, related services personnel;

(iii) provide training in methods of—

(I) positive behavioral interventions and supports to improve student behavior in the classroom;

(II) scientifically based reading instruction, including early literacy instruction;

(III) early and appropriate interventions to identify and help children with disabilities;

(IV) effective instruction for children with low incidence disabilities;

(V) successful transitioning to postsecondary opportunities; and

(VI) using classroom-based techniques to assist children prior to referral for special education;

(iv) provide training to enable personnel to work with and involve parents in their child's education, including parents of low income and limited English proficient children with disabilities;

(v) provide training for special education personnel and regular education personnel in planning, developing, and implementing effective and appropriate IEPs; and

(vi) provide training to meet the needs of students with significant health, mobility, or behavioral needs prior to serving such students;

(C) train administrators, principals, and other relevant school personnel in conducting effective IEP meetings; and

(D) train early intervention, preschool, and related services providers, and other relevant school personnel, in conducting effective individualized family service plan (IFSP) meetings.

(4) Developing and implementing initiatives to promote the recruitment and retention of special education teachers who meet the qualifications described in section 1412(a)(14)(C) of this title, particularly initiatives that have been proven effective in recruiting and retaining teachers, including programs that provide—

(A) teacher mentoring from exemplary special education teachers, principals, or superintendents;

(B) induction and support for special education teachers during their first 3 years of employment as teachers; or

(C) incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities.

(5) Carrying out programs and activities that are designed to improve the quality of personnel who serve children with disabilities, such as—

(A) innovative professional development programs (which may be provided through partnerships that include institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching,

learning, and technology literacy, which professional development shall be consistent with the definition of professional development in section 7801 of this title; and

(B) the development and use of proven, cost effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

(6) Carrying out programs and activities that are designed to improve the quality of early intervention personnel, including paraprofessionals and primary referral sources, such as—

(A) professional development programs to improve the delivery of early intervention services;

(B) initiatives to promote the recruitment and retention of early intervention personnel; and

(C) interagency activities to ensure that early intervention personnel are adequately prepared and trained.

(b) Other activities

A State educational agency that receives a grant under this part shall use the grant funds to support activities in accordance with the State's plan described in section 1453 of this title, including 1 or more of the following:

(1) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

(A) special education and regular education teachers have—

(i) the training and information necessary to address the full range of needs of children with disabilities across disability categories; and

(ii) the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

(B) special education and regular education teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and

(C) special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students with disabilities meet challenging State student academic achievement and functional standards.

(2) Programs that establish, expand, or improve alternative routes for State certification of special education teachers for individuals with a baccalaureate or master's degree who meet the qualifications described in section 1412(a)(14)(C) of this title, including mid-career professionals from other occupations, paraprofessionals, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective special education teachers.

(3) Teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(4) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining special education teachers who meet the qualifications described in section 1412(a)(14)(C) of this title.

(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.].

(6) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

(7) Assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost effective and easily accessible, such as strategies that

involve delivery through the use of technology, peer networks, and distance learning.

(8) Developing, or assisting local educational agencies in developing, merit based performance systems, and strategies that provide differential and bonus pay for special education teachers.

(9) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement and functional standards, and State assessments for all children with disabilities, to improve instructional practices and improve the academic achievement of children with disabilities.

(10) When applicable, coordinating with, and expanding centers established under, section 6613(c)(18) of this title (as such section was in effect on the day before December 10, 2015) to benefit special education teachers.

(c) Contracts and subgrants

A State educational agency that receives a grant under this part—

(1) shall award contracts or subgrants to local educational agencies, institutions of higher education, parent training and information centers, or community parent resource centers, as appropriate, to carry out its State plan under this part; and

(2) may award contracts and subgrants to other public and private entities, including the lead agency under subchapter III, to carry out the State plan.

(d) Use of funds for professional development

A State educational agency that receives a grant under this part shall use—

(1) not less than 90 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (a); and

(2) not more than 10 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (b).

(e) Grants to outlying areas

Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this part.

(Pub. L. 91–230, title VI, §654, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2770; amended Pub. L. 114–95, title IX, §§9214(d)(4)(A), (B), 9215(ss)(8), Dec. 10, 2015, 129 Stat. 2165, 2183.)

REFERENCES IN TEXT

Section 7801 of this title, referred to in subsec. (a)(1)(B), was in the original "section 8101 of such Act", which was translated as meaning section 8101 of the Elementary and Secondary Education Act of 1965, to reflect the probable intent of Congress.

The Higher Education Act of 1965, referred to in subsec. (b)(5), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Section 6613(c)(18) of this title (as such section was in effect on the day before December 10, 2015), referred to in subsec. (b)(10), means section 6613(c)(18) of this title prior to repeal by Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1913. Section 2002 of Pub. L. 114–95 enacted a new section 6613 of this title.

Public Law 95–134, referred to in subsec. (e), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants to the outlying areas are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1454, Pub. L. 91–230, title VI, §654, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 128, related to use of funds, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1454, Pub. L. 91–230, title VI, §653, formerly §654, Apr. 13, 1970, 84 Stat. 187; Pub. L. 93–380, title VI, §620(2), Aug. 21, 1974, 88 Stat. 585; Pub. L. 95–49, §6, June 17, 1977, 91 Stat. 231; Pub. L. 98–199, §13, Dec. 2, 1983, 97 Stat. 1374; renumbered §653 and amended Pub. L. 99–457, title III, §316,

Oct. 8, 1986, 100 Stat. 1171; Pub. L. 101–476, title VI, §603, Oct. 30, 1990, 104 Stat. 1140, authorized appropriations, prior to repeal by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

AMENDMENTS

2015—Subsec. (a)(1)(B). Pub. L. 114–95, §9215(ss)(8)(A)(i), substituted "challenging State academic achievement standards and with the requirements for professional development, as defined in section 7801 of this title" for "challenging State student academic achievement and functional standards and with the requirements for professional development, as defined in section 7801 of this title".

Subsec. (a)(4). Pub. L. 114–95, §9214(d)(4)(A), substituted "special education teachers who meet the qualifications described in section 1412(a)(14)(C) of this title, particularly initiatives that have been proven effective in recruiting and retaining teachers" for "highly qualified special education teachers, particularly initiatives that have been proven effective in recruiting and retaining highly qualified teachers" in introductory provisions.

Subsec. (a)(5)(A). Pub. L. 114–95, §9215(ss)(8)(A)(ii), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

Subsec. (b)(2). Pub. L. 114–95, §9214(d)(4)(B)(i), substituted "certification of special education teachers for individuals with a baccalaureate or master's degree who meet the qualifications described in section 1412(a)(14)(C) of this title" for "certification of special education teachers for highly qualified individuals with a baccalaureate or master's degree".

Subsec. (b)(4). Pub. L. 114–95, §9214(d)(4)(B)(ii), substituted "special education teachers who meet the qualifications described in section 1412(a)(14)(C) of this title" for "highly qualified special education teachers".

Subsec. (b)(10). Pub. L. 114–95, §9215(ss)(8)(B), inserted "(as such section was in effect on the day before December 10, 2015)" after "of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1455. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 2005 through 2010.

(Pub. L. 91–230, title VI, §655, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2774.)

PRIOR PROVISIONS

A prior section 1455, Pub. L. 91–230, title VI, §655, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 129, set out minimum State grant amounts, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

A prior section 1456, Pub. L. 91–230, title VI, §656, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 129, which authorized appropriations, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

PART B—PERSONNEL PREPARATION, TECHNICAL ASSISTANCE, MODEL DEMONSTRATION PROJECTS, AND DISSEMINATION OF INFORMATION

§1461. Purpose; definition of eligible entity

(a) Purpose

The purpose of this part is—

(1) to provide Federal funding for personnel preparation, technical assistance, model demonstration projects, information dissemination, and studies and evaluations, in order to improve early intervention, educational, and transitional results for children with disabilities; and

(2) to assist State educational agencies and local educational agencies in improving their education systems for children with disabilities.

(b) Definition of eligible entity

(1) In general

In this part, the term "eligible entity" means—

(A) a State educational agency;

(B) a local educational agency;

(C) a public charter school that is a local educational agency under State law;

(D) an institution of higher education;

(E) a public agency not described in subparagraphs (A) through (D);

(F) a private nonprofit organization;

(G) an outlying area;

(H) an Indian tribe or a tribal organization (as defined under section 450b of title 25); or

(I) a for-profit organization, if the Secretary finds it appropriate in light of the purposes of a particular competition for a grant, contract, or cooperative agreement under this part.

(2) Special rule

The Secretary may limit which eligible entities described in paragraph (1) are eligible for a grant, contract, or cooperative agreement under this part to 1 or more of the categories of eligible entities described in paragraph (1).

(Pub. L. 91–230, title VI, §661, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2774.)

PRIOR PROVISIONS

A prior section 1461, Pub. L. 91–230, title VI, §661, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 130, related to administrative provisions, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1461, Pub. L. 91–230, title VI, §661, as added Pub. L. 99–457, title III, §317, Oct. 8, 1986, 100 Stat. 1172; amended Pub. L. 100–630, title I, §107(b), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title VII, §701, title IX, §901(b)(154)–(156), Oct. 30, 1990, 104 Stat. 1140, 1149; Pub. L. 102–119, §25(a)(15), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to financial assistance for the purpose of advancing use of new technology, media, and materials in education of students with disabilities and provision of related services and early intervention services to infants and toddlers with disabilities, prior to repeal by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

Another prior section 1461, Pub. L. 91–230, title VI, §661, Apr. 13, 1970, 84 Stat. 187; Pub. L. 93–380, title VI, §621, Aug. 21, 1974, 88 Stat. 585; Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358, related to research, training, and model centers respecting special programs for children with specific learning disabilities, providing in subsec. (a), Secretary's grant and contract authority, functions of model centers, and considerations governing making of contracts and grants; subsec. (b), other considerations in making awards, geographical distribution of training programs and trained personnel, and a model center in each State; and subsec. (c), appropriations authorization of $10, $20, and $20 million dollars for fiscal years ending June 30, 1975 through 1977, respectively, prior to repeal by Pub. L. 98–199, §14, Dec. 2, 1983, 97 Stat. 1374.

§1462. Personnel development to improve services and results for children with disabilities

(a) In general

The Secretary, on a competitive basis, shall award grants to, or enter into contracts or cooperative agreements with, eligible entities to carry out 1 or more of the following objectives:

(1) To help address the needs identified in the State plan described in section 1453(a)(2) of this title for personnel, as defined in section 1451(b) of this title, who meet the applicable requirements described in section 1412(a)(14) of this title, to work with infants or toddlers with disabilities, or children with disabilities, consistent with the qualifications described in section 1412(a)(14) of this title.

(2) To ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically based research, to be successful in serving those children.

(3) To encourage increased focus on academics and core content areas in special education personnel preparation programs.

(4) To ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom.

(5) To ensure that all special education teachers meet the qualifications described in section 1412(a)(14)(C) of this title.

(6) To ensure that preservice and in-service personnel preparation programs include training in—

(A) the use of new technologies;

(B) the area of early intervention, educational, and transition services;

(C) effectively involving parents; and

(D) positive behavioral supports.

(7) To provide high-quality professional development for principals, superintendents, and other administrators, including training in—

(A) instructional leadership;

(B) behavioral supports in the school and classroom;

(C) paperwork reduction;

(D) promoting improved collaboration between special education and general education teachers;

(E) assessment and accountability;

(F) ensuring effective learning environments; and

(G) fostering positive relationships with parents.

(b) Personnel development; enhanced support for beginning special educators

(1) In general

In carrying out this section, the Secretary shall support activities—

(A) for personnel development, including activities for the preparation of personnel who will serve children with high incidence and low incidence disabilities, to prepare special education and general education teachers, principals, administrators, and related services personnel (and school board members, when appropriate) to meet the diverse and individualized instructional needs of children with disabilities and improve early intervention, educational, and transitional services and results for children with disabilities, consistent with the objectives described in subsection (a); and

(B) for enhanced support for beginning special educators, consistent with the objectives described in subsection (a).

(2) Personnel development

In carrying out paragraph (1)(A), the Secretary shall support not less than 1 of the following activities:

(A) Assisting effective existing, improving existing, or developing new, collaborative personnel preparation activities undertaken by institutions of higher education, local educational agencies, and other local entities that incorporate best practices and scientifically based research, where applicable, in providing special education and general education teachers, principals, administrators, and related services personnel with the knowledge and skills to effectively support students with disabilities, including—

(i) working collaboratively in regular classroom settings;

(ii) using appropriate supports, accommodations, and curriculum modifications;

(iii) implementing effective teaching strategies, classroom-based techniques, and interventions to ensure appropriate identification of students who may be eligible for special education services, and to prevent the misidentification, inappropriate overidentification, or underidentification of children as having a disability, especially minority and limited English proficient children;

(iv) effectively working with and involving parents in the education of their children;

(v) utilizing strategies, including positive behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom;

(vi) effectively constructing IEPs, participating in IEP meetings, and implementing IEPs;

(vii) preparing children with disabilities to participate in statewide assessments (with or without accommodations) and alternate assessments, as appropriate, and to ensure that all children with disabilities are a part of all accountability systems under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]; and

(viii) working in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 6113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7423(d)(1)(A)(ii)], and schools that serve high numbers or percentages of limited English proficient children.

(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, special education teachers who meet the qualifications described in section 1412(a)(14)(C) of this title to reduce teacher shortages, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.

(C) Providing continuous personnel preparation, training, and professional development designed to provide support and ensure retention of special education and general education teachers and personnel who teach and provide related services to children with disabilities.

(D) Developing and improving programs for paraprofessionals to become special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable the paraprofessionals to improve early intervention, educational, and transitional results for children with disabilities.

(E) In the case of principals and superintendents, providing activities to promote instructional leadership and improved collaboration between general educators, special education teachers, and related services personnel.

(F) Supporting institutions of higher education with minority enrollments of not less than 25 percent for the purpose of preparing personnel to work with children with disabilities.

(G) Developing and improving programs to train special education teachers to develop an expertise in autism spectrum disorders.

(H) Providing continuous personnel preparation, training, and professional development designed to provide support and improve the qualifications of personnel who provide related services to children with disabilities, including to enable such personnel to obtain advanced degrees.

(3) Enhanced support for beginning special educators

In carrying out paragraph (1)(B), the Secretary shall support not less than 1 of the following activities:

(A) Enhancing and restructuring existing programs or developing preservice teacher education programs to prepare special education teachers, at colleges or departments of education within institutions of higher education, by incorporating an extended (such as an additional 5th year) clinical learning opportunity, field experience, or supervised practicum into such programs.

(B) Creating or supporting teacher-faculty partnerships (such as professional development schools) that—

(i) consist of not less than—

(I) 1 or more institutions of higher education with special education personnel preparation programs;

(II) 1 or more local educational agencies that serve high numbers or percentages of low-income students; or

(III) 1 or more elementary schools or secondary schools, particularly schools that have failed to make adequate yearly progress on the basis, in whole and in part, of the assessment results of the disaggregated subgroup of students with disabilities;

(ii) may include other entities eligible for assistance under this subchapter; and

(iii) provide—

(I) high-quality mentoring and induction opportunities with ongoing support for beginning special education teachers; or

(II) inservice professional development to beginning and veteran special education teachers through the ongoing exchange of information and instructional strategies with faculty.

(c) Low incidence disabilities; authorized activities

(1) In general

In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low incidence disabilities.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Preparing persons who—

(i) have prior training in educational and other related service fields; and

(ii) are studying to obtain degrees, certificates, or licensure that will enable the persons to assist children with low incidence disabilities to achieve the objectives set out in their individualized education programs described in section 1414(d) of this title, or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 1436 of this title.

(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low incidence disabilities.

(C) Preparing personnel in the innovative uses and application of technology, including universally designed technologies, assistive technology devices, and assistive technology services—

(i) to enhance learning by children with low incidence disabilities through early intervention, educational, and transitional services; and

(ii) to improve communication with parents.

(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

(E) Preparing personnel to be qualified educational interpreters, to assist children with low incidence disabilities, particularly deaf and hard of hearing children in school and school related activities, and deaf and hard of hearing infants and toddlers and preschool children in early intervention and preschool programs.

(F) Preparing personnel who provide services to children with significant cognitive disabilities and children with multiple disabilities.

(G) Preparing personnel who provide services to children with low incidence disabilities and limited English proficient children.

(3) Definition

In this section, the term "low incidence disability" means—

(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

(B) a significant cognitive impairment; or

(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

(4) Selection of recipients

In selecting eligible entities for assistance under this subsection, the Secretary may give preference to eligible entities submitting applications that include 1 or more of the following:

(A) A proposal to prepare personnel in more than 1 low incidence disability, such as deafness and blindness.

(B) A demonstration of an effective collaboration between an eligible entity and a local educational agency that promotes recruitment and subsequent retention of personnel who meet the applicable requirements described in section 1412(a)(14) of this title to serve children with low incidence disabilities.

(5) Preparation in use of braille

The Secretary shall ensure that all recipients of awards under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille, will prepare those individuals to provide those services in Braille.

(d) Leadership preparation; authorized activities

(1) In general

In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities.

(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities, including children with disabilities who are limited English proficient children.

(e) Applications

(1) In general

An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Identified State needs

(A) Requirement to address identified needs

An application for assistance under subsection (b), (c), or (d) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the eligible entity proposes to serve.

(B) Cooperation with State educational agencies

An eligible entity that is not a local educational agency or a State educational agency shall include in the eligible entity's application information demonstrating to the satisfaction of the

Secretary that the eligible entity and 1 or more State educational agencies or local educational agencies will cooperate in carrying out and monitoring the proposed project.

(3) Acceptance by States of personnel preparation requirements

The Secretary may require eligible entities to provide in the eligible entities' applications assurances from 1 or more States that such States intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards or other requirements in State law or regulation for serving children with disabilities or serving infants and toddlers with disabilities.

(f) Selection of recipients

(1) Impact of project

In selecting eligible entities for assistance under this section, the Secretary shall consider the impact of the proposed project described in the application in meeting the need for personnel identified by the States.

(2) Requirement for eligible entities to meet State and professional qualifications

The Secretary shall make grants and enter into contracts and cooperative agreements under this section only to eligible entities that meet State and professionally recognized qualifications for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

(3) Preferences

In selecting eligible entities for assistance under this section, the Secretary may give preference to eligible entities that are institutions of higher education that are—

(A) educating regular education personnel to meet the needs of children with disabilities in integrated settings;

(B) educating special education personnel to work in collaboration with regular educators in integrated settings; and

(C) successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which the institution of higher education is preparing individuals.

(g) Scholarships

The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), and (d).

(h) Service obligation

(1) In general

Each application for assistance under subsections (b), (c), and (d) shall include an assurance that the eligible entity will ensure that individuals who receive a scholarship under the proposed project agree to subsequently provide special education and related services to children with disabilities, or in the case of leadership personnel to subsequently work in the appropriate field, for a period of 2 years for every year for which the scholarship was received or repay all or part of the amount of the scholarship, in accordance with regulations issued by the Secretary.

(2) Special rule

Notwithstanding paragraph (1), the Secretary may reduce or waive the service obligation requirement under paragraph (1) if the Secretary determines that the service obligation is acting as a deterrent to the recruitment of students into special education or a related field.

(3) Secretary's responsibility

The Secretary—

(A) shall ensure that individuals described in paragraph (1) comply with the requirements of that paragraph; and

(B) may use not more than 0.5 percent of the funds appropriated under subsection (i) for each

fiscal year, to carry out subparagraph (A), in addition to any other funds that are available for that purpose.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2005 through 2010.

(Pub. L. 91–230, title VI, §662, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2774; amended Pub. L. 114–95, title IX, §§9214(d)(4)(C), 9215(ss)(9), Dec. 10, 2015, 129 Stat. 2165, 2183.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2)(A)(vii), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1462, Pub. L. 91–230, title VI, §662, as added Pub. L. 99–457, title III, §317, Oct. 8, 1986, 100 Stat. 1172; amended Pub. L. 101–476, title VII, §702, Oct. 30, 1990, 104 Stat. 1141, authorized appropriations, prior to repeal by Pub. L. 105–17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

A prior section 662 of Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 188, eff. July 1, 1971, repealed sections 611 to 618, 621 to 624, and 871 to 880a of this title, and sections 2491 to 2494 and 2698 to 2698b of Title 42, The Public Health and Welfare, and amended section 676 of this title, prior to repeal by Pub. L. 98–199, §14, Dec. 2, 1983, 97 Stat. 1374.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §9214(d)(4)(C)(i)(I), substituted "personnel, as defined in section 1451(b) of this title, who meet the applicable requirements described in section 1412(a)(14) of this title" for "highly qualified personnel, as defined in section 1451(b) of this title".

Subsec. (a)(5). Pub. L. 114–95, §9214(d)(4)(C)(i)(II), substituted "special education teachers meet the qualifications described in section 1412(a)(14)(C) of this title" for "special education teachers are highly qualified".

Subsec. (b)(2)(A)(viii). Pub. L. 114–95, §9215(ss)(9), substituted "section 6113(d)(1)(A)(ii)" for "section 7113(d)(1)(A)(ii)".

Subsec. (b)(2)(B). Pub. L. 114–95, §9214(d)(4)(C)(ii), substituted "special education teachers who meet the qualifications described in section 1412(a)(14)(C) of this title" for "highly qualified teachers".

Subsec. (c)(4)(B). Pub. L. 114–95, §9214(d)(4)(C)(iii), substituted "personnel who meet the applicable requirements described in section 1412(a)(14) of this title" for "highly qualified personnel".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1463. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research

(a) In general

The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to provide technical assistance, support model demonstration projects, disseminate useful information, and implement activities that are supported by scientifically based research.

(b) Required activities

Funds received under this section shall be used to support activities to improve services provided

under this chapter, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

(1) implementing effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

(2) improving the alignment, compatibility, and development of valid and reliable assessments and alternate assessments for assessing student academic achievement, as described under section 6311(b)(2) of this title;

(3) providing training for both regular education teachers and special education teachers to address the needs of students with different learning styles;

(4) disseminating information about innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and identifying positive academic and social learning opportunities, that—

(A) provide effective transitions between educational settings or from school to post school settings; and

(B) improve educational and transitional results at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of children with disabilities, as measured by assessments within the general education curriculum involved; and

(5) applying scientifically based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

(c) Authorized activities

Activities that may be carried out under this section include activities to improve services provided under this chapter, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

(1) applying and testing research findings in typical settings where children with disabilities receive services to determine the usefulness, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media;

(2) supporting and promoting the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies;

(3) promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, and evaluation of such reforms;

(4) enabling professionals, parents of children with disabilities, and other persons to learn about, and implement, the findings of scientifically based research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities;

(5) conducting outreach, and disseminating information, relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to personnel who provide services to children with disabilities;

(6) assisting States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities;

(7) promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes;

(8) focusing on the needs and issues that are specific to a population of children with disabilities, such as providing single-State and multi-State technical assistance and in-service

training—

(A) to schools and agencies serving deaf-blind children and their families;

(B) to programs and agencies serving other groups of children with low incidence disabilities and their families;

(C) addressing the postsecondary education needs of individuals who are deaf or hard-of-hearing; and

(D) to schools and personnel providing special education and related services for children with autism spectrum disorders;

(9) demonstrating models of personnel preparation to ensure appropriate placements and services for all students and to reduce disproportionality in eligibility, placement, and disciplinary actions for minority and limited English proficient children; and

(10) disseminating information on how to reduce inappropriate racial and ethnic disproportionalities identified under section 1418 of this title.

(d) Balance among activities and age ranges

In carrying out this section, the Secretary shall ensure that there is an appropriate balance across all age ranges of children with disabilities.

(e) Linking States to information sources

In carrying out this section, the Secretary shall support projects that link States to technical assistance resources, including special education and general education resources, and shall make research and related products available through libraries, electronic networks, parent training projects, and other information sources, including through the activities of the National Center for Education Evaluation and Regional Assistance established under part D of the Education Sciences Reform Act of 2002 [20 U.S.C. 9561 et seq.].

(f) Applications

(1) In general

An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Standards

To the maximum extent feasible, each eligible entity shall demonstrate that the project described in the eligible entity's application is supported by scientifically valid research that has been carried out in accordance with the standards for the conduct and evaluation of all relevant research and development established by the National Center for Education Research.

(3) Priority

As appropriate, the Secretary shall give priority to applications that propose to serve teachers and school personnel directly in the school environment.

(Pub. L. 91–230, title VI, §663, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2781; amended Pub. L. 114–95, title IX, §9215(ss)(10), Dec. 10, 2015, 129 Stat. 2183.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (e), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, as amended. Part D of the Act is classified generally to part D (§9561 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114–95, which directed amendment of subsec. (b)(2) by "striking and inserting the following:" followed by the text of a new par. (2), was executed by subtituting the new par. (2) for the existing par. (2) to reflect the probable intent of Congress. Prior to amendment, par. (2) read as follows: "improving the alignment, compatibility, and development of valid and reliable assessments and

alternate assessments for assessing adequate yearly progress, as described under section 6311(b)(2)(B) of this title;".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§1464. Studies and evaluations

(a) Studies and evaluations

(1) Delegation

The Secretary shall delegate to the Director of the Institute of Education Sciences responsibility to carry out this section, other than subsections (d) and (f).

(2) Assessment

The Secretary shall, directly or through grants, contracts, or cooperative agreements awarded to eligible entities on a competitive basis, assess the progress in the implementation of this chapter, including the effectiveness of State and local efforts to provide—

(A) a free appropriate public education to children with disabilities; and

(B) early intervention services to infants and toddlers with disabilities, and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to the infants and toddlers.

(b) Assessment of national activities

(1) In general

The Secretary shall carry out a national assessment of activities carried out with Federal funds under this chapter in order—

(A) to determine the effectiveness of this chapter in achieving the purposes of this chapter;

(B) to provide timely information to the President, Congress, the States, local educational agencies, and the public on how to implement this chapter more effectively; and

(C) to provide the President and Congress with information that will be useful in developing legislation to achieve the purposes of this chapter more effectively.

(2) Scope of assessment

The national assessment shall assess activities supported under this chapter, including—

(A) the implementation of programs assisted under this chapter and the impact of such programs on addressing the developmental needs of, and improving the academic achievement of, children with disabilities to enable the children to reach challenging developmental goals and challenging State academic content standards based on State academic assessments;

(B) the types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State academic content standards and developmental goals;

(C) the implementation of the professional development activities assisted under this chapter and the impact on instruction, student academic achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities; and

(D) the effectiveness of schools, local educational agencies, States, other recipients of assistance under this chapter, and the Secretary in achieving the purposes of this chapter by—

(i) improving the academic achievement of children with disabilities and their performance on regular statewide assessments as compared to nondisabled children, and the performance of children with disabilities on alternate assessments;

(ii) improving the participation of children with disabilities in the general education

curriculum;

(iii) improving the transitions of children with disabilities at natural transition points;

(iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

(v) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

(vi) addressing the reading and literacy needs of children with disabilities;

(vii) reducing the inappropriate overidentification of children, especially minority and limited English proficient children, as having a disability;

(viii) improving the participation of parents of children with disabilities in the education of their children; and

(ix) resolving disagreements between education personnel and parents through alternate dispute resolution activities, including mediation.

(3) Interim and final reports

The Secretary shall submit to the President and Congress—

(A) an interim report that summarizes the preliminary findings of the assessment not later than 3 years after December 3, 2004; and

(B) a final report of the findings of the assessment not later than 5 years after December 3, 2004.

(c) Study on ensuring accountability for students who are held to alternative achievement standards

The Secretary shall carry out a national study or studies to examine—

(1) the criteria that States use to determine—

(A) eligibility for alternate assessments; and

(B) the number and type of children who take those assessments and are held accountable to alternative achievement standards;

(2) the validity and reliability of alternate assessment instruments and procedures;

(3) the alignment of alternate assessments and alternative achievement standards to State academic content standards in reading, mathematics, and science; and

(4) the use and effectiveness of alternate assessments in appropriately measuring student progress and outcomes specific to individualized instructional need.

(d) Annual report

The Secretary shall provide an annual report to Congress that—

(1) summarizes the research conducted under part E of the Education Sciences Reform Act of 2002 [20 U.S.C. 9567 et seq.];

(2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 1418 of this title;

(3) summarizes the studies and evaluations conducted under this section and the timeline for their completion;

(4) describes the extent and progress of the assessment of national activities; and

(5) describes the findings and determinations resulting from reviews of State implementation of this chapter.

(e) Authorized activities

In carrying out this section, the Secretary may support objective studies, evaluations, and assessments, including studies that—

(1) analyze measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities;

(2) analyze State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with

disabilities;

(3) assess educational and transitional services and results for children with disabilities from minority backgrounds, including—

(A) data on—

(i) the number of minority children who are referred for special education evaluation;

(ii) the number of minority children who are receiving special education and related services and their educational or other service placement;

(iii) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and

(iv) the number of minority children who drop out of the educational system; and

(B) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students;

(4) measure educational and transitional services and results for children with disabilities served under this chapter, including longitudinal studies that—

(A) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this chapter, using a national, representative sample of distinct age cohorts and disability categories; and

(B) examine educational results, transition services, postsecondary placement, and employment status for individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this chapter; and

(5) identify and report on the placement of children with disabilities by disability category.

(f) Study

The Secretary shall study, and report to Congress regarding, the extent to which States adopt policies described in section 1435(c)(1) of this title and on the effects of those policies.

(Pub. L. 91–230, title VI, §664, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2783.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (d)(1), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, as amended. Part E of the Act is classified generally to part E (§9567 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

§1465. Interim alternative educational settings, behavioral supports, and systemic school interventions

(a) Program authorized

The Secretary may award grants, and enter into contracts and cooperative agreements, to support safe learning environments that support academic achievement for all students by—

(1) improving the quality of interim alternative educational settings; and

(2) providing increased behavioral supports and research-based, systemic interventions in schools.

(b) Authorized activities

In carrying out this section, the Secretary may support activities to—

(1) establish, expand, or increase the scope of behavioral supports and systemic interventions by providing for effective, research-based practices, including—

(A) training for school staff on early identification, prereferral, and referral procedures;

(B) training for administrators, teachers, related services personnel, behavioral specialists, and other school staff in positive behavioral interventions and supports, behavioral intervention planning, and classroom and student management techniques;

(C) joint training for administrators, parents, teachers, related services personnel, behavioral specialists, and other school staff on effective strategies for positive behavioral interventions and behavior management strategies that focus on the prevention of behavior problems;

(D) developing or implementing specific curricula, programs, or interventions aimed at addressing behavioral problems;

(E) stronger linkages between school-based services and community-based resources, such as community mental health and primary care providers; or

(F) using behavioral specialists, related services personnel, and other staff necessary to implement behavioral supports; or

(2) improve interim alternative educational settings by—

(A) improving the training of administrators, teachers, related services personnel, behavioral specialists, and other school staff (including ongoing mentoring of new teachers) in behavioral supports and interventions;

(B) attracting and retaining a high quality, diverse staff;

(C) providing for referral to counseling services;

(D) utilizing research-based interventions, curriculum, and practices;

(E) allowing students to use instructional technology that provides individualized instruction;

(F) ensuring that the services are fully consistent with the goals of the individual student's IEP;

(G) promoting effective case management and collaboration among parents, teachers, physicians, related services personnel, behavioral specialists, principals, administrators, and other school staff;

(H) promoting interagency coordination and coordinated service delivery among schools, juvenile courts, child welfare agencies, community mental health providers, primary care providers, public recreation agencies, and community-based organizations; or

(I) providing for behavioral specialists to help students transitioning from interim alternative educational settings reintegrate into their regular classrooms.

(c) Definition of eligible entity

In this section, the term "eligible entity" means—

(1) a local educational agency; or

(2) a consortium consisting of a local educational agency and 1 or more of the following entities:

(A) Another local educational agency.

(B) A community-based organization with a demonstrated record of effectiveness in helping children with disabilities who have behavioral challenges succeed.

(C) An institution of higher education.

(D) A community mental health provider.

(E) An educational service agency.

(d) Applications

Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall—

(1) submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require; and

(2) involve parents of participating students in the design and implementation of the activities funded under this section.

(e) Report and evaluation

Each eligible entity receiving a grant under this section shall prepare and submit annually to the

Secretary a report on the outcomes of the activities assisted under the grant.

(Pub. L. 91–230, title VI, §665, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2786.)

§1466. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this part (other than section 1462 of this title) such sums as may be necessary for each of the fiscal years 2005 through 2010.

(b) Reservation

From amounts appropriated under subsection (a) for fiscal year 2005, the Secretary shall reserve $1,000,000 to carry out the study authorized in section 1464(c) of this title. From amounts appropriated under subsection (a) for a succeeding fiscal year, the Secretary may reserve an additional amount to carry out such study if the Secretary determines the additional amount is necessary.

(Pub. L. 91–230, title VI, §667, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2787.)

PART C—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES

§1470. Purposes

The purposes of this part are to ensure that—

(1) children with disabilities and their parents receive training and information designed to assist the children in meeting developmental and functional goals and challenging academic achievement goals, and in preparing to lead productive independent adult lives;

(2) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this chapter, in order to develop the skills necessary to cooperatively and effectively participate in planning and decision making relating to early intervention, educational, and transitional services;

(3) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist such personnel in improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

(4) appropriate technology and media are researched, developed, and demonstrated, to improve and implement early intervention, educational, and transitional services and results for children with disabilities and their families.

(Pub. L. 91–230, title VI, §670, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2788.)

§1471. Parent training and information centers

(a) Program authorized

(1) In general

The Secretary may award grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under

this section.

(2) Definition of parent organization

In this section, the term "parent organization" means a private nonprofit organization (other than an institution of higher education) that—

(A) has a board of directors—

(i) the majority of whom are parents of children with disabilities ages birth through 26;

(ii) that includes—

(I) individuals working in the fields of special education, related services, and early intervention; and

(II) individuals with disabilities; and

(iii) the parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient children; and

(B) has as its mission serving families of children with disabilities who—

(i) are ages birth through 26; and

(ii) have the full range of disabilities described in section 1401(3) of this title.

(b) Required activities

Each parent training and information center that receives assistance under this section shall—

(1) provide training and information that meets the needs of parents of children with disabilities living in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified, to enable their children with disabilities to—

(A) meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and

(B) be prepared to lead productive independent adult lives, to the maximum extent possible;

(2) serve the parents of infants, toddlers, and children with the full range of disabilities described in section 1401(3) of this title;

(3) ensure that the training and information provided meets the needs of low-income parents and parents of limited English proficient children;

(4) assist parents to—

(A) better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

(B) communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention services, transition services, and related services;

(C) participate in decisionmaking processes and the development of individualized education programs under subchapter II and individualized family service plans under subchapter III;

(D) obtain appropriate information about the range, type, and quality of—

(i) options, programs, services, technologies, practices and interventions based on scientifically based research, to the extent practicable; and

(ii) resources available to assist children with disabilities and their families in school and at home;

(E) understand the provisions of this chapter for the education of, and the provision of early intervention services to, children with disabilities;

(F) participate in activities at the school level that benefit their children; and

(G) participate in school reform activities;

(5) in States where the State elects to contract with the parent training and information center, contract with State educational agencies to provide, consistent with subparagraphs (B) and (D) of section 1415(e)(2) of this title, individuals who meet with parents to explain the mediation process

to the parents;

(6) assist parents in resolving disputes in the most expeditious and effective way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in section 1415(e) of this title;

(7) assist parents and students with disabilities to understand their rights and responsibilities under this chapter, including those under section 1415(m) of this title upon the student's reaching the age of majority (as appropriate under State law);

(8) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this chapter, including the resolution session described in section 1415(e) of this title;

(9) assist parents in understanding, preparing for, and participating in, the process described in section 1415(f)(1)(B) of this title;

(10) establish cooperative partnerships with community parent resource centers funded under section 1472 of this title;

(11) network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 1463 of this title and the Institute of Education Sciences, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities described in section 1401(3) of this title; and

(12) annually report to the Secretary on—

(A) the number and demographics of parents to whom the center provided information and training in the most recently concluded fiscal year;

(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and

(C) the number of parents served who have resolved disputes through alternative methods of dispute resolution.

(c) Optional activities

A parent training and information center that receives assistance under this section may provide information to teachers and other professionals to assist the teachers and professionals in improving results for children with disabilities.

(d) Application requirements

Each application for assistance under this section shall identify with specificity the special efforts that the parent organization will undertake—

(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

(2) to work with community based organizations, including community based organizations that work with low-income parents and parents of limited English proficient children.

(e) Distribution of funds

(1) In general

The Secretary shall—

(A) make not less than 1 award to a parent organization in each State for a parent training and information center that is designated as the statewide parent training and information center; or

(B) in the case of a large State, make awards to multiple parent training and information centers, but only if the centers demonstrate that coordinated services and supports will occur among the multiple centers.

(2) Selection requirement

The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

(f) Quarterly review

(1) Meetings

The board of directors of each parent organization that receives an award under this section shall meet not less than once in each calendar quarter to review the activities for which the award was made.

(2) Continuation award

When a parent organization requests a continuation award under this section, the board of directors shall submit to the Secretary a written review of the parent training and information program conducted by the parent organization during the preceding fiscal year.

(Pub. L. 91–230, title VI, §671, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2788.)

PRIOR PROVISIONS

A prior section 1471, Pub. L. 91–230, title VI, §671, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 135, related to congressional findings and purposes for subpart 1 of part B of former subchapter IV of this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1471, Pub. L. 91–230, title VI, §671, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1145; amended Pub. L. 100–630, title I, §108(a), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, §901(b)(158)–(161), Oct. 30, 1990, 104 Stat. 1149; Pub. L. 102–119, §§11, 25(a)(16), (b), Oct. 7, 1991, 105 Stat. 595, 606, 607, related to congressional findings and policy with regard to early intervention services for infants and toddlers with disabilities and their families, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

§1472. Community parent resource centers

(a) Program authorized

(1) In general

The Secretary may award grants to, and enter into contracts and cooperative agreements with, local parent organizations to support community parent resource centers that will help ensure that underserved parents of children with disabilities, including low income parents, parents of limited English proficient children, and parents with disabilities, have the training and information the parents need to enable the parents to participate effectively in helping their children with disabilities—

(A) to meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and

(B) to be prepared to lead productive independent adult lives, to the maximum extent possible.

(2) Definition of local parent organization

In this section, the term "local parent organization" means a parent organization, as defined in section 1471(a)(2) of this title, that—

(A) has a board of directors the majority of whom are parents of children with disabilities ages birth through 26 from the community to be served; and

(B) has as its mission serving parents of children with disabilities who—

(i) are ages birth through 26; and

(ii) have the full range of disabilities described in section 1401(3) of this title.

(b) Required activities

Each community parent resource center assisted under this section shall—

(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

(2) carry out the activities required of parent training and information centers under paragraphs (2) through (9) of section 1471(b) of this title;

(3) establish cooperative partnerships with the parent training and information centers funded

under section 1471 of this title; and

(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

(Pub. L. 91–230, title VI, §672, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2791.)

PRIOR PROVISIONS

A prior section 1472, Pub. L. 91–230, title VI, §672, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 136, related to research and innovation to improve services and results for children with disabilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1472, Pub. L. 91–230, title VI, §672, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1146; amended Pub. L. 100–630, title I, §108(b), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title VIII, §801, title IX, §901(b)(162), (163), Oct. 30, 1990, 104 Stat. 1141, 1149; Pub. L. 102–119, §§12, 25(b), Oct. 7, 1991, 105 Stat. 595, 607, related to definitions, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

§1473. Technical assistance for parent training and information centers

(a) Program authorized

(1) In general

The Secretary may, directly or through awards to eligible entities, provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under section 1471 of this title and community parent resource centers receiving assistance under section 1472 of this title.

(2) Definition of eligible entity

In this section, the term "eligible entity" has the meaning given the term in section 1461(b) of this title.

(b) Authorized activities

The Secretary may provide technical assistance to a parent training and information center or a community parent resource center under this section in areas such as—

(1) effective coordination of parent training efforts;

(2) dissemination of scientifically based research and information;

(3) promotion of the use of technology, including assistive technology devices and assistive technology services;

(4) reaching underserved populations, including parents of low-income and limited English proficient children with disabilities;

(5) including children with disabilities in general education programs;

(6) facilitation of transitions from—

(A) early intervention services to preschool;

(B) preschool to elementary school;

(C) elementary school to secondary school; and

(D) secondary school to postsecondary environments; and

(7) promotion of alternative methods of dispute resolution, including mediation.

(c) Collaboration with the resource centers

Each eligible entity receiving an award under subsection (a) shall develop collaborative agreements with the geographically appropriate regional resource center and, as appropriate, the regional educational laboratory supported under section 9564 of this title, to further parent and professional collaboration.

(Pub. L. 91–230, title VI, §673, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2791.)

PRIOR PROVISIONS

A prior section 1473, Pub. L. 91–230, title VI, §673, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 139, related to personnel preparation to improve services and results for children with disabilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1473, Pub. L. 91–230, title VI, §673, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 101–476, title IX, §901(b)(164), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to general authority of Secretary to make grants to States for development of system to provide early intervention services for infants and toddlers with disabilities and their families, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

§1474. Technology development, demonstration, and utilization; media services; and instructional materials

(a) Program authorized

(1) In general

The Secretary, on a competitive basis, shall award grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities described in subsections (b) and (c).

(2) Definition of eligible entity

In this section, the term "eligible entity" has the meaning given the term in section 1461(b) of this title.

(b) Technology development, demonstration, and use

(1) In general

In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and use of technology.

(2) Authorized activities

The following activities may be carried out under this subsection:

(A) Conducting research on and promoting the demonstration and use of innovative, emerging, and universally designed technologies for children with disabilities, by improving the transfer of technology from research and development to practice.

(B) Supporting research, development, and dissemination of technology with universal design features, so that the technology is accessible to the broadest range of individuals with disabilities without further modification or adaptation.

(C) Demonstrating the use of systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

(D) Supporting the use of Internet-based communications for students with cognitive disabilities in order to maximize their academic and functional skills.

(c) Educational media services

(1) In general

In carrying out this section, the Secretary shall support—

(A) educational media activities that are designed to be of educational value in the classroom setting to children with disabilities;

(B) providing video description, open captioning, or closed captioning, that is appropriate for use in the classroom setting, of—

(i) television programs;

(ii) videos;

(iii) other materials, including programs and materials associated with new and emerging

technologies, such as CDs, DVDs, video streaming, and other forms of multimedia; or
(iv) news (but only until September 30, 2006);

(C) distributing materials described in subparagraphs (A) and (B) through such mechanisms as a loan service; and

(D) providing free educational materials, including textbooks, in accessible media for visually impaired and print disabled students in elementary schools and secondary schools, postsecondary schools, and graduate schools.

(2) Limitation

The video description, open captioning, or closed captioning described in paragraph (1)(B) shall be provided only when the description or captioning has not been previously provided by the producer or distributor, or has not been fully funded by other sources.

(d) Applications

(1) In general

Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under subsection (b) or (c) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Special rule

For the purpose of an application for an award to carry out activities described in subsection (c)(1)(D), such eligible entity shall—

(A) be a national, nonprofit entity with a proven track record of meeting the needs of students with print disabilities through services described in subsection (c)(1)(D);

(B) have the capacity to produce, maintain, and distribute in a timely fashion, up-to-date textbooks in digital audio formats to qualified students; and

(C) have a demonstrated ability to significantly leverage Federal funds through other public and private contributions, as well as through the expansive use of volunteers.

(e) National Instructional Materials Access Center

(1) In general

The Secretary shall establish and support, through the American Printing House for the Blind, a center to be known as the "National Instructional Materials Access Center" not later than 1 year after December 3, 2004.

(2) Duties

The duties of the National Instructional Materials Access Center are the following:

(A) To receive and maintain a catalog of print instructional materials prepared in the National Instructional Materials Accessibility Standard, as established by the Secretary, made available to such center by the textbook publishing industry, State educational agencies, and local educational agencies.

(B) To provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the National Instructional Materials Access Center may prescribe.

(C) To develop, adopt and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided under sections 1412(a)(23) and 1413(a)(6) of this title.

(3) Definitions

In this subsection:

(A) Blind or other persons with print disabilities

The term "blind or other persons with print disabilities" means children served under this

chapter and who may qualify in accordance with the Act entitled "An Act to provide books for the adult blind", approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats.

(B) National Instructional Materials Accessibility Standard

The term "National Instructional Materials Accessibility Standard" means the standard established by the Secretary to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.

(C) Print instructional materials

The term "print instructional materials" means printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by students in the classroom.

(D) Specialized formats

The term "specialized formats" has the meaning given the term in section 121(d)(3) of title 17.

(4) Applicability

This subsection shall apply to print instructional materials published after the date on which the final rule establishing the National Instructional Materials Accessibility Standard was published in the Federal Register.

(5) Liability of the Secretary

Nothing in this subsection shall be construed to establish a private right of action against the Secretary for failure to provide instructional materials directly, or for failure by the National Instructional Materials Access Center to perform the duties of such center, or to otherwise authorize a private right of action related to the performance by such center, including through the application of the rights of children and parents established under this chapter.

(6) Inapplicability

Subsections (a) through (d) shall not apply to this subsection.

(Pub. L. 91–230, title VI, §674, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2792.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(3)(A), (5), was in the original "this Act" and was translated as reading "this title", meaning title VI of Pub. L. 91–230, as amended, which enacted this chapter, to reflect the probable intent of Congress.

"An Act to provide books for the adult blind", approved March 3, 1931, referred to in subsec. (e)(3)(A), is act Mar. 3, 1931, ch. 400, 46 Stat. 1487, as amended, which is classified generally to sections 135a and 135b of Title 2, The Congress. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1474, Pub. L. 91–230, title VI, §674, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 143, related to studies and evaluations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1474, Pub. L. 91–230, title VI, §674, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1147, related to general eligibility, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

§1475. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 2005 through 2010.

(Pub. L. 91–230, title VI, §675, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2795.)

PRIOR PROVISIONS

Prior sections 1475 to 1480 were repealed by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

Section 1475, Pub. L. 91–230, title VI, §675, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 100–630, title I, §108(c), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, §901(b)(165), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–52, §10, June 6, 1991, 105 Stat. 263; Pub. L. 102–119, §§19(c), 25(b), Oct. 7, 1991, 105 Stat. 601, 607, related to continuing eligibility.

Section 1476, Pub. L. 91–230, title VI, §675, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 100–630, title I, §108(c), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, §901(b)(165), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–52, §10, June 6, 1991, 105 Stat. 263; Pub. L. 102–119, §§19(c), 25(b), Oct. 7, 1991, 105 Stat. 601, 607, related to the minimum components for a statewide system providing early intervention services to infants and toddlers with disabilities and their families.

Section 1477, Pub. L. 91–230, title VI, §677, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1149; amended Pub. L. 100–630, title I, §108(f), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, §901(b)(174)–(176), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§14, 25(b), Oct. 7, 1991, 105 Stat. 597, 607, related to the individualized family service plan.

Section 1478, Pub. L. 91–230, title VI, §678, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1150; amended Pub. L. 100–630, title I, §108(g), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, §901(b)(177), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§15, 25(b), Oct. 7, 1991, 105 Stat. 597, 607, related to contents of State application, statement of assurances, and approval process.

Section 1479, Pub. L. 91–230, title VI, §679, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1151; amended Pub. L. 100–630, title I, §108(h), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, §901(b)(178), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§16, 25(b), Oct. 7, 1991, 105 Stat. 598, 607, related to permissible uses of funds.

Section 1480, Pub. L. 91–230, title VI, §680, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1152; amended Pub. L. 100–630, title I, §108(i), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, §901(b)(179), (180), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§17, 25(b), Oct. 7, 1991, 105 Stat. 598, 607, related to procedural safeguards.

PART D—GENERAL PROVISIONS

§1481. Comprehensive plan for parts B and C

(a) Comprehensive plan

(1) In general

After receiving input from interested individuals with relevant expertise, the Secretary shall develop and implement a comprehensive plan for activities carried out under parts B and C in order to enhance the provision of early intervention services, educational services, related services, and transitional services to children with disabilities under subchapters II and III. To the extent practicable, the plan shall be coordinated with the plan developed pursuant to section 9567b(c) of this title [1] and shall include mechanisms to address early intervention, educational, related service and transitional needs identified by State educational agencies in applications submitted for State personnel development grants under part A and for grants under parts B and C.

(2) Public comment

The Secretary shall provide a public comment period of not less than 45 days on the plan.

(3) Distribution of funds

In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds awarded under parts B and C are used to carry out activities that benefit, directly or indirectly,

children with the full range of disabilities and of all ages.

(4) Reports to Congress

The Secretary shall annually report to Congress on the Secretary's activities under parts B and C, including an initial report not later than 12 months after December 3, 2004.

(b) Assistance authorized

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, eligible entities to enable the eligible entities to carry out the purposes of such parts in accordance with the comprehensive plan described in subsection (a).

(c) Special populations

(1) Application requirement

In making an award of a grant, contract, or cooperative agreement under part B or C, the Secretary shall, as appropriate, require an eligible entity to demonstrate how the eligible entity will address the needs of children with disabilities from minority backgrounds.

(2) Required outreach and technical assistance

Notwithstanding any other provision of this chapter, the Secretary shall reserve not less than 2 percent of the total amount of funds appropriated to carry out parts B and C for either or both of the following activities:

(A) Providing outreach and technical assistance to historically Black colleges and universities, and to institutions of higher education with minority enrollments of not less than 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this part.

(B) Enabling historically Black colleges and universities, and the institutions described in subparagraph (A), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities, if the historically Black colleges and universities and the institutions of higher education described in subparagraph (A) meet the criteria established by the Secretary under this part.

(d) Priorities

The Secretary, in making an award of a grant, contract, or cooperative agreement under part B or C, may, without regard to the rulemaking procedures under section 553 of title 5, limit competitions to, or otherwise give priority to—

(1) projects that address 1 or more—

(A) age ranges;

(B) disabilities;

(C) school grades;

(D) types of educational placements or early intervention environments;

(E) types of services;

(F) content areas, such as reading; or

(G) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community based educational settings;

(2) projects that address the needs of children based on the severity or incidence of their disability;

(3) projects that address the needs of—

(A) low achieving students;

(B) underserved populations;

(C) children from low income families;

(D) limited English proficient children;

(E) unserved and underserved areas;

(F) rural or urban areas;

(G) children whose behavior interferes with their learning and socialization;

(H) children with reading difficulties;
(I) children in public charter schools;
(J) children who are gifted and talented; or
(K) children with disabilities served by local educational agencies that receive payments under title VII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.];

(4) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children;
(5) projects that are carried out in particular areas of the country, to ensure broad geographic coverage;
(6) projects that promote the development and use of technologies with universal design, assistive technology devices, and assistive technology services to maximize children with disabilities' access to and participation in the general education curriculum; and
(7) any activity that is authorized in part B or C.

(e) Eligibility for financial assistance

No State or local educational agency, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under part B or C that relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 1419(b) of this title.

(Pub. L. 91–230, title VI, §681, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2795; amended Pub. L. 114–95, title IX, §9215(ss)(11), Dec. 10, 2015, 129 Stat. 2183.)

REFERENCES IN TEXT

Section 9567b(c) of this title, referred to in subsec. (a)(1), was in the original "section 178(c) of the Education Sciences Reform Act of 2002", meaning section 178(c) of Pub. L. 107–279, which was translated as reading section 177(c) of Pub. L. 107–279, to reflect the probable intent of Congress, because Pub. L. 107–279 does not contain a section 178 and section 177(c) of that Act requires development of a plan.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(3)(K), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title VII of the Act is classified generally to subchapter VII (§7701 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1481, Pub. L. 91–230, title VI, §681, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 146, related to congressional findings and purposes for subpart 2 of part B of former subchapter IV of this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1481, Pub. L. 91–230, title VI, §681, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1152; amended Pub. L. 100–630, title I, §108(j), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, §901(b)(181), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to nonsubstitution of funds to pay for services which would have been paid for from another source and construction of such provisions so as not to reduce other benefits, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

AMENDMENTS

2015—Subsec. (d)(3)(K). Pub. L. 114–95 substituted "payments under title VII of the Elementary and Secondary Education Act of 1965;" for "payments under title VIII of the Elementary and Secondary Education Act of 1965;".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *See References in Text note below.*

§1482. Administrative provisions

(a) Applicant and recipient responsibilities

(1) Development and assessment of projects

The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under part B or C—

(A) involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project; and

(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

(2) Additional responsibilities

The Secretary may require a recipient of a grant, contract, or cooperative agreement under part B or C to—

(A) share in the cost of the project;

(B) prepare any findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

(C) disseminate such findings and products; and

(D) collaborate with other such recipients in carrying out subparagraphs (B) and (C).

(b) Application management

(1) Standing panel

(A) In general

The Secretary shall establish and use a standing panel of experts who are qualified, by virtue of their training, expertise, or experience, to evaluate each application under part B or C that requests more than $75,000 per year in Federal financial assistance.

(B) Membership

The standing panel shall include, at a minimum—

(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out high quality programs of personnel preparation;

(ii) individuals who design and carry out scientifically based research targeted to the improvement of special education programs and services;

(iii) individuals who have recognized experience and knowledge necessary to integrate and apply scientifically based research findings to improve educational and transitional results for children with disabilities;

(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

(vii) individuals who are parents of children with disabilities ages birth through 26 who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

(viii) individuals with disabilities.

(C) Term

No individual shall serve on the standing panel for more than 3 consecutive years.

(2) Peer-review panels for particular competitions

(A) Composition

The Secretary shall ensure that each subpanel selected from the standing panel that reviews an application under part B or C includes—

(i) individuals with knowledge and expertise on the issues addressed by the activities described in the application; and

(ii) to the extent practicable, parents of children with disabilities ages birth through 26, individuals with disabilities, and persons from diverse backgrounds.

(B) Federal employment limitation

A majority of the individuals on each subpanel that reviews an application under part B or C shall be individuals who are not employees of the Federal Government.

(3) Use of discretionary funds for administrative purposes

(A) Expenses and fees of non-Federal panel members

The Secretary may use funds available under part B or C to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

(B) Administrative support

The Secretary may use not more than 1 percent of the funds appropriated to carry out part B or C to pay non-Federal entities for administrative support related to management of applications submitted under part B or C, respectively.

(c) Program evaluation

The Secretary may use funds made available to carry out part B or C to evaluate activities carried out under part B or C, respectively.

(d) Minimum funding required

(1) In general

Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, not less than the following amounts are provided under parts B and C to address the following needs:

(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

(2) Ratable reduction

If the sum of the amount appropriated to carry out parts B and C, and part E of the Education Sciences Reform Act of 2002 [20 U.S.C. 9567 et seq.] for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced for the fiscal year.

(Pub. L. 91–230, title VI, §682, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2797.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (d)(2), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, as amended. Part E of the Act is classified generally to part E (§9567 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

PRIOR PROVISIONS

A prior section 1482, Pub. L. 91–230, title VI, §682, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 149, related to parent training and information centers, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1482, Pub. L. 91–230, title VI, §682, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1153; amended Pub. L. 100–630, title I, §108(k), Nov. 7, 1988, 102 Stat. 3302; Pub. L.

101–476, title IX, §901(b)(182), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§18, 25(a)(18), (b), Oct. 7, 1991, 105 Stat. 599, 606, 607, related to establishment of State Interagency Coordinating Councils, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1483, Pub. L. 91–230, title VI, §683, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 151, which related to community parent resource centers, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1483, Pub. L. 91–230, title VI, §683, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1154; amended Pub. L. 101–476, title IX, §901(b)(183), (184), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to Federal administration, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1484, Pub. L. 91–230, title VI, §684, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 152, which related to technical assistance for parent training and information centers, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1484, Pub. L. 91–230, title VI, §684, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1154; amended Pub. L. 101–476, title IX, §901(b)(185), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 102–119, §§19(a)(1), (b), 25(b), Oct. 7, 1991, 105 Stat. 600, 601, 607; Pub. L. 103–382, title III, §313(a), Oct. 20, 1994, 108 Stat. 3935, related to allocation of funds, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1484a, Pub. L. 91–230, title VI, §685, as added Pub. L. 102–119, §21(2), Oct. 7, 1991, 105 Stat. 602; amended Pub. L. 102–321, title I, §161, July 10, 1992, 106 Stat. 375; Pub. L. 103–448, title II, §204(w)(2)(B), Nov. 2, 1994, 108 Stat. 4746, related to establishment, composition, functions, etc., of the Federal Interagency Coordinating Council, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1485, Pub. L. 91–230, title VI, §685, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 152; amended Pub. L. 106–402, title IV, §401(b)(1), Oct. 30, 2000, 114 Stat. 1737, which related to coordinated technical assistance and dissemination, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1485, Pub. L. 91–230, title VI, §686, formerly §685, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1155; renumbered §686 and amended Pub. L. 102–119, §§20, 21(1), Oct. 7, 1991, 105 Stat. 602, related to authorization of appropriations, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1486, Pub. L. 91–230, title VI, §686, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 154, which authorized appropriations, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

A prior section 1487, Pub. L. 91–230, title VI, §687, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 154, which related to technology development, demonstration, and utilization and media services, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Prior sections 1491 to 1491o, which comprised former subchapter IX of this chapter, were repealed by Pub. L. 105–17, title II, §203(a), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1998.

Section 1491, Pub. L. 91–230, title VI, §701, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3937, provided that former subchapter IX of this chapter could be cited as the "Families of Children With Disabilities Support Act of 1994".

Section 1491a, Pub. L. 91–230, title VI, §702, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3937, related to findings, purposes, and policy.

Section 1491b, Pub. L. 91–230, title VI, §703, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3939, related to definitions.

Section 1491c, Pub. L. 91–230, title VI, §704, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3943, related to grants to States.

Section 1491d, Pub. L. 91–230, title VI, §705, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3944, related to information and assurances required in application for grant.

Section 1491e, Pub. L. 91–230, title VI, §706, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3946, related to designation of lead entity by State desiring to receive grant.

Section 1491f, Pub. L. 91–230, title VI, §707, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3946, related to designation or establishment by State of a State Policy Council for Families of Children with Disabilities and its composition, functions, etc.

Section 1491g, Pub. L. 91–230, title VI, §708, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3949, related to activities authorized for use of grant funds.

Section 1491h, Pub. L. 91–230, title VI, §709, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108

Stat. 3951, related to creation and submission of strategic plan by lead entity of State in conjunction with State Policy Council.

Section 1491i, Pub. L. 91–230, title VI, §710, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3952, related to progress criteria and reports.

Section 1491j, Pub. L. 91–230, title VI, §711, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3952, related to administrative provisions.

Section 1491k, Pub. L. 91–230, title VI, §712, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3953, related to technical assistance.

Section 1491l, Pub. L. 91–230, title VI, §713, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3954, related to program evaluation by Secretary.

Section 1491m, Pub. L. 91–230, title VI, §714, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3955, related to projects of national significance.

Section 1491n, Pub. L. 91–230, title VI, §715, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3955, related to construction of provisions of subchapters I through VIII of this chapter as being inapplicable to subchapter IX of this chapter.

Section 1491o, Pub. L. 91–230, title VI, §716, as added Pub. L. 103–382, title III, §315, Oct. 20, 1994, 108 Stat. 3955, related to authorization of appropriations.

CHAPTER 34—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

§§1501 to 1506. Repealed. Pub. L. 111–340, title IV, §401(a), Dec. 22, 2010, 124 Stat. 3604

Section 1501, Pub. L. 91–345, §2, July 20, 1970, 84 Stat. 440, related to Congressional statement of policy.

Section 1502, Pub. L. 91–345, §3, July 20, 1970, 84 Stat. 440; Pub. L. 102–95, §2, Aug. 14, 1991, 105 Stat. 479, related to establishment of National Commission on Libraries and Information Science.

Section 1503, Pub. L. 91–345, §4, July 20, 1970, 84 Stat. 441; Pub. L. 102–95, §3, Aug. 14, 1991, 105 Stat. 479; Pub. L. 108–81, title IV, §401, Sept. 25, 2003, 117 Stat. 1002, related to contributions.

Section 1504, Pub. L. 91–345, §5, July 20, 1970, 84 Stat. 441; Pub. L. 93–29, title VIII, §802(a), May 3, 1973, 87 Stat. 59; Pub. L. 102–95, §4, Aug. 14, 1991, 105 Stat. 479; Pub. L. 104–208, div. A, title I, §101(e) [title VII, §703(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–306; Pub. L. 108–81, title V, §505(a), Sept. 25, 2003, 117 Stat. 1004, related to functions and powers.

Section 1505, Pub. L. 91–345, §6, July 20, 1970, 84 Stat. 442; Pub. L. 93–29, title VIII, §802(b), May 3, 1973, 87 Stat. 59; Pub. L. 102–95, §5, Aug. 14, 1991, 105 Stat. 479; Pub. L. 104–208, div. A, title I, §101(e) [title VII, §703(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–307; Pub. L. 108–81, title IV, §402, Sept. 25, 2003, 117 Stat. 1002, related to membership.

Section 1506, Pub. L. 91–345, §7, July 20, 1970, 84 Stat. 442; Pub. L. 102–95, §6, Aug. 14, 1991, 105 Stat. 479, related to authorization of appropriations.

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–95, §1, Aug. 14, 1991, 105 Stat. 479, provided that: "This Act [amending sections 1502 to 1506 of this title] may be cited as the 'National Commission on Libraries and Information Science Act Amendments of 1991'."

SHORT TITLE

Pub. L. 91–345, §1, July 20, 1970, 84 Stat. 440, which provided that Pub. L. 91–345, enacting this chapter, could be cited as the "National Commission on Libraries and Information Science Act", was repealed by Pub. L. 111–340, title IV, §401(a), Dec. 22, 2010, 124 Stat. 3604.

TRANSFER OF FUNCTIONS

For provisions relating to the transfer of functions, personnel, and property of the National Commission on Libraries and Information Science, and treatment of references thereto, see section 401(b), (c), (d) of Pub. L. 111–340 set out as notes under section 9102 of this title.

CHAPTER 35—ENVIRONMENTAL EDUCATION

CODIFICATION

The Environmental Education Act, which comprised this chapter, contained appropriation authorizations for fiscal years 1971 to 1977. The Act was superseded by part H of title III of Pub. L. 89–10, as added by Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2217, known as the Environmental Education Act of 1978, which was classified to section 3011 et seq. of this title, prior to repeal by Pub. L. 97–35, §587(a)(1).

§§1531 to 1536. Omitted

CODIFICATION

Section 1531, Pub. L. 91–516, §2, Oct. 30, 1970, 84 Stat. 1312; Pub. L. 93–278, §4, May 10, 1974, 88 Stat. 121, set forth Congressional declaration of findings and purpose of Environmental Education Act.

Section 1532, Pub. L. 91–516, §3, Oct. 30, 1970, 84 Stat. 1312; Pub. L. 93–278, §§2, 5, 6, May 10, 1974, 88 Stat. 121; Pub. L. 94–273, §3(15), Apr. 21, 1976, 90 Stat. 376, established an office of environmental education, authorized grants and contracts, and established an Advisory Council on Environmental Education.

Section 1533, Pub. L. 91–516, §4, Oct. 30, 1970, 84 Stat. 1315, related to technical assistance to eligible agencies and organizations.

Section 1534, Pub. L. 91–516, §5, Oct. 30, 1970, 84 Stat. 1315, authorized grants to nonprofit organizations.

Section 1535, Pub. L. 91–516, §6, Oct. 30, 1970, 84 Stat. 1315, related to administration of the Act.

Section 1536, Pub. L. 91–516, §7, Oct. 30, 1970, 84 Stat. 1315; Pub. L. 93–278, §3, May 10, 1974, 88 Stat. 121, authorized appropriations to carry out the purposes of the Act.

CHAPTER 36—EMERGENCY SCHOOL AID

§§1601 to 1619. Repealed. Pub. L. 95–561, title VI, §601(b)(2), Nov. 1, 1978, 92 Stat. 2268

Section 1601, Pub. L. 92–318, title VII, §702, June 23, 1972, 86 Stat. 354, related to Congressional findings and purpose with respect to this chapter.

Section 1602, Pub. L. 92–318, title VII, §703, June 23, 1972, 86 Stat. 354, related to policy of the United States with respect to application of certain provisions of Federal laws.

Section 1603, Pub. L. 92–318, title VII, §704, June 23, 1972, 86 Stat. 355; Pub. L. 93–380, title VI, §§641(a), 642(a), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94–482, title III, §321(a)–(c)(1), Oct. 12, 1976, 90 Stat. 2216; Pub. L. 95–561, title VI, §601(b)(1), Nov. 1, 1978, 92 Stat. 2268, authorized appropriations for purpose of carrying out this chapter.

Section 1604, Pub. L. 92–318, title VII, §705, June 23, 1972, 86 Stat. 355, related to apportionment to States of sums appropriated pursuant to section 1603(a) of this title for grants and contracts.

Section 1605, Pub. L. 92–318, title VII, §706, June 23, 1972, 86 Stat. 356; Pub. L. 93–380, title VI, §643(a), (b), Aug. 21, 1974, 88 Stat. 587; S. Res. 4, Feb. 4, 1977, related to eligibility for assistance.

Section 1606, Pub. L. 92–318, title VII, §707, June 23, 1972, 86 Stat. 359; Pub. L. 94–482, title III, §321(c)(2), Oct. 12, 1976, 90 Stat. 2217, related to authorized activities with respect to financial assistance.

Section 1607, Pub. L. 92–318, title VII, §708, June 23, 1972, 86 Stat. 360; Pub. L. 93–380, title VI, §§644, 645, Aug. 21, 1974, 88 Stat. 588; Pub. L. 94–482, title V, §501(a)(12), Oct. 12, 1976, 90 Stat. 2235, related to special programs and projects with respect to financial assistance.

Section 1608, Pub. L. 92–318, title VII, §709, June 23, 1972, 86 Stat. 361; Pub. L. 93–380, title II, §222, title VI, §642(b), Aug. 21, 1974, 88 Stat. 519, 587; Pub. L. 94–482, title V, §501(i), Oct. 12, 1976, 90 Stat. 2237, related to availability of sums for metropolitan area projects.

Section 1609, Pub. L. 92–318, title VII, §710, June 23, 1972, 86 Stat. 362; Pub. L. 93–380, title VI, §643(c), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94–482, title III, §323(a)(5), Oct. 12, 1976, 90 Stat. 2218,

related to applications for assistance.

Section 1610, Pub. L. 92–318, title VII, §711, June 23, 1972, 86 Stat. 366, related to availability of funds for educational television.

Section 1611, Pub. L. 92–318, title VII, §712, June 23, 1972, 86 Stat. 366, related to payment of assistance to applicant.

Section 1612, Pub. L. 92–318, title VII, §713, June 23, 1972, 86 Stat. 367, related to evaluation of programs and projects assisted under this chapter.

Section 1613, Pub. L. 92–318, title VII, §714, June 23, 1972, 86 Stat. 368; S. Res. 4, Feb. 4, 1977, related to reports to President and Congressional committees.

Section 1614, Pub. L. 92–318, title VII, §715, June 23, 1972, 86 Stat. 368, related to administration of joint funding with respect to programs and projects under this chapter.

Section 1615, Pub. L. 92–318, title VII, §716, June 23, 1972, 86 Stat. 368; Pub. L. 93–380, title VIII, §845(e), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–43, §3, June 28, 1975, 89 Stat. 233; Pub. L. 94–482, title III, §321(d), Oct. 12, 1976, 90 Stat. 2217, related to establishment of National Advisory Council on Equality of Educational Opportunity.

Section 1616, Pub. L. 92–318, title VII, §717(a), June 23, 1972, 86 Stat. 369, related to applicability of General Education Provisions Act to this chapter.

Section 1617, Pub. L. 92–318, title VII, §718, June 23, 1972, 86 Stat. 369, related to allowance of reasonable attorney's fees respecting a final order by a court against an educational agency, a State, etc., for failure to comply with provisions of this chapter, discrimination on basis of race, etc.

Section 1618, Pub. L. 92–318, title VII, §719, June 23, 1972, 86 Stat. 369, related to effect of this chapter on method of student assignment.

Section 1619, Pub. L. 92–318, title VII, §720, June 23, 1972, 86 Stat. 369; Pub. L. 93–380, title VI, §643(d), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94–482, title III, §321(c)(3), Oct. 12, 1976, 90 Stat. 2217, defined terms used in this chapter.

EFFECTIVE DATE OF REPEAL

Pub. L. 95–561, title VI, §601(b)(2), Nov. 1, 1978, 92 Stat. 2268, provided that the repeal is effective Sept. 30, 1979.

CHAPTER 37—ASSIGNMENT OR TRANSPORTATION OF STUDENTS

Sec.

1651. Prohibition against assignment or transportation of students to overcome racial imbalance.

1652. Prohibition against busing.

1653. Omitted.

1654. Intervention authorization in implementation of court orders.

1655. Uniform rules of evidence of racial discrimination.

1656. Prohibition against official or court orders to achieve racial balance or insure compliance with constitutional standards applicable to entire United States.

§1651. Prohibition against assignment or transportation of students to overcome racial imbalance

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 92–318, title VIII, §801, June 23, 1972, 86 Stat. 371.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended, known as the Education Amendments of 1972. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

§1652. Prohibition against busing

(a) Use of appropriated funds for busing

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(b) Rules, regulations, orders, etc., for busing

No officer, agent, or employee of the Department of Education, the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent, or employee of the Department of Education or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(c) "Applicable program" defined

An applicable program means a program to which the General Education Provisions Act [20 U.S.C. 1221 et seq.] applies.

(Pub. L. 92–318, title VIII, §802, June 23, 1972, 86 Stat. 371; Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (c), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

TRANSFER OF FUNCTIONS

"Department of Education" substituted for "Department of Health, Education, and Welfare (including the Office of Education)" in subsec. (b) pursuant to sections 301 and 507 of Pub. L. 96–88, which are classified to sections 3441 and 3507 of this title and which transferred functions and offices (relating to education) of Department of Health, Education, and Welfare, including Office of Education, to Department of Education.

§1653. Omitted

CODIFICATION

Section, Pub. L. 92–318, title VIII, §803, June 23, 1972, 86 Stat. 372, provided that the effectiveness of orders of district courts requiring transfer or transportation of students for purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, be postponed until all appeals in connection with such orders have been exhausted or until expiration of the time for such appeals, expired at midnight on Jan. 1, 1974.

§1654. Intervention authorization in implementation of court orders

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

(Pub. L. 92–318, title VIII, §804, June 23, 1972, 86 Stat. 372.)

§1655. Uniform rules of evidence of racial discrimination

The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

(Pub. L. 92–318, title VIII, §805, June 23, 1972, 86 Stat. 372.)

§1656. Prohibition against official or court orders to achieve racial balance or insure compliance with constitutional standards applicable to entire United States

The proviso of section 407(a) of the Civil Rights Act of 1964 [42 U.S.C. 2000c–6(a)] providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV [42 U.S.C. 2000c et seq.], under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

(Pub. L. 92–318, title VIII, §806, June 23, 1972, 86 Stat. 373.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title IV of the Civil Rights Act of 1964 is classified generally to subchapter IV (§2000c et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

CHAPTER 38—DISCRIMINATION BASED ON SEX OR BLINDNESS

Sec.

1681. Sex.
1682. Federal administrative enforcement; report to Congressional committees.
1683. Judicial review.
1684. Blindness or visual impairment; prohibition against discrimination.
1685. Authority under other laws unaffected.

1686. Interpretation with respect to living facilities.
1687. Interpretation of "program or activity".
1688. Neutrality with respect to abortion.

§1681. Sex

(a) Prohibition against discrimination; exceptions

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

(1) Classes of educational institutions subject to prohibition

in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

(2) Educational institutions commencing planned change in admissions

in regard to admissions to educational institutions, this section shall not apply (A) for one year from June 23, 1972, nor for six years after June 23, 1972, in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary of Education or (B) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of only one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary of Education, whichever is the later;

(3) Educational institutions of religious organizations with contrary religious tenets

this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;

(4) Educational institutions training individuals for military services or merchant marine

this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;

(5) Public educational institutions with traditional and continuing admissions policy

in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex;

(6) Social fraternities or sororities; voluntary youth service organizations

this section shall not apply to membership practices—

(A) of a social fraternity or social sorority which is exempt from taxation under section 501(a) of title 26, the active membership of which consists primarily of students in attendance at an institution of higher education, or

(B) of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age;

(7) Boy or Girl conferences

this section shall not apply to—

(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(B) any program or activity of any secondary school or educational institution specifically for—

(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(ii) the selection of students to attend any such conference;

(8) Father-son or mother-daughter activities at educational institutions

this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

(9) Institution of higher education scholarship awards in "beauty" pageants

this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

(b) Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance

Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this chapter of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) "Educational institution" defined

For purposes of this chapter an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

(Pub. L. 92–318, title IX, §901, June 23, 1972, 86 Stat. 373; Pub. L. 93–568, §3(a), Dec. 31, 1974, 88 Stat. 1862; Pub. L. 94–482, title IV, §412(a), Oct. 12, 1976, 90 Stat. 2234; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original "this title", meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Short Title note below and Tables.

AMENDMENTS

1986—Subsec. (a)(6)(A). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1976—Subsec. (a)(6) to (9). Pub. L. 94–482 substituted "this" for "This" in par. (6) and added pars. (7) to (9).

1974—Subsec. (a)(6). Pub. L. 93–568 added par. (6).

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–482, title IV, §412(b), Oct. 12, 1976, 90 Stat. 2234, provided that: "The amendment made by subsection (a) [amending this section] shall take effect upon the date of enactment of this Act [Oct. 12, 1976]."

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93–568, §3(b), Dec. 31, 1974, 88 Stat. 1862, provided that: "The provisions of the amendment made by subsection (a) [amending this section] shall be effective on, and retroactive to, July 1, 1972."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–259, §1, Mar. 22, 1988, 102 Stat. 28, provided that: "This Act [enacting sections 1687 and 1688 of this title and section 2000d–4a of Title 42, The Public Health and Welfare, amending sections 706 and 794 of Title 29, Labor, and section 6107 of Title 42, and enacting provisions set out as notes under sections 1687 and 1688 of this title] may be cited as the 'Civil Rights Restoration Act of 1987'."

SHORT TITLE

Pub. L. 107–255, Oct. 29, 2002, 116 Stat. 1734, provided "That title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.; Public Law 92–318) [title IX of Pub. L. 92–318, enacting this chapter and amending sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare] may be cited as the 'Patsy Takemoto Mink Equal Opportunity in Education Act'."

TRANSFER OF FUNCTIONS

"Secretary" substituted for "Commissioner" in subsec. (a)(2) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS

For provisions relating to the coordination of implementation and enforcement of the provisions of this chapter by the Attorney General, see section 1–201(b) of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out under section 2000d–1 of Title 42, The Public Health and Welfare.

REGULATIONS; NATURE OF PARTICULAR SPORTS: INTERCOLLEGIATE ATHLETIC ACTIVITIES

Pub. L. 93–380, title VIII, §844, Aug. 21, 1974, 88 Stat. 612, directed Secretary to prepare and publish, not more than 30 days after Aug. 21, 1974, proposed regulations implementing the provisions of this chapter regarding prohibition of sex discrimination in federally assisted programs, including reasonable regulations for intercollegiate athletic activities considering the nature of the particular sports.

§1682. Federal administrative enforcement; report to Congressional committees

Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 1681 of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary

means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(Pub. L. 92–318, title IX, §902, June 23, 1972, 86 Stat. 374.)

DELEGATION OF FUNCTIONS

Functions of President relating to approval of rules, regulations, and orders of general applicability under this section, delegated to Attorney General, see section 1–102 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out under section 2000d–1 of Title 42, The Public Health and Welfare.

§1683. Judicial review

Any department or agency action taken pursuant to section 1682 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 1682 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

(Pub. L. 92–318, title IX, §903, June 23, 1972, 86 Stat. 374.)

CODIFICATION

"Section 1682 of this title", where first appearing, substituted in text for "section 1002" as conforming to intent of Congress as Pub. L. 92–318 was enacted without any section 1002 and subsequent text refers to "section 902", which is classified to section 1682 of this title.

§1684. Blindness or visual impairment; prohibition against discrimination

No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity, but nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

(Pub. L. 92–318, title IX, §904, June 23, 1972, 86 Stat. 375.)

§1685. Authority under other laws unaffected

Nothing in this chapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(Pub. L. 92–318, title IX, §905, June 23, 1972, 86 Stat. 375.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

§1686. Interpretation with respect to living facilities

Notwithstanding anything to the contrary contained in this chapter, nothing contained herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.

(Pub. L. 92–318, title IX, §907, June 23, 1972, 86 Stat. 375.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

This Act, referred to in text, is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended, known as the Education Amendments of 1972. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

§1687. Interpretation of "program or activity"

For the purposes of this chapter, the term "program or activity" and "program" mean all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section section [1] 7801 of this title), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by a religious organization if the application of section 1681 of this title to such operation would not be consistent with the religious tenets of such organization.

(Pub. L. 92–318, title IX, §908, as added Pub. L. 100–259, §3(a), Mar. 22, 1988, 102 Stat. 28; amended Pub. L. 103–382, title III, §391(g), Oct. 20, 1994, 108 Stat. 4023; Pub. L. 107–110, title X, §1076(j), Jan. 8, 2002, 115 Stat. 2091; Pub. L. 114–95, title IX, §9215(bb), Dec. 10, 2015, 129 Stat. 2173.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6,

2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

AMENDMENTS

2015—Par. (2)(B). Pub. L. 114–95 substituted "section 7801 of this title), system of vocational education, or other school system;" for "7801 of this title), system of vocational education, or other school system;".

2002—Par. (2)(B). Pub. L. 107–110 substituted "7801" for "8801".

1994—Par. (2)(B). Pub. L. 103–382 substituted "section 8801" for "section 2854(a)(10)".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

FINDINGS OF CONGRESS

Pub. L. 100–259, §2, Mar. 22, 1988, 102 Stat. 28, provided that: "The Congress finds that—

"(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.]; and

"(2) legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered."

CONSTRUCTION

Pub. L. 100–259, §7, Mar. 22, 1988, 102 Stat. 31, provided that: "Nothing in the amendments made by this Act [see Short Title of 1988 Amendment note under section 1681 of this title] shall be construed to extend the application of the Acts so amended [Education Amendments of 1972, Pub. L. 92–318, see Short Title of 1972 Amendment, set out as a note under section 1001 of this title, Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and Civil Rights Act of 1964, 42 U.S.C. 2000a et seq.] to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act [Mar. 22, 1988]."

ABORTION NEUTRALITY

This section not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100–259, set out as a note under section 1688 of this title.

[1] *So in original.*

§1688. Neutrality with respect to abortion

Nothing in this chapter shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

(Pub. L. 92–318, title IX, §909, as added Pub. L. 100–259, §3(b), Mar. 22, 1988, 102 Stat. 29.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to

the Code, see Short Title note set out under section 1681 of this title and Tables.

CONSTRUCTION

This section not to be construed to extend application of Education Amendments of 1972, Pub. L. 92–318, to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100–259, set out as a note under section 1687 of this title.

ABORTION NEUTRALITY

Pub. L. 100–259, §8, Mar. 22, 1988, 102 Stat. 31, provided that: "No provision of this Act or any amendment made by this Act [see Short Title of 1988 Amendment note under section 1681 of this title] shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal Funds [sic] to perform or pay for an abortion."

CHAPTER 39—EQUAL EDUCATIONAL OPPORTUNITIES AND TRANSPORTATION OF STUDENTS

SUBCHAPTER I—EQUAL EDUCATIONAL OPPORTUNITIES

PART 1—POLICY AND PURPOSE

Sec.

1701. Congressional declaration of policy.
1702. Congressional findings.

PART 2—UNLAWFUL PRACTICES

1703. Denial of equal educational opportunity prohibited.
1704. Balance not required.
1705. Assignment on neighborhood basis not a denial of equal educational opportunity.

PART 3—ENFORCEMENT

1706. Civil actions by individuals denied equal educational opportunities or by Attorney General.
1707. Population changes without effect, per se, on school population changes.
1708. Jurisdiction of district courts.
1709. Intervention by Attorney General.
1710. Civil actions by Attorney General; notice of violations; certification respecting undertaking appropriate remedial action.

PART 4—REMEDIES

1712. Formulating remedies; applicability.
1713. Priority of remedies.
1714. Transportation of students.
1715. District lines.
1716. Voluntary adoption of remedies.
1717. Reopening proceedings.
1718. Limitation on court orders; termination of orders conditioned upon compliance with fifth and fourteenth amendments; statement of basis for termination orders; stay of termination orders.

PART 5—DEFINITIONS

1720. Definitions.

PART 6—MISCELLANEOUS PROVISIONS

1721. Separability.

SUBCHAPTER II—ASSIGNMENT AND TRANSPORTATION OF STUDENTS

1751. Prohibition against assignment or transportation of students to overcome racial imbalance.

1752. Appeals from Federal district court transfer or transportation orders affecting school attendance areas and achieving balancing of students; postponement of Federal court orders pending exercise of appellate remedy; expiration of section.
1753. Uniform rules of evidence requirement.
1754. Provisions respecting transportation of pupils to achieve racial balance and judicial power to insure compliance with constitutional standards applicable to the entire United States.
1755. Additional priority of remedies after finding of de jure segregation.
1756. Remedies with respect to school district lines.
1757. Prohibition of forced busing during school year.
1758. Reasonable time for developing voluntary school desegregation plans following detailed notice of violations.

SUBCHAPTER I—EQUAL EDUCATIONAL OPPORTUNITIES

PART 1—POLICY AND PURPOSE

§1701. Congressional declaration of policy

(a) Entitlement to equal educational opportunity; neighborhood as appropriate basis

The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) Purpose

In order to carry out this policy, it is the purpose of this subchapter to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

(Pub. L. 93–380, title II, §202, Aug. 21, 1974, 88 Stat. 514.)

EFFECTIVE DATE

Chapter effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

SHORT TITLE

Pub. L. 93–380, title II, §201, Aug. 21, 1974, 88 Stat. 514, provided that: "This title [enacting this chapter and section 1228 of this title and amending section 1608 of this title] may be cited as the 'Equal Educational Opportunities Act of 1974'."

§1702. Congressional findings

(a) Dual school systems as denial of equal protection; depletion of financial resources of local educational agencies; transportation of students; inadequacy of guidelines

The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has,

in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect," and have not established, a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) Necessity of Congress to specify appropriate remedies for elimination of dual school systems

For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this chapter are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

(Pub. L. 93–380, title II, §203, Aug. 21, 1974, 88 Stat. 514.)

PART 2—UNLAWFUL PRACTICES

§1703. Denial of equal educational opportunity prohibited

No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part 4 of this subchapter, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

(Pub. L. 93–380, title II, §204, Aug. 21, 1974, 88 Stat. 515.)

§1704. Balance not required

The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

(Pub. L. 93–380, title II, §205, Aug. 21, 1974, 88 Stat. 515.)

§1705. Assignment on neighborhood basis not a denial of equal educational opportunity

Subject to the other provisions of this subchapter, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

(Pub. L. 93–380, title II, §206, Aug. 21, 1974, 88 Stat. 515.)

PART 3—ENFORCEMENT

§1706. Civil actions by individuals denied equal educational opportunities or by Attorney General

An individual denied an equal educational opportunity, as defined by this subchapter may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this chapter referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

(Pub. L. 93–380, title II, §207, Aug. 21, 1974, 88 Stat. 516.)

§1707. Population changes without effect, per se, on school population changes

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

(Pub. L. 93–380, title II, §208, Aug. 21, 1974, 88 Stat. 516.)

§1708. Jurisdiction of district courts

The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 1706 of this title.

(Pub. L. 93–380, title II, §209, Aug. 21, 1974, 88 Stat. 516.)

§1709. Intervention by Attorney General

Whenever a civil action is instituted under section 1706 of this title by an individual, the Attorney General may intervene in such action upon timely application.

(Pub. L. 93–380, title II, §210, Aug. 21, 1974, 88 Stat. 516.)

§1710. Civil actions by Attorney General; notice of violations; certification respecting undertaking appropriate remedial action

The Attorney General shall not institute a civil action under section 1706 of this title before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part 2 of this subchapter; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

(Pub. L. 93–380, title II, §211, Aug. 21, 1974, 88 Stat. 516.)

PART 4—REMEDIES

§1712. Formulating remedies; applicability

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

(Pub. L. 93–380, title II, §213, Aug. 21, 1974, 88 Stat. 516.)

§1713. Priority of remedies

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 1714 of this title;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 1714 and 1715 of this title.

(Pub. L. 93–380, title II, §214, Aug. 21, 1974, 88 Stat. 517.)

§1714. Transportation of students

(a) Limitation to school closest or next closest to place of residence

No court, department, or agency of the United States shall, pursuant to section 1713 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) Health risks; impingement on educational process

No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) School population changes resulting from population changes

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

(Pub. L. 93–380, title II, §215, Aug. 21, 1974, 88 Stat. 517.)

§1715. District lines

In the formulation of remedies under section 1712 or 1713 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

(Pub. L. 93–380, title II, §216, Aug. 21, 1974, 88 Stat. 518.)

§1716. Voluntary adoption of remedies

Nothing in this subchapter prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this subchapter nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this subchapter, if such plan is voluntarily proposed by the appropriate educational agency.

(Pub. L. 93–380, title II, §217, Aug. 21, 1974, 88 Stat. 518.)

§1717. Reopening proceedings

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] in effect on August 21, 1974, and intended to end segregation of students on the basis of race, color, or

national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

(Pub. L. 93–380, title II, §218, Aug. 21, 1974, 88 Stat. 518.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§1718. Limitation on court orders; termination of orders conditioned upon compliance with fifth and fourteenth amendments; statement of basis for termination orders; stay of termination orders

Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws may, to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable, and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.

(Pub. L. 93–380, title II, §219, Aug. 21, 1974, 88 Stat. 518.)

PART 5—DEFINITIONS

§1720. Definitions

For the purposes of this subchapter—

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) [1] of the Elementary and Secondary Education Act of 1965.

(b) The term "local educational agency" means a local educational agency as defined by section 801(f) [1] of the Elementary and Secondary Education Act of 1965.

(c) The term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term "desegregation" means desegregation as defined by section 2000c(b) of title 42.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

(Pub. L. 93–380, title II, §221, Aug. 21, 1974, 88 Stat. 518.)

REFERENCES IN TEXT

Section 801 of the Elementary and Secondary Education Act of 1965, referred to in subsecs. (a) and (b), is section 801, title VIII, of Pub. L. 89–10, which was formerly classified to section 881 of this title. Section 801 of that Act was renumbered section 1001 of title X by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was reclassified to section 3381 of this title. Section 1001 was subsequently renumbered

section 8001 and amended generally by Pub. L. 100–297, title I, §1002, Apr. 28, 1988, 102 Stat. 293, and, as so amended, did not contain subsections or specific definitions. Section 8001 was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. For definitions, see section 7801 of this title.

[1] *See References in Text note below.*

PART 6—MISCELLANEOUS PROVISIONS

§1721. Separability

If any provision of this subchapter or of any amendment made by this subchapter, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this subchapter and of the amendments made by this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 93–380, title II, §223, Aug. 21, 1974, 88 Stat. 519.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this part", meaning part A of title II of Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 519, which is classified generally to this subchapter.

SUBCHAPTER II—ASSIGNMENT AND TRANSPORTATION OF STUDENTS

§1751. Prohibition against assignment or transportation of students to overcome racial imbalance

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 93–380, title II, §251, Aug. 21, 1974, 88 Stat. 519.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484, as amended, known as the Education Amendments of 1974. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 6301 of this title and Tables.

§1752. Appeals from Federal district court transfer or transportation orders affecting school attendance areas and achieving balancing of students; postponement of Federal court orders pending exercise of appellate remedy; expiration of section

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the

effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

(Pub. L. 93–380, title II, §253, Aug. 21, 1974, 88 Stat. 519.)

§1753. Uniform rules of evidence requirement

The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

(Pub. L. 93–380, title II, §254, Aug. 21, 1974, 88 Stat. 520.)

§1754. Provisions respecting transportation of pupils to achieve racial balance and judicial power to insure compliance with constitutional standards applicable to the entire United States

The proviso of section 407(a) of the Civil Rights Act of 1964 [42 U.S.C. 2000c–6(a)] providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV [42 U.S.C. 2000c et seq.], under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

(Pub. L. 93–380, title II, §255, Aug. 21, 1974, 88 Stat. 520.)

§1755. Additional priority of remedies after finding of de jure segregation

Notwithstanding any other provision of law, after June 30, 1974 no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

(Pub. L. 93–380, title II, §256, Aug. 21, 1974, 88 Stat. 520.)

§1756. Remedies with respect to school district lines

In the formulation of remedies under this chapter the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

(Pub. L. 93–380, title II, §257, Aug. 21, 1974, 88 Stat. 520.)

§1757. Prohibition of forced busing during school year

(a) Congressional findings

The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Student transportation orders incidental to student transfers pursuant to school desegregation plans effective beginning with academic school year

Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) "Academic school year" defined

For the purpose of this section, the term "academic school year" means, pursuant to regulations promulgated by the Secretary, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) Orders subject to provisions of section

The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year.

(Pub. L. 93–380, title II, §258, Aug. 21, 1974, 88 Stat. 520; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

"Secretary", meaning the Secretary of Education, substituted for "Commissioner" in subsec. (c) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§1758. Reasonable time for developing voluntary school desegregation plans following detailed notice of violations

Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

(Pub. L. 93–380, title II, §259, Aug. 21, 1974, 88 Stat. 521.)

CHAPTER 40—CONSOLIDATION OF EDUCATION PROGRAMS

SUBCHAPTER I—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

PART A—GENERAL PROVISIONS

§§1801 to 1806. Omitted

CODIFICATION

Sections were omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

Section 1801, Pub. L. 89–10, title IV, §401, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 535; amended Pub. L. 94–482, title III, §328, Oct. 12, 1976, 90 Stat. 2220; Pub. L. 95–112, §2(d), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for making grants for libraries and library resources for fiscal years ending prior to Oct. 1, 1979.

Section 1802, Pub. L. 89–10, title IV, §402, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 537, provided for allotments to States.

Section 1803, Pub. L. 89–10, title IV, §403, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 538; amended Pub. L. 94–482, title III, §323(a)(3), title V, §501(e)(1), Oct. 12, 1976, 90 Stat. 2217, 2237, provided for structure and function of State plans.

Section 1804, Pub. L. 89–10, title IV, §404, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 540, directed Commissioner to afford the State educational agency reasonable notice and opportunity for a hearing prior to final disapproval of a State plan.

Section 1805, Pub. L. 89–10, title IV, §405, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 541, related to payments to States.

Section 1806, Pub. L. 89–10, title IV, §406, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 541; amended Pub. L. 94–482, title III, §324, title V, §501(r), Oct. 12, 1976, 90 Stat. 2220, 2238, related to participation of children enrolled in private schools.

PART B—LIBRARIES AND LEARNING RESOURCES

§1821. Omitted

CODIFICATION

Section, Pub. L. 89–10, title IV, §421, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 542, which authorized a program of grants relating to libraries and learning resources, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

PART C—EDUCATIONAL INNOVATION AND SUPPORT

§§1831, 1832. Omitted

CODIFICATION

Section 1831, Pub. L. 89–10, title IV, §431, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 543; amended Pub. L. 94–482, title V, §501(e)(2), Oct. 12, 1976, 90 Stat. 2237, which authorized a program of educational innovation and support, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

Section 1832, Pub. L. 89–10, title IV, §432, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 544, which provided for the use of cultural and educational resources, was omitted in the general revision of

the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

SUBCHAPTER II—SPECIAL PROJECTS

§§1851 to 1853. Repealed. Pub. L. 95–561, title III, §301(b)(2), Nov. 1, 1978, 92 Stat. 2228

Section 1851, act July 26, 1954, ch. 576, §2, as added Aug. 21, 1974, Pub. L. 93–380, title IV, §402(a)(1), 88 Stat. 544, set out Congressional statement of purpose in making provision for special projects to experiment with new educational and administrative methods, techniques, and practices, to meet special or unique educational needs or problems, and to place special emphasis on national education priorities.

Section 1852, act July 26, 1954, ch. 576, §3, as added Aug. 21, 1974, Pub. L. 93–380, title IV, §402(a)(1), 88 Stat. 544; amended Apr. 21, 1976, Pub. L. 94–273, §2(14), 90 Stat. 375, authorized Commissioner to contract with public and private groups in carrying out special projects.

Section 1853, act July 26, 1954, ch. 576, §4, as added Aug. 21, 1974, Pub. L. 93–380, title IV, §402(a)(1), 88 Stat. 545; amended Oct. 12, 1976, Pub. L. 94–482, title IV, §409(c), 90 Stat. 2233; S. Res. 4, Feb. 4, 1977, authorized appropriations for section 1852 contracts and development of plans for succeeding year.

EFFECTIVE DATE OF REPEAL

Pub. L. 95–561, title III, §301(b)(2), Nov. 1, 1978, 92 Stat. 2228, provided that the repeal is effective Sept. 30, 1979.

SUBCHAPTER III—PREFERENTIAL PROGRAMS

§§1861 to 1864. Repealed. Pub. L. 95–561, title III, §301(b)(1)(A)–(D), Nov. 1, 1978, 92 Stat. 2228

Section 1861, Pub. L. 93–380, title IV, §402(b), Aug. 21, 1974, 88 Stat. 545, related to reservation and apportionment of funds for certain authorized and described programs.

Section 1862, Pub. L. 93–380, title IV, §403, Aug. 21, 1974, 88 Stat. 546, related to education for use of metric system of measurement.

Section 1863, Pub. L. 93–380, title IV, §404, Aug. 21, 1974, 88 Stat. 547, related to education of gifted and talented children.

Section 1864, Pub. L. 93–380, title IV, §405, Aug. 21, 1974, 88 Stat. 549; Pub. L. 94–482, title V, §501(a)(5), Oct. 12, 1976, 90 Stat. 2235, related to Community schools.

EFFECTIVE DATE OF REPEAL

Pub. L. 95–561, title III, §301(b)(1), Nov. 1, 1978, 92 Stat. 2228, provided that the repeal is effective Sept. 30, 1979.

§1865. Transferred

CODIFICATION

Section, Pub. L. 93–380, title IV, §406, Aug. 21, 1974, 88 Stat. 551; Pub. L. 94–273, §2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–482, title V, §501(a)(6), (7), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95–207, §13(e), Dec. 13, 1977, 91 Stat. 1472; Pub. L. 95–561, title III, §301(b)(1)(E), (3), Nov. 1, 1978, 92 Stat. 2228, which related to career education and establishment of Office of Career Education and National Advisory Council for Career Education, was transferred to section 2612a of this title and subsequently omitted from the Code.

§§1866, 1867. Repealed. Pub. L. 95–561, title III, §301(b)(1)(G), (H), Nov. 1, 1978, 92 Stat. 2228

Section 1866, Pub. L. 93–380, title IV, §408, Aug. 21, 1974, 88 Stat. 554; Pub. L. 94–482, title III, §325, title V, §501(a)(8), Oct. 12, 1976, 90 Stat. 2220, 2235, related to educational equity for women.

Section 1867, Pub. L. 93–380, title IV, §409, Aug. 21, 1974, 88 Stat. 556; Pub. L. 94–273, §2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–462, title V, §501, Oct. 8, 1976, 90 Stat. 1981, provided for a program of elementary and secondary school education in the arts.

EFFECTIVE DATE OF REPEAL

Pub. L. 95–561, title III, §301(b)(1), Nov. 1, 1978, 92 Stat. 2228, provided that the repeal is effective Sept. 30, 1979.

CHAPTER 41—NATIONAL READING IMPROVEMENT PROGRAM

§1901. Repealed. Pub. L. 95–561, title XV, §1529, Nov. 1, 1978, 92 Stat. 2380

Section, Pub. L. 93–380, title VII, §701, Aug. 21, 1974, 88 Stat. 588, set forth statement of purpose for provisions respecting national reading improvement program.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER I—READING IMPROVEMENT PROJECTS

§1921. Repealed. Pub. L. 95–561, title XV, §1529, Nov. 1, 1978, 92 Stat. 2380

Section, Pub. L. 93–380, title VII, §705, Aug. 21, 1974, 88 Stat. 589; Pub. L. 94–194, §§1(a), (b)(3), 2, 3, Dec. 31, 1975, 89 Stat. 1103, 1104, set forth requirements for agreements for reading deficiencies projects with State and local educational agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER II—STATE READING IMPROVEMENT PROGRAMS

§§1941 to 1944. Repealed. Pub. L. 95–561, title XV, §1529, Nov. 1, 1978, 92 Stat. 2380

Section 1941, Pub. L. 93–380, title VII, §711, Aug. 21, 1974, 88 Stat. 591, set forth provisions respecting statement of purpose for State reading improvement programs.

Section 1942, Pub. L. 93–380, title VII, §712, Aug. 21, 1974, 88 Stat. 591, set forth applicability and effective date of provisions respecting State reading improvement programs.

Section 1943, Pub. L. 93–380, title VII, §713, Aug. 21, 1974, 88 Stat. 591, set forth requirements for allotments and reallotments for States.

Section 1944, Pub. L. 93–380, title VII, §714, Aug. 21, 1974, 88 Stat. 592; Pub. L. 94–194, §4, Dec. 31,

1975, 89 Stat. 1104, set forth provisions respecting requirements for grants for State reading improvement programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER III—OTHER READING IMPROVEMENT PROGRAMS

§§1961 to 1966. Repealed. Pub. L. 95–561, title XV, §1529, Nov. 1, 1978, 92 Stat. 2380

Section 1961, Pub. L. 93–380, title VII, §721, Aug. 21, 1974, 88 Stat. 594; Pub. L. 94–194, §10, Dec. 31, 1975, 89 Stat. 1107, set forth provisions relating to contracting requirements for special emphasis projects.

Section 1962, Pub. L. 93–380, title VII, §722, Aug. 21, 1974, 88 Stat. 595, set forth provisions relating to granting and contracting requirements for reading training on public television.

Section 1963, Pub. L. 93–380, title VII, §723, Aug. 21, 1974, 88 Stat. 595; Pub. L. 94–194, §5, Dec. 31, 1975, 89 Stat. 1104, set forth provisions relating to granting and contracting requirements for reading academies.

Section 1964, Pub. L. 93–380, title VII, §724, as added Pub. L. 94–194, §1(b)(1), Dec. 31, 1975, 89 Stat. 1103, set forth provisions relating to scope, authority, etc., with respect to State leadership and training activity agreements.

Section 1965, Pub. L. 93–380, title VII, §725, as added and amended Pub. L. 94–194, §6(a), (b)(1), Dec. 31, 1975, 89 Stat. 1104, 1105, set forth provisions relating to granting and contracting requirements for national impact reading programs.

Section 1966, Pub. L. 93–380, title VII, §726, as added Pub. L. 94–194, §9(a), Dec. 31, 1975, 89 Stat. 1105, set forth provisions relating to contracting requirements for an inexpensive book distribution program for reading motivation.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§§1981 to 1983. Repealed. Pub. L. 95–561, title XV, §1529, Nov. 1, 1978, 92 Stat. 2380

Section 1981, Pub. L. 93–380, title VII, §731, Aug. 21, 1974, 88 Stat. 596; Pub. L. 94–194, §7, Dec. 31, 1975, 89 Stat. 1105; S. Res. 4, Feb. 4, 1977, set forth evaluation requirements for programs.

Section 1982, Pub. L. 93–380, title VII, §732, Aug. 21, 1974, 88 Stat. 596; Pub. L. 94–194, §§1(c), 6(c), 9(b), Dec. 31, 1975, 89 Stat. 1104–1106, set forth provisions authorizing appropriations for covered programs.

Section 1983, Pub. L. 93–380, title VII, §733, as added Pub. L. 94–194, §8, Dec. 31, 1975, 89 Stat. 1105, set forth provisions relating to acceptance of gifts or donations by the Commissioner.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

CHAPTER 42—HARRY S TRUMAN MEMORIAL SCHOLARSHIPS

Sec.
2001. Congressional statement of findings.
2002. Definitions.
2003. Other Federal memorials prohibited.
2004. Harry S Truman Scholarship Foundation.
2005. Truman scholars.
2006. Selection of scholars.
2007. Stipends.
2008. Scholarship conditions.
2009. Harry S Truman Memorial Scholarship Trust Fund.
2009a. Investment of amounts appropriated and contributed to Harry S Truman Memorial Scholarship Trust Fund.
2009b. Payment to Trust Fund; Board requests binding on Secretary.
2010. Expenditures and audit of Trust Fund.
2011. Executive Secretary of Foundation.
2012. Administrative provisions.
2013. Authorization of appropriations.

§2001. Congressional statement of findings

The Congress finds that—

because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and National Government culminated in the leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S Truman through the creation of a perpetual education scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

(Pub. L. 93–642, §2, Jan. 4, 1975, 88 Stat. 2276.)

SHORT TITLE

Pub. L. 93–642, §1, Jan. 4, 1975, 88 Stat. 2276, provided: "That this Act [enacting this chapter] may be cited as the 'Harry S Truman Memorial Scholarship Act'."

§2002. Definitions

As used in this chapter, the term—

(1) "Board" means the Board of Trustees of the Harry S Truman Scholarship Foundation;

(2) "Foundation" means the Harry S Truman Scholarship Foundation;

(3) "fund" means the Harry S Truman Memorial Scholarship Fund;

(4) "institution of higher education" means any such institution as defined by section 1001 of this title;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) "Secretary" means the Secretary of the Treasury.

(Pub. L. 93–642, §3, Jan. 4, 1975, 88 Stat. 2276; Pub. L. 105–244, title I, §102(a)(6)(D), Oct. 7, 1998, 112 Stat. 1618.)

AMENDMENTS

1998—Par. (4). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§2003. Other Federal memorials prohibited

The Harry S Truman Scholarship Program as authorized by this chapter shall be the sole Federal memorial to President Harry S Truman.

(Pub. L. 93–642, §4, Jan. 4, 1975, 88 Stat. 2277.)

§2004. Harry S Truman Scholarship Foundation

(a) Establishment

There is established, as an independent establishment of the executive branch of the United States Government, the Harry S Truman Scholarship Foundation.

(b) Board of Trustees; membership

(1) [1] The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) two Members of the Senate, one from each political party, to be appointed by the President of the Senate;

(B) two Members of the House of Representatives, one from each political party, to be appointed by the Speaker;

(C) eight members, not more than four of whom shall be of the same political party, to be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public; and

(D) the Secretary of Education or his designate, who shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(c) Term of office

The term of office of each member of the Board shall be six years; except that (1) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Compensation

Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(Pub. L. 93–642, §5, Jan. 4, 1975, 88 Stat. 2277; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Commissioner of Education" in subsec. (b)(1)(D) pursuant to

sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

[1] *So in original. No par. (2) has been enacted.*

§2005. Truman scholars

(a) Basis for award

The Foundation is authorized to award scholarships to persons who demonstrate outstanding potential for and who plan to pursue a career in public service. Award recipients shall be known as Truman scholars.

(b) Maximum period of award

Scholarships under this chapter shall be awarded for such periods as the Foundation may prescribe but not to exceed four academic years.

(c) Recipient's choice of institution

A student awarded a scholarship under this chapter may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare persons for a career in public service as determined pursuant to criteria established by the Foundation.

(d) Encouragement of recipient to pursue public service career

Each student awarded a scholarship under this chapter must have indicated a serious intent to enter the public service upon the completion of his or her educational program. Each institution of higher education at which such a student is in attendance will make reasonable continuing efforts to encourage such a student to enter the public service upon completing his or her educational program.

(Pub. L. 93–642, §6, Jan. 4, 1975, 88 Stat. 2278.)

§2006. Selection of scholars

(a) Nationwide competition

The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the purpose of selecting Truman scholars.

(b) Procedures

The Foundation shall adopt selection procedures which shall assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation.

(Pub. L. 93–642, §7, Jan. 4, 1975, 88 Stat. 2278.)

§2007. Stipends

Each student awarded a scholarship under this chapter shall receive a stipend which shall not exceed the cost to such student for tuition, fees, books, room and board, or $10,000 (adjusted annually to reflect increases, if any, in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics) whichever is less for each academic year of study.

(Pub. L. 93–642, §8, Jan. 4, 1975, 88 Stat. 2278; Pub. L. 99–159, title V, §501, Nov. 22, 1985, 99 Stat. 904.)

AMENDMENTS

1985—Pub. L. 99–159 increased amount from $5,000 to $10,000 with provision for annual adjustments.

§2008. Scholarship conditions

(a) Satisfactory proficiency and devotion of full time to study or research; unapproved employment

A student awarded a scholarship under the provisions of this chapter shall continue to receive the payments provided in this chapter only during such periods as the Foundation finds that he or she is maintaining satisfactory proficiency and devoting full time to study or research designed to prepare him or her for a career in public service and is not otherwise engaging in gainful employment other than employment approved by the Foundation pursuant to regulation.

(b) Reports; certification by official of institution

The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under the provisions of this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, study or research, except as otherwise provided in subsection (a) of this section.

(Pub. L. 93–642, §9, Jan. 4, 1975, 88 Stat. 2278.)

§2009. Harry S Truman Memorial Scholarship Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the Harry S Truman Memorial Scholarship Trust Fund. The fund shall consist of amounts appropriated to it by section 2013 of this title.

(b) Investment in interest-bearing obligations

It shall be the duty of the Secretary to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Sale and redemption of obligations

Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Credit to the fund of interest and proceeds of sale or redemption

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 93–642, §10, Jan. 4, 1975, 88 Stat. 2279.)

CODIFICATION

In subsec. (b), "chapter 31 of title 31" substituted for "the Second Liberty Bond Act, as amended" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§2009a. Investment of amounts appropriated and contributed to Harry S Truman Memorial Scholarship Trust Fund

Notwithstanding section 2009(b) of this title, on and after December 26, 2007, at the request of the Board of Trustees of the Harry S Truman Scholarship Foundation, it shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the Harry S Truman Memorial Scholarship Trust Fund, as provided in such section. All requests of the Board of Trustees to the Secretary provided for in this section shall be binding on the Secretary.

(Pub. L. 110–161, div. D, title VI, §619, Dec. 26, 2007, 121 Stat. 2016.)

CODIFICATION

Section was enacted as part of the Financial Services and General Government Appropriations Act, 2008, and also as part of the Consolidated Appropriations Act, 2008, and not as part of the Harry S Truman Memorial Scholarship Act which comprises this chapter.

§2009b. Payment to Trust Fund; Board requests binding on Secretary

For payment to the Harry S Truman Scholarship Foundation Trust Fund, established by section 2009 of this title, $500,000, to remain available until expended: *Provided*, That on or after March 11, 2009, all requests of the Board of Trustees to the Secretary of the Treasury provided for in this section shall be binding on the Secretary, including requests for the issuance at par of special obligations exclusively to the fund as provided for in section 2009(b) of this title, which the Secretary shall implement without regard to the determination related to the public interest required by the last sentence of that section.

(Pub. L. 111–8, div. D, title V, Mar. 11, 2009, 123 Stat. 665.)

CODIFICATION

Section was enacted as part of the Financial Services and General Government Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the Harry S Truman Memorial Scholarship Act which comprises this chapter.

§2010. Expenditures and audit of Trust Fund

(a) Authorization of funding

The Secretary is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this chapter.

(b) Access to books, records, etc., by Government Accountability Office

The activities of the Foundation under this chapter may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 93–642, §11, Jan. 4, 1975, 88 Stat. 2279; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

§2011. Executive Secretary of Foundation

(a) Appointment; functions

There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this chapter as the Board shall delegate.

(b) Compensation

The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of title 5.

(Pub. L. 93–642, §12, Jan. 4, 1975, 88 Stat. 2280.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§2012. Administrative provisions

(a) Powers of Foundation

In order to carry out the provisions of this chapter, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 6101 of title 41;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31;

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) Annual report to Congress

The Foundation shall submit to the President and to the Congress an annual report of its operations

under this chapter.

(Pub. L. 93–642, §13, Jan. 4, 1975, 88 Stat. 2280.)

CODIFICATION

In subsec. (a)(6), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a)(7), "section 3324(a) and (b) of title 31" substituted for "section 3648 of the Revised Statutes, as amended (31 U.S.C. 529)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submitting annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 193 of House Document No. 103–7.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§2013. Authorization of appropriations

There are authorized to be appropriated $30,000,000 to the fund.

(Pub. L. 93–642, §14, Jan. 4, 1975, 88 Stat. 2280.)

CHAPTER 43—AMERICAN FOLKLIFE PRESERVATION

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
2101. Congressional declaration of findings and purpose.
2102. Definitions.
2103. American Folklife Center.
2104. Functions of Center.
2105. Limitations on contracts.
2106. Administration.
2107. Authorization of appropriations.

SUBCHAPTER II—VETERANS' ORAL HISTORY

2141. Findings; purpose.
2142. Establishment of program at American Folklife Center to collect video and audio recordings of histories of veterans.
2143. Private support.
2144. Authorization of appropriations.

SUBCHAPTER I—GENERAL PROVISIONS

§2101. Congressional declaration of findings and purpose

(a) The Congress hereby finds and declares—

(1) that the diversity inherent in American folklife has contributed greatly to the cultural richness of the Nation and has fostered a sense of individuality and identity among the American people;

(2) that the history of the United States effectively demonstrates that building a strong nation does not require the sacrifice of cultural differences;

(3) that American folklife has a fundamental influence on the desires, beliefs, values, and character of the American people;

(4) that it is appropriate and necessary for the Federal Government to support research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs, and values of the American people in both rural and urban areas;

(5) that the encouragement and support of American folklife, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government; and

(6) that it is in the interest of the general welfare of the Nation to preserve, support, revitalize, and disseminate American folklife traditions and arts.

(b) It is therefore the purpose of this subchapter to establish in the Library of Congress an American Folklife Center to preserve and present American folklife.

(Pub. L. 94–201, §2, Jan. 2, 1976, 89 Stat. 1129.)

SHORT TITLE

Pub. L. 94–201, §1, Jan. 2, 1976, 89 Stat. 1129, provided: "That this Act [enacting this subchapter] may be cited as the 'American Folklife Preservation Act'."

Pub. L. 106–380, §1, Oct. 27, 2000, 114 Stat. 1447, provided that: "This Act [enacting subchapter II of this chapter] may be cited as the 'Veterans' Oral History Project Act'."

FINDINGS AND PURPOSE OF 1998 AMENDMENT

Pub. L. 105–275, title III, §312(a), Oct. 21, 1998, 112 Stat. 2457, provided that:

"(1) FINDINGS.—Congress makes the following findings:

"(A) The American Folklife Center in the Library of Congress was created by Congress in 1976, building on the vast expertise and archival material existing at the Library since 1928.

"(B) As an instrumentality of the Congress, it is fitting that the American Folklife Center should have a direct and close relationship with the representatives of the people, who are best able to oversee the ongoing activities of the Center to preserve and promote the cultural traditions of the people, and to ensure that the resources of the Center be readily available to all Americans.

"(C) In over 20 years since its creation, the American Folklife Center in the Library of Congress has—

"(i) increased the size of the Archive of Folk Culture from 500,000 to 1,500,000 multi-format ethnographic items;

"(ii) engaged in 15 cultural surveys and field documentation projects in all regions of the country;

"(iii) provided publications, documentary equipment on loan, and advisory and reference service to persons and institutions in all 50 States;

"(iv) produced exhibitions and other educational programs on American Folklife at the Library and around the country;

"(v) begun sharing its unique collections in digital form via the Internet; and

"(vi) served as a national center for the professions of folklore, ethnomusicology, and cultural studies.

"(D) Congress has consistently provided encouragement and support of American Folklife as an appropriate matter of concern to the Federal Government, passing legislation to reauthorize the Center eight times since its creation in 1976.

"(E) The American Folklife Center is the only unit in the Library of Congress which is not permanently authorized. Since its establishment in 1976, the Center's collections and activities have been fully and successfully integrated into the Library of Congress. It is useful to statutorily conform the American Folklife Center with the rest of the Library of Congress.

"(2) PURPOSE.—It is the purpose of this section [amending sections 2103, 2106, and 2107 of this title and enacting provisions set out as a note under section 2103 of this title] to authorize permanently the American Folklife Center in the Library of Congress to preserve and present American Folklife."

§2102. Definitions

As used in this subchapter—

(1) the term "American folklife" means the traditional expressive culture shared within the various groups in the United States: familial, ethnic, occupational, religious, regional; expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, handicraft; these expressions are mainly learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction;

(2) the term "Board" means the Board of Trustees of the Center;

(3) the term "Center" means the American Folklife Center established under this subchapter;

(4) the term "group" includes any State or public agency or institution and any nonprofit society, institution, organization, association, or establishment in the United States;

(5) the term "Librarian" means the Librarian of Congress;

(6) the term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands; and

(7) the term "workshop" means an activity the primary purpose of which is to encourage the development of skills, appreciation, or enjoyment of American folklife among amateur, student, or nonprofessional participants, or to promote scholarship or teaching among the participants.

(Pub. L. 94–201, §3, Jan. 2, 1976, 89 Stat. 1129.)

§2103. American Folklife Center

(a) Establishment

There is hereby established in the Library of Congress an American Folklife Center.

(b) Board of Trustees; composition; regional balance

(1) The Center shall be under the direction of a Board of Trustees. The Board shall be composed as follows:

(A) four members appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American Folklife traditions and arts;

(B) four members appointed by the President pro tempore of the Senate from among individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American Folklife traditions and arts, and four members appointed by the Speaker of the House of Representatives from among such individuals;

(C) four members appointed by the Librarian of Congress from among individuals who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts; and

(D) seven ex officio members including—

(i) the Librarian of Congress;

(ii) the Secretary of the Smithsonian Institution;

(iii) the Chairman of the National Endowment for the Arts;

(iv) the Chairman of the National Endowment for the Humanities;

(v) the President of the American Folklore Society;

(vi) the President of the Society for Ethnomusicology; and

(vii) the Director of the Center.

(2) In making appointments from private life under paragraph (1)(B) and (C), the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Librarian of Congress shall give due consideration to the appointment of individuals who collectively will provide

appropriate diversity and regional balance on the Board. Not more than three of the members appointed by the President pro tempore of the Senate or by the Speaker of the House of Representatives may be affiliated with the same political party.

(3) In making appointments under paragraph (1)(C), the Librarian of Congress shall include at least two members who direct or are members of the boards of major American folklife organizations other than the American Folklore Society and the Society for Ethnomusicology.

(c) Term of office

The term of office of each appointed member of the Board shall be six years; except that (1)(A) the members first appointed under clause (1) of subsection (b) of this section shall serve as designated by the President, one for a term of two years, two for a term of four years, and one for a term of six years, and (B) the members first appointed under clause (2) of subsection (b) of this section shall serve as jointly designated by the President pro tempore of the Senate and the Speaker of the House of Representatives, two for terms of two years, four for terms of four years, and two for terms of six years; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of such term. Members appointed by the President under clause (1) of subsection (b) of this section shall serve only during the time they are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts.

(d) Reimbursement for expenses

Members of the Board shall serve without pay, but members who are not regular full-time employees of the United States may, at the discretion of the Librarian, be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Board.

(e) Chairman; Vice Chairman; election; vacancies; quorum; annual meeting

(1) The Librarian shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve for a term of one year. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years. The Vice Chairman shall perform the duties of the Chairman in his absence. In case of a vacancy occurring in the chairmanship or vice-chairmanship, the Board shall elect a member to fill the vacancy for the remainder of the unexpired term.

(2) A majority of the members of the Board currently serving shall constitute a quorum.

(3) The Board shall meet at least once each fiscal year.

(f) Director; appointment and compensation

After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at an annual rate that is not less than an amount equal to 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule nor more than an amount equal to the pay payable under level IV of the Executive Schedule under section 5315 of title 5.

(g) Duties of Director

The Director shall be the chief executive officer of the Center. Subject to the direction of the Board and the general supervision of the Librarian, the Director shall have responsibility for carrying out functions of the Center, and shall have authority over all personnel and activities of the Center.

(Pub. L. 94–201, §4, Jan. 2, 1976, 89 Stat. 1130; Pub. L. 95–259, §2, Apr. 17, 1978, 92 Stat. 196; Pub. L. 105–275, title III, §312(b)(1), Oct. 21, 1998, 112 Stat. 2458.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (f), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–275, §312(b)(1)(A), added subsec. (b) and struck out former subsec. (b) which read as follows: "The Center shall be under the direction of a Board of Trustees. The Board shall be

composed as follows—

"(1) four members appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts;

"(2) four members appointed by the President pro tempore of the Senate from among individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts, and four members appointed by the Speaker of the House of Representatives from among such individuals;

"(3) the Librarian of Congress;

"(4) the Secretary of the Smithsonian Institution;

"(5) the Chairman of the National Endowment for the Arts;

"(6) the Chairman of the National Endowment for the Humanities; and

"(7) the Director of the Center.

In making appointments from private life under clause 2, the President pro tempore of the Senate and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who collectively will provide appropriate regional balance on the Board. Not more than three of the members appointed by the President pro tempore of the Senate or by the Speaker of the House of Representatives may be affiliated with the same political party."

Subsec. (d). Pub. L. 105–275, §312(b)(1)(B), added subsec. (d) and struck out former subsec. (d) which read as follows: "Members of the Board who are not regular full-time employees of the United States shall be entitled, while serving on business of the Center, to receive compensation at rates fixed by the Librarian, but not exceeding $100 per diem, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently."

Subsec. (e)(2). Pub. L. 105–275, §312(b)(1)(C)(i), inserted "currently serving" after "Board".

Subsec. (e)(3). Pub. L. 105–275, §312(b)(1)(C)(ii), added par. (3).

Subsec. (f). Pub. L. 105–275, §312(b)(1)(D), added subsec. (f) and struck out former subsec. (f) which read as follows: "After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at a per year rate not to exceed GS–18 of the General Schedule under section 5332 of title 5. The Librarian upon the recommendation of the Director shall appoint a Deputy Director of the Center. The basic pay of the Deputy Director shall be fixed at a rate not to exceed GS–16 of the General Schedule under section 5332 of such title."

Subsec. (g). Pub. L. 105–275, §312(b)(1)(E), struck out "(1)" before "The Director" and struck out par. (2) which read as follows: "The Deputy Director shall perform such functions as the Director, with the approval of the Librarian, may prescribe, and shall serve as Acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director."

1978—Subsec. (c). Pub. L. 95–259 inserted provision limiting time of service of members appointed by the President to the time they are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts.

BOARD OF TRUSTEES, TRANSITION PERIOD

Pub. L. 105–275, title III, §312(d), Oct. 21, 1998, 112 Stat. 2460, provided that: "The term of office of members of the Board of Trustees appointed by the Librarian of Congress under the amendments made by subsection (b)(1) [amending this section] shall be 6 years, except that of the four members first appointed by the Librarian, one shall serve for a term of 2 years, two for a term of 4 years, and one for a term of 6 years."

§2104. Functions of Center

(a) Contracts; national archive and center for American folklife; loan of items in archive; procurement, display, etc., of items in archive; miscellaneous programs

The Librarian is authorized to—

(1) enter into, in conformity with Federal procurement statutes and regulations, contracts with individuals and groups for programs for the—

(A) initiation, encouragement, support, organization, and promotion of research, scholarship, and training in American folklife;

(B) initiation, promotion, support, organization, and production of live performances, festivals, exhibits, and workshops related to American folklife;

(C) purchase, receipt, production, arrangement for, and support of the production of exhibitions, displays, publications, and presentations (including presentations by still and motion picture films, and audio and visual magnetic tape recordings) which represent or illustrate some aspect of American folklife; and

(D) purchase, production, arrangement for, and support of the production of exhibitions, projects, presentations, and materials specially designed for classroom use representing or illustrating some aspect of American folklife;

(2) establish and maintain in conjunction with any Federal department, agency, or institution a national archive and center for American folklife;

(3) procure, receive, purchase, and collect for preservation or retention in an appropriate archive creative works, exhibitions, presentations, objects, materials, artifacts, manuscripts, publications, and audio and visual records (including still and motion picture film records, audio and visual magnetic tape recordings, written records, and manuscripts) which represent or illustrate some aspect of American folklife;

(4) loan, or otherwise make available, through Library of Congress procedures, any item in the archive established under this subchapter to any individual or group;

(5) present, display, exhibit, disseminate, communicate, and broadcast to local, regional, State, or National audiences any exhibition, display, or presentation referred to in clause (3) of this section or any item in the archive established pursuant to clause (2) of this section, by making appropriate arrangements, including contracts with public, nonprofit, and private radio and television broadcasters, museums, educational institutions, and such other individuals and organizations, including corporations, as the Board deems appropriate;

(6) loan, lease, or otherwise make available to public, private, and nonprofit educational institutions, and State arts councils established pursuant to the National Foundation on the Arts and the Humanities Act of 1965 [20 U.S.C. 951 et seq.], such exhibitions, programs, presentations, and material developed pursuant to clause (1)(D) of this subsection as the Board deems appropriate; and

(7) develop and implement other appropriate programs to preserve, support, revitalize, and disseminate American folklife.

(b) Functions carried out through Center

The Librarian shall carry out his functions under this subchapter through the Center.

(Pub. L. 94–201, §5, Jan. 2, 1976, 89 Stat. 1131.)

REFERENCES IN TEXT

The National Foundation on the Arts and the Humanities Act of 1965, referred to in subsec. (a)(6), is Pub. L. 89–209, Sept. 29, 1965, 79 Stat. 845, as amended, which is classified principally to subchapter I (§951 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

§2105. Limitations on contracts

(a) Time

No payment shall be made pursuant to this subchapter to carry out any research or training over a period in excess of two years, except that with the concurrence of at least two-thirds of the members of the Board of the Center such research or training may be carried out over a period of not to exceed five years.

(b) Items excluded

Assistance pursuant to this subchapter shall not cover the cost of land acquisition, construction, building acquisitions, or acquisition of major equipment.

(c) Former Government employees

No individual formerly in the employment of the Federal Government shall be eligible to receive any assistance pursuant to this subchapter, or to serve as a trustee of the Center in the two-year period following the termination of such employment.

(Pub. L. 94–201, §6, Jan. 2, 1976, 89 Stat. 1132.)

§2106. Administration

(a) Regulations; receipt of money and other property; compensation of personnel; services of experts and consultants; contracts; payments

In addition to any authority vested in it by other provisions of this subchapter, the Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be for the purposes of the Center and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions, without reference to Federal property disposal statutes;

(3) in the discretion of the Board of Trustees, receive (and use, sell, or otherwise dispose of, in accordance with clause (2)) money and other property donated, bequeathed, or devised to the Center with a condition or restriction, including a condition that the Center use other funds of the Center for the purpose of the gift;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subchapter in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that the Librarian of Congress may appoint and fix the compensation of a reasonable number of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(7) enter into contracts to carry out the provisions of this subchapter, and such contracts may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds and in conformity with section 6101 of title 41; and

(8) make advances, progress, and other payments which the Board deems necessary under this subchapter in conformity with the provisions of section 3324(a) and (b) of title 31.

(b) Annual report to Congress

The Director shall submit to the Librarian for inclusion in the annual report of the Library of Congress to the Congress an annual report of the operations of the Center under this subchapter, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Center deems appropriate.

(Pub. L. 94–201, §7, Jan. 2, 1976, 89 Stat. 1133; Pub. L. 105–275, §312(b)(2), Oct. 21, 1998, 112 Stat. 2459.)

CODIFICATION

In subsec. (a)(7), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a)(8), "section 3324(a) and (b) of title 31" substituted for "section 3648 of the Revised Statutes, as amended (31 U.S.C. 529)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105–275 struck out before semicolon at end ", but no individual so appointed shall receive compensation in excess of the rate received by the Deputy Director of the Center".

§2107. Authorization of appropriations

There are authorized to be appropriated to the Center to carry out this subchapter such sums as may be necessary for each fiscal year.

(Pub. L. 94–201, §8, Jan. 2, 1976, 89 Stat. 1134; Pub. L. 95–259, §1, Apr. 17, 1978, 92 Stat. 196; Pub. L. 96–522, Dec. 12, 1980, 94 Stat. 3038; Pub. L. 98–392, §§1, 2, Aug. 21, 1984, 98 Stat. 1362; Pub. L. 99–473, Oct. 16, 1986, 100 Stat. 1212; Pub. L. 101–99, Sept. 26, 1989, 103 Stat. 637; Pub. L. 102–399, Oct. 7, 1992, 106 Stat. 1954; Pub. L. 103–101, §1, Oct. 8, 1993, 107 Stat. 1020; Pub. L. 104–197, title II, §209, Sept. 16, 1996, 110 Stat. 2410; Pub. L. 105–275, title III, §312(c), Oct. 21, 1998, 112 Stat. 2459.)

AMENDMENTS

1998—Pub. L. 105–275 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to the Center to carry out this subchapter such sums as may be necessary for each of the fiscal years 1997 and 1998."

1996—Pub. L. 104–197 substituted "Authorization of appropriations" for "Authorization" in section catchline and amended text generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to the Center to carry out the provisions of this subchapter $133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976, $295,000 for the fiscal year 1977, $349,000 for the fiscal year 1978, $685,000 for the fiscal year ending September 30, 1979, $1,065,000 for the fiscal year ending September 30, 1980, $1,355,000 for the fiscal year ending September 30, 1981, $740,000 for the fiscal year ending September 30, 1982, $890,000 for the fiscal year ending September 30, 1983, $990,000 for the fiscal year ending September 30, 1984, $838,549 for the fiscal year ending September 30, 1985, $867,898 for the fiscal year ending September 30, 1986, $867,900 for the fiscal year ending September 30, 1987, $919,974 for the fiscal year ending September 30, 1988, $975,172 for the fiscal year ending September 30, 1989, $998,000 for the fiscal year ending September 30, 1990, $1,050,100 for the fiscal year ending September 30, 1991, $1,120,000 for the fiscal year ending September 30, 1992, $1,120,000 for the fiscal year ending September 30, 1993, $1,120,000 for the fiscal year ending September 30, 1994, and $1,120,000 for the fiscal year ending September 30, 1995."

1993—Pub. L. 103–101 struck out "and" after "September 30, 1992," and inserted before period at end ", $1,120,000 for the fiscal year ending September 30, 1994, and $1,120,000 for the fiscal year ending September 30, 1995".

1992—Pub. L. 102–399 substituted "1991," for "1991, and" and inserted ", and $1,120,000 for the fiscal year ending September 30, 1993" after "September 30, 1992".

1989—Pub. L. 101–99 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1990, Sept. 30, 1991, and Sept. 30, 1992, of $998,000, $1,050,100, and $1,120,000, respectively. Direction to strike out "and" after "1988" was executed by striking "and" after "1988," to reflect the probable intent of Congress.

1986—Pub. L. 99–473 struck out subsec. designation "(a)" before "There are authorized" and "and" after "1985,", inserted ", $867,900 for the fiscal year ending September 30, 1987, $919,974 for the fiscal year ending September 30, 1988, and $975,172 for the fiscal year ending September 30, 1989", and struck out subsec. (b) which provided that no amount authorized by subsec. (a) of this section for fiscal years ending Sept. 30, 1985, or Sept. 30, 1986, be used for pay, benefits, or other expenses of any personnel position established after Aug. 21, 1984.

1984—Pub. L. 98–392 designated existing provisions as subsec. (a), in subsec. (a), as so designated, inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, and Sept. 30, 1986, of $838,549 and $867,898, respectively, and added subsec. (b).

1980—Pub. L. 96–522 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, of $740,000, $890,000, and $990,000, respectively.

1978—Pub. L. 95–259 inserted provisions for the appropriation of $685,000, $1,065,000 and $1,355,000 for the fiscal years ending Sept. 30, 1979, 1980 and 1981, respectively.

SUBCHAPTER II—VETERANS' ORAL HISTORY

§2141. Findings; purpose

(a) Findings

Congress finds as follows:

(1) Military service during a time of war is the highest sacrifice a citizen may make for his or her country.

(2) 4,700,000 Americans served in World War I, 16,500,000 Americans served in World War II, 6,800,000 Americans served in the Korean Conflict, 9,200,000 Americans served in the Vietnam Conflict, 3,800,000 Americans served in the Persian Gulf War, and countless other Americans served in military engagements overseas throughout the 20th century.

(3) The Department of Veterans Affairs reports that there are almost 19,000,000 war veterans living in this Nation today.

(4) Today there are only approximately 3,400 living veterans of World War I, and of the some 6,000,000 veterans of World War II alive today, almost 1,500 die each day.

(5) Oral histories are of immeasurable value to historians, researchers, authors, journalists, film makers, scholars, students, and citizens of all walks of life.

(6) War veterans possess an invaluable resource in their memories of the conflicts in which they served, and can provide a rich history of our Nation and its people through the retelling of those memories, yet frequently those who served during times of conflict are reticent to family and friends about their experiences.

(7) It is in the Nation's best interest to collect and catalog oral histories of American war veterans so that future generations will have original sources of information regarding the lives and times of those who served in war and the conditions under which they endured, so that Americans will always remember those who served in war and may learn first-hand of the heroics, tediousness, horrors, and triumphs of war.

(8) The Library of Congress, as the Nation's oldest Federal cultural institution and largest and most inclusive library in human history (with nearly 119,000,000 items in its multimedia collection) [1] is an appropriate repository to collect, preserve, and make available to the public an archive of these oral histories. The Library's American Folklife Center has expertise in the management of documentation projects and experience in the development of cultural and educational programs for the public.

(b) Purpose

It is the purpose of this subchapter to create a new federally sponsored, authorized, and funded program that will coordinate at a national level the collection of video and audio recordings of personal histories and testimonials of American war veterans, and to assist and encourage local efforts to preserve the memories of this Nation's war veterans so that Americans of all current and future generations may hear directly from veterans and better appreciate the realities of war and the sacrifices made by those who served in uniform during wartime.

(Pub. L. 106–380, §2, Oct. 27, 2000, 114 Stat. 1447.)

SHORT TITLE

For short title of this subchapter as the "Veterans' Oral History Project Act", see section 1 of Pub. L. 106–380, set out as a note under section 2101 of this title.

[1] *So in original. Probably should be followed by a comma.*

§2142. Establishment of program at American Folklife Center to collect video and audio recordings of histories of veterans

(a) In general

The Director of the American Folklife Center at the Library of Congress shall establish an oral history program—

(1) to collect video and audio recordings of personal histories and testimonials of veterans of the Armed Forces who served during a period of war;

(2) to create a collection of the recordings obtained (including a catalog and index) which will be available for public use through the National Digital Library of the Library of Congress and such other methods as the Director considers appropriate to the extent feasible subject to available resources; and

(3) to solicit, reproduce, and collect written materials (such as letters and diaries) relevant to the personal histories of veterans of the Armed Forces who served during a period of war and to catalog such materials in a manner the Director considers appropriate, consistent with and complimentary [1] to the efforts described in paragraphs (1) and (2).

(b) Use of and consultation with other entities

The Director may carry out the activities described in paragraphs (1) and (3) of subsection (a) of this section through agreements and partnerships entered into with other government and private entities, and may otherwise consult with interested persons (within the limits of available resources) and develop appropriate guidelines and arrangements for soliciting, acquiring, and making available recordings under the program under this subchapter.

(c) Timing

As soon as practicable after October 27, 2000, the Director shall begin collecting video and audio recordings under subsection (a)(1) of this section, and shall attempt to collect the first such recordings from the oldest veterans.

(Pub. L. 106–380, §3, Oct. 27, 2000, 114 Stat. 1448.)

NATIONAL PUBLIC AWARENESS AND PARTICIPATION CAMPAIGN FOR VETERANS' HISTORY PROJECT OF AMERICAN FOLKLIFE CENTER

Pub. L. 112–239, div. A, title V, §594, Jan. 2, 2013, 126 Stat. 1771, provided that:

"(a) IN GENERAL.—The Director of the American Folklife Center at the Library of Congress shall carry out a national public awareness and participation campaign for the program required by section 3(a) of the Veterans' Oral History Project Act (20 U.S.C. 2142(a)). Such campaign shall provide for the following:

"(1) Encouraging the people of the United States, veterans organizations, community groups, and national organizations to participate in such program.

"(2) Ensuring greater awareness and participation throughout the United States in such program.

"(3) Providing meaningful opportunities for learning about the experiences of veterans.

"(4) Complementing the efforts supporting the readjustment and successful reintegration of veterans into civilian life after service in the Armed Forces.

"(b) COORDINATION AND COOPERATION.—To the degree practicable, the Director shall, in carrying out the campaign required by subsection (a), coordinate and cooperate with veterans service organizations.

"(c) VETERANS SERVICE ORGANIZATION DEFINED.—In this section, the term 'veterans service organization' means any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code."

[1] *So in original. Probably should be complementary.*

§2143. Private support

(a) Acceptance of donations

The Librarian of Congress may solicit and accept donations of funds and in-kind contributions to carry out the oral history program under section 2142 of this title.

(b) Establishment of separate gift account

There is established in the Treasury (among the accounts of the Library of Congress) a gift account for the oral history program under section 2142 of this title.

(c) Dedication of funds

Notwithstanding any other provision of law—

(1) any funds donated to the Librarian of Congress to carry out the oral history program under section 2142 of this title shall be deposited entirely into the gift account established under subsection (b) of this section;

(2) the funds contained in such account shall be used solely to carry out the oral history program under section 2142 of this title; and

(3) the Librarian of Congress may not deposit into such account any funds donated to the Librarian which are not donated for the exclusive purpose of carrying out the oral history program under section 2142 of this title.

(Pub. L. 106–380, §4, Oct. 27, 2000, 114 Stat. 1448.)

§2144. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter—

(1) $250,000 for fiscal year 2001; and

(2) such sums as may be necessary for each succeeding fiscal year.

(Pub. L. 106–380, §5, Oct. 27, 2000, 114 Stat. 1449.)

CHAPTER 44—CAREER AND TECHNICAL EDUCATION

Sec.

2301. Purpose.
2302. Definitions.
2303. Transition provisions.
2304. Privacy.
2305. Limitation.
2306. Special rule.
2306a. Prohibitions.
2307. Authorization of appropriations.
2308. Interdepartmental Task Force on Vocational Education and Related Programs.

SUBCHAPTER I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

PART A—ALLOTMENT AND ALLOCATION

2321. Reservations and State allotment.
2322. Within State allocation.
2323. Accountability.
2324. National activities.
2325. Assistance for outlying areas.
2326. Native American programs.
2327. Tribally controlled postsecondary career and technical institutions.
2328. Occupational and employment information.

PART B—STATE PROVISIONS

2341. State administration.
2342. State plan.
2343. Improvement plans.
2344. State leadership activities.

PART C—LOCAL PROVISIONS

2351. Distribution of funds to secondary education programs.

2352. Distribution of funds for postsecondary education programs.
2353. Special rules for career and technical education.
2354. Local plan for career and technical education programs.
2355. Local uses of funds.

SUBCHAPTER II—TECH PREP EDUCATION

2371. State allotment and application.
2372. Consolidation of funds.
2373. Tech prep program.
2374. Consortium applications.
2375. Report.
2376. Authorization of appropriations.

SUBCHAPTER III—GENERAL PROVISIONS

PART A—FEDERAL ADMINISTRATIVE PROVISIONS

2391. Fiscal requirements.
2392. Authority to make payments.
2393. Construction.
2394. Voluntary selection and participation.
2395. Limitation for certain students.
2396. Federal laws guaranteeing civil rights.
2397. Participation of private school personnel and children.
2398. Limitation on Federal regulations.

PART B—STATE ADMINISTRATIVE PROVISIONS

2411. Joint funding.
2412. Prohibition on use of funds to induce out-of-State relocation of businesses.
2413. State administrative costs.
2414. Student assistance and other Federal programs.

CODIFICATION

The Carl D. Perkins Career and Technical Education Act of 2006, comprising this chapter, was originally enacted as part A of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, known as the Vocational Education Act of 1963, and classified to sections 35 to 35n of this title. Part A of Pub. L. 88–210 was subsequently redesignated as title I and amended generally by Pub. L. 90–576, title I, §101, Oct. 16, 1968, 82 Stat. 1064, further amended by Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 93–567, Dec. 31, 1974, 88 Stat. 1845; Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 713; Pub. L. 94–273, Apr. 21, 1976, 90 Stat. 375, and reclassified to chapter 32 (§§1241–1393f) of this title. Title I of Pub. L. 88–210 was subsequently amended generally by Pub. L. 94–482, title II, §202(a), Oct. 12, 1976, 90 Stat. 2169, and reclassified to this chapter. Pub. L. 88–210 was subsequently amended by Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2435, by striking out all after the enacting clause and inserting in lieu thereof titles I to V (§§1–521), to be cited as the Carl D. Perkins Vocational Education Act, and further amended by Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887; Pub. L. 99–357, July 8, 1986, 100 Stat. 761; Pub. L. 100–202, Dec. 22, 1987, 101 Stat. 1329; Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130; Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1107. Pub. L. 88–210 was subsequently extensively amended by Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753, including an amendment to provide that the Act be cited as the Carl D. Perkins Vocational and Applied Technology Education Act, and was further amended by Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 102–103, Aug. 17, 1991, 105 Stat. 497; Pub. L. 102–367, Sept. 7, 1992, 106 Stat. 1021; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125; Pub. L. 103–239, May 4, 1994, 108 Stat. 568; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 104–66, Dec. 21, 1995, 109 Stat. 707; Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105; Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581. Pub. L. 88–210 was subsequently amended generally by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076, including an amendment to provide that the Act be cited as the Carl D. Perkins Vocational and Technical Education Act of 1998, and was further amended by Pub. L. 106–246, July 13, 2000, 114 Stat. 511; Pub. L. 106–554, Dec. 21, 2000, 114 Stat. 2763; Pub. L. 107–20, July 24, 2001, 115 Stat. 155; Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1425. Pub. L. 88–210 was subsequently amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, including an amendment to provide that the Act be

cited as the Carl D. Perkins Career and Technical Education Act of 2006. Pub. L. 88–210 is shown herein, however, as having been added by Pub. L. 109–270 without reference to the intervening amendments listed above because of the extensive revision of Pub. L. 88–210 by Pub. L. 109–270.

§2301. Purpose

The purpose of this chapter is to develop more fully the academic and career and technical skills of secondary education students and postsecondary education students who elect to enroll in career and technical education programs, by—

(1) building on the efforts of States and localities to develop challenging academic and technical standards and to assist students in meeting such standards, including preparation for high skill, high wage, or high demand occupations in current or emerging professions;

(2) promoting the development of services and activities that integrate rigorous and challenging academic and career and technical instruction, and that link secondary education and postsecondary education for participating career and technical education students;

(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve career and technical education, including tech prep education;

(4) conducting and disseminating national research and disseminating information on best practices that improve career and technical education programs, services, and activities;

(5) providing technical assistance that—

(A) promotes leadership, initial preparation, and professional development at the State and local levels; and

(B) improves the quality of career and technical education teachers, faculty, administrators, and counselors;

(6) supporting partnerships among secondary schools, postsecondary institutions, baccalaureate degree granting institutions, area career and technical education schools, local workforce investment boards, business and industry, and intermediaries; and

(7) providing individuals with opportunities throughout their lifetimes to develop, in conjunction with other education and training programs, the knowledge and skills needed to keep the United States competitive.

(Pub. L. 88–210, §2, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 684.)

PRIOR PROVISIONS

A prior section 2301, Pub. L. 88–210, §2, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3077, stated purpose of this chapter, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2301, Pub. L. 88–210, §2, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2437; amended Pub. L. 101–392, §2, Sept. 25, 1990, 104 Stat. 756, stated purpose of this chapter, prior to the general amendment of this chapter by Pub. L. 105–332.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–270, §1(a), Aug. 12, 2006, 120 Stat. 683, provided that: "This Act [see Tables for classification] may be cited as the 'Carl D. Perkins Career and Technical Education Improvement Act of 2006'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–332, §1(a), Oct. 31, 1998, 112 Stat. 3076, provided that: "This Act [see Tables for classification] may be cited as the 'Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–392, §1(a), Sept. 25, 1990, 104 Stat. 753, provided that: "This Act [see Tables for classification] may be cited as the 'Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990'."

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–576, §1, Oct. 16, 1968, 82 Stat. 1064, provided that: "This Act [enacting sections 6, 1119c to 1119c–4, 1226, 1241 to 1248, 1261 to 1264, 1281 to 1284, 1301 to 1305, 1321 to 1323, 1341, 1351 to 1355, 1371 to 1374, and 1391 of this title, amending sections 237, 237 note, 238, 239, 240, 241, 403, 421, 422, 423, 423 note, 425, 425 note, 426, 441, 442, 442 note, 443, 444, 462, 464, 481, 482, 482 note, 483, 484, 491, 511, 521, 541, 551, 561, 563, 588, 589, 611, 633, 644, 645, 1202, and 1221 of this title, repealing sections 15i, 15i note, 15j to 15q, 15aa to 15jj, 15aaa to 15ggg, 30, 31 to 33, and 34 of this title and section 1667 of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under sections 6, 11, 240, 886, 1202, 1321, and 2301 of this title and section 2809 of Title 42, The Public Health and Welfare may be cited as the 'Vocational Education Amendments of 1968'."

SHORT TITLE

Pub. L. 88–210, §1(a), as added by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, provided that: "This Act [enacting this chapter] may be cited as the 'Carl D. Perkins Career and Technical Education Act of 2006'."

Pub. L. 88–210, title II, §201, as added by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3117, which provided that title II of Pub. L. 88–210, enacting subchapter II of this chapter, could be cited as the "Tech-Prep Education Act", was omitted in the general amendment of Pub. L. 88–210 by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683.

VOCATIONAL EDUCATION POLICY

Pub. L. 98–524, §6, Oct. 19, 1984, 98 Stat. 2491, provided that: "It is the sense of the Congress that effective vocational education programs are essential to our future as a free and democratic society; that such programs are best administered by local communities, and community colleges school boards, where the primacy of parental control can be emphasized with a minimum of Federal interference; and that as a means to strengthening vocational education and training programs, nongovernmental alternatives promoting links between public school needs and private sector sources of support should be encouraged and implemented."

§2302. Definitions

Unless otherwise specified, in this chapter:

(1) Administration

The term "administration", when used with respect to an eligible agency or eligible recipient, means activities necessary for the proper and efficient performance of the eligible agency or eligible recipient's duties under this chapter, including the supervision of such activities. Such term does not include curriculum development activities, personnel development, or research activities.

(2) All aspects of an industry

The term "all aspects of an industry" means strong experience in, and comprehensive understanding of, the industry that the individual is preparing to enter, including information as described in section 2328 of this title.

(3) Area career and technical education school

The term "area career and technical education school" means—

(A) a specialized public secondary school used exclusively or principally for the provision of career and technical education to individuals who are available for study in preparation for entering the labor market;

(B) the department of a public secondary school exclusively or principally used for providing career and technical education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

(C) a public or nonprofit technical institution or career and technical education school used exclusively or principally for the provision of career and technical education to individuals who have completed or left secondary school and who are available for study in preparation for entering the labor market, if the institution or school admits, as regular students, individuals who have completed secondary school and individuals who have left secondary school; or

(D) the department or division of an institution of higher education, that operates under the

policies of the eligible agency and that provides career and technical education in not fewer than 5 different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if the department or division admits, as regular students, both individuals who have completed secondary school and individuals who have left secondary school.

(4) Articulation agreement

The term "articulation agreement" means a written commitment—

(A) that is agreed upon at the State level or approved annually by the lead administrators of—

(i) a secondary institution and a postsecondary educational institution; or

(ii) a subbaccalaureate degree granting postsecondary educational institution and a baccalaureate degree granting postsecondary educational institution; and

(B) to a program that is—

(i) designed to provide students with a nonduplicative sequence of progressive achievement leading to technical skill proficiency, a credential, a certificate, or a degree; and

(ii) linked through credit transfer agreements between the 2 institutions described in clause (i) or (ii) of subparagraph (A) (as the case may be).

(5) Career and technical education

The term "career and technical education" means organized educational activities that—

(A) offer a sequence of courses that—

(i) provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;

(ii) provides technical skill proficiency, an industry-recognized credential, a certificate, or an associate degree; and

(iii) may include prerequisite courses (other than a remedial course) that meet the requirements of this subparagraph; and

(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

(6) Career and technical student organization

(A) In general

The term "career and technical student organization" means an organization for individuals enrolled in a career and technical education program that engages in career and technical education activities as an integral part of the instructional program.

(B) State and national units

An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in career and technical education at the local level.

(7) Career guidance and academic counseling

The term "career guidance and academic counseling" means guidance and counseling that—

(A) provides access for students (and parents, as appropriate) to information regarding career awareness and planning with respect to an individual's occupational and academic future; and

(B) provides information with respect to career options, financial aid, and postsecondary options, including baccalaureate degree programs.

(8) Charter school

The term "charter school" has the meaning given the term in section 7221i of this title.

(9) Cooperative education

The term "cooperative education" means a method of education for individuals who, through written cooperative arrangements between a school and employers, receive instruction, including required rigorous and challenging academic courses and related career and technical education instruction, by alternation of study in school with a job in any occupational field, which alternation—

(A) shall be planned and supervised by the school and employer so that each contributes to the education and employability of the individual; and

(B) may include an arrangement in which work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

(10) Displaced homemaker

The term "displaced homemaker" means an individual who—

(A)(i) has worked primarily without remuneration to care for a home and family, and for that reason has diminished marketable skills;

(ii) has been dependent on the income of another family member but is no longer supported by that income; or

(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) not later than 2 years after the date on which the parent applies for assistance under such title; and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(11) Educational service agency

The term "educational service agency" has the meaning given the term in section 7801 of this title.

(12) Eligible agency

The term "eligible agency" means a State board designated or created consistent with State law as the sole State agency responsible for the administration of career and technical education in the State or for the supervision of the administration of career and technical education in the State.

(13) Eligible institution

The term "eligible institution" means—

(A) a public or nonprofit private institution of higher education that offers career and technical education courses that lead to technical skill proficiency, an industry-recognized credential, a certificate, or a degree;

(B) a local educational agency providing education at the postsecondary level;

(C) an area career and technical education school providing education at the postsecondary level;

(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

(E) an educational service agency; or

(F) a consortium of 2 or more of the entities described in subparagraphs (A) through (E).

(14) Eligible recipient

The term "eligible recipient" means—

(A) a local educational agency (including a public charter school that operates as a local educational agency), an area career and technical education school, an educational service agency, or a consortium, eligible to receive assistance under section 2351 of this title; or

(B) an eligible institution or consortium of eligible institutions eligible to receive assistance under section 2352 of this title.

(15) Governor

The term "Governor" means the chief executive officer of a State.

(16) Individual with limited English proficiency

The term "individual with limited English proficiency" means a secondary school student, an adult, or an out-of-school youth, who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment in which a language other than English is the dominant language.

(17) Individual with a disability

(A) In general

The term "individual with a disability" means an individual with any disability (as defined in section 12102 of title 42).

(B) Individuals with disabilities

The term "individuals with disabilities" means more than 1 individual with a disability.

(18) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1001 of this title.

(19) Local educational agency

The term "local educational agency" has the meaning given the term in section 7801 of this title.

(20) Non-traditional fields

The term "non-traditional fields" means occupations or fields of work, including careers in computer science, technology, and other current and emerging high skill occupations, for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

(21) Outlying area

The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

(22) Postsecondary educational institution

The term "postsecondary educational institution" means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

(B) a tribally controlled college or university; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(23) Postsecondary education tech prep student

The term "postsecondary education tech prep student" means a student who—

(A) has completed the secondary education component of a tech prep program; and

(B) has enrolled in the postsecondary education component of a tech prep program at an institution of higher education described in clause (i) or (ii) of section 2373(a)(1)(B) of this title.

(24) School dropout

The term "school dropout" means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

(25) Scientifically based research

The term "scientifically based research" means research that is carried out using scientifically based research standards, as defined in section 9501 of this title.

(26) Secondary education tech prep student

The term "secondary education tech prep student" means a secondary education student who has enrolled in 2 courses in the secondary education component of a tech prep program.

(27) Secondary school

The term "secondary school" has the meaning given the term in section 7801 of this title.

(28) Secretary

The term "Secretary" means the Secretary of Education.

(29) Special populations

The term "special populations" means—

(A) individuals with disabilities;

(B) individuals from economically disadvantaged families, including foster children;

(C) individuals preparing for non-traditional fields;

(D) single parents, including single pregnant women;

(E) displaced homemakers; and

(F) individuals with limited English proficiency.

(30) State

The term "State", unless otherwise specified, means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

(31) Support services

The term "support services" means services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

(32) Tech prep program

The term "tech prep program" means a tech prep program described in section 2373(c) of this title.

(33) Tribally controlled college or university

The term "tribally controlled college or university" has the meaning given the term in section 1801(a) of title 25.

(34) Tribally controlled postsecondary career and technical institution

The term "tribally controlled postsecondary career and technical institution" means an institution of higher education (as defined in section 1001 of this title, except that subsection (a)(2) of such section shall not be applicable and the reference to Secretary in subsection (a)(5) of such section shall be deemed to refer to the Secretary of the Interior) that—

(A) is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or Indian tribes;

(B) offers a technical degree or certificate granting program;

(C) is governed by a board of directors or trustees, a majority of whom are Indians;

(D) demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(E) has been in operation for at least 3 years;

(F) holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary career and technical education; and

(G) enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians.

(Pub. L. 88–210, §3, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 685; amended Pub. L. 110–315, title IX, §941(k)(2)(D)(i), Aug. 14, 2008, 122 Stat. 3466; Pub. L. 114–95, title IX, §9215(n)(1), Dec. 10, 2015, 129 Stat. 2168.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (10)(A)(iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in par. (13)(D), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

Act of April 16, 1934, referred to in par. (13)(D), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 452 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 2302, Pub. L. 88–210, §3, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3077; amended Pub. L. 107–110, title X, §1076(k), Jan. 8, 2002, 115 Stat. 2091, related to definitions, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2302, Pub. L. 88–210, §3, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2437; amended Pub. L. 100–418, title VI, §§6131(b), 6134(b), Aug. 23, 1988, 102 Stat. 1511, 1512; Pub. L. 101–392, §3, Sept. 25, 1990, 104 Stat. 756, authorized appropriations for fiscal years 1991 to 1995 to carry out former subchapters I to IV of this chapter, prior to the general amendment of this chapter by Pub. L. 105–332.

AMENDMENTS

2015—Par. (8). Pub. L. 114–95, §9215(n)(1)(A), made technical amendment to reference in original act which appears in text as reference to section 7221i of this title.

Par. (11). Pub. L. 114–95, §9215(n)(1)(B), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

Par. (19). Pub. L. 114–95, §9215(n)(1)(C), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

Par. (27). Pub. L. 114–95, §9215(n)(1)(D), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

2008—Par. (33). Pub. L. 110–315 made technical amendment to reference in original act which appears in text as reference to section 1801(a) of title 25.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§2303. Transition provisions

The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of this chapter (as amended by the Carl D. Perkins Career and Technical Education Improvement Act of 2006) from any authority under the provisions of the Carl D. Perkins Vocational and Technical Education Act of 1998, as in effect on the day before August 12, 2006. The Secretary shall give each eligible agency the opportunity to submit a transition plan for the first fiscal year following August 12, 2006.

(Pub. L. 88–210, §4, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 690.)

REFERENCES IN TEXT

This chapter (as amended by the Carl D. Perkins Career and Technical Education Improvement Act of 2006), referred to in text, is this chapter as amended by Pub. L. 109–270, Aug. 12, 2006, 120 Stat. 683.

The Carl D. Perkins Vocational and Technical Education Act of 1998, as in effect on the day before August 12, 2006, referred to in text, means Pub. L. 88–210, as amended, which was classified generally to this chapter, prior to being amended generally and renamed the Carl D. Perkins Career and Technical Education

Act of 2006 by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683.

PRIOR PROVISIONS

A prior section 2303, Pub. L. 88–210, §4, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3082, related to transition provisions, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2303, Pub. L. 101–392, §4, Sept. 25, 1990, 104 Stat. 758; Pub. L. 104–66, title I, §1041(f), Dec. 21, 1995, 109 Stat. 715, which related to the Interdepartmental Task Force on Vocational Education and Related Programs, was transferred to section 2308 of this title.

§2304. Privacy

(a) GEPA

Nothing in this chapter shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

(b) Prohibition on development of national database

Nothing in this chapter shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under this chapter.

(Pub. L. 88–210, §5, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 690.)

PRIOR PROVISIONS

A prior section 2304, Pub. L. 88–210, §5, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3082, related to privacy, prior to the general amendment of this chapter by Pub. L. 109–270.

§2305. Limitation

All of the funds made available under this chapter shall be used in accordance with the requirements of this chapter.

(Pub. L. 88–210, §6, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 690.)

PRIOR PROVISIONS

A prior section 2305, Pub. L. 88–210, §6, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3082, related to limitation on use of funds, prior to the general amendment of this chapter by Pub. L. 109–270.

§2306. Special rule

In the case of a local community in which no employees are represented by a labor organization, for purposes of this chapter, the term "representatives of employees" shall be substituted for "labor organization".

(Pub. L. 88–210, §7, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 690.)

PRIOR PROVISIONS

A prior section 2306, Pub. L. 88–210, §7, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3083, related to special rule, prior to the general amendment of this chapter by Pub. L. 109–270.

§2306a. Prohibitions

(a) Local control

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum,

program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter, except as required under sections 2322(b), 2391(b), and 2413 of this title.

(b) No preclusion of other assistance

Any State that declines to submit an application to the Secretary for assistance under this chapter shall not be precluded from applying for assistance under any other program administered by the Secretary.

(c) Prohibition on requiring Federal approval or certification of standards

Notwithstanding any other provision of Federal law, no State shall be required to have academic and career and technical content standards or student academic and career and technical achievement standards approved or certified by the Federal Government, in order to receive assistance under this chapter.

(d) Rule of construction

Nothing in this section shall be construed to affect the requirements under section 2323 of this title.

(e) Coherent and rigorous content

For the purposes of this chapter, coherent and rigorous content shall be determined by the State consistent with section 6311(b)(1) of this title.

(Pub. L. 88–210, §8, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 690; amended Pub. L. 114–95, title IX, §9215(n)(2), Dec. 10, 2015, 129 Stat. 2169.)

PRIOR PROVISIONS

A prior section 8 of Pub. L. 88–210 was classified to section 2307 of this title prior to the general amendment of this chapter by Pub. L. 109–270.

AMENDMENTS

2015—Subsec. (e). Pub. L. 114–95 substituted "section 6311(b)(1) of this title" for "section 6311(b)(1)(D) of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§2307. Authorization of appropriations

There is authorized to be appropriated to carry out this chapter (other than sections 2324, 2327, and 2328 of this title, and subchapter II) such sums as may be necessary for each of the fiscal years 2007 through 2012.

(Pub. L. 88–210, §9, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 691.)

PRIOR PROVISIONS

A prior section 2307, Pub. L. 88–210, §8, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3083, related to authorization of appropriations, prior to the general amendment of this chapter by Pub. L. 109–270.

§2308. Interdepartmental Task Force on Vocational Education and Related Programs

(a) Establishment

There is established the Interdepartmental Task Force on Vocational Education and Related Programs (in this section referred to as the "Task Force").

(b) Membership

The Task Force shall consist of the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and such other personnel of the Department of Education, the Department of Labor, and the Department of Health and Human Services as the Secretaries consider appropriate.

(c) Duties

The Task Force shall—

(1) examine principal data required for programs under the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Job Training Partnership Act, the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and the Wagner-Peyser Act [29 U.S.C. 49 et seq.];

(2) examine possible common objectives, definitions, measures, and standards for such programs; and

(3) consider integration of research and development conducted with Federal assistance in the area of vocational education and related areas, including areas of emerging technologies.

(Pub. L. 101–392, §4, Sept. 25, 1990, 104 Stat. 758; Pub. L. 104–66, title I, §1041(f), Dec. 21, 1995, 109 Stat. 715.)

REFERENCES IN TEXT

The Adult Education Act, referred to in subsec. (c)(1), was title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which was classified generally to chapter 30 (§1201 et seq.) of this title, prior to repeal by Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (c)(1), was Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which was classified generally to this chapter, prior to being amended generally and renamed the Carl D. Perkins Vocational and Technical Education Act of 1998 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076, and amended generally and renamed the Carl D. Perkins Career and Technical Education Act of 2006 by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683. For complete classification of Pub. L. 88–210 to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Job Training Partnership Act, referred to in subsec. (c)(1), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to former section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, were deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, were deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. The Workforce Investment Act of 1998 was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pursuant to section 3361(a) of Title 29, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015. For complete classification of the Job Training Partnership Act and the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (c)(1), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Wagner-Peyser Act, referred to in subsec. (c)(1), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified principally to chapter 4B (§49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

CODIFICATION

Section was enacted as part of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, and not as part of the Carl D. Perkins Career and Technical Education Act of 2006 which comprises this chapter.

Section was formerly classified to section 2303 of this title.

PRIOR PROVISIONS

Prior sections 2311 to 2313 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2311, Pub. L. 88–210, title I, §101, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2438; amended Pub. L. 99–159, title VII, §701, Nov. 22, 1985, 99 Stat. 904; Pub. L. 99–357, July 8, 1986, 100 Stat. 761; Pub. L. 101–392, title I, §101(a), Sept. 25, 1990, 104 Stat. 759, related to allotments to States. See section 2321 of this title.

Section 2311a, Pub. L. 88–210, title I, §101A, as added Pub. L. 101–392, title I, §101(b), Sept. 25, 1990, 104 Stat. 760; amended Pub. L. 103–208, §3, Dec. 20, 1993, 107 Stat. 2487; Pub. L. 103–382, title III, §369, Oct. 20, 1994, 108 Stat. 3976, related to grants to the territories. See section 2325 of this title.

Section 2312, Pub. L. 88–210, title I, §102, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2440; amended Pub. L. 99–159, title VII, §702, Nov. 22, 1985, 99 Stat. 904; Pub. L. 101–392, title I, §102, Sept. 25, 1990, 104 Stat. 761; Pub. L. 102–103, title III, §311(a), Aug. 17, 1991, 105 Stat. 505, related to within State allocations. See section 2322 of this title.

Section 2313, Pub. L. 88–210, title I, §103, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2440; amended Pub. L. 101–392, title I, §103, Sept. 25, 1990, 104 Stat. 762; Pub. L. 102–103, title III, §311(b), Aug. 17, 1991, 105 Stat. 505, related to Indian and Hawaiian natives programs.

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–66 struck out heading and text of subsec. (d). Text read as follows: "The Task Force shall, every 2 years, submit a report on its findings to the appropriate committees of the Congress."

SUBCHAPTER I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

PART A—ALLOTMENT AND ALLOCATION

§2321. Reservations and State allotment

(a) Reservations and State allotment

(1) Reservations

From the sum appropriated under section 2307 of this title for each fiscal year, the Secretary shall reserve—

(A) 0.13 percent to carry out section 2325 of this title; and

(B) 1.50 percent to carry out section 2326 of this title, of which—

(i) 1.25 percent of the sum shall be available to carry out section 2326(b) of this title; and

(ii) 0.25 percent of the sum shall be available to carry out section 2326(h) of this title.

(2) State allotment formula

Subject to paragraphs (3), (4), and (5), from the remainder of the sum appropriated under section 2307 of this title and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

(A) an amount that bears the same ratio to 50 percent of the sum being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount that bears the same ratio to 20 percent of the sum being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount that bears the same ratio to 15 percent of the sum being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount that bears the same ratio to 15 percent of the sum being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

(3) Minimum allotment for years with no additional funds

(A) In general

Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (5), for a fiscal year for which there are no additional funds (as such term is defined in paragraph (4)(D)), no State shall receive for such fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 2307 of this title and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(B) Requirement

No State, by reason of the application of subparagraph (A), shall receive for a fiscal year more than 150 percent of the amount the State received under this subsection for the preceding fiscal year.

(C) Special rule

(i) In general

Subject to paragraph (5), no State, by reason of the application of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

(I) 150 percent of the amount that the State received in the preceding fiscal year; and

(II) the amount calculated under clause (ii).

(ii) Amount

The amount calculated under this clause shall be determined by multiplying—

(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

(II) 150 percent of the national average per pupil payment made with funds available under this section for that year.

(4) Minimum allotment for years with additional funds

(A) In general

Subject to subparagraph (B) and paragraph (5), for a fiscal year for which there are additional funds, no State shall receive for such fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 2307 of this title and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(B) Special rule

In the case of a qualifying State, the minimum allotment under subparagraph (A) for a fiscal year for the qualifying State shall be the lesser of—

(i) ½ of 1 percent of the amount appropriated under section 2307 of this title and not reserved under paragraph (1) for such fiscal year; and

(ii) the sum of—

(I) the amount the qualifying State was allotted under paragraph (2) for fiscal year 2006

(as such paragraph was in effect on the day before August 12, 2006); and

(II) the product of—

(aa) 1/3 of the additional funds; multiplied by

(bb) the quotient of—

(AA) the qualifying State's ratio described in subparagraph (C) for the fiscal year for which the determination is made; divided by

(BB) the sum of all such ratios for all qualifying States for the fiscal year for which the determination is made.

(C) Ratio

For purposes of subparagraph (B)(ii)(II)(bb)(AA), the ratio for a qualifying State for a fiscal year shall be 1.00 less the quotient of—

(i) the amount the qualifying State was allotted under paragraph (2) for fiscal year 2006 (as such paragraph was in effect on the day before August 12, 2006); divided by

(ii) ½ of 1 percent of the amount appropriated under section 2307 of this title and not reserved under paragraph (1) for the fiscal year for which the determination is made.

(D) Definitions

In this paragraph:

(i) Additional funds

The term "additional funds" means the amount by which—

(I) the sum appropriated under section 2307 of this title and not reserved under paragraph (1) for a fiscal year; exceeds

(II) the sum of—

(aa) the amount allotted under paragraph (2) for fiscal year 2006 (as such paragraph (2) was in effect on the day before August 12, 2006);

(bb) the amount reserved under paragraph (1)(C) for fiscal year 2006 (as such paragraph (1)(C) was so in effect); and

(cc) $827,671.

(ii) Qualifying State

The term "qualifying State" means a State (except the United States Virgin Islands) that, for the fiscal year for which a determination under this paragraph is made, would receive, under the allotment formula under paragraph (2) (without the application of this paragraph and paragraphs (3) and (5)), an amount that would be less than the amount the State would receive under subparagraph (A) for such fiscal year.

(5) Hold harmless

(A) In general

No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before October 31, 1998) for fiscal year 1998.

(B) Ratable reduction

If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

(b) Reallotment

If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall

fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

(c) Allotment ratio

(1) In general

The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

(2) Promulgation

The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

(3) Definition of per capita income

For the purpose of this section, the term "per capita income" means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) Population determination

For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

(d) Definition of State

For the purpose of this section, the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(Pub. L. 88–210, title I, §111, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 691.)

REFERENCES IN TEXT

Paragraphs (1)(C) and (2), as such paragraphs were in effect on the day before August 12, 2006, referred to in subsec. (a)(4)(B)(ii)(I), (C)(i), (D)(i)(II)(aa), (bb), mean paragraphs (1)(C) and (2) of section 2321(a) of this title, as added by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3083, as amended, prior to the general amendment of this chapter by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 691. See Prior Provisions note below.

Part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act, as such part was in effect on the day before October 31, 1998, referred to in subsec. (a)(5)(A), means part A of title I of Pub. L. 88–210, as added by Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2438, as amended, which was classified to part A (§2311 et seq.) of subchapter I of this chapter prior to the general amendment of this chapter by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

PRIOR PROVISIONS

A prior section 2321, Pub. L. 88–210, title I, §111, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3083; amended Pub. L. 106–246, div. B, title II, §2403(b), July 13, 2000, 114 Stat. 555, related to reservations and State allotment, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2321, Pub. L. 88–210, title I, §111, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2441; amended Pub. L. 101–392, title I, §111, Sept. 25, 1990, 104 Stat. 763; Pub. L. 103–382, title III, §391(s)(1), Oct. 20, 1994, 108 Stat. 4024, related to State administration, prior to the general amendment of

this chapter by Pub. L. 105–332.

§2322. Within State allocation

(a) In general

From the amount allotted to each State under section 2321 of this title for a fiscal year, the eligible agency shall make available—

(1) not less than 85 percent for distribution under section 2351 or 2352 of this title, of which not more than 10 percent of the 85 percent may be used in accordance with subsection (c);

(2) not more than 10 percent to carry out State leadership activities described in section 2344 of this title, of which—

(A) an amount equal to not more than 1 percent of the amount allotted to the State under section 2321 of this title for the fiscal year shall be made available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

(B) not less than $60,000 and not more than $150,000 shall be available for services that prepare individuals for non-traditional fields; and

(3) an amount equal to not more than 5 percent, or $250,000, whichever is greater, for administration of the State plan, which may be used for the costs of—

(A) developing the State plan;

(B) reviewing a local plan;

(C) monitoring and evaluating program effectiveness;

(D) assuring compliance with all applicable Federal laws;

(E) providing technical assistance; and

(F) supporting and developing State data systems relevant to the provisions of this chapter.

(b) Matching requirement

Each eligible agency receiving funds made available under subsection (a)(3) shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(3).

(c) Reserve

From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may award grants to eligible recipients for career and technical education activities described in section 2355 of this title in—

(1) rural areas;

(2) areas with high percentages of career and technical education students; and

(3) areas with high numbers of career and technical education students.

(Pub. L. 88–210, title I, §112, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 695.)

PRIOR PROVISIONS

A prior section 2322, Pub. L. 88–210, title I, §112, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3086, related to allocations within States, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2322, Pub. L. 88–210, title I, §112, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2443; amended Pub. L. 99–159, title VII, §703, Nov. 22, 1985, 99 Stat. 905; Pub. L. 101–392, title I, §112, Sept. 25, 1990, 104 Stat. 765; Pub. L. 102–367, title VI, §601(b)(1), Sept. 7, 1992, 106 Stat. 1102, related to State councils on vocational education, prior to the general amendment of this chapter by Pub. L. 105–332.

§2323. Accountability

(a) Purpose

The purpose of this section is to establish and support State and local performance accountability systems, comprised of the activities described in this section, to assess the effectiveness of the State and the eligible recipients of the State in achieving statewide progress in career and technical education, and to optimize the return of investment of Federal funds in career and technical education activities.

(b) State performance measures

(1) In general

Each eligible agency, with input from eligible recipients, shall establish performance measures for a State that consist of—

(A) the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2);

(B) any additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(C); and

(C) a State adjusted level of performance described in paragraph (3)(A) for each core indicator of performance, and State levels of performance described in paragraph (3)(B) for each additional indicator of performance.

(2) Indicators of performance

(A) Core indicators of performance for career and technical education students at the secondary level

Each eligible agency shall identify in the State plan core indicators of performance for career and technical education students at the secondary level that are valid and reliable, and that include, at a minimum, measures of each of the following:

(i) Student attainment of the challenging State academic standards, as adopted by a State in accordance with section 6311(b)(1) of this title and measured by the State determined levels of achievement on the academic assessments described in section 6311(b)(2) of this title.

(ii) Student attainment of career and technical skill proficiencies, including student achievement on technical assessments, that are aligned with industry-recognized standards, if available and appropriate.

(iii) Student rates of attainment of each of the following:

(I) A secondary school diploma.

(II) A General Education Development (GED) credential, or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities).

(III) A proficiency credential, certificate, or degree, in conjunction with a secondary school diploma (if such credential, certificate, or degree is offered by the State in conjunction with a secondary school diploma).

(iv) Student graduation rates (as described in section 6311(c)(4)(A)(i)(I)(bb) of this title).

(v) Student placement in postsecondary education or advanced training, in military service, or in employment.

(vi) Student participation in and completion of career and technical education programs that lead to non-traditional fields.

(B) Core indicators of performance for career and technical education students at the postsecondary level

Each eligible agency shall identify in the State plan core indicators of performance for career and technical education students at the postsecondary level that are valid and reliable, and that include, at a minimum, measures of each of the following:

(i) Student attainment of challenging career and technical skill proficiencies, including student achievement on technical assessments, that are aligned with industry-recognized standards, if available and appropriate.

(ii) Student attainment of an industry-recognized credential, a certificate, or a degree.

(iii) Student retention in postsecondary education or transfer to a baccalaureate degree

program.

(iv) Student placement in military service or apprenticeship programs or placement or retention in employment, including placement in high skill, high wage, or high demand occupations or professions.

(v) Student participation in, and completion of, career and technical education programs that lead to employment in non-traditional fields.

(C) Additional indicators of performance

An eligible agency, with input from eligible recipients, may identify in the State plan additional indicators of performance for career and technical education activities authorized under this subchapter, such as attainment of self-sufficiency.

(D) Existing indicators

If a State has developed, prior to the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 [August 12, 2006], State career and technical education performance measures that meet the requirements of this section (as amended by such Act), the State may use such performance measures to measure the progress of career and technical education students.

(E) State role

Indicators of performance described in this paragraph shall be established solely by each eligible agency with input from eligible recipients.

(F) Alignment of performance indicators

In the course of developing core indicators of performance and additional indicators of performance, an eligible agency shall, to the greatest extent possible, align the indicators so that substantially similar information gathered for other State and Federal programs, or for any other purpose, is used to meet the requirements of this section.

(3) State levels of performance

(A) State adjusted levels of performance for core indicators of performance

(i) In general

Each eligible agency, with input from eligible recipients, shall establish in the State plan submitted under section 2342 of this title, levels of performance for each of the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2) for career and technical education activities authorized under this subchapter. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and

(II) require the State to continually make progress toward improving the performance of career and technical education students.

(ii) Identification in the State plan

Subject to section 2303 of this title, each eligible agency shall identify, in the State plan submitted under section 2342 of this title, levels of performance for each of the core indicators of performance for the first 2 program years covered by the State plan.

(iii) Agreement on State adjusted levels of performance for first 2 years

The Secretary and each eligible agency shall reach agreement on the levels of performance for each of the core indicators of performance, for the first 2 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (vi). The levels of performance agreed to under this clause shall be considered to be the State adjusted level of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) Role of the Secretary

The role of the Secretary in the agreement described in clauses (iii) and (v) is limited to reaching agreement on the percentage or number of students who attain the State adjusted levels of performance.

(v) Agreement on State adjusted levels of performance for subsequent years

Prior to the third and fifth program years covered by the State plan, the Secretary and each eligible agency shall reach agreement on the State adjusted levels of performance for each of the core indicators of performance for the corresponding subsequent program years covered by the State plan, taking into account the factors described in clause (vi). The State adjusted levels of performance agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

(vi) Factors

The agreement described in clause (iii) or (v) shall take into account—

(I) how the levels of performance involved compare with the State adjusted levels of performance established for other States, taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

(II) the extent to which such levels of performance promote continuous improvement on the indicators of performance by such State.

(vii) Revisions

If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (vi), the eligible agency may request that the State adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary shall issue objective criteria and methods for making such revisions.

(B) Levels of performance for additional indicators

Each eligible agency shall identify in the State plan State levels of performance for each of the additional indicators of performance described in paragraph (2)(C). Such levels shall be considered to be the State levels of performance for purposes of this subchapter.

(4) Local levels of performance

(A) Local adjusted levels of performance for core indicators of performance

(i) In general

Each eligible recipient shall agree to accept the State adjusted levels of performance established under paragraph (3) as local adjusted levels of performances, or negotiate with the State to reach agreement on new local adjusted levels of performance, for each of the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2) for career and technical education activities authorized under this subchapter. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in a percentage or numerical form, consistent with the State levels of performance established under paragraph (3), so as to be objective, quantifiable, and measurable; and

(II) require the eligible recipient to continually make progress toward improving the performance of career and technical education students.

(ii) Identification in the local plan

Each eligible recipient shall identify, in the local plan submitted under section 2354 of this title, levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan.

(iii) Agreement on local adjusted levels of performance for first 2 years

The eligible agency and each eligible recipient shall reach agreement, as described in

clause (i), on the eligible recipient's levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan, taking into account the levels identified in the local plan under clause (ii) and the factors described in clause (v). The levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan prior to the approval of such plan.

(iv) Agreement on local adjusted levels of performance for subsequent years

Prior to the third and fifth program years covered by the local plan, the eligible agency and each eligible recipient shall reach agreement on the local adjusted levels of performance for each of the core indicators of performance for the corresponding subsequent program years covered by the local plan, taking into account the factors described in clause (v). The local adjusted levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan.

(v) Factors

The agreement described in clause (iii) or (iv) shall take into account—

(I) how the levels of performance involved compare with the local adjusted levels of performance established for other eligible recipients in the State, taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

(II) the extent to which the local adjusted levels of performance promote continuous improvement on the core indicators of performance by the eligible recipient.

(vi) Revisions

If unanticipated circumstances arise with respect to an eligible recipient resulting in a significant change in the factors described in clause (v), the eligible recipient may request that the local adjusted levels of performance agreed to under clause (iii) or (iv) be revised. The eligible agency shall issue objective criteria and methods for making such revisions.

(B) Levels of performance for additional indicators

Each eligible recipient may identify, in the local plan, local levels of performance for any additional indicators of performance described in paragraph (2)(C). Such levels shall be considered to be the local levels of performance for purposes of this subchapter.

(C) Local report

(i) Content of report

Each eligible recipient that receives an allocation described in section 2322 of this title shall annually prepare and submit to the eligible agency a report, which shall include the data described in clause (ii)(I), regarding the progress of such recipient in achieving the local adjusted levels of performance on the core indicators of performance.

(ii) Data

Except as provided in clauses (iii) and (iv), each eligible recipient that receives an allocation described in section 2322 of this title shall—

(I) disaggregate data for each of the indicators of performance under paragraph (2) for the subgroups of students described in section 6311(h)(1)(C)(i) of this title and section 2302(29) of this title that are served under this chapter; and

(II) identify and quantify any disparities or gaps in performance between any such category of students and the performance of all students served by the eligible recipient under this chapter.

(iii) Nonduplication

The eligible agency shall ensure, in a manner that is consistent with the actions of the Secretary under subsection (c)(3), that each eligible recipient does not report duplicative

information under this section.

(iv) Rules for reporting of data

The disaggregation of data under clause (ii) shall not be required when the number of students in a category is insufficient to yield statistically reliable information or when the results would reveal personally identifiable information about an individual student.

(v) Availability

The report described in clause (i) shall be made available to the public through a variety of formats, including electronically through the Internet.

(c) Report

(1) In general

Each eligible agency that receives an allotment under section 2321 of this title shall annually prepare and submit to the Secretary a report regarding—

(A) the progress of the State in achieving the State adjusted levels of performance on the core indicators of performance; and

(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance for special populations.

(2) Data

Except as provided in paragraphs (3) and (4), each eligible agency that receives an allotment under section 2321 or 2371 of this title shall—

(A) disaggregate data for each of the indicators of performance under subsection (b)(2) for the categories of students described in section 6311(h)(1)(C)(i) of this title and section 2302(29) of this title that are served under this chapter; and

(B) identify and quantify any disparities or gaps in performance between any such category of students and the performance of all students served by the eligible agency under this chapter, which shall include a quantifiable description of the progress each such category of students served by the eligible agency under this chapter has made in meeting the State adjusted levels of performance.

(3) Nonduplication

The Secretary shall ensure that each eligible agency does not report duplicative information under this section.

(4) Rules for reporting of data

The disaggregation of data under paragraph (2) shall not be required when the number of students in a category is insufficient to yield statistically reliable information or when the results would reveal personally identifiable information about an individual student.

(5) Information dissemination

The Secretary—

(A) shall make the information contained in such reports available to the general public through a variety of formats, including electronically through the Internet;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate committees of Congress with copies of such reports.

(Pub. L. 88–210, title I, §113, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 696; amended Pub. L. 114–95, title IX, §9215(n)(3), Dec. 10, 2015, 129 Stat. 2169.)

REFERENCES IN TEXT

This section (as amended by such Act), referred to in subsec. (b)(2)(D), is this section as added by Pub. L. 109–270.

PRIOR PROVISIONS

A prior section 2323, Pub. L. 88–210, title I, §113, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3087, related to accountability, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2323, Pub. L. 88–210, title I, §113, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2445; amended Pub. L. 99–159, title VII, §§704, 713(a)(1), (2), Nov. 22, 1985, 99 Stat. 905, 907; Pub. L. 101–392, title I, §113, Sept. 25, 1990, 104 Stat. 766; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 103–382, title III, §391(s)(2), Oct. 20, 1994, 108 Stat. 4024, required submission of State plans, prior to the general amendment of this chapter by Pub. L. 105–332.

AMENDMENTS

2015—Subsec. (b)(2)(A)(i). Pub. L. 114–95, §9215(n)(3)(A)(i), added cl. (i) and struck out former cl. (i) which read as follows: "Student attainment of challenging academic content standards and student academic achievement standards, as adopted by a State in accordance with section 6311(b)(1) of this title and measured by the State determined proficient levels on the academic assessments described in section 6311(b)(3) of this title."

Subsec. (b)(2)(A)(iv). Pub. L. 114–95, §9215(n)(3)(A)(ii), substituted "(as described in section 6311(c)(4)(A)(i)(I)(bb) of this title)" for "(as described in section 6311(b)(2)(C)(vi) of this title)".

Subsec. (b)(4)(C)(ii)(I). Pub. L. 114–95, §9215(n)(3)(B), substituted "subgroups" for "categories".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§2324. National activities

(a) Program performance information

(1) In general

The Secretary shall collect performance information about, and report on, the condition of career and technical education and on the effectiveness of State and local programs, services, and activities carried out under this subchapter in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of career and technical education. The Secretary shall report annually to Congress on the Secretary's aggregate analysis of performance information collected each year pursuant to this subchapter, including an analysis of performance data regarding special populations.

(2) Compatibility

The Secretary shall, to the extent feasible, ensure that the performance information system is compatible with other Federal information systems.

(3) Assessments

As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on career and technical education for a nationally representative sample of students. Such assessment may include international comparisons in the aggregate.

(b) Miscellaneous provisions

(1) Collection of information at reasonable cost

The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this subchapter. To ensure reasonable cost, the Secretary, in consultation with the National Center for Education Statistics, the Office of Career, Technical, and Adult Education, and an entity assisted under section 2328 of this title (if applicable), shall determine the methodology to be used and the frequency with which information is to be collected.

(2) Cooperation of States

All eligible agencies receiving assistance under this chapter shall cooperate with the Secretary

in implementing the information systems developed pursuant to this chapter.

(c) Single plan for research, development, dissemination, evaluation, and assessment

(1) In general

The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation and assessment, capacity building, and technical assistance with regard to the career and technical education programs under this chapter. The Secretary shall develop a single plan for such activities.

(2) Plan

Such plan shall—

(A) identify the career and technical education activities described in paragraph (1) that the Secretary will carry out under this section;

(B) describe how the Secretary will evaluate such career and technical education activities in accordance with subsection (d)(2); and

(C) include such other information as the Secretary determines to be appropriate.

(d) Advisory panel; evaluation; reports

(1) Independent advisory panel

(A) In general

The Secretary shall appoint an independent advisory panel to advise the Secretary on the implementation of the assessment described in paragraph (2), including the issues to be addressed and the methodology of the studies involved to ensure that the assessment adheres to the highest standards of quality.

(B) Members

The advisory panel shall consist of—

(i) educators, administrators, State directors of career and technical education, and chief executives, including those with expertise in the integration of academic and career and technical education;

(ii) experts in evaluation, research, and assessment;

(iii) representatives of labor organizations and businesses, including small businesses, economic development entities, and workforce investment entities;

(iv) parents;

(v) career guidance and academic counseling professionals; and

(vi) other individuals and intermediaries with relevant expertise.

(C) Independent analysis

The advisory panel shall transmit to the Secretary, the relevant committees of Congress, and the Library of Congress an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (2).

(D) FACA

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this paragraph.

(2) Evaluation and assessment

(A) In general

From amounts made available under subsection (e), the Secretary shall provide for the conduct of an independent evaluation and assessment of career and technical education programs under this chapter, including the implementation of the Carl D. Perkins Career and Technical Education Improvement Act of 2006, to the extent practicable, through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.

(B) Contents

The assessment required under subparagraph (A) shall include descriptions and evaluations of—

(i) the extent to which State, local, and tribal entities have developed, implemented, or improved State and local career and technical education programs assisted under this chapter;

(ii) the preparation and qualifications of teachers and faculty of career and technical education (such as meeting State established teacher certification or licensing requirements), as well as shortages of such teachers and faculty;

(iii) academic and career and technical education achievement and employment outcomes of career and technical education, including analyses of—

(I) the extent and success of the integration of rigorous and challenging academic and career and technical education for students participating in career and technical education programs, including a review of the effect of such integration on the academic and technical proficiency achievement of such students (including the number of such students receiving a secondary school diploma); and

(II) the extent to which career and technical education programs prepare students, including special populations, for subsequent employment in high skill, high wage occupations (including those in which mathematics and science skills are critical), or for participation in postsecondary education;

(iv) employer involvement in, and satisfaction with, career and technical education programs and career and technical education students' preparation for employment;

(v) the participation of students in career and technical education programs;

(vi) the use of educational technology and distance learning with respect to career and technical education and tech prep programs; and

(vii) the effect of State and local adjusted levels of performance and State and local levels of performance on the delivery of career and technical education services, including the percentage of career and technical education and tech prep students meeting the adjusted levels of performance described in section 2323 of this title.

(C) Reports

(i) In general

The Secretary shall submit to the relevant committees of Congress—

(I) an interim report regarding the assessment on or before January 1, 2010; and

(II) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the interim report, on or before July 1, 2011.

(ii) Prohibition

Notwithstanding any other provision of law, the reports required by this subsection shall not be subject to any review outside the Department of Education before their transmittal to the relevant committees of Congress and the Secretary, but the President, the Secretary, and the independent advisory panel established under paragraph (1) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

(3) Collection of State information and report

(A) In general

The Secretary may collect and disseminate information from States regarding State efforts to meet State adjusted levels of performance described in section 2323(b) of this title.

(B) Report

The Secretary shall gather any information collected pursuant to subparagraph (A) and submit a report to the relevant committees in Congress.

(4) Research

(A) In general

From amounts made available under subsection (e), the Secretary, after consulting with the States, shall award a grant, contract, or cooperative agreement, on a competitive basis, to an institution of higher education, a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies to establish a national research center—

(i) to carry out scientifically based research and evaluation for the purpose of developing, improving, and identifying the most successful methods for addressing the education, employment, and training needs of participants, including special populations, in career and technical education programs, including research and evaluation in such activities as—

(I) the integration of—

(aa) career and technical instruction; and

(bb) academic, secondary and postsecondary instruction;

(II) education technology and distance learning approaches and strategies that are effective with respect to career and technical education;

(III) State adjusted levels of performance and State levels of performance that serve to improve career and technical education programs and student achievement;

(IV) academic knowledge and career and technical skills required for employment or participation in postsecondary education; and

(V) preparation for occupations in high skill, high wage, or high demand business and industry, including examination of—

(aa) collaboration between career and technical education programs and business and industry; and

(bb) academic and technical skills required for a regional or sectoral workforce, including small business;

(ii) to carry out scientifically based research and evaluation to increase the effectiveness and improve the implementation of career and technical education programs that are integrated with coherent and rigorous content aligned with challenging academic standards, including conducting research and development, and studies, that provide longitudinal information or formative evaluation with respect to career and technical education programs and student achievement;

(iii) to carry out scientifically based research and evaluation that can be used to improve the preparation and professional development of teachers, faculty, and administrators, and to improve student learning in the career and technical education classroom, including—

(I) effective in-service and preservice teacher and faculty education that assists career and technical education programs in—

(aa) integrating those programs with challenging State academic standards, as adopted by States under section 6311(b)(1) of this title; and

(bb) coordinating technical education with industry-recognized certification requirements;

(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on career and technical skills, State academic standards, and related materials; and

(III) the recruitment and retention of career and technical education teachers, faculty, counselors, and administrators, including individuals in groups underrepresented in the teaching profession; and

(iv) to carry out such other research and evaluation, consistent with the purposes of this

chapter, as the Secretary determines appropriate to assist State and local recipients of funds under this chapter.

(B) Report

The center conducting the activities described in subparagraph (A) shall annually prepare a report of the key research findings of such center and shall submit copies of the report to the Secretary, the relevant committees of Congress, the Library of Congress, and each eligible agency.

(C) Dissemination

The center shall conduct dissemination and training activities based upon the research described in subparagraph (A).

(5) Demonstrations and dissemination

The Secretary is authorized to carry out demonstration career and technical education programs, to replicate model career and technical education programs, to disseminate best practices information, and to provide technical assistance upon request of a State, for the purposes of developing, improving, and identifying the most successful methods and techniques for providing career and technical education programs assisted under this chapter.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2007 through 2012.

(Pub. L. 88–210, title I, §114, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 702; amended Pub. L. 113–76, div. H, title III, §307(d), Jan. 17, 2014, 128 Stat. 399; Pub. L. 114–95, title IX, §9215(n)(4), Dec. 10, 2015, 129 Stat. 2169.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d)(1)(D), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Carl D. Perkins Career and Technical Education Improvement Act of 2006, referred to in subsec. (d)(2)(A), is Pub. L. 109–270, Aug. 12, 2006, 120 Stat. 683. For complete classification of this Act to the Code, see Short Title of 2006 Amendment note set out under section 2301 of this title and Tables.

PRIOR PROVISIONS

A prior section 2324, Pub. L. 88–210, title I, §114, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3089, related to national activities, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2324, Pub. L. 88–210, title I, §114, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2449; amended Pub. L. 101–392, title I, §114, Sept. 25, 1990, 104 Stat. 769, related to development and approval of State plans, prior to the general amendment of this chapter by Pub. L. 105–332.

AMENDMENTS

2015—Subsec. (d)(4)(A)(iii)(I)(aa). Pub. L. 114–95 substituted "integrating those programs with challenging State academic standards, as adopted by States under section 6311(b)(1) of this title;" for "integrating those programs with academic content standards and student academic achievement standards, as adopted by States under section 6311(b)(1) of this title;".

2014—Subsec. (b)(1). Pub. L. 113–76 substituted "Office of Career, Technical, and Adult Education" for "Office of Vocational and Adult Education".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§2325. Assistance for the outlying areas

(a) Outlying areas

From funds reserved pursuant to section 2321(a)(1)(A) of this title, the Secretary shall—

(1) make a grant in the amount of $660,000 to Guam;

(2) make a grant in the amount of $350,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands; and

(3) make a grant of $160,000 to the Republic of Palau, subject to subsection (d).

(b) Remainder

(1) First year

Subject to subsection (a), for the first fiscal year following August 12, 2006, the Secretary shall make a grant of the remainder of funds reserved pursuant to section 2321(a)(1)(A) of this title to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for career and technical education and training in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, for the purpose of providing direct career and technical educational services, including—

(A) teacher and counselor training and retraining;

(B) curriculum development; and

(C) the improvement of career and technical education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving secondary schools and institutions of higher education.

(2) Subsequent years

Subject to subsection (a), for the second fiscal year following August 12, 2006, and each subsequent year, the Secretary shall make a grant of the remainder of funds reserved pursuant to section 2321(a)(1)(A) of this title and subject to subsection (a), in equal proportion, to each of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be used to provide direct career and technical educational services as described in subparagraphs (A) through (C) of paragraph (1).

(c) Limitation

The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received under subsection (b)(1) for administrative costs.

(d) Restriction

The Republic of Palau shall cease to be eligible to receive funding under this section upon entering into an agreement for an extension of United States educational assistance under the Compact of Free Association, unless otherwise provided in such agreement.

(Pub. L. 88–210, title I, §115, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 706.)

PRIOR PROVISIONS

A prior section 2325, Pub. L. 88–210, title I, §115, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3094, related to assistance for outlying areas, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2325, Pub. L. 88–210, title I, §115, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2449; amended Pub. L. 101–392, title I, §115, Sept. 25, 1990, 104 Stat. 770; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 103–382, title III, §391(s)(3), Oct. 20, 1994, 108 Stat. 4024, related to State and local standards and measures, prior to the general amendment of this chapter by Pub. L. 105–332.

§2326. Native American programs

(a) Definitions

In this section:

(1) Alaska Native

The term "Alaska Native" means a Native as such term is defined in section 1602 of title 43.

(2) Bureau-funded school

The term "Bureau-funded school" has the meaning given the term in section 2021 of title 25.

(3) Indian, Indian tribe, and tribal organization

The terms "Indian", "Indian tribe", and "tribal organization" have the meanings given the terms in section 450b of title 25.

(4) Native Hawaiian

The term "Native Hawaiian" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

(5) Native Hawaiian organization

The term "Native Hawaiian organization" has the meaning given the term in section 7517 of this title.

(b) Program authorized

(1) Authority

From funds reserved under section 2321(a)(1)(B)(i) of this title, the Secretary shall make grants to or enter into contracts with Indian tribes, tribal organizations, and Alaska Native entities to carry out the authorized programs described in subsection (c), except that such grants or contracts shall not be awarded to secondary school programs in Bureau-funded schools.

(2) Indian tribes and tribal organizations

The grants or contracts described in this section that are awarded to any Indian tribe or tribal organization shall be subject to the terms and conditions of section 450f of title 25 and shall be conducted in accordance with the provisions of sections 455, 456, and 457 of title 25, which are relevant to the programs administered under this subsection.

(3) Special authority relating to secondary schools operated or supported by the Bureau of Indian Affairs

An Indian tribe, a tribal organization, or an Alaska Native entity, that receives funds through a grant made or contract entered into under paragraph (1) may use the funds to provide assistance to a secondary school operated or supported by the Bureau of Indian Affairs to enable such school to carry out career and technical education programs.

(4) Matching

If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend not less than the amount expended during the prior fiscal year on career and technical education programs, services, and technical activities administered directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

(5) Regulations

If the Secretary promulgates any regulations applicable to paragraph (2), the Secretary shall—

(A) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

(B) promulgate the regulations under subchapter III of chapter 5 of title 5, commonly known as the "Negotiated Rulemaking Act of 1990".

(6) Application

Any Indian tribe, tribal organization, or Bureau-funded school eligible to receive assistance under this subsection may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau-funded school.

(c) Authorized activities

(1) Authorized programs

Funds made available under this section shall be used to carry out career and technical education programs consistent with the purpose of this chapter.

(2) Stipends

(A) In general

Funds received pursuant to grants or contracts awarded under subsection (b) may be used to provide stipends to students who are enrolled in career and technical education programs and who have acute economic needs which cannot be met through work-study programs.

(B) Amount

Stipends described in subparagraph (A) shall not exceed reasonable amounts as prescribed by the Secretary.

(d) Grant or contract application

In order to receive a grant or contract under this section, an organization, tribe, or entity described in subsection (b) shall submit an application to the Secretary that shall include an assurance that such organization, tribe, or entity shall comply with the requirements of this section.

(e) Restrictions and special considerations

The Secretary may not place upon grants awarded or contracts entered into under subsection (b) any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 2321(a) of this title. The Secretary, in awarding grants and entering into contracts under this section, shall ensure that the grants and contracts will improve career and technical education programs, and shall give special consideration to—

(1) programs that involve, coordinate with, or encourage tribal economic development plans; and

(2) applications from tribally controlled colleges or universities that—

(A) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary career and technical education; or

(B) operate career and technical education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization, and issue certificates for completion of career and technical education programs.

(f) Consolidation of funds

Each organization, tribe, or entity receiving assistance under this section may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) Nonduplicative and nonexclusive services

Nothing in this section shall be construed—

(1) to limit the eligibility of any organization, tribe, or entity described in subsection (b) to participate in any activity offered by an eligible agency or eligible recipient under this subchapter; or

(2) to preclude or discourage any agreement, between any organization, tribe, or entity described in subsection (b) and any eligible agency or eligible recipient, to facilitate the provision of services by such eligible agency or eligible recipient to the population served by such eligible

agency or eligible recipient.

(h) Native Hawaiian programs

From the funds reserved pursuant to section 2321(a)(1)(B)(ii) of this title, the Secretary shall award grants to or enter into contracts with community-based organizations primarily serving and representing Native Hawaiians to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this section for the benefit of Native Hawaiians.

(Pub. L. 88–210, title I, §116, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 707; amended Pub. L. 114–95, title IX, §9215(n)(5), Dec. 10, 2015, 129 Stat. 2169.)

REFERENCES IN TEXT

The Indian Employment, Training and Related Services Demonstration Act of 1992, referred to in subsec. (f), is Pub. L. 102–477, Oct. 23, 1992, 106 Stat. 2302, which is classified generally to chapter 36 (§3401 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 2326, Pub. L. 88–210, title I, §116, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3094; amended Pub. L. 107–110, title VII, §702(b), (c), Jan. 8, 2002, 115 Stat. 1946, 1947, related to Native American program, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2326, Pub. L. 88–210, title I, §116, as added Pub. L. 101–392, title I, §116, Sept. 25, 1990, 104 Stat. 772, related to State assessments of program quality, prior to the general amendment of this chapter by Pub. L. 105–332.

AMENDMENTS

2015—Subsec. (a)(5). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7517 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§2327. Tribally controlled postsecondary career and technical institutions

(a) Grant program

Subject to the availability of appropriations, the Secretary shall make grants under this section, to provide basic support for the education and training of Indian students, to tribally controlled postsecondary career and technical institutions that are not receiving Federal assistance as of the date on which the grant is provided under—

(1) title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802 et seq.); or

(2) the Navajo Community College Act (25 U.S.C. 640a et seq.).

(b) Uses of grants

Amounts made available under this section shall be used for career and technical education programs for Indian students and for the institutional support costs of the grant, including the expenses described in subsection (e).

(c) Amount of grants

(1) In general

If the sums appropriated for any fiscal year for grants under this section are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant who received funds under

this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(2) Per capita determination

For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary career and technical institutions under this section for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

(3) Indirect costs

Notwithstanding any other provision of law or regulation, the Secretary shall not require the use of a restricted indirect cost rate for grants issued under this section.

(d) Applications

To be eligible to receive a grant under this section, a tribally controlled postsecondary career and technical institution that is not receiving Federal assistance under title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) Expenses

(1) In general

The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary career and technical institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section;

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment; and

(D) institutional support of career and technical education.

(2) Accounting

Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) Other programs

(1) In general

Except as specifically provided in this chapter, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary career and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.], or under any other applicable program for the benefit of institutions of higher education or career and technical education.

(2) Prohibition on alteration of grant amount

The amount of any grant for which tribally controlled postsecondary career and technical institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under section 13 of title 25.

(3) Prohibition on contract denial

No tribally controlled postsecondary career and technical institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under section 13 of title 25, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) Complaint resolution procedure

The Secretary shall establish (after consultation with tribally controlled postsecondary career and technical institutions) a complaint resolution procedure for grant determinations and calculations under this section for tribally controlled postsecondary career and technical institutions.

(h) Definitions

In this section:

(1) Indian; Indian tribe

The terms "Indian" and "Indian tribe" have the meanings given the terms in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801).

(2) Indian student count

(A) In general

The term "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary career and technical institution, as determined in accordance with subparagraph (B).

(B) Determination

(i) Enrollment

For each academic year, the Indian student count shall be determined on the basis of the enrollments of Indian students as in effect at the conclusion of—

(I) in the case of the fall term, the third week of the fall term; and

(II) in the case of the spring term, the third week of the spring term.

(ii) Calculation

For each academic year, the Indian student count for a tribally controlled postsecondary career and technical institution shall be the quotient obtained by dividing—

(I) the sum of the credit hours of all Indian students enrolled in the tribally controlled postsecondary career and technical institution (as determined under clause (i)); by

(II) 12.

(iii) Summer term

Any credit earned in a class offered during a summer term shall be counted in the determination of the Indian student count for the succeeding fall term.

(iv) Students without secondary school degrees

(I) In general

A credit earned at a tribally controlled postsecondary career and technical institution by any Indian student that has not obtained a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count if the institution at which the student is enrolled has established criteria for the admission of the student on the basis of the ability of the student to benefit from the education or training of the institution.

(II) Presumption

The institution shall be presumed to have established the criteria described in subclause (I) if the admission procedures for the institution include counseling or testing that measures the aptitude of a student to successfully complete a course in which the student is enrolled.

(III) Credits toward secondary school degree

No credit earned by an Indian student for the purpose of obtaining a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count under this clause.

(v) Continuing education programs

Any credit earned by an Indian student in a continuing education program of a tribally controlled postsecondary career and technical institution shall be included in the determination of the sum of all credit hours of the student if the credit is converted to a credit hour basis in accordance with the system of the institution for providing credit for participation in the program.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2007 through 2012.

(Pub. L. 88–210, title I, §117, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 710; amended Pub. L. 110–315, title IX, §941(j)(2), (k)(2)(D)(ii), Aug. 14, 2008, 122 Stat. 3465, 3466.)

REFERENCES IN TEXT

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in subsecs. (a)(1) and (d), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325. Title I of the Act is classified generally to subchapter I (§1802 et seq.) of chapter 20 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Navajo Community College Act, referred to in subsecs. (a)(2) and (d), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

The Higher Education Act of 1965, referred to in subsec. (f)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (f)(3), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 2327, Pub. L. 88–210, title I, §117, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3097; amended Pub. L. 106–554, §1(a)(1) [title III, §310], Dec. 21, 2000, 114 Stat. 2763, 2763A–46; Pub. L. 107–20, title II, §2701(a), July 24, 2001, 115 Stat. 181, related to tribally controlled postsecondary vocational and technical institutions, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2327, Pub. L. 88–210, title I, §117, as added Pub. L. 101–392, title I, §116, Sept. 25, 1990, 104 Stat. 772, related to program evaluation and improvement, prior to the general amendment of this chapter by Pub. L. 105–332.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §941(j)(2)(A), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary career and technical institutions that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) to provide basic support for the education and training of Indian students."

Subsec. (d). Pub. L. 110–315, §941(j)(2)(B), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "Any tribally controlled postsecondary career and technical institution that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) that desires to receive a grant under this section shall submit an application to the Secretary in such manner and form as the Secretary may require."

Subsec. (h)(1). Pub. L. 110–315, §941(k)(2)(D)(ii), substituted "the Tribally Controlled Colleges and Universities Assistance Act of 1978" for "the Tribally Controlled College or University Assistance Act of 1978".

§2328. Occupational and employment information

(a) National activities

From funds appropriated under subsection (g), the Secretary, in consultation with appropriate Federal agencies, is authorized—

(1) to provide assistance to an entity to enable the entity—

(A) to provide technical assistance to State entities designated under subsection (c) to enable the State entities to carry out the activities described in such subsection;

(B) to disseminate information that promotes the replication of high quality practices described in subsection (c); and

(C) to develop and disseminate products and services related to the activities described in subsection (c); and

(2) to award grants to States that designate State entities in accordance with subsection (c) to enable the State entities to carry out the State level activities described in such subsection.

(b) State application

(1) In general

A jointly designated State entity described in subsection (c) that desires to receive a grant under this section shall submit an application to the Secretary at the same time the State submits its State plan under section 2342 of this title, in such manner, and accompanied by such additional information, as the Secretary may reasonably require.

(2) Contents

Each application submitted under paragraph (1) shall include a description of how the jointly designated State entity described in subsection (c) will provide information based on trends provided pursuant to section 15 of the Wagner-Peyser Act [29 U.S.C. 49l–2] to inform program development.

(c) State level activities

In order for a State to receive a grant under this section, the eligible agency and the Governor of the State shall jointly designate an entity in the State—

(1) to provide support for career guidance and academic counseling programs designed to promote improved career and education decision making by students (and parents, as appropriate) regarding education (including postsecondary education) and training options and preparations for high skill, high wage, or high demand occupations and non-traditional fields;

(2) to make available to students, parents, teachers, administrators, faculty, and career guidance and academic counselors, and to improve accessibility with respect to, information and planning resources that relate academic and career and technical educational preparation to career goals and expectations;

(3) to provide academic and career and technical education teachers, faculty, administrators, and career guidance and academic counselors with the knowledge, skills, and occupational information needed to assist parents and students, especially special populations, with career exploration, educational opportunities, education financing, and exposure to high skill, high wage, or high

demand occupations and non-traditional fields, including occupations and fields requiring a baccalaureate degree;

(4) to assist appropriate State entities in tailoring career related educational resources and training for use by such entities, including information on high skill, high wage, or high demand occupations in current or emerging professions and on career ladder information;

(5) to improve coordination and communication among administrators and planners of programs authorized by this chapter and by section 15 of the Wagner-Peyser Act [29 U.S.C. 49l–2] at the Federal, State, and local levels to ensure nonduplication of efforts and the appropriate use of shared information and data;

(6) to provide ongoing means for customers, such as students and parents, to provide comments and feedback on products and services and to update resources, as appropriate, to better meet customer requirements; and

(7) to provide readily available occupational information such as—

(A) information relative to employment sectors;

(B) information on occupation supply and demand; and

(C) other information provided pursuant to section 15 of the Wagner-Peyser Act [29 U.S.C. 49l–2] as the jointly designated State entity considers relevant.

(d) Nonduplication

(1) Wagner-Peyser Act

The jointly designated State entity described under subsection (c) may use funds provided under subsection (a)(2) to supplement activities under section 15 of the Wagner-Peyser Act [29 U.S.C. 49l–2] to the extent such activities do not duplicate activities assisted under such section.

(2) Workforce Innovation and Opportunity Act

None of the functions and activities assisted under this section shall duplicate the functions and activities carried out under the Workforce Innovation and Opportunity Act.

(e) Funding rule

Of the amounts appropriated to carry out this section, the Federal entity designated under subsection (a) shall use—

(1) not less than 85 percent to carry out subsection (c); and

(2) not more than 15 percent to carry out subsection (a).

(f) Report

The Secretary, in consultation with appropriate Federal agencies, shall prepare and submit to the appropriate committees of Congress, an annual report that includes—

(1) a description of activities assisted under this section during the prior program year;

(2) a description of the specific products and services assisted under this section that were delivered in the prior program year; and

(3) an assessment of the extent to which States have effectively coordinated activities assisted under this section with activities authorized under section 15 of the Wagner-Peyser Act [29 U.S.C. 49l–2].

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2007 through 2012.

(Pub. L. 88–210, title I, §118, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 713; amended Pub. L. 113–128, title V, §512(e)(1), July 22, 2014, 128 Stat. 1706.)

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (d)(2), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801

et seq.) of Title 29 and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 2328, Pub. L. 88–210, title I, §118, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3100, related to occupational and employment information, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2328, Pub. L. 88–210, title I, §118, as added Pub. L. 101–392, title I, §116, Sept. 25, 1990, 104 Stat. 773, related to criteria for services and activities for individuals who are members of special populations, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2331, Pub. L. 88–210, title II, §201, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 776, related to State programs and State leadership activities, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 2331 and prior sections 2332 to 2334 were omitted in the general amendment of this subchapter by Pub. L. 101–392.

Section 2331, Pub. L. 88–210, title II, §201, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2450; amended Pub. L. 100–297, title II, §2401(a), Apr. 28, 1988, 102 Stat. 324, related to use of a portion of a State's allotment to provide vocational education services and activities to meet special needs of handicapped individuals, disadvantaged individuals, single parents, homemakers, or single pregnant women, and other groups.

Section 2332, Pub. L. 88–210, title II, §202, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2452; amended Pub. L. 100–202, §101(h) [title III, §300], Dec. 22, 1987, 101 Stat. 1329–256, 1329–279; Pub. L. 100–297, title II, §2401(b), (c), Apr. 28, 1988, 102 Stat. 324, related to distribution of assistance from State allotment to provide vocational education opportunities.

Section 2333, Pub. L. 88–210, title II, §203, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2453; amended Pub. L. 99–159, title VII, §705, Nov. 22, 1985, 99 Stat. 905, related to allocation within individual States of the funds available for vocational education services and activities for the handicapped.

Section 2334, Pub. L. 88–210, title II, §204, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2454; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to criteria for services and activities for the handicapped and for the disadvantaged.

Prior sections 2335 to 2336 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2335, Pub. L. 88–210, title II, §221, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 777, related to programs for single parents, displaced homemakers, and single pregnant women.

Section 2335a, Pub. L. 88–210, title II, §222, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 778, related to sex equity programs.

Section 2335b, Pub. L. 88–210, title II, §223, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 778, related to competitive award of amounts and evaluation of programs.

Section 2336, Pub. L. 88–210, title II, §225, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 778, related to programs for criminal offenders.

AMENDMENTS

2014—Subsec. (d)(2). Pub. L. 113–128 substituted "Workforce Innovation and Opportunity Act" for "Public Law 105–220" in heading and "functions and activities carried out under the Workforce Innovation and Opportunity Act" for "functions and activities carried out under Public Law 105–220" in text.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

PART B—STATE PROVISIONS

§2341. State administration

(a) Eligible agency responsibilities

The responsibilities of an eligible agency under this subchapter shall include—

(1) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this subchapter, including preparation for non-traditional fields;

(2) consultation with the Governor and appropriate agencies, groups, and individuals including parents, students, teachers, teacher and faculty preparation programs, representatives of businesses (including small businesses), labor organizations, eligible recipients, State and local officials, and local program administrators, involved in the planning, administration, evaluation, and coordination of programs funded under this subchapter;

(3) convening and meeting as an eligible agency (consistent with State law and procedure for the conduct of such meetings) at such time as the eligible agency determines necessary to carry out the eligible agency's responsibilities under this subchapter, but not less than 4 times annually; and

(4) the adoption of such procedures as the eligible agency considers necessary to—

(A) implement State level coordination with the activities undertaken by the State boards under section 3111 of title 29; and

(B) make available to the one-stop delivery system under section 3151 of title 29 within the State a listing of all school dropout, postsecondary education, and adult programs assisted under this subchapter.

(b) Exception

Except with respect to the responsibilities set forth in subsection (a), the eligible agency may delegate any of the other responsibilities of the eligible agency that involve the administration, operation, or supervision of activities assisted under this subchapter, in whole or in part, to 1 or more appropriate State agencies.

(Pub. L. 88–210, title I, §121, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 715; amended Pub. L. 113–128, title V, §512(e)(2), July 22, 2014, 128 Stat. 1706.)

PRIOR PROVISIONS

A prior section 2341, Pub. L. 88–210, title I, §121, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3102, related to State administration, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2341 and prior sections 2341a to 2341c were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2341, Pub. L. 88–210, title II, §231, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 779; amended Pub. L. 103–382, title III, §391(s)(4), (5), Oct. 20, 1994, 108 Stat. 4025; Pub. L. 104–193, title I, §110(i)(1), Aug. 22, 1996, 110 Stat. 2172, related to distribution of funds to secondary school programs. See section 2351 of this title.

Another prior section 2341, Pub. L. 88–210, title II, §251, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2455; amended Pub. L. 100–418, title VI, §6132, Aug. 23, 1988, 102 Stat. 1511, related to the uses of the portion of a State's allotment available for vocational education program improvement, innovation, and expansion, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

Section 2341a, Pub. L. 88–210, title II, §232, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 781; amended Pub. L. 103–208, §4, Dec. 20, 1993, 107 Stat. 2487; Pub. L. 103–382, title III, §351(a)(1), Oct. 20, 1994, 108 Stat. 3966; Pub. L. 104–193, title I, §110(i)(2), Aug. 22, 1996, 110 Stat. 2172, related to distribution of funds to postsecondary and adult programs. See section 2352 of this title.

Section 2341b, Pub. L. 88–210, title II, §233, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 782, related to special rule for minimal allocations. See section 2353 of this title.

Section 2341c, Pub. L. 88–210, title II, §234, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 783, related to reallocations. See section 2353 of this title.

AMENDMENTS

2014—Subsec. (a)(4)(A). Pub. L. 113–128, §512(e)(2)(A), substituted "activities undertaken by the State boards under section 3111 of title 29" for "activities undertaken by the State boards under section 2821 of title 29".

Subsec. (a)(4)(B). Pub. L. 113–128, §512(e)(2)(B), substituted "the one-stop delivery system under section

3151 of title 29" for "the service delivery system under section 2841 of title 29".

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§2342. State plan

(a) State plan

(1) In general

Each eligible agency desiring assistance under this subchapter for any fiscal year shall prepare and submit to the Secretary a State plan for a 6-year period, together with such annual revisions as the eligible agency determines to be necessary, except that, during the period described in section 2303 of this title, each eligible agency may submit a transition plan that shall fulfill the eligible agency's obligation to submit a State plan under this section for the first fiscal year following August 12, 2006.

(2) Revisions

Each eligible agency—

(A) may submit such annual revisions of the State plan to the Secretary as the eligible agency determines to be necessary; and

(B) shall, after the second year of the 6-year period, conduct a review of activities assisted under this subchapter and submit any revisions of the State plan that the eligible agency determines necessary to the Secretary.

(3) Hearing process

The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including charter school authorizers and organizers consistent with State law, employers, labor organizations, parents, students, and community organizations), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included in the State plan.

(b) Plan development

(1) In general

The eligible agency shall—

(A) develop the State plan in consultation with—

(i) academic and career and technical education teachers, faculty, and administrators;

(ii) career guidance and academic counselors;

(iii) eligible recipients;

(iv) charter school authorizers and organizers consistent with State law;

(v) parents and students;

(vi) institutions of higher education;

(vii) the State tech prep coordinator and representatives of tech prep consortia (if applicable);

(viii) entities participating in activities described in section 3111 of title 29;

(ix) interested community members (including parent and community organizations);

(x) representatives of special populations;

(xi) representatives of business and industry (including representatives of small business); and

(xii) representatives of labor organizations in the State; and

(B) consult the Governor of the State with respect to such development.

(2) Activities and procedures

The eligible agency shall develop effective activities and procedures, including access to information needed to use such procedures, to allow the individuals and entities described in paragraph (1) to participate in State and local decisions that relate to development of the State plan.

(c) Plan contents

The State plan shall include information that—

(1) describes the career and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of—

(A) the career and technical programs of study, which may be adopted by local educational agencies and postsecondary institutions to be offered as an option to students (and their parents as appropriate) when planning for and completing future coursework, for career and technical content areas that—

(i) incorporate secondary education and postsecondary education elements;

(ii) include coherent and rigorous content aligned with challenging academic standards and relevant career and technical content in a coordinated, nonduplicative progression of courses that align secondary education with postsecondary education to adequately prepare students to succeed in postsecondary education;

(iii) may include the opportunity for secondary education students to participate in dual or concurrent enrollment programs or other ways to acquire postsecondary education credits; and

(iv) lead to an industry-recognized credential or certificate at the postsecondary level, or an associate or baccalaureate degree;

(B) how the eligible agency, in consultation with eligible recipients, will develop and implement the career and technical programs of study described in subparagraph (A);

(C) how the eligible agency will support eligible recipients in developing and implementing articulation agreements between secondary education and postsecondary education institutions;

(D) how the eligible agency will make available information about career and technical programs of study offered by eligible recipients;

(E) the secondary and postsecondary career and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to appropriate technology in career and technical education programs;

(F) the criteria that will be used by the eligible agency to approve eligible recipients for funds under this chapter, including criteria to assess the extent to which the local plan will—

(i) promote continuous improvement in academic achievement;

(ii) promote continuous improvement of technical skill attainment; and

(iii) identify and address current or emerging occupational opportunities;

(G) how programs at the secondary level will prepare career and technical education students, including special populations, to graduate from secondary school with a diploma;

(H) how such programs will prepare career and technical education students, including special populations, academically and technically for opportunities in postsecondary education or entry into high skill, high wage, or high demand occupations in current or emerging occupations, and how participating students will be made aware of such opportunities;

(I) how funds will be used to improve or develop new career and technical education courses—

(i) at the secondary level that are aligned with challenging State academic standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(b)(1)];

(ii) at the postsecondary level that are relevant and challenging; and
(iii) that lead to employment in high skill, high wage, or high demand occupations;

(J) how the eligible agency will facilitate and coordinate communication on best practices among successful recipients of tech prep program grants under subchapter II and eligible recipients to improve program quality and student achievement;

(K) how funds will be used effectively to link academic and career and technical education at the secondary level and at the postsecondary level in a manner that increases student academic and career and technical achievement; and

(L) how the eligible agency will report on the integration of coherent and rigorous content aligned with challenging academic standards in career and technical education programs in order to adequately evaluate the extent of such integration;

(2) describes how comprehensive professional development (including initial teacher preparation and activities that support recruitment) for career and technical education teachers, faculty, administrators, and career guidance and academic counselors will be provided, especially professional development that—

(A) promotes the integration of coherent and rigorous academic content standards and career and technical education curricula, including through opportunities for the appropriate academic and career and technical education teachers to jointly develop and implement curricula and pedagogical strategies, as appropriate;

(B) increases the percentage of teachers that meet teacher certification or licensing requirements;

(C) is high quality, sustained, intensive, and focused on instruction, and increases the academic knowledge and understanding of industry standards, as appropriate, of career and technical education teachers;

(D) encourages applied learning that contributes to the academic and career and technical knowledge of the student;

(E) provides the knowledge and skills needed to work with and improve instruction for special populations;

(F) assists in accessing and utilizing data, including data provided under section 2328 of this title, student achievement data, and data from assessments; and

(G) promotes integration with professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6601 et seq.] and title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.];

(3) describes efforts to improve—

(A) the recruitment and retention of career and technical education teachers, faculty, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

(B) the transition to teaching from business and industry, including small business;

(4) describes efforts to facilitate the transition of subbaccalaureate career and technical education students into baccalaureate degree programs at institutions of higher education;

(5) describes how the eligible agency will actively involve parents, academic and career and technical education teachers, administrators, faculty, career guidance and academic counselors, local business (including small businesses), and labor organizations in the planning, development, implementation, and evaluation of such career and technical education programs;

(6) describes how funds received by the eligible agency through the allotment made under section 2321 of this title will be allocated—

(A) among career and technical education at the secondary level, or career and technical education at the postsecondary and adult level, or both, including the rationale for such allocation; and

(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;

(7) describes how the eligible agency will—

(A) improve the academic and technical skills of students participating in career and technical education programs, including strengthening the academic and career and technical components of career and technical education programs through the integration of academics with career and technical education to ensure learning in—

(i) a well-rounded education (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]); and

(ii) career and technical education subjects;

(B) provide students with strong experience in, and understanding of, all aspects of an industry; and

(C) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students;

(8) describes how the eligible agency will annually evaluate the effectiveness of such career and technical education programs, and describe, to the extent practicable, how the eligible agency is coordinating such programs to ensure nonduplication with other Federal programs;

(9) describes the eligible agency's program strategies for special populations, including a description of how individuals who are members of the special populations—

(A) will be provided with equal access to activities assisted under this chapter;

(B) will not be discriminated against on the basis of their status as members of the special populations; and

(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage, or high demand occupations;

(10) describes—

(A) the eligible agency's efforts to ensure that eligible recipients are given the opportunity to provide input in determining the State adjusted levels of performance described in section 2323 of this title; and

(B) how the eligible agency, in consultation with eligible recipients, will develop a process for the negotiation of local adjusted levels of performance under section 2323(b)(4) of this title if an eligible recipient does not accept the State adjusted levels of performance under section 2323(b)(3) of this title;

(11) provides assurances that the eligible agency will comply with the requirements of this chapter and the provisions of the State plan, including the provision of a financial audit of funds received under this chapter which may be included as part of an audit of other Federal or State programs;

(12) provides assurances that none of the funds expended under this chapter will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the acquiring entity or the employees of the acquiring entity, or any affiliate of such an organization;

(13) describes how the eligible agency will report data relating to students participating in career and technical education in order to adequately measure the progress of the students, including special populations, and how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this subchapter and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(14) describes how the eligible agency will adequately address the needs of students in

alternative education programs, if appropriate;

(15) describes how the eligible agency will provide local educational agencies, area career and technical education schools, and eligible institutions in the State with technical assistance;

(16) describes how career and technical education relates to State and regional occupational opportunities;

(17) describes the methods proposed for the joint planning and coordination of programs carried out under this subchapter with other Federal education programs;

(18) describes how funds will be used to promote preparation for high skill, high wage, or high demand occupations and non-traditional fields;

(19) describes how funds will be used to serve individuals in State correctional institutions; and

(20) contains the description and information specified in subparagraphs (B) and (C)(iii) of section 3112(b)(2), and, as appropriate, section 3113(b)(3)(A), and section 3151(c), of title 29 concerning the provision of services only for postsecondary students and school dropouts.

(d) Plan options

(1) Single plan

An eligible agency not choosing to consolidate funds under section 2372 of this title shall fulfill the plan or application submission requirements of this section, and section 2371(c) of this title, by submitting a single State plan. In such plan, the eligible agency may allow recipients to fulfill the plan or application submission requirements of section 2354 of this title and subsections (a) and (b) of section 2374 of this title by submitting a single local plan.

(2) Plan submitted as part of combined plan

The eligible agency may submit the plan required under this section as part of the plan submitted under section 3113 of title 29, if the plan submitted pursuant to the requirement of this section meets the requirements of this chapter.

(e) Plan approval

(1) In general

The Secretary shall approve a State plan, or a revision to an approved State plan, unless the Secretary determines that—

(A) the State plan, or revision, respectively, does not meet the requirements of this chapter; or

(B) the State's levels of performance on the core indicators of performance consistent with section 2323 of this title are not sufficiently rigorous to meet the purpose of this chapter.

(2) Disapproval

The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) Consultation

The eligible agency shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult career and technical education, postsecondary career and technical education, tech prep education, and secondary career and technical education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary career and technical education, and the State agency responsible for secondary education. If a State agency finds that a portion of the final State plan is objectionable, the State agency shall file such objections with the eligible agency. The eligible agency shall respond to any objections of the State agency in the State plan submitted to the Secretary.

(4) Timeframe

A State plan shall be deemed approved by the Secretary if the Secretary has not responded to the eligible agency regarding the State plan within 90 days of the date the Secretary receives the State plan.

(Pub. L. 88–210, title I, §122, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 715;

amended Pub. L. 113–128, title V, §512(e)(3), July 22, 2014, 128 Stat. 1706; Pub. L. 114–95, title IX, §9215(n)(6), Dec. 10, 2015, 129 Stat. 2169.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(2)(G), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title II of the Act is classified generally to subchapter II (§6601 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (c)(2)(G), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title II of the Act is classified generally to subchapter II (§1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 2342, Pub. L. 88–210, title I, §122, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3102, related to State plan, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2342, Pub. L. 88–210, title II, §235, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 783, related to uses of funds, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 2342, Pub. L. 88–210, title II, §252, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2457, related to criteria for program improvement, innovation, and expansion, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

AMENDMENTS

2015—Subsec. (c)(1)(I)(i). Pub. L. 114–95, §9215(n)(6)(A), substituted "aligned with challenging State academic standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965" for "aligned with rigorous and challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965".

Subsec. (c)(7)(A)(i). Pub. L. 114–95, §9215(n)(6)(B), substituted "a well-rounded education (as defined in section 8101 of the Elementary and Secondary Education Act of 1965)" for "the core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965)".

2014—Subsec. (b)(1)(A)(viii). Pub. L. 113–128, §512(e)(3)(A), substituted "entities participating in activities described in section 3111 of title 29" for "entities participating in activities described in section 2821 of title 29".

Subsec. (c)(20). Pub. L. 113–128, §512(e)(3)(B), substituted "the description and information specified in subparagraphs (B) and (C)(iii) of section 3112(b)(2), and, as appropriate, section 3113(b)(3)(A), and section 3151(c), of title 29 concerning the provision of services only for postsecondary students and school dropouts" for "the description and information specified in sections 2822(b)(8) and 2841(c) of title 29 concerning the provision of services only for postsecondary students and school dropouts".

Subsec. (d)(2). Pub. L. 113–128, §512(e)(3)(C), substituted "combined plan" for "501 plan" in heading and "as part of the plan submitted under section 3113 of title 29" for "as part of the plan submitted under section 501 of Public Law 105–220" in text.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§2343. Improvement plans

(a) State program improvement

(1) Plan

If a State fails to meet at least 90 percent of an agreed upon State adjusted level of performance for any of the core indicators of performance described in section 2323(b)(3) of this title, the eligible agency shall develop and implement a program improvement plan (with special consideration to performance gaps identified under section 2323(c)(2) of this title) in consultation with the appropriate agencies, individuals, and organizations during the first program year succeeding the program year for which the eligible agency failed to so meet the State adjusted level of performance for any of the core indicators of performance.

(2) Technical assistance

If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 2342 of this title, or is not making substantial progress in meeting the purposes of this chapter, based on the State's adjusted levels of performance, the Secretary shall work with the eligible agency to implement the improvement activities consistent with the requirements of this chapter.

(3) Subsequent action

(A) In general

The Secretary may, after notice and opportunity for a hearing, withhold from an eligible agency all, or a portion, of the eligible agency's allotment under paragraphs (2) and (3) of section 2322(a) of this title if the eligible agency—

(i) fails to implement an improvement plan as described in paragraph (1);

(ii) fails to make any improvement in meeting any of the State adjusted levels of performance for the core indicators of performance identified under paragraph (1) within the first program year of implementation of its improvement plan described in paragraph (1); or

(iii) fails to meet at least 90 percent of an agreed upon State adjusted level of performance for the same core indicator of performance for 3 consecutive years.

(B) Waiver for exceptional circumstances

The Secretary may waive the sanction in subparagraph (A) due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(4) Funds resulting from reduced allotments

The Secretary shall use funds withheld under paragraph (3) for a State served by an eligible agency to provide technical assistance, to assist in the development of an improved State improvement plan, or for other improvement activities consistent with the requirements of this chapter for such State.

(b) Local program improvement

(1) Local evaluation

Each eligible agency shall evaluate annually, using the local adjusted levels of performance described in section 2323(b)(4) of this title, the career and technical education activities of each eligible recipient receiving funds under this subchapter.

(2) Plan

If, after reviewing the evaluation in paragraph (1), the eligible agency determines that an eligible recipient failed to meet at least 90 percent of an agreed upon local adjusted level of performance for any of the core indicators of performance described in section 2323(b)(4) of this title, the eligible recipient shall develop and implement a program improvement plan (with special consideration to performance gaps identified under section 2323(b)(4)(C)(ii)(II) of this title) in consultation with the eligible agency, appropriate agencies, individuals, and organizations during the first program year succeeding the program year for which the eligible recipient failed to so meet any of the local adjusted levels of performance for any of the core indicators of performance.

(3) Technical assistance

If the eligible agency determines that an eligible recipient is not properly implementing the eligible recipient's responsibilities under section 2354 of this title, or is not making substantial progress in meeting the purposes of this chapter, based on the local adjusted levels of performance, the eligible agency shall work with the eligible recipient to implement improvement activities consistent with the requirements of this chapter.

(4) Subsequent action

(A) In general

The eligible agency may, after notice and opportunity for a hearing, withhold from the eligible recipient all, or a portion, of the eligible recipient's allotment under this subchapter if the eligible recipient—

(i) fails to implement an improvement plan as described in paragraph (2);

(ii) fails to make any improvement in meeting any of the local adjusted levels of performance for the core indicators of performance identified under paragraph (2) within the first program year of implementation of its improvement plan described in paragraph (2); or

(iii) fails to meet at least 90 percent of an agreed upon local adjusted level of performance for the same core indicator of performance for 3 consecutive years.

(B) Waiver for exceptional circumstances

In determining whether to impose sanctions under subparagraph (A), the eligible agency may waive imposing sanctions—

(i) due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the eligible recipient; or

(ii) based on the impact on the eligible recipient's reported performance of the small size of the career and technical education program operated by the eligible recipient.

(5) Funds resulting from reduced allotments

The eligible agency shall use funds withheld under paragraph (4) from an eligible recipient to provide (through alternative arrangements) services and activities to students within the area served by such recipient to meet the purposes of this chapter.

(Pub. L. 88–210, title I, §123, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 721.)

PRIOR PROVISIONS

A prior section 2343, Pub. L. 88–210, title I, §123, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3106, related to improvement plans, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2343, Pub. L. 88–210, title II, §240, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 784, related to local applications, prior to the general amendment of this chapter by Pub. L. 105–332.

§2344. State leadership activities

(a) General authority

From amounts reserved under section 2322(a)(2) of this title, each eligible agency shall conduct State leadership activities.

(b) Required uses of funds

The State leadership activities described in subsection (a) shall include—

(1) an assessment of the career and technical education programs carried out with funds under this subchapter, including an assessment of how the needs of special populations are being met and how the career and technical education programs are designed to enable special populations to meet State adjusted levels of performance and prepare the special populations for further education, further training, or for high skill, high wage, or high demand occupations;

(2) developing, improving, or expanding the use of technology in career and technical education

that may include—

(A) training of career and technical education teachers, faculty, career guidance and academic counselors, and administrators to use technology, including distance learning;

(B) providing career and technical education students with the academic and career and technical skills (including the mathematics and science knowledge that provides a strong basis for such skills) that lead to entry into technology fields, including non-traditional fields; or

(C) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs;

(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for career and technical education teachers, faculty, administrators, and career guidance and academic counselors at the secondary and postsecondary levels, that support activities described in section 2342 of this title and—

(A) provide in-service and preservice training in career and technical education programs—

(i) on effective integration and use of challenging academic and career and technical education provided jointly with academic teachers to the extent practicable;

(ii) on effective teaching skills based on research that includes promising practices;

(iii) on effective practices to improve parental and community involvement; and

(iv) on effective use of scientifically based research and data to improve instruction;

(B) are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom, and are not 1-day or short-term workshops or conferences;

(C) will help teachers and personnel to improve student achievement in order to meet the State adjusted levels of performance established under section 2323 of this title;

(D) will support education programs for teachers of career and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to career and technical education students to ensure that teachers and personnel—

(i) stay current with the needs, expectations, and methods of industry;

(ii) can effectively develop rigorous and challenging, integrated academic and career and technical education curricula jointly with academic teachers, to the extent practicable;

(iii) develop a higher level of academic and industry knowledge and skills in career and technical education; and

(iv) effectively use applied learning that contributes to the academic and career and technical knowledge of the student; and

(E) are coordinated with the teacher certification or licensing and professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6601 et seq.] and title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.];

(4) supporting career and technical education programs that improve the academic and career and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical components of such career and technical education programs, through the integration of coherent and relevant content aligned with challenging academic standards and relevant career and technical education, to ensure achievement in—

(A) a well-rounded education (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]); and

(B) career and technical education subjects;

(5) providing preparation for non-traditional fields in current and emerging professions, and other activities that expose students, including special populations, to high skill, high wage

occupations;

(6) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, intermediaries, parents, and local partnerships, to enable students to achieve State academic standards, and career and technical skills, or complete career and technical programs of study, as described in section 2342(c)(1)(A) of this title;

(7) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities;

(8) support for programs for special populations that lead to high skill, high wage, or high demand occupations; and

(9) technical assistance for eligible recipients.

(c) Permissible uses of funds

The leadership activities described in subsection (a) may include—

(1) improvement of career guidance and academic counseling programs that assist students in making informed academic and career and technical education decisions, including—

(A) encouraging secondary and postsecondary students to graduate with a diploma or degree; and

(B) exposing students to high skill, high wage occupations and non-traditional fields;

(2) establishment of agreements, including articulation agreements, between secondary school and postsecondary career and technical education programs in order to provide postsecondary education and training opportunities for students participating in such career and technical education programs, such as tech prep programs;

(3) support for initiatives to facilitate the transition of subbaccalaureate career and technical education students into baccalaureate degree programs, including—

(A) statewide articulation agreements between associate degree granting career and technical postsecondary educational institutions and baccalaureate degree granting postsecondary educational institutions;

(B) postsecondary dual and concurrent enrollment programs;

(C) academic and financial aid counseling; and

(D) other initiatives—

(i) to encourage the pursuit of a baccalaureate degree; and

(ii) to overcome barriers to participation in baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;

(4) support for career and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

(5) support for public charter schools operating career and technical education programs;

(6) support for career and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

(7) support for family and consumer sciences programs;

(8) support for partnerships between education and business or business intermediaries, including cooperative education and adjunct faculty arrangements at the secondary and postsecondary levels;

(9) support to improve or develop new career and technical education courses and initiatives, including career clusters, career academies, and distance education, that prepare individuals academically and technically for high skill, high wage, or high demand occupations;

(10) awarding incentive grants to eligible recipients—

(A) for exemplary performance in carrying out programs under this chapter, which awards shall be based on—

(i) eligible recipients exceeding the local adjusted levels of performance established under section 2323(b) of this title in a manner that reflects sustained or significant improvement;

(ii) eligible recipients effectively developing connections between secondary education and

postsecondary education and training;

(iii) the adoption and integration of coherent and rigorous content aligned with challenging academic standards and technical coursework;

(iv) eligible recipients' progress in having special populations who participate in career and technical education programs meet local adjusted levels of performance; or

(v) other factors relating to the performance of eligible recipients under this chapter as the eligible agency determines are appropriate; or

(B) if an eligible recipient elects to use funds as permitted under section 2355(c)(19) of this title;

(11) providing for activities to support entrepreneurship education and training;

(12) providing career and technical education programs for adults and school dropouts to complete their secondary school education, in coordination, to the extent practicable, with activities authorized under the Adult Education and Family Literacy Act;

(13) providing assistance to individuals, who have participated in services and activities under this subchapter, in continuing the individuals' education or training or finding appropriate jobs, such as through referral to the system established under section 3151 of title 29;

(14) developing valid and reliable assessments of technical skills;

(15) developing and enhancing data systems to collect and analyze data on secondary and postsecondary academic and employment outcomes;

(16) improving—

(A) the recruitment and retention of career and technical education teachers, faculty, administrators, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

(B) the transition to teaching from business and industry, including small business; and

(17) support for occupational and employment information resources, such as those described in section 2328 of this title.

(d) Restriction on uses of funds

An eligible agency that receives funds under section 2322(a)(2) of this title may not use any of such funds for administrative costs.

(Pub. L. 88–210, title I, §124, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 723; amended Pub. L. 113–128, title V, §512(e)(4), July 22, 2014, 128 Stat. 1707; Pub. L. 114–95, title IX, §9215(n)(7), Dec. 10, 2015, 129 Stat. 2170.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(3)(E), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title II of the Act is classified generally to subchapter II (§6601 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (b)(3)(E), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (c)(12), was title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, which was classified principally to subchapter I (§9201 et seq.) of chapter 73 of this title, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pub. L. 113–128 also included a title II, entitled the "Adult Education and Family Literacy Act", which is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. Pursuant to section 3361(a) of Title 29, references to a provision of Pub. L. 105–220 are deemed to refer to the corresponding provision of Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015.

For complete classification of title II of Pub. L. 105–220 to the Code, see Tables. For complete classification of title II of Pub. L. 113–128 to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 2344, Pub. L. 88–210, title I, §124, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3107, related to State leadership activities, prior to the general amendment of this chapter by Pub. L. 109–270.

AMENDMENTS

2015—Subsec. (b)(4)(A). Pub. L. 114–95 substituted "a well-rounded education (as defined in section 8101 of the Elementary and Secondary Education Act of 1965)" for "the core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965)".

2014—Subsec. (c)(13). Pub. L. 113–128 substituted "such as through referral to the system established under section 3151 of title 29" for "such as through referral to the system established under section 2841 of title 29".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

PART C—LOCAL PROVISIONS

§2351. Distribution of funds to secondary education programs

(a) Distribution rules

Except as provided in section 2353 of this title and as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available under section 2322(a)(1) of this title to carry out this section to local educational agencies within the State as follows:

(1) Thirty percent

Thirty percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school district served by such local educational agency for the preceding fiscal year compared to the total number of such individuals who reside in the school districts served by all local educational agencies in the State for such preceding fiscal year, as determined on the basis of the most recent satisfactory—

(A) data provided to the Secretary by the Bureau of the Census for the purpose of determining eligibility under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]; or

(B) student membership data collected by the National Center for Education Statistics through the Common Core of Data survey system.

(2) Seventy percent

Seventy percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school district served by such local educational agency and are from families below the poverty level for the preceding fiscal year, as determined on the basis of the most recent satisfactory data used under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6333(c)(1)(A)],

compared to the total number of such individuals who reside in the school districts served by all the local educational agencies in the State for such preceding fiscal year.

(3) Adjustments

Each eligible agency, in making the allocations under paragraphs (1) and (2), shall adjust the data used to make the allocations to—

(A) reflect any change in school district boundaries that may have occurred since the data were collected; and

(B) include local educational agencies without geographical boundaries, such as charter schools and secondary schools funded by the Bureau of Indian Affairs.

(b) Waiver for more equitable distribution

The Secretary may waive the application of subsection (a) in the case of any eligible agency that submits to the Secretary an application for such a waiver that—

(1) demonstrates that a proposed alternative formula more effectively targets funds on the basis of poverty (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) to local educational agencies within the State than the formula described in subsection (a); and

(2) includes a proposal for such an alternative formula.

(c) Minimum allocation

(1) In general

Except as provided in paragraph (2), a local educational agency shall not receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is greater than $15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

(2) Waiver

The eligible agency shall waive the application of paragraph (1) in any case in which the local educational agency—

(A)(i) is located in a rural, sparsely populated area; or

(ii) is a public charter school operating secondary school career and technical education programs; and

(B) demonstrates that the local educational agency is unable to enter into a consortium for purposes of providing activities under this part.

(3) Redistribution

Any amounts that are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

(d) Limited jurisdiction agencies

(1) In general

In applying the provisions of subsection (a), no eligible agency receiving assistance under this subchapter shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

(2) Special rule

The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(e) Allocations to area career and technical education schools and educational service agencies

(1) In general

Each eligible agency shall distribute the portion of funds made available under section 2322(a)(1) of this title for any fiscal year by such eligible agency for career and technical education activities at the secondary level under this section to the appropriate area career and technical education school or educational service agency in any case in which the area career and technical education school or educational service agency, and the local educational agency concerned—

(A) have formed or will form a consortium for the purpose of receiving funds under this section; or

(B) have entered into or will enter into a cooperative arrangement for such purpose.

(2) Allocation basis

If an area career and technical education school or educational service agency meets the requirements of paragraph (1), then the amount that would otherwise be distributed to the local educational agency shall be allocated to the area career and technical education school, the educational service agency, and the local educational agency based on each school, agency or entity's relative share of students who are attending career and technical education programs (based, if practicable, on the average enrollment for the preceding 3 years).

(3) Appeals procedure

The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area career and technical education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium or terminate a cooperative arrangement.

(f) Consortium requirements

(1) Alliance

Any local educational agency receiving an allocation that is not sufficient to conduct a program which meets the requirements of section 2355 of this title is encouraged to—

(A) form a consortium or enter into a cooperative agreement with an area career and technical education school or educational service agency offering programs that meet the requirements of section 2355 of this title;

(B) transfer such allocation to the area career and technical education school or educational service agency; and

(C) operate programs that are of sufficient size, scope, and quality to be effective.

(2) Funds to consortium

Funds allocated to a consortium formed to meet the requirements of this subsection shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and can be used only for programs authorized under this subchapter. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefitting only 1 member of the consortium.

(g) Data

The Secretary shall collect information from eligible agencies regarding the specific dollar allocations made available by the eligible agency for career and technical education programs under subsections (a), (b), (c), (d), and (e) and how these allocations are distributed to local educational agencies, area career and technical education schools, and educational service agencies, within the State in accordance with this section.

(h) Special rule

Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

(Pub. L. 88–210, title I, §131, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 727.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(1)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 2351, Pub. L. 88–210, title I, §131, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3109, related to distribution of funds to secondary school programs, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2351, Pub. L. 88–210, title III, §301, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2457, related to applications by community-based organizations, prior to the general amendment of this chapter by Pub. L. 105–332.

§2352. Distribution of funds for postsecondary education programs

(a) Allocation

(1) In general

Except as provided in subsections (b) and (c) and section 2353 of this title, each eligible agency shall distribute the portion of the funds made available under section 2322(a)(1) of this title to carry out this section for any fiscal year to eligible institutions or consortia of eligible institutions within the State.

(2) Formula

Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under section 2322(a)(1) of this title to carry out this section for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 2355 of this title offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the State for such year.

(3) Consortium requirements

(A) In general

In order for a consortium of eligible institutions described in paragraph (2) to receive assistance pursuant to such paragraph, such consortium shall operate joint projects that—

(i) provide services to all postsecondary institutions participating in the consortium; and

(ii) are of sufficient size, scope, and quality to be effective.

(B) Funds to consortium

Funds allocated to a consortium formed to meet the requirements of this section shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and shall be used only for programs authorized under this subchapter. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefitting only 1 member of the consortium.

(4) Waiver

The eligible agency may waive the application of paragraph (3)(A)(i) in any case in which the eligible institution is located in a rural, sparsely populated area.

(b) Waiver for more equitable distribution

The Secretary may waive the application of subsection (a) if an eligible agency submits to the Secretary an application for such a waiver that—

(1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the eligible institutions or consortia within the State that have the highest numbers of

economically disadvantaged individuals and that an alternative formula will result in such a distribution; and

(2) includes a proposal for such an alternative formula.

(c) Minimum grant amount

(1) In general

No institution or consortium shall receive an allocation under this section in an amount that is less than $50,000.

(2) Redistribution

Any amounts that are not distributed by reason of paragraph (1) shall be redistributed to eligible institutions or consortia in accordance with this section.

(Pub. L. 88–210, title I, §132, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 730.)

PRIOR PROVISIONS

A prior section 2352, Pub. L. 88–210, title I, §132, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3112, related to distribution of funds for postsecondary vocational and technical education programs, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2352, Pub. L. 88–210, title III, §302, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 101–392, title III, §301, Sept. 25, 1990, 104 Stat. 786, related to use of funds, prior to the general amendment of this chapter by Pub. L. 105–332.

§2353. Special rules for career and technical education

(a) Special rule for minimal allocation

(1) General authority

Notwithstanding the provisions of sections 2351 and 2352 of this title and in order to make a more equitable distribution of funds for programs serving the areas of greatest economic need, for any program year for which a minimal amount is made available by an eligible agency for distribution under section 2351 or 2352 of this title, such eligible agency may distribute such minimal amount for such year—

(A) on a competitive basis; or

(B) through any alternative method determined by the eligible agency.

(2) Minimal amount

For purposes of this section, the term "minimal amount" means not more than 15 percent of the total amount made available for distribution under section 2322(a)(1) of this title.

(b) Redistribution

(1) In general

In any academic year that an eligible recipient does not expend all of the amounts the eligible recipient is allocated for such year under section 2351 or 2352 of this title, such eligible recipient shall return any unexpended amounts to the eligible agency to be reallocated under section 2351 or 2352 of this title, as appropriate.

(2) Redistribution of amounts returned late in an academic year

In any academic year in which amounts are returned to the eligible agency under section 2351 or 2352 of this title and the eligible agency is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the eligible agency shall retain such amounts for distribution in combination with amounts provided under section 2322(a)(1) of this title for the following academic year.

(c) Construction

Nothing in section 2351 or 2352 of this title shall be construed—

(1) to prohibit a local educational agency or a consortium thereof that receives assistance under section 2351 of this title, from working with an eligible institution or consortium thereof that receives assistance under section 2352 of this title, to carry out career and technical education programs at the secondary level in accordance with this subchapter;

(2) to prohibit an eligible institution or consortium thereof that receives assistance under section 2352 of this title, from working with a local educational agency or consortium thereof that receives assistance under section 2351 of this title, to carry out postsecondary and adult career and technical education programs in accordance with this subchapter; or

(3) to require a charter school, that provides career and technical education programs and is considered a local educational agency under State law, to jointly establish the charter school's eligibility for assistance under this subchapter unless the charter school is explicitly permitted to do so under the State's charter school statute.

(d) Consistent application

For purposes of this section, the eligible agency shall provide funds to charter schools offering career and technical education programs in the same manner as the eligible agency provides those funds to other schools. Such career and technical education programs within a charter school shall be of sufficient size, scope, and quality to be effective.

(Pub. L. 88–210, title I, §133, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 731.)

PRIOR PROVISIONS

A prior section 2353, Pub. L. 88–210, title I, §133, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3113, related to special rules for vocational and technical education, prior to the general amendment of this chapter by Pub. L. 109–270.

§2354. Local plan for career and technical education programs

(a) Local plan required

Any eligible recipient desiring financial assistance under this part shall, in accordance with requirements established by the eligible agency (in consultation with such other educational training entities as the eligible agency determines to be appropriate) submit a local plan to the eligible agency. Such local plan shall cover the same period of time as the period of time applicable to the State plan submitted under section 2342 of this title.

(b) Contents

The eligible agency shall determine the requirements for local plans, except that each local plan shall—

(1) describe how the career and technical education programs required under section 2355(b) of this title will be carried out with funds received under this subchapter;

(2) describe how the career and technical education activities will be carried out with respect to meeting State and local adjusted levels of performance established under section 2323 of this title;

(3) describe how the eligible recipient will—

(A) offer the appropriate courses of not less than 1 of the career and technical programs of study described in section 2342(c)(1)(A) of this title;

(B) improve the academic and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of coherent and rigorous content aligned with challenging academic standards and relevant career and technical education programs to ensure learning in—

(i) a well-rounded education (as defined in section 7801 of this title); and

(ii) career and technical education subjects;

(C) provide students with strong experience in, and understanding of, all aspects of an

industry;

(D) ensure that students who participate in such career and technical education programs are taught to the same coherent and rigorous content aligned with challenging academic standards as are taught to all other students; and

(E) encourage career and technical education students at the secondary level to enroll in rigorous and challenging courses in order to provide a well-rounded education (as defined in section 7801 of this title);

(4) describe how comprehensive professional development (including initial teacher preparation) for career and technical education, academic, guidance, and administrative personnel will be provided that promotes the integration of coherent and rigorous content aligned with challenging academic standards and relevant career and technical education (including curriculum development);

(5) describe how parents, students, academic and career and technical education teachers, faculty, administrators, career guidance and academic counselors, representatives of tech prep consortia (if applicable), representatives of the entities participating in activities described in section 3122 of title 29 (if applicable), representatives of business (including small business) and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of career and technical education programs assisted under this subchapter, and how such individuals and entities are effectively informed about, and assisted in understanding, the requirements of this subchapter, including career and technical programs of study;

(6) provide assurances that the eligible recipient will provide a career and technical education program that is of such size, scope, and quality to bring about improvement in the quality of career and technical education programs;

(7) describe the process that will be used to evaluate and continuously improve the performance of the eligible recipient;

(8) describe how the eligible recipient will—

(A) review career and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations;

(B) provide programs that are designed to enable the special populations to meet the local adjusted levels of performance; and

(C) provide activities to prepare special populations, including single parents and displaced homemakers, for high skill, high wage, or high demand occupations that will lead to self-sufficiency;

(9) describe how individuals who are members of special populations will not be discriminated against on the basis of their status as members of the special populations;

(10) describe how funds will be used to promote preparation for non-traditional fields;

(11) describe how career guidance and academic counseling will be provided to career and technical education students, including linkages to future education and training opportunities; and

(12) describe efforts to improve—

(A) the recruitment and retention of career and technical education teachers, faculty, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

(B) the transition to teaching from business and industry.

(Pub. L. 88–210, title I, §134, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 732; amended Pub. L. 113–128, title V, §512(e)(5), July 22, 2014, 128 Stat. 1707; Pub. L. 114–95, title IX, §9215(n)(8), Dec. 10, 2015, 129 Stat. 2170.)

PRIOR PROVISIONS

A prior section 2354, Pub. L. 88–210, title I, §134, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112

Stat. 3114, related to local plan for vocational and technical education programs, prior to the general amendment of this chapter by Pub. L. 109–270.

AMENDMENTS

2015—Subsec. (b)(3)(B)(i). Pub. L. 114–95, §9215(n)(8)(A), substituted "a well-rounded education (as defined in section 7801 of this title)" for "the core academic subjects (as defined in section 7801 of this title)".

Subsec. (b)(3)(E). Pub. L. 114–95, §9215(n)(8)(B), substituted "in order to provide a well-rounded education (as defined in section 7801 of this title)" for "in core academic subjects (as defined in section 7801 of this title)".

2014—Subsec. (b)(5). Pub. L. 113–128 substituted "entities participating in activities described in section 3122 of title 29 (if applicable)" for "entities participating in activities described in section 2832 of title 29 (if applicable)".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§2355. Local uses of funds

(a) General authority

Each eligible recipient that receives funds under this part shall use such funds to improve career and technical education programs.

(b) Requirements for uses of funds

Funds made available to eligible recipients under this part shall be used to support career and technical education programs that—

(1) strengthen the academic and career and technical skills of students participating in career and technical education programs, by strengthening the academic and career and technical education components of such programs through the integration of academics with career and technical education programs through a coherent sequence of courses, such as career and technical programs of study described in section 2342(c)(1)(A) of this title, to ensure learning in—

(A) a well-rounded education (as defined in section 7801 of this title); and

(B) career and technical education subjects;

(2) link career and technical education at the secondary level and career and technical education at the postsecondary level, including by offering the relevant elements of not less than 1 career and technical program of study described in section 2342(c)(1)(A) of this title;

(3) provide students with strong experience in and understanding of all aspects of an industry, which may include work-based learning experiences;

(4) develop, improve, or expand the use of technology in career and technical education, which may include—

(A) training of career and technical education teachers, faculty, and administrators to use technology, which may include distance learning;

(B) providing career and technical education students with the academic and career and technical skills (including the mathematics and science knowledge that provides a strong basis for such skills) that lead to entry into the technology fields; or

(C) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs, including programs that improve the mathematics and science knowledge of students;

(5) provide professional development programs that are consistent with section 2342 of this title to secondary and postsecondary teachers, faculty, administrators, and career guidance and academic counselors who are involved in integrated career and technical education programs, including—

(A) in-service and preservice training on—

(i) effective integration and use of challenging academic and career and technical education provided jointly with academic teachers to the extent practicable;

(ii) effective teaching skills based on research that includes promising practices;

(iii) effective practices to improve parental and community involvement; and

(iv) effective use of scientifically based research and data to improve instruction;

(B) support of education programs for teachers of career and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to career and technical education students, to ensure that such teachers and personnel stay current with all aspects of an industry;

(C) internship programs that provide relevant business experience; and

(D) programs designed to train teachers specifically in the effective use and application of technology to improve instruction;

(6) develop and implement evaluations of the career and technical education programs carried out with funds under this subchapter, including an assessment of how the needs of special populations are being met;

(7) initiate, improve, expand, and modernize quality career and technical education programs, including relevant technology;

(8) provide services and activities that are of sufficient size, scope, and quality to be effective; and

(9) provide activities to prepare special populations, including single parents and displaced homemakers who are enrolled in career and technical education programs, for high skill, high wage, or high demand occupations that will lead to self-sufficiency.

(c) Permissive

Funds made available to an eligible recipient under this subchapter may be used—

(1) to involve parents, businesses, and labor organizations as appropriate, in the design, implementation, and evaluation of career and technical education programs authorized under this subchapter, including establishing effective programs and procedures to enable informed and effective participation in such programs;

(2) to provide career guidance and academic counseling, which may include information described in section 2328 of this title, for students participating in career and technical education programs, that—

(A) improves graduation rates and provides information on postsecondary and career options, including baccalaureate degree programs, for secondary students, which activities may include the use of graduation and career plans; and

(B) provides assistance for postsecondary students, including for adult students who are changing careers or updating skills;

(3) for local education and business (including small business) partnerships, including for—

(A) work-related experiences for students, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to career and technical education programs;

(B) adjunct faculty arrangements for qualified industry professionals; and

(C) industry experience for teachers and faculty;

(4) to provide programs for special populations;

(5) to assist career and technical student organizations;

(6) for mentoring and support services;

(7) for leasing, purchasing, upgrading or adapting equipment, including instructional aids and publications (including support for library resources) designed to strengthen and support academic and technical skill achievement;

(8) for teacher preparation programs that address the integration of academic and career and technical education and that assist individuals who are interested in becoming career and technical education teachers and faculty, including individuals with experience in business and industry;

(9) to develop and expand postsecondary program offerings at times and in formats that are accessible for students, including working students, including through the use of distance education;

(10) to develop initiatives that facilitate the transition of subbaccalaureate career and technical education students into baccalaureate degree programs, including—

(A) articulation agreements between sub-baccalaureate degree granting career and technical education postsecondary educational institutions and baccalaureate degree granting postsecondary educational institutions;

(B) postsecondary dual and concurrent enrollment programs;

(C) academic and financial aid counseling for sub-baccalaureate career and technical education students that informs the students of the opportunities for pursuing a baccalaureate degree and advises the students on how to meet any transfer requirements; and

(D) other initiatives—

(i) to encourage the pursuit of a baccalaureate degree; and

(ii) to overcome barriers to enrollment in and completion of baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;

(11) to provide activities to support entrepreneurship education and training;

(12) for improving or developing new career and technical education courses, including the development of new proposed career and technical programs of study for consideration by the eligible agency and courses that prepare individuals academically and technically for high skill, high wage, or high demand occupations and dual or concurrent enrollment opportunities by which career and technical education students at the secondary level could obtain postsecondary credit to count towards an associate or baccalaureate degree;

(13) to develop and support small, personalized career-themed learning communities;

(14) to provide support for family and consumer sciences programs;

(15) to provide career and technical education programs for adults and school dropouts to complete the secondary school education, or upgrade the technical skills, of the adults and school dropouts;

(16) to provide assistance to individuals who have participated in services and activities under this chapter in continuing their education or training or finding an appropriate job, such as through referral to the system established under section 3151 of title 29;

(17) to support training and activities (such as mentoring and outreach) in non-traditional fields;

(18) to provide support for training programs in automotive technologies;

(19) to pool a portion of such funds with a portion of funds available to not less than 1 other eligible recipient for innovative initiatives, which may include—

(A) improving the initial preparation and professional development of career and technical education teachers, faculty, administrators, and counselors;

(B) establishing, enhancing, or supporting systems for—

(i) accountability data collection under this chapter; or

(ii) reporting data under this chapter;

(C) implementing career and technical programs of study described in section 2342(c)(1)(A) of this title; or

(D) implementing technical assessments; and

(20) to support other career and technical education activities that are consistent with the purpose of this chapter.

(d) Administrative costs

Each eligible recipient receiving funds under this part shall not use more than 5 percent of the funds for administrative costs associated with the administration of activities assisted under this section.

(Pub. L. 88–210, title I, §135, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 734; amended Pub. L. 113–128, title V, §512(e)(6), July 22, 2014, 128 Stat. 1707; Pub. L. 114–95, title IX, §9215(n)(9), Dec. 10, 2015, 129 Stat. 2170.)

PRIOR PROVISIONS

A prior section 2355, Pub. L. 88–210, title I, §135, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3115, related to local uses of funds, prior to the general amendment of this chapter by Pub. L. 109–270.

Prior sections 2361 to 2363 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2361, Pub. L. 88–210, title III, §311, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 99–159, title VII, §706(b), Nov. 22, 1985, 99 Stat. 906; Pub. L. 101–392, title III, §302, Sept. 25, 1990, 104 Stat. 786, related to consumer and homemaking education grants.

Section 2362, Pub. L. 88–210, title III, §312, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 99–159, title VII, §706(c), Nov. 22, 1985, 99 Stat. 906; Pub. L. 101–392, title III, §303, Sept. 25, 1990, 104 Stat. 786, related to use of funds from consumer and homemaking education grants.

Section 2363, Pub. L. 88–210, title III, §313, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2459; amended Pub. L. 99–159, title VII, §707, Nov. 22, 1985, 99 Stat. 906; Pub. L. 101–392, title III, §304, Sept. 25, 1990, 104 Stat. 786, related to information dissemination and leadership.

AMENDMENTS

2015—Subsec. (b)(1)(A). Pub. L. 114–95 substituted "a well-rounded education (as defined in section 7801 of this title)" for "the core academic subjects (as defined in section 7801 of this title)".

2014—Subsec. (c)(16). Pub. L. 113–128 substituted "such as through referral to the system established under section 3151 of title 29" for "such as through referral to the system established under section 2841 of title 29".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

SUBCHAPTER II—TECH PREP EDUCATION

§2371. State allotment and application

(a) In general

For any fiscal year, the Secretary shall allot the amount made available under section 2376 of this title among the States in the same manner as funds are allotted to States under paragraph (2) of section 2321(a) of this title.

(b) Payments to eligible agencies

The Secretary shall make a payment in the amount of a State's allotment under subsection (a) to the eligible agency that serves the State and has an application approved under subsection (c).

(c) State application

Each eligible agency desiring an allotment under this subchapter shall submit, as part of its State plan under section 2342 of this title, an application that—

(1) describes how activities under this subchapter will be coordinated, to the extent practicable, with activities described in the State plan submitted under section 2342 of this title; and

(2) contains such information as the Secretary may require.

(Pub. L. 88–210, title II, §201, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 737.)

PRIOR PROVISIONS

A prior section 2371, Pub. L. 88–210, title II, §202, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3117, provided definitions, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2371, Pub. L. 88–210, title III, §321, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2459; amended Pub. L. 100–418, title VI, §6131(a)(2), Aug. 23, 1988, 102 Stat. 1509, provided findings and purposes of program, prior to repeal by Pub. L. 101–392, title III, §305, title VII, §702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

A prior section 201 of Pub. L. 88–210, as added by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3117, which provided that former title II of Pub. L. 88–210 could be cited as the "Tech-Prep Education Act", was set out as a note under former section 2301 of this title, prior to the general amendment of Pub. L. 88–210 by Pub. L. 109–270.

§2372. Consolidation of funds

(a) In general

An eligible agency receiving an allotment under sections 2321 and 2371 of this title may choose to consolidate all, or a portion of, funds received under section 2371 of this title with funds received under section 2321 of this title in order to carry out the activities described in the State plan submitted under section 2342 of this title.

(b) Notification requirement

Each eligible agency that chooses to consolidate funds under this section shall notify the Secretary, in the State plan submitted under section 2342 of this title, of the eligible agency's decision to consolidate funds under this section.

(c) Treatment of consolidated funds

Funds consolidated under this section shall be considered as funds allotted under section 2321 of this title and shall be distributed in accordance with section 2322 of this title.

(Pub. L. 88–210, title II, §202, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 738.)

PRIOR PROVISIONS

A prior section 2372, Pub. L. 88–210, title II, §203, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3118, related to State allotment and application, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2372, Pub. L. 88–210, title III, §322, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2460; amended Pub. L. 100–418, title VI, §6131(a)(2), Aug. 23, 1988, 102 Stat. 1509; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, authorized Secretary to make grants and specified uses of funds for program, prior to repeal by Pub. L. 101–392, title III, §305, title VII, §702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

A prior section 202 of Pub. L. 88–210 was classified to section 2371 of this title, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 202 of Pub. L. 88–210 was classified to section 2332 of this title, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

§2373. Tech prep program

(a) Grant program authorized

(1) In general

From amounts made available to each eligible agency under section 2371 of this title, the eligible agency, in accordance with the provisions of this subchapter, shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech prep programs described in subsection (c). The grants shall be awarded to consortia between or among—

(A) a local educational agency, an intermediate educational agency, educational service agency, or area career and technical education school, serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

(B)(i) a nonprofit institution of higher education that—

(I)(aa) offers a 2-year associate degree program or a 2-year certificate program; and

(bb) is qualified as an institution of higher education pursuant to section 102 of the Higher Education Act of 1965 [20 U.S.C. 1002], including—

(AA) an institution receiving assistance under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.); and

(BB) a tribally controlled postsecondary career and technical institution; or

(II) offers a 2-year apprenticeship program that follows secondary education instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.] pursuant to the provisions of section 435(a)(2) of such Act [20 U.S.C. 1085(a)(2)]; or

(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 102 of the Higher Education Act of 1965 [20 U.S.C. 1002], if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

(2) Special rule

In addition, a consortium described in paragraph (1) may include 1 or more—

(A) institutions of higher education that award a baccalaureate degree; and

(B) employers (including small businesses), business intermediaries, or labor organizations.

(b) Duration

Each consortium receiving a grant under this subchapter shall use amounts provided under the grant to develop and operate a 4- or 6-year tech prep program described in subsection (c).

(c) Contents of tech prep program

Each tech prep program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of a program of study that—

(A) combines—

(i) a minimum of 2 years of secondary education (as determined under State law); with

(ii)(I) a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study; or

(II) an apprenticeship program of not less than 2 years following secondary education instruction; and

(B) integrates academic and career and technical education instruction, and utilizes work-based and worksite learning experiences where appropriate and available;

(C) provides technical preparation in a career field, including high skill, high wage, or high demand occupations;

(D) builds student competence in technical skills and as part of a well-rounded education (as defined in section 7801 of this title), as appropriate, through applied, contextual, and integrated instruction, in a coherent sequence of courses;

(E) leads to technical skill proficiency, an industry-recognized credential, a certificate, or a degree, in a specific career field;

(F) leads to placement in high skill or high wage employment, or to further education; and

(G) utilizes career and technical education programs of study, to the extent practicable;

(3) include the development of tech prep programs for secondary education and postsecondary education that—

(A) meet academic standards developed by the State;

(B) link secondary schools and 2-year postsecondary institutions, and if possible and practicable, 4-year institutions of higher education, through—

(i) nonduplicative sequences of courses in career fields;

(ii) the use of articulation agreements; and

(iii) the investigation of opportunities for tech prep secondary education students to enroll concurrently in secondary education and postsecondary education coursework;

(C) use, if appropriate and available, work-based or worksite learning experiences in conjunction with business and all aspects of an industry; and

(D) use educational technology and distance learning, as appropriate, to involve all the participants in the consortium more fully in the development and operation of programs;

(4) include in-service professional development for teachers, faculty, and administrators that—

(A) supports effective implementation of tech prep programs;

(B) supports joint training in the tech prep consortium;

(C) supports the needs, expectations, and methods of business and all aspects of an industry;

(D) supports the use of contextual and applied curricula, instruction, and assessment;

(E) supports the use and application of technology; and

(F) assists in accessing and utilizing data, information available pursuant to section 2328 of this title, and information on student achievement, including assessments;

(5) include professional development programs for counselors designed to enable counselors to more effectively—

(A) provide information to students regarding tech prep programs;

(B) support student progress in completing tech prep programs, which may include the use of graduation and career plans;

(C) provide information on related employment opportunities;

(D) ensure that students are placed in appropriate employment or further postsecondary education;

(E) stay current with the needs, expectations, and methods of business and all aspects of an industry; and

(F) provide comprehensive career guidance and academic counseling to participating students, including special populations;

(6) provide equal access, to the full range of technical preparation programs (including preapprenticeship programs), to individuals who are members of special populations, including the development of tech prep program services appropriate to the needs of special populations;

(7) provide for preparatory services that assist participants in tech prep programs; and

(8) coordinate with activities conducted under subchapter I.

(d) Additional authorized activities

Each tech prep program may—

(1) provide for the acquisition of tech prep program equipment;

(2) acquire technical assistance from State or local entities that have designed, established, and operated tech prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services;

(3) establish articulation agreements with institutions of higher education, labor organizations, or businesses located inside or outside the State and served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs;

(4) improve career guidance and academic counseling for participating students through the development and implementation of graduation and career plans; and

(5) develop curriculum that supports effective transitions between secondary and postsecondary career and technical education programs.

(e) Indicators of performance and accountability

(1) In general

Each consortium shall establish and report to the eligible agency indicators of performance for each tech prep program for which the consortium receives a grant under this subchapter. The indicators of performance shall include the following:

(A) The number of secondary education tech prep students and postsecondary education tech prep students served.

(B) The number and percent of secondary education tech prep students enrolled in the tech prep program who—

(i) enroll in postsecondary education;

(ii) enroll in postsecondary education in the same field or major as the secondary education tech prep students were enrolled at the secondary level;

(iii) complete a State or industry-recognized certification or licensure;

(iv) successfully complete, as a secondary school student, courses that award postsecondary credit at the secondary level; and

(v) enroll in remedial mathematics, writing, or reading courses upon entering postsecondary education.

(C) The number and percent of postsecondary education tech prep students who—

(i) are placed in a related field of employment not later than 12 months after graduation from the tech prep program;

(ii) complete a State or industry-recognized certification or licensure;

(iii) complete a 2-year degree or certificate program within the normal time for completion of such program; and

(iv) complete a baccalaureate degree program within the normal time for completion of such program.

(2) Number and percent

For purposes of subparagraphs (B) and (C) of paragraph (1), the numbers and percentages shall be determined separately with respect to each clause of each such subparagraph.

(Pub. L. 88–210, title II, §203, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 738; amended Pub. L. 110–315, title IX, §941(k)(2)(D)(iii), Aug. 14, 2008, 122 Stat. 3466; Pub. L. 114–95, title IX, §9215(n)(10), Dec. 10, 2015, 129 Stat. 2170.)

REFERENCES IN TEXT

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in subsec. (a)(1)(B)(i)(I)(bb)(AA), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(1)(B)(i), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Part B of title IV of the Act is classified generally to part B (§1071 et seq.) of subchapter IV of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under

section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 2373, Pub. L. 88–210, title II, §204, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3118, related to tech-prep education, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2373, Pub. L. 88–210, title III, §323, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2461; amended Pub. L. 100–418, title VI, §6131(a)(2), Aug. 23, 1988, 102 Stat. 1509, provided for coordination of program with Job Training Partnership Act, prior to repeal by Pub. L. 101–392, title III, §305, title VII, §702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

A prior section 203 of Pub. L. 88–210 was classified to section 2372 of this title, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 203 of Pub. L. 88–210 was classified to section 2333 of this title, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

AMENDMENTS

2015—Subsec. (c)(2)(D). Pub. L. 114–95 substituted "as part of a well-rounded education (as defined in section 7801 of this title)" for "in core academic subjects (as defined in section 7801 of this title)".

2008—Subsec. (a)(1)(B)(i)(I)(bb)(AA). Pub. L. 110–315 substituted "the Tribally Controlled Colleges and Universities Assistance Act of 1978" for "the Tribally Controlled College or University Assistance Act of 1978".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§2374. Consortium applications

(a) In general

Each consortium that desires to receive a grant under this subchapter shall submit an application to the eligible agency at such time and in such manner as the eligible agency shall require.

(b) Plan

Each application submitted under this section shall contain a 6-year plan for the development and implementation of tech prep programs under this subchapter, which plan shall be reviewed after the second year of the plan.

(c) Approval

The eligible agency shall approve applications under this subchapter based on the potential of the activities described in the application to create an effective tech prep program.

(d) Special consideration

The eligible agency, as appropriate, shall give special consideration to applications that—

(1) provide for effective employment placement activities or the transfer of students to baccalaureate or advanced degree programs;

(2) are developed in consultation with business, industry, institutions of higher education, and labor organizations;

(3) address effectively the issues of school dropout prevention and reentry, and the needs of special populations;

(4) provide education and training in an area or skill, including an emerging technology, in which there is a significant workforce shortage based on the data provided by the eligible entity in the State under section 2328 of this title;

(5) demonstrate how tech prep programs will help students meet high academic and employability competencies; and

(6) demonstrate success in, or provide assurances of, coordination and integration with eligible recipients described in part C of subchapter I.

(e) Performance levels

(1) In general

Each consortium receiving a grant under this subchapter shall enter into an agreement with the eligible agency to meet a minimum level of performance for each of the performance indicators described in sections 2323(b) and 2373(e) of this title.

(2) Resubmission of application; termination of funds

An eligible agency—

(A) shall require consortia that do not meet the performance levels described in paragraph (1) for 3 consecutive years to resubmit an application to the eligible agency for a tech prep program grant; and

(B) may choose to terminate the funding for the tech prep program for a consortium that does not meet the performance levels described in paragraph (1) for 3 consecutive years, including when the grants are made on the basis of a formula determined by the eligible agency.

(f) Equitable distribution of assistance

In awarding grants under this subchapter, the eligible agency shall ensure an equitable distribution of assistance between or among urban and rural participants in the consortium.

(Pub. L. 88–210, title II, §204, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 741.)

PRIOR PROVISIONS

A prior section 2374, Pub. L. 88–210, title II, §205, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3120, related to consortium applications, prior to the general amendment of this chapter by Pub. L. 109–270.

A prior section 204 of Pub. L. 88–210 was classified to section 2373 of this title, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 204 of Pub. L. 88–210 was classified to section 2334 of this title, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

§2375. Report

Each eligible agency that receives an allotment under this subchapter annually shall prepare and submit to the Secretary a report on the effectiveness of the tech prep programs assisted under this subchapter, including a description of how grants were awarded within the State.

(Pub. L. 88–210, title II, §205, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 742.)

PRIOR PROVISIONS

A prior section 2375, Pub. L. 88–210, title II, §206, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3120, required a report from grantees, prior to the general amendment of this chapter by Pub. L. 109–270.

A prior section 205 of Pub. L. 88–210 was classified to section 2374 of this title, prior to the general amendment of this chapter by Pub. L. 109–270.

§2376. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter such sums as may be necessary for fiscal year 2007 and each of the 5 succeeding fiscal years.

(Pub. L. 88–210, title II, §206, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 742.)

PRIOR PROVISIONS

A prior section 2376, Pub. L. 88–210, title II, §207, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3121, related to demonstration programs, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2376, Pub. L. 88–210, title III, §326, as added Pub. L. 100–418, title VI, §6131(a)(3),

Aug. 23, 1988, 102 Stat. 1509, provided findings and purpose of special program of financial assistance to States to enable them to expand and improve vocational education programs designed to meet current needs for training, retraining, and employment development of adults who had completed or left high school and were preparing to enter or had entered the labor market, including workers who were 55 years of age and older, in order to equip adults with competencies and skills required for productive employment, prior to repeal by Pub. L. 101–392, title III, §305, title VII, §702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

A prior section 206 of Pub. L. 88–210 was classified to section 2375 of this title, prior to the general amendment of this chapter by Pub. L. 109–270.

A prior section 2377, Pub. L. 88–210, title II, §208, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3121, which related to authorization of appropriations, was omitted in the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2377 and prior section 2378 were repealed by Pub. L. 101–392, title III, §305, title VII, §702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

Section 2377, Pub. L. 88–210, title III, §327, as added Pub. L. 100–418, title VI, §6131(a)(3), Aug. 23, 1988, 102 Stat. 1509; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, authorized giving of grants and uses of funds in connection with special program.

Section 2378, Pub. L. 88–210, title III, §328, as added Pub. L. 100–418, title VI, §6131(a)(3), Aug. 23, 1988, 102 Stat. 1510, provided for coordination of special program with Job Training Partnership Act.

Prior sections 2381 to 2383 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2381, Pub. L. 88–210, title III, §321, formerly §331, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2462; renumbered §321, Pub. L. 101–392, title III, §306(a)(2), Sept. 25, 1990, 104 Stat. 786, related to grants for career guidance and counseling.

Section 2382, Pub. L. 88–210, title III, §322, formerly §332, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2462; renumbered §322 and amended Pub. L. 101–392, title III, §306(a)(2), (c), Sept. 25, 1990, 104 Stat. 786, 787, related to use of funds from career guidance and counseling grants.

Section 2383, Pub. L. 88–210, title III, §323, formerly §333, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2463; amended Pub. L. 99–159, title VII, §708, Nov. 22, 1985, 99 Stat. 906; renumbered §323, Pub. L. 101–392, title III, §306(a)(2), Sept. 25, 1990, 104 Stat. 786, related to information dissemination and leadership.

SUBCHAPTER III—GENERAL PROVISIONS

PART A—FEDERAL ADMINISTRATIVE PROVISIONS

§2391. Fiscal requirements

(a) Supplement not supplant

Funds made available under this chapter for career and technical education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out career and technical education activities and tech prep program activities.

(b) Maintenance of effort

(1) Determination

(A) In general

Except as provided in subparagraphs (B) and (C), no payments shall be made under this chapter for any fiscal year to a State for career and technical education programs or tech prep programs unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for career and technical education programs for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort

or expenditures for career and technical education programs for the second fiscal year preceding the fiscal year for which the determination is made.

(B) Computation

In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special 1-time project costs, and the cost of pilot programs.

(C) Decrease in Federal support

If the amount made available for career and technical education programs under this chapter for a fiscal year is less than the amount made available for career and technical education programs under this chapter for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State required by subparagraph (A) for the preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(2) Waiver

The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

(Pub. L. 88–210, title III, §311, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 742.)

PRIOR PROVISIONS

A prior section 2391, Pub. L. 88–210, title III, §311, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3121, related to fiscal requirements, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2391, Pub. L. 88–210, title III, §331, formerly §341, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2463; renumbered §331 and amended Pub. L. 101–392, title III, §307(a)(2), (c), Sept. 25, 1990, 104 Stat. 787, stated findings of Congress, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 311 of Pub. L. 88–210 was classified to section 2361 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

§2392. Authority to make payments

Any authority to make payments or to enter into contracts under this chapter shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 88–210, title III, §312, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 743.)

PRIOR PROVISIONS

A prior section 2392, Pub. L. 88–210, title III, §312, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3122, related to authority to make payments, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2392, Pub. L. 88–210, title III, §332, formerly §342, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2464; amended Pub. L. 99–159, title VII, §709, Nov. 22, 1985, 99 Stat. 906; renumbered §332 and amended Pub. L. 101–392, title III, §307(a)(2), (d), Sept. 25, 1990, 104 Stat. 787, authorized business-labor-education partnership training grants, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 312 of Pub. L. 88–210 was classified to section 2362 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

§2393. Construction

Nothing in this chapter shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this chapter.

(Pub. L. 88–210, title III, §313, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 743.)

PRIOR PROVISIONS

A prior section 2393, Pub. L. 88–210, title III, §313, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3122, related to construction of this chapter, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2393, Pub. L. 88–210, title III, §333, formerly §343, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2465; amended Pub. L. 100–418, title VI, §6134(a), Aug. 23, 1988, 102 Stat. 1512; renumbered §333, Pub. L. 101–392, title III, §307(a)(2), Sept. 25, 1990, 104 Stat. 787, related to use of grant funds, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 313 of Pub. L. 88–210 was classified to section 2363 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

§2394. Voluntary selection and participation

No funds made available under this chapter shall be used—

(1) to require any secondary school student to choose or pursue a specific career path or major; or

(2) to mandate that any individual participate in a career and technical education program, including a career and technical education program that requires the attainment of a federally funded skill level, standard, or certificate of mastery.

(Pub. L. 88–210, title III, §314, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 743.)

PRIOR PROVISIONS

A prior section 2394, Pub. L. 88–210, title III, §314, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123, related to voluntary selection and participation, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2394 and prior sections 2394a to 2394e were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2394, Pub. L. 88–210, title III, §342, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 789, stated findings and purpose of Congress.

Section 2394a, Pub. L. 88–210, title III, §343, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 789; amended Pub. L. 102–103, title III, §315, Aug. 17, 1991, 105 Stat. 508, authorized grants for tech-prep education programs. See section 2373 of this title.

Section 2394b, Pub. L. 88–210, title III, §344, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 790; amended Pub. L. 103–239, title VII, §711(a), May 4, 1994, 108 Stat. 606, related to use of grant funds.

Section 2394c, Pub. L. 88–210, title III, §345, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 791; amended Pub. L. 103–239, title VII, §711(b), May 4, 1994, 108 Stat. 606, related to applications for grants. See section 2374 of this title.

Section 2394d, Pub. L. 88–210, title III, §346, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 792, related to reports.

Section 2394e, Pub. L. 88–210, title III, §347, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 792; amended Pub. L. 105–244, title I, §102(a)(6)(E), Oct. 7, 1998, 112 Stat. 1618, defined terms for purposes of tech-prep education grant program.

SHORT TITLE

Pub. L. 88–210, title III, §341, as added by Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 788,

which provided that part E of title III of Pub. L. 88–210, enacting part E (§2394 et seq.) of former subchapter III of this chapter, could be cited as the "Tech-Prep Education Act", was omitted in the general amendment of Pub. L. 88–210 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

§2395. Limitation for certain students

No funds received under this chapter may be used to provide career and technical education programs to students prior to the seventh grade, except that equipment and facilities purchased with funds under this chapter may be used by such students.

(Pub. L. 88–210, title III, §315, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 744.)

PRIOR PROVISIONS

A prior section 2395, Pub. L. 88–210, title III, §315, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123, imposed a limitation for certain students, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2395 and prior sections 2395a to 2395e were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2395, Pub. L. 88–210, title III, §351, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 792, stated purpose of supplementary State grant program.

Section 2395a, Pub. L. 88–210, title III, §352, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to allotment to States.

Section 2395b, Pub. L. 88–210, title III, §353, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to allocations to local educational agencies.

Section 2395c, Pub. L. 88–210, title III, §354, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to use of grant funds.

Section 2395d, Pub. L. 88–210, title III, §355, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to State applications for grants.

Section 2395e, Pub. L. 88–210, title III, §356, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 794, related to local applications for grants.

§2396. Federal laws guaranteeing civil rights

Nothing in this chapter shall be construed to be inconsistent with applicable Federal law prohibiting discrimination on the basis of race, color, sex, national origin, age, or disability in the provision of Federal programs or services.

(Pub. L. 88–210, title III, §316, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 744.)

PRIOR PROVISIONS

A prior section 2396, Pub. L. 88–210, title III, §316, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123, related to Federal laws guaranteeing civil rights, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2396 and prior sections 2396a to 2396m were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2396, Pub. L. 88–210, title III, §362, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 794, stated purpose of community education employment centers and vocational education lighthouse schools program.

Section 2396a, Pub. L. 88–210, title III, §363, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 794, authorized grants to establish and operate community education employment centers.

Section 2396b, Pub. L. 88–210, title III, §364, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 794, related to program requirements.

Section 2396c, Pub. L. 88–210, title III, §365, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 795, related to support services requirements.

Section 2396d, Pub. L. 88–210, title III, §366, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 796, related to parental and community participation.

Section 2396e, Pub. L. 88–210, title III, §367, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 797, related to employment and training of professional staff.

Section 2396f, Pub. L. 88–210, title III, §368, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 797, related to eligibility for grants.

Section 2396g, Pub. L. 88–210, title III, §369, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 797, related to applications to participate in grant program.

Section 2396h, Pub. L. 88–210, title III, §370, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 798; amended Pub. L. 104–66, title I, §1041(d), Dec. 21, 1995, 109 Stat. 714, related to evaluation of student learning progress.

Section 2396i, Pub. L. 88–210, title III, §371, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 798, defined terms "eligible recipient" and "parent".

Section 2396m, Pub. L. 88–210, title III, §375, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 798, authorized grants to establish and operate vocational education lighthouse schools.

SHORT TITLE

Pub. L. 88–210, title III, §361, as added by Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 794, which provided that part G of title III of Pub. L. 88–210, enacting part G (§2396 et seq.) of former subchapter III of this chapter, could be cited as the "Community Education Employment Center Act of 1990", was omitted in the general amendment of Pub. L. 88–210 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

§2397. Participation of private school personnel and children

(a) Personnel

An eligible agency or eligible recipient that uses funds under this chapter for in-service and preservice career and technical education professional development programs for career and technical education teachers, administrators, and other personnel shall, to the extent practicable, upon written request, permit the participation in such programs of career and technical education secondary school teachers, administrators, and other personnel in nonprofit private schools offering career and technical secondary education programs located in the geographical area served by such eligible agency or eligible recipient.

(b) Student participation

(1) Student participation

Except as prohibited by State or local law, an eligible recipient may, upon written request, use funds made available under this chapter to provide for the meaningful participation, in career and technical education programs and activities receiving funding under this chapter, of secondary school students attending nonprofit private schools who reside in the geographical area served by the eligible recipient.

(2) Consultation

An eligible recipient shall consult, upon written request, in a timely and meaningful manner with representatives of nonprofit private schools in the geographical area served by the eligible recipient described in paragraph (1) regarding the meaningful participation, in career and technical education programs and activities receiving funding under this chapter, of secondary school students attending nonprofit private schools.

(Pub. L. 88–210, title III, §317, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 744.)

PRIOR PROVISIONS

A prior section 2397, Pub. L. 88–210, title III, §317, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123, related to authorization of Secretary, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2397 and prior sections 2397a to 2397h were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2397, Pub. L. 88–210, title III, §382, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 800, stated purpose of program to assist tribally controlled postsecondary vocational institutions.

Section 2397a, Pub. L. 88–210, title III, §383, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104

Stat. 800, authorized grants to tribally controlled postsecondary vocational institutions.

Section 2397b, Pub. L. 88–210, title III, §384, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 800, related to eligible grant recipients.

Section 2397c, Pub. L. 88–210, title III, §385, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 800, related to applications for grants, consultation, and use of grants.

Section 2397d, Pub. L. 88–210, title III, §386, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 801, related to amount of grants.

Section 2397e, Pub. L. 88–210, title III, §387, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 802, related to effect of grant receipt on eligibility under other programs.

Section 2397f, Pub. L. 88–210, title III, §388, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 802, related to grant adjustments.

Section 2397g, Pub. L. 88–210, title III, §389, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 803, related to report on facilities and facilities improvement.

Section 2397h, Pub. L. 88–210, title III, §390, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 803, defined terms for purposes of tribally controlled postsecondary vocational institutions grant program.

SHORT TITLE

Pub. L. 88–210, title III, §381, as added by Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 799, which provided that part H of title III of Pub. L. 88–210, enacting part H (§2397 et seq.) of former subchapter III of this chapter, could be cited as the "Tribally Controlled Vocational Institutions Support Act of 1990", was omitted in the general amendment of Pub. L. 88–210 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

§2398. Limitation on Federal regulations

The Secretary may issue regulations under this chapter only to the extent necessary to administer and ensure compliance with the specific requirements of this chapter.

(Pub. L. 88–210, title III, §318, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 744.)

PRIOR PROVISIONS

A prior section 2398, Pub. L. 88–210, title III, §318, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123, related to participation of private school personnel, prior to the general amendment of this chapter by Pub. L. 109–270.

Prior sections 2401 to 2404 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2401, Pub. L. 88–210, title IV, §401, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2466; amended Pub. L. 101–392, title IV, §402, Sept. 25, 1990, 104 Stat. 806, related to research objectives.

Section 2402, Pub. L. 88–210, title IV, §402, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2466; amended Pub. L. 101–392, title IV, §403, Sept. 25, 1990, 104 Stat. 806, related to research activities.

Section 2403, Pub. L. 88–210, title IV, §403, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2467; amended Pub. L. 101–392, title IV, §404, Sept. 25, 1990, 104 Stat. 807, related to national assessment of vocational education programs.

Section 2404, Pub. L. 88–210, title IV, §404, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2468; amended Pub. L. 101–392, title IV, §405, Sept. 25, 1990, 104 Stat. 809; Pub. L. 103–382, title III, §351(a)(2), Oct. 20, 1994, 108 Stat. 3966, related to National Center or Centers for Research in Vocational Education.

PART B—STATE ADMINISTRATIVE PROVISIONS

§2411. Joint funding

(a) General authority

Funds made available to eligible agencies under this chapter may be used to provide additional funds under an applicable program if—

(1) such program otherwise meets the requirements of this chapter and the requirements of the applicable program;

(2) such program serves the same individuals that are served under this chapter;

(3) such program provides services in a coordinated manner with services provided under this chapter; and

(4) such funds are used to supplement, and not supplant, funds provided from non-Federal sources.

(b) Applicable program

For the purposes of this section, the term "applicable program" means any program under any of the following provisions of law:

(1) Chapters 2 and 3 of subtitle B of title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3161 et seq., 3171 et seq.].

(2) The Wagner-Peyser Act [29 U.S.C. 49 et seq.].

(c) Use of funds as matching funds

For the purposes of this section, the term "additional funds" does not include funds used as matching funds.

(Pub. L. 88–210, title III, §321, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 745; amended Pub. L. 113–128, title V, §512(e)(7), July 22, 2014, 128 Stat. 1707.)

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (b)(1), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Chapters 2 and 3 of subtitle B of title I of the Act are classified generally to subparts 2 (§3161 et seq.) and 3 (§3171 et seq.), respectively, of part B of subchapter I of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Wagner-Peyser Act, referred to in subsec. (b)(2), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified generally to chapter 4B (§49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 2411, Pub. L. 88–210, title III, §321, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123, related to joint funding, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2411, Pub. L. 88–210, title IV, §411, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 812, authorized grants for demonstration programs, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 2411, Pub. L. 88–210, title IV, §411, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2470, related to programs and projects Secretary was authorized to carry out from available funds, prior to the general amendment of part B of former subchapter IV of this chapter by Pub. L. 101–392.

A prior section 321 of Pub. L. 88–210 was classified to section 2381 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 321 of Pub. L. 88–210 was classified to section 2371 of this title, prior to repeal by Pub. L. 101–392.

AMENDMENTS

2014—Subsec. (b)(1). Pub. L. 113–128 substituted "Chapters 2 and 3 of subtitle B of title I of the Workforce Innovation and Opportunity Act" for "Chapters 4 and 5 of subtitle B of title I of Public Law 105–220".

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§2412. Prohibition on use of funds to induce out-of-State relocation of businesses

No funds provided under this chapter shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from one State to another State if such relocation will result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

(Pub. L. 88–210, title III, §322, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 745.)

PRIOR PROVISIONS

A prior section 2412, Pub. L. 88–210, title III, §322, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3124, prohibited use of funds to induce out-of-State relocation of businesses, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2412, Pub. L. 88–210, title IV, §412, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 812, authorized grants for development, production, and distribution of instructional telecommunications materials and services, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 322 of Pub. L. 88–210 was classified to section 2382 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 322 of Pub. L. 88–210 was classified to section 2372 of this title, prior to repeal by Pub. L. 101–392.

§2413. State administrative costs

(a) General rule

Except as provided in subsection (b), for each fiscal year for which an eligible agency receives assistance under this chapter, the eligible agency shall provide, from non-Federal sources for the costs the eligible agency incurs for the administration of programs under this chapter, an amount that is not less than the amount provided by the eligible agency from non-Federal sources for such costs for the preceding fiscal year.

(b) Exception

If the amount made available from Federal sources for the administration of programs under this chapter for a fiscal year (referred to in this section as the "determination year") is less than the amount made available from Federal sources for the administration of programs under this chapter for the preceding fiscal year, then the amount the eligible agency is required to provide from non-Federal sources for costs the eligible agency incurs for the administration of programs under this chapter for the determination year under subsection (a) shall bear the same ratio to the amount the eligible agency provided from non-Federal sources for such costs for the preceding fiscal year, as the amount made available from Federal sources for the administration of programs under this chapter for the determination year bears to the amount made available from Federal sources for the administration of programs under this chapter for the preceding fiscal year.

(Pub. L. 88–210, title III, §323, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 745.)

PRIOR PROVISIONS

A prior section 2413, Pub. L. 88–210, title III, §323, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3124, related to State administrative costs, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2413, Pub. L. 88–210, title IV, §413, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 813, authorized establishment of demonstration centers for training of dislocated workers, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 2413, Pub. L. 88–210, title IV, §413, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2471, related to program of competitive grants to State boards for State programs involving loan of high-technology, state-of-the-art equipment to eligible recipients for use in local vocational education programs, prior to the general amendment of part B of former subchapter IV of this chapter by Pub. L. 101–392.

A prior section 323 of Pub. L. 88–210 was classified to section 2383 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 323 of Pub. L. 88–210 was classified to section 2373 of this title, prior to repeal by Pub. L. 101–392.

§2414. Student assistance and other Federal programs

(a) Attendance costs not treated as income or resources

The portion of any student financial assistance received under this chapter that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

(b) Attendance costs

The attendance costs described in this subsection are—

(1) tuition and fees normally assessed a student carrying an academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in that course of study; and

(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

(c) Costs of career and technical education services

Funds made available under this chapter may be used to pay for the costs of career and technical education services required in an individualized education program developed pursuant to section 1414(d) of this title and services necessary to meet the requirements of section 794 of title 29 with respect to ensuring equal access to career and technical education.

(Pub. L. 88–210, title III, §324, as added Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 746.)

PRIOR PROVISIONS

A prior section 2414, Pub. L. 88–210, title III, §324, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3124, limited Federal regulations, prior to the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2414, Pub. L. 88–210, title IV, §414, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 813, authorized grants for professional development, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2415, Pub. L. 88–210, title III, §325, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3124, which related to student assistance and other Federal programs, was omitted in the general amendment of this chapter by Pub. L. 109–270.

Another prior section 2415 and prior sections 2416 to 2424 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2415, Pub. L. 88–210, title IV, §415, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 817, related to Blue Ribbon Vocational Education Programs.

Another prior section 2415, Pub. L. 88–210, title IV, §415, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2471, related to establishment by Secretary of demonstration centers for retraining of dislocated workers, prior to the general amendment of part B of former subchapter IV of this chapter by Pub. L. 101–392.

Section 2416, Pub. L. 88–210, title IV, §416, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 818, related to development of business and education standards.

Section 2417, Pub. L. 88–210, title IV, §417, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 818, related to educational programs for Federal correctional institutions.

Another prior section 2417, Pub. L. 88–210, title IV, §417, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2471; amended Pub. L. 99–159, title VII, §710, Nov. 22, 1985, 99 Stat. 907, related to establishment of grant program to establish and operate model centers for vocational education for older individuals, prior to the general amendment of part B of former subchapter IV of this chapter by Pub. L. 101–392.

Section 2418, Pub. L. 88–210, title IV, §418, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 819, related to dropout prevention.

Section 2419, Pub. L. 88–210, title IV, §419, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 819, related to model programs of regional training for skilled trades.

Section 2420, Pub. L. 88–210, title IV, §420, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990,

104 Stat. 820; amended Pub. L. 103–382, title III, §391(s)(6), Oct. 20, 1994, 108 Stat. 4025, related to demonstration projects for integration of vocational and academic learning.

Section 2420a, Pub. L. 88–210, title IV, §420A, as added Pub. L. 101–392, title IV, §406(a), Sept. 25, 1990, 104 Stat. 820, related to cooperative demonstration programs.

Section 2421, Pub. L. 88–210, title IV, §421, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2472; amended Pub. L. 101–392, title IV, §407, Sept. 25, 1990, 104 Stat. 822; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 103–227, title X, §1021, Mar. 31, 1994, 108 Stat. 269, authorized vocational education and occupational information data systems.

Section 2422, Pub. L. 88–210, title IV, §422, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2473; amended Pub. L. 101–392, title IV, §408, Sept. 25, 1990, 104 Stat. 825; Pub. L. 103–227, title IX, §991, Mar. 31, 1994, 108 Stat. 264, related to National Occupational Information Coordinating Committee.

Section 2423, Pub. L. 88–210, title IV, §423, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2474; amended Pub. L. 101–392, title IV, §409, Sept. 25, 1990, 104 Stat. 827, related to information base for vocational education data system.

Section 2424, Pub. L. 88–210, title IV, §424, as added Pub. L. 101–392, title IV, §410, Sept. 25, 1990, 104 Stat. 829, related to collection of information at reasonable cost and cooperation of States.

A prior section 2431, Pub. L. 88–210, title IV, §431, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2474, established National Council on Vocational Education, prior to repeal by Pub. L. 101–392, title IV, §411(a), (c), Sept. 25, 1990, 104 Stat. 829, effective Oct. 1, 1991.

Prior sections 2441 to 2461 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2441, Pub. L. 88–210, title IV, §441, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2477; amended Pub. L. 104–66, title I, §1041(h), Dec. 21, 1995, 109 Stat. 715, authorized grants for bilingual vocational training.

Section 2451, Pub. L. 88–210, title IV, §451, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2479; amended Pub. L. 101–392, title IV, §412, Sept. 25, 1990, 104 Stat. 829, related to distribution of assistance.

Section 2461, Pub. L. 88–210, title V, §501, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2479, related to Federal payments to States.

A prior section 2462, Pub. L. 88–210, title V, §502, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2479; amended Pub. L. 99–159, title VII, §711, Nov. 22, 1985, 99 Stat. 907, related to Federal share of, and non-Federal contributions for, costs of vocational education programs, prior to repeal by Pub. L. 101–392, title V, §501(a)(1), title VII, §702(a), Sept. 25, 1990, 104 Stat. 830, 843, effective July 1, 1991.

A prior section 2463, Pub. L. 88–210, title V, §502, formerly §503, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2480; renumbered §502 and amended Pub. L. 101–392, title V, §501(a)(2), (b), Sept. 25, 1990, 104 Stat. 830, related to maintenance of effort, prior to the general amendment of this chapter by Pub. L. 105–332.

Prior sections 2464 and 2465 were repealed by Pub. L. 101–392, title V, §501(a)(1), title VII, §702(a), Sept. 25, 1990, 104 Stat. 830, 843, effective July 1, 1991.

Section 2464, Pub. L. 88–210, title V, §504, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2480; amended Pub. L. 99–159, title VII, §713(a)(3), Nov. 22, 1985, 99 Stat. 907, related to withholding of payments and judicial review of such action.

Section 2465, Pub. L. 88–210, title V, §505, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2482, required States to conduct biennial audits.

Prior sections 2466 to 2471 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2466, Pub. L. 88–210, title V, §503, formerly §506, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2482; renumbered §503, Pub. L. 101–392, title V, §501(a)(2), Sept. 25, 1990, 104 Stat. 830, related to authority to make payments. See section 2392 of this title.

Section 2466a, Pub. L. 88–210, title V, §504, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 830; amended Pub. L. 103–382, title II, §261(i)(1), Oct. 20, 1994, 108 Stat. 3929, related to regional meetings and negotiated rulemaking.

Section 2466b, Pub. L. 88–210, title V, §505, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 831, contained requirements relating to reports, plans, and regulations.

Section 2466c, Pub. L. 88–210, title V, §506, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 831, provided for consistency of this chapter with Federal laws guaranteeing civil rights.

Section 2466d, Pub. L. 88–210, title V, §507, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 831, related to student assistance and other Federal programs.

Section 2466e, Pub. L. 88–210, title V, §508, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 831, related to Federal monitoring of compliance with this chapter.

Section 2468, Pub. L. 88–210, title V, §511, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990,

104 Stat. 832, related to use of funds for joint funding of programs.

Section 2468a, Pub. L. 88–210, title V, §512, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 832, related to review of regulations.

Section 2468b, Pub. L. 88–210, title V, §513, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 833, related to identification of State-imposed requirements.

Section 2468c, Pub. L. 88–210, title V, §514, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 833, prohibited use of funds to induce out-of-State relocation of businesses. See section 2412 of this title.

Section 2468d, Pub. L. 88–210, title V, §515, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 833, related to State administrative costs. See section 2413 of this title.

Section 2468e, Pub. L. 88–210, title V, §516, as added Pub. L. 101–392, title V, §501(c)(2), Sept. 25, 1990, 104 Stat. 833, contained additional administrative provisions.

Section 2471, Pub. L. 88–210, title V, §521, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2482; amended Pub. L. 99–159, title VII, §713(a)(4), Nov. 22, 1985, 99 Stat. 907; Pub. L. 101–392, title V, §502, Sept. 25, 1990, 104 Stat. 834; Pub. L. 103–382, title III, §391(s)(7), (8), Oct. 20, 1994, 108 Stat. 4025; Pub. L. 104–193, title I, §110(i)(3), Aug. 22, 1996, 110 Stat. 2172, defined terms for purposes of this chapter.

CHAPTER 45—CAREER EDUCATION AND CAREER DEVELOPMENT

SUBCHAPTER I—CAREER EDUCATION AND DEVELOPMENT PROGRAMS AND ACTIVITIES

Sec.

2501. Statement of purpose.
2502. Funding requirements.
2503. Administration by Office of Career Education.
2504. Prerequisites for State participation.
2505. Grants or contracts.
2506. Functions of National Advisory Council for Career Education.

SUBCHAPTER II—GUIDANCE AND COUNSELING ACTIVITIES AND PROGRAMS

2531. Congressional findings.
2532. Authorization of appropriations.
2533. Administration by unit in Department of Education.
2534. Contracts and grants to States, educational agencies, etc.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

2561 to 2563. Omitted.
2564. Departmental day care center facilities; establishment; fees and charges; equipment and operation by appropriated funds.
2565. Wayne Morse Chair of Law and Politics.
2566. Hubert H. Humphrey Institute of Public Affairs; grants for development.
2567. Everett McKinley Dirksen Congressional Leadership Research Center; grants for development.
2568. Payments to Humphrey Institute and Dirksen Center; procedures applicable.
2569. Authorization of appropriations for Humphrey Institute and Dirksen Center.

SUBCHAPTER I—CAREER EDUCATION AND DEVELOPMENT PROGRAMS AND ACTIVITIES

§2501. Statement of purpose

It is the purpose of this subchapter to provide Federal assistance to States to enable them to plan for the development of career education and career development programs and activities for

individuals of all ages, and to plan for the improvement of existing programs and activities, in the areas of awareness, exploration, planning, and decisionmaking of individuals served with regard to career opportunities and career development throughout the lifetimes of such individuals, through—

(1) planning for the development of information on the needs for career education and career development for all individuals;

(2) planning for the promotion of a national dialogue on career education and career development designed to encourage each State and local educational agency to determine and adopt the approach best suited to the needs of the individuals served by each such agency;

(3) planning for the assessment of the status of career education and career development programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) planning for the demonstration of the best of the current career education and career development programs and practices by planning to develop and test exemplary programs and practices using various theories, concepts, and approaches with respect to career education and through planning for a nationwide system of regional career education centers;

(5) planning for the training and retraining of persons for conducting career education and career development programs; and

(6) developing State and local plans for implementing programs designed to ensure that every person has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

(Pub. L. 94–482, title III, §331, Oct. 12, 1976, 90 Stat. 2221.)

EFFECTIVE DATE

Chapter effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, where section provides for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as an Effective Date of 1976 Amendment note under section 1001 of this title.

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–270, Apr. 27, 1978, 92 Stat. 220, which enacted sections 2566 to 2569 of this title, is known as the Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 2566 of this title and Tables.

§2502. Funding requirements

(a) Authorization of appropriations

There are authorized to be appropriated for the purpose of this subchapter $10,000,000 for fiscal year 1978. The provisions of section 1226a [1] of this title shall not apply to the authorization made by this subsection.

(b) Availability of amounts appropriated; allotments to States, etc.

(1) From the sums appropriated under this subchapter, the Secretary of Education shall reserve an amount not to exceed $2,000,000, for the purpose of carrying out section 2505 of this title.

(2) From the remainder of the sums appropriated under this subchapter, the Secretary of Education shall reserve such amount, not to exceed 1 per centum thereof, as he may determine necessary and shall allot such amount among the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this subchapter.

(3)(A) Of the remainder of the sums appropriated, the Secretary of Education shall allot to each State $100,000, and of the remainder of the sums appropriated the Secretary of Education shall allot to each State an amount which bears the same ratio to such sums for such year as the population of the State bears to the population of all States, for purposes of carrying out section 2501 of this title.

(B) For purposes of this paragraph, the term "State" means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Federal share

The Federal share of funds allotted to States under this subchapter shall not exceed 80 per centum of the total cost of the planning undertaken pursuant to this subchapter.

(Pub. L. 94–482, title III, §332, Oct. 12, 1976, 90 Stat. 2222; Pub. L. 95–207, §16, Dec. 13, 1977, 91 Stat. 1474; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Section 1226a of this title, referred to in subsec. (a), was in the original a reference to section 414 of the General Education Provisions Act. Section 414 of that Act was renumbered as section 422 by Pub. L. 103–382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and is classified to section 1226a of this title.

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95–207, §16(1), substituted "1 per centum" for "3 per centum" and struck out "the Commonwealth of Puerto Rico," after "shall allot such amount among".

Subsec. (b)(3)(B). Pub. L. 95–207, §16(2), substituted ", the District of Columbia, and the Commonwealth of Puerto Rico" for "and the District of Columbia".

REPEALS

The directory language of, but not the amendment made by, Pub. L. 95–207, §16, Dec. 13, 1977, 91 Stat. 1474, cited as a credit to this section, was repealed by Pub. L. 97–35, title V, §587(a)(4), Aug. 13, 1981, 95 Stat. 480, effective Oct. 1, 1982.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Commissioner of Education" and "Commissioner" in subsecs. (b)(1), (2), and (3)(A) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] *See References in Text note below.*

§2503. Administration by Office of Career Education

The provisions of this subchapter shall be carried out by the Secretary of Education through the Office of Career Education established pursuant to section 2612a(c) of this title.

(Pub. L. 94–482, title III, §333, Oct. 12, 1976, 90 Stat. 2222; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Section 2612a of this title, referred to in text, has been omitted from the Code.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

For authority of Secretary of Education to consolidate, alter, or discontinue the Office of Career Education, or to reallocate any functions vested by statute in the Office, see section 413 of Pub. L. 96–88, which is classified to section 3473 of this title.

§2504. Prerequisites for State participation

Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this

subchapter shall agree to submit to the Secretary of Education by December 31, 1978, a report on any planning undertaken pursuant to this subchapter. Such report shall be in such form as the State may desire, and may include planning proposals for—

(1) extending career education and career development programs and services to all individuals in the State;

(2) extending the concept of the education process beyond the school into the area of employment and community affairs, and relating the subject matter curriculums of schools to the needs of individuals to function in society;

(3) the implementation of new concepts in career education and career development and for the replication of concepts which have demonstrated success;

(4) the development of training programs, including inservice training programs, for teachers, counselors, other educators, and administrators;

(5) fostering cooperative arrangements with such community groups and agencies as the public employment services, vocational rehabilitation service, community mental health agencies, education opportunity centers, and other community resources concerned with vocational development guidance and counseling, in order to avoid unnecessary duplication in the provision of services in the community or area to be served; and

(6) inventories of State, local, and private resources available for the development of career education and career development programs and services.

(Pub. L. 94–482, title III, §334, Oct. 12, 1976, 90 Stat. 2222; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§2505. Grants or contracts

(a) Information gathering; analysis of career trends and options; publication of periodic reports and reference works; conduct of seminars, workshops, etc.

The Secretary of Education shall provide, either directly or by grant or contract, for—

(1) the gathering, cataloging, storing, analyzing, and disseminating information related to the availability of, and preparation for, careers in the United States, including information concerning current career options, future career trends, and career education;

(2) the ongoing analysis of career trends and options in the United States, using information from both the public and private sectors, including such sources as the Bureau of Labor Statistics, the Department of Commerce, the United States International Trade Commission, economic analysts, labor unions, and private industry;

(3) the publication of periodic reports and reference works using analysis prepared pursuant to this section and containing exemplary materials from the career education field, including research findings, results, and techniques from successful projects and programs, and highlights of ongoing analyses of career trends in the United States; and

(4) the conduct of seminars, workshops, and career information sessions for the purpose of disseminating to teachers, guidance counselors, other career educators, administrators, other education personnel, and the general public information compiled and analyzed under this section.

(b) Implementation requirements

In carrying out the provisions of this subchapter, and to the extent practicable, the Secretary of Education shall (1) make use of existing offices, centers, clearinghouses, and research capabilities, (2) coordinate among the offices, centers, clearinghouses, and research capabilities in carrying out his career information responsibilities, and (3) use the career information capabilities of the Department of Education.

(Pub. L. 94–482, title III, §335, Oct. 12, 1976, 90 Stat. 2223; Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692.)

CHANGE OF NAME

"United States International Trade Commission" substituted for "Unites States Tariff Commission" in subsec. (a)(2) pursuant to Pub. L. 93–618, §171(a), Jan. 3, 1975, 88 Stat. 2009, which is classified to section 2231(a) of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Commissioner" in text, and "Department of Education" substituted for "Education Division" in subsec. (b)(3), pursuant to sections 301(a)(1), (b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1), (b)(2) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education and transferred Education Division to Department of Education.

§2506. Functions of National Advisory Council for Career Education

The National Advisory Council for Career Education established pursuant to section 2612a(g) of this title shall, in addition to its duties under that section, advise the Secretary of Education with respect to the implementation of this subchapter.

(Pub. L. 94–482, title III, §336, Oct. 12, 1976, 90 Stat. 2224; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Section 2612a of this title, referred to in text, has been omitted from the Code.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER II—GUIDANCE AND COUNSELING ACTIVITIES AND PROGRAMS

§2531. Congressional findings

The Congress finds that—

(1) guidance and counseling activities are an essential component to assure success in achieving the goals of many education programs: [1]

(2) lack of coordination among guidance and counseling activities supported jointly or separately by Federal programs and by State and local programs has resulted in an underutilization of resources available for such activities; and

(3) increased and improved preparation of education professionals is needed in guidance and counseling, including administration of guidance and counseling programs at the State and local levels, with special emphasis on inservice training which takes educational professionals into the

workplaces of business and industry, the professions, and other occupational pursuits, and that increased and improved use of individuals employed in such pursuits are needed for effective guidance and counseling programs, including (A) bringing persons employed in such pursuits into schools, and (B) bringing students into such workplaces for observation of, and participation in, such pursuits, in order to acquaint the students with the nature of the work.

(Pub. L. 94–482, title III, §341, Oct. 12, 1976, 90 Stat. 2224.)

[1] *So in original. The colon probably should be a semicolon.*

§2532. Authorization of appropriations

(a) Fiscal years 1978 through 1983

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1978 through 1983, to carry out the provisions of this subchapter.

(b) Limitations; allotments to States, etc.; reallotments

(1) There are authorized to be appropriated $3,000,000 for fiscal year 1977, for purposes of grants to States made by the Secretary of Education for programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

(2) No sums are authorized to be appropriated under section 401(a) [1] of the Elementary and Secondary Education Act of 1965 for fiscal year 1977, for the purpose of making grants under part B (Libraries and Learning Resources) of title IV of such Act, for such fiscal year which represent the amount authorized to be appropriated under paragraph (1) of this subsection.

(3)(A) The Secretary of Education shall allot the amounts appropriated under this subsection among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subsection. In addition, he shall allot from such amounts to (i) the Secretary of the Interior the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and (ii) the Secretary of Defense the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Secretary of Education determines will best carry out the purposes of this subsection.

(B) From the amounts appropriated to carry out this subsection, the Secretary of Education shall allot to each State from such amounts an amount which bears the same ratio to such amounts as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subparagraph, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Secretary of Education on the basis of the most recent satisfactory data available to him.

(C) The amount of any State's allotment under subparagraph (A) or subparagraph (B) to carry out this subsection which the Secretary of Education determines will not be required to carry out this subsection shall be available for reallotment from time to time, on such dates as the Secretary of Education may fix, to other States in proportion to the original allotments to such States under subparagraph (A) or subparagraph (B) but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary of Education estimates such State needs and will be able to use. The total of such reductions shall be similarly reallotted among the

States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subparagraph from funds appropriated under this subsection shall be deemed a part of its allotment under subparagraph (A) or subparagraph (B).

(Pub. L. 94–482, title III, §342, Oct. 12, 1976, 90 Stat. 2224; Pub. L. 95–561, title XIII, §1351, Nov. 1, 1978, 92 Stat. 2364; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Title IV of the Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2), which was formerly classified to subchapter I (§1801 et seq.) of chapter 40 of this title, was amended generally by Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2229, and reclassified to subchapter IV (§3081 et seq.) of chapter 47 of this title prior to its repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480. Section 401(a) and part B of title IV of the Elementary and Secondary Education Act of 1965 were classified to section 3081(a) and sections 3101 and 3102, respectively, of this title prior to their repeal by section 587(a)(1) of Pub. L. 97–35.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–561 substituted "fiscal years 1978 through 1983" for "fiscal years 1978 and 1979".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Commissioner" in subsec. (b)(1) and (3) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] *See References in Text note below.*

§2533. Administration by unit in Department of Education

(a) Establishment; functions

The Secretary of Education shall establish or designate an administrative unit within the Department of Education for purposes of—

(1) carrying out provisions of this subchapter;

(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

(3) advising the Secretary of Education on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

(b) Reservation of amount for implementation

The Secretary of Education may reserve an amount not to exceed 5 per centum of the sums appropriated under this subchapter to carry out the provisions of this section.

(Pub. L. 94–482, title III, §343, Oct. 12, 1976, 90 Stat. 2225; Pub. L. 95–43, §1(b)(8), June 15, 1977, 91 Stat. 219; Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95–43 substituted "this subchapter" for "this section".

TRANSFER OF FUNCTIONS

"Secretary of Education" and "Department of Education" substituted in text for "Commissioner" and "Education Division", respectively, pursuant to sections 301(a)(1), (b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1), (b)(2) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education and transferred Education Division to Department of Education.

For authority of Secretary of Education to consolidate, alter, or discontinue the administrative unit for guidance and counseling programs, or to reallocate any functions vested by statute in the administrative unit, see section 413 of Pub. L. 96–88, which is classified to section 3473 of this title.

§2534. Contracts and grants to States, educational agencies, etc.

(a) Implementation of programs

The Secretary of Education is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, work shops, and seminars designed to improve the professional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems, including opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits, and including, for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work and to provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and to improve supervisory services in the field of guidance and counseling.

(b) Coordination of programs of guidance and counseling

The Secretary of Education is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States.

(Pub. L. 94–482, title III, §344, Oct. 12, 1976, 90 Stat. 2225; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§§2561 to 2563. Omitted

CODIFICATION

Section 2561, Pub. L. 94–482, title V, §521, Oct. 12, 1976, 90 Stat. 2238, required Secretary of Health, Education, and Welfare, not later than six months after October 12, 1976, to report on purposes, administration, and effectiveness of special programs for students from disadvantaged backgrounds under sections 1070d and 1070d–1 of this title and High School Equivalency Program and College Assistance Migrant Program authorized under section 873 of title 29 and provided funding requirements for fiscal year 1977 for the programs authorized under section 873 of title 29.

Section 2562, Pub. L. 94–482, title V, §522, Oct. 12, 1976, 90 Stat. 2238, S.Res. 4, 1977, required Secretary of Health, Education, and Welfare to conduct a study of need to reorganize the Education Division and transmit a report to Committee on Human Resources of Senate and Committee on Education and Labor of House of Representatives, no later than June 30, 1977.

Section 2563, Pub. L. 94–482, title V, §523, Oct. 12, 1976, 90 Stat. 2239; Pub. L. 95–40, §1(30), (31)(A), June 3, 1977, 91 Stat. 208, required Commissioner of Education to carry out a study of extent to which sex discrimination and sex stereotyping existed in certain vocational rehabilitation programs, and of progress made to reduce or eliminate such discrimination and stereotyping, and report to Congress results of study with recommendations by Oct. 12, 1978. Section also required National Institute of Education to undertake a thorough evaluation and study of vocational education programs, including such programs conducted by States and such programs conducted under specified laws, and made an interim report to President and to Congress not later than Sept. 30, 1980, and a final report to President and to Congress not later than Sept. 30, 1981.

§2564. Departmental day care center facilities; establishment; fees and charges; equipment and operation by appropriated funds

Notwithstanding any other provision of law, the Secretary of Health and Human Services is authorized by contract or otherwise to establish, equip, and operate day care center facilities for the purpose of serving children who are members of households of employees of the Department of Health and Human Services. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department employees or others who are beneficiaries of services provided by such facilities to pay for the cost of their operation and to accept money, equipment, or other property donated for use in connection with the facilities. No appropriated funds may be used for the equipping or operation of any centers provided under this authority. The prohibition made by the preceding sentence shall not preclude the provision of appropriate donated space nor the purchase of the initial equipment for the centers, except that the cost of such equipment shall be reimbursed over the expected life of such equipment, not to exceed 10 years.

(Pub. L. 94–482, title V, §524, Oct. 12, 1976, 90 Stat. 2240; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

"Secretary of Health and Human Services" and "Department of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" and "Department of Health, Education, and Welfare", respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of this title.

§2565. Wayne Morse Chair of Law and Politics

(a) Establishment

The Secretary of Education (hereinafter in this section referred to as the "Secretary") is authorized to provide financial assistance in accordance with the provisions of this section to assist in establishing the Wayne Morse Chair of Law and Politics at the University of Oregon, of Eugene, Oregon.

(b) Federal share; application for financial assistance

(1) For purposes of this section, the Federal share of the cost of establishing the Wayne Morse Chair of Law and Politics shall not exceed 50 per centum.

(2) No financial assistance under this section may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) Authorization of appropriations

There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary

to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(Pub. L. 94–482, title V, §525, Oct. 12, 1976, 90 Stat. 2241; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

"Secretary" substituted for "Commissioner" in subsecs. (a) and (b) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§2566. Hubert H. Humphrey Institute of Public Affairs; grants for development

In recognition of the public service of Senator Hubert H. Humphrey, the Secretary of Education (hereafter in sections 2566 to 2569 of this title referred to as the "Secretary") is authorized to make grants in accordance with the provisions of sections 2566 to 2569 of this title to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-Saint Paul.

(Pub. L. 95–270, §2(a), Apr. 27, 1978, 92 Stat. 220; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

EFFECTIVE DATE

Pub. L. 95–270, §4(d), Apr. 27, 1978, 92 Stat. 220, provided that: "This Act [enacting this section, sections 2567 to 2569 of this title, and provisions set out as a note below] shall take effect October 1, 1978."

SHORT TITLE

Pub. L. 95–270, §1, Apr. 27, 1978, 92 Stat. 220, provided: "That this Act [enacting this section, sections 2567 to 2569 of this title, and provisions set out as a note above] may be cited as the 'Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act'."

TRANSFER OF FUNCTIONS

"Secretary" substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§2567. Everett McKinley Dirksen Congressional Leadership Research Center; grants for development

In recognition of the public service of Senator Everett McKinley Dirksen, the Secretary is authorized to make grants in accordance with the provisions of sections 2566 to 2569 of this title to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Illinois.

(Pub. L. 95–270, §2(b), Apr. 27, 1978, 92 Stat. 220; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95–270, set out as a note under section 2566 of this title.

TRANSFER OF FUNCTIONS

"Secretary", meaning the Secretary of Education, substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§2568. Payments to Humphrey Institute and Dirksen Center; procedures applicable

No payment may be made under sections 2566 to 2569 of this title except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(Pub. L. 95–270, §3, Apr. 27, 1978, 92 Stat. 220; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95–270, set out as a note under section 2566 of this title.

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Education, substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§2569. Authorization of appropriations for Humphrey Institute and Dirksen Center

(a) Maximum amount for Institute

There are authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the provisions of section 2566 of this title.

(b) Maximum amount for Center

There are authorized to be appropriated such sums, not to exceed $2,500,000, as may be necessary to carry out the provisions of section 2567 of this title.

(c) Availability of funds

Funds appropriated pursuant to sections 2566 to 2569 of this title shall remain available until expended.

(Pub. L. 95–270, §4(a)–(c), Apr. 27, 1978, 92 Stat. 220.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95–270, set out as a note under section 2566 of this title.

CHAPTER 46—CAREER EDUCATION INCENTIVE

Sec.

2601 to 2614. Repealed or Omitted.

§§2601 to 2612. Repealed. Pub. L. 97–35, title V, §587(a)(4), Aug. 13, 1981, 95 Stat. 480

Section 2601, Pub. L. 95–207, §2, Dec. 13, 1977, 91 Stat. 1464, provided Congressional findings for this chapter.

Section 2602, Pub. L. 95–207, §3, Dec. 13, 1977, 91 Stat. 1464, set out Congressional declaration of purpose for this chapter.

Section 2603, Pub. L. 95–207, §4, Dec. 13, 1977, 91 Stat. 1464; Pub. L. 96–46, §6, Aug. 6, 1979, 93 Stat. 343, authorized appropriations for this chapter.

Section 2604, Pub. L. 95–207, §5, Dec. 13, 1977, 91 Stat. 1465; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States.

Section 2605, Pub. L. 95–207, §6, Dec. 13, 1977, 91 Stat. 1465; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of applications containing requisite assurances by States in order to receive funds under this chapter.

Section 2606, Pub. L. 95–207, §7, Dec. 13, 1977, 91 Stat. 1467; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission and contents of State plans.

Section 2607, Pub. L. 95–207, §8, Dec. 13, 1977, 91 Stat. 1467, related to State payments to local educational agencies for comprehensive programs.

Section 2608, Pub. L. 95–207, §9, Dec. 13, 1977, 91 Stat. 1469; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States under this chapter.

Section 2609, Pub. L. 95–207, §10, Dec. 13, 1977, 91 Stat. 1470; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants to States for model programs.

Section 2610, Pub. L. 95–207, §11, Dec. 13, 1977, 91 Stat. 1470; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to postsecondary educational career demonstration projects.

Section 2611, Pub. L. 95–207, §12, Dec. 13, 1977, 91 Stat. 1471; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to career education information.

Section 2612, Pub. L. 95–207, §13(a)–(d), Dec. 13, 1977, 91 Stat. 1471; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to administrative functions of Office of Career Education and National Advisory Council on Career Education.

SHORT TITLE

Pub. L. 95–207, §1, Dec. 13, 1977, 91 Stat. 1464, which provided for short title of this chapter as the Career Education Incentive Act, was repealed by Pub. L. 97–35, title V, §587(a)(4), Aug. 13, 1981, 95 Stat. 480.

§2612a. Omitted

CODIFICATION

Section, Pub. L. 93–380, title IV, §406, Aug. 21, 1974, 88 Stat. 551; Pub. L. 94–273, §2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–482, title V, §501(a)(6), (7), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95–207, §13(e), Dec. 13, 1977, 91 Stat. 1472; Pub. L. 95–561, title III, §301(b)(1)(E), (3), Nov. 1, 1978, 92 Stat. 2228; Pub. L. 96–88, title III, §301(a)(1), (b)(1), (2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, established an Office of Career Education to carry out the Career Education Incentive Act and a National Advisory Council for Career Education to advise on the implementation of the section and other programs pertaining to development and implementation of career education. The Career Education Incentive Act was repealed by Pub. L. 97–35, and section 413 of Pub. L. 96–88 (20 U.S.C. 3473) authorized the Secretary of Education to consolidate, alter, or discontinue the Office of Career Education or to reallocate any functions vested by statute in the Office. The National Advisory Council for Career Education terminated in 1982.

Section was formerly classified to section 1865 of this title.

§§2613, 2614. Repealed. Pub. L. 97–35, title V, §587(a)(4), Aug. 13, 1981, 95 Stat. 480

Section 2613, Pub. L. 95–207, §14, Dec. 13, 1977, 91 Stat. 1472; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to annual State reports to Secretary, and a review and report to Congress by Secretary.

Section 2614, Pub. L. 95–207, §15, Dec. 13, 1977, 91 Stat. 1473; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, set out definitions for this chapter.

CHAPTER 47—STRENGTHENING AND IMPROVEMENT OF ELEMENTARY AND SECONDARY SCHOOLS

CODIFICATION

The Elementary and Secondary Education Act of 1965 (Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 140, and as further amended),

which was classified to this chapter (§2701 et seq.), was amended generally by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, and transferred to chapter 70 (§6301 et seq.) of this title, and further substantially amended by Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1425, and subsequent Acts.

SUBCHAPTER I—BASIC PROGRAMS

Division 1—Financial Assistance To Meet Special Educational Needs of Children

§2701. Omitted

CODIFICATION

Section, Pub. L. 89–10, title I, §1001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 140, which provided a declaration of policy and statement of purpose, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6301 of this title.

A prior section 2701, Pub. L. 89–10, title I, §101, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2153, set out Congressional declaration of policy, prior to the general revision of this chapter by Pub. L. 100–297.

A prior section 2702, Pub. L. 89–10, title I, §102, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2153; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for the duration of assistance on entitlements created under this subchapter, prior to the general revision of this chapter by Pub. L. 100–297.

PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SUBPART 1—ALLOCATIONS

§§2711 to 2713. Omitted

CODIFICATION

Sections 2711 and 2712 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6311 et seq. of this title.

Section 2711, Pub. L. 89–10, title I, §1005, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 141; amended Pub. L. 102–73, title VIII, §802(a), July 25, 1991, 105 Stat. 360, related to basic grants.

A prior section 2711, Pub. L. 89–10, title I, §111, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2153; amended Pub. L. 96–88, title III, §301(a)(1), title V, §§507, 508(k), Oct. 17, 1979, 93 Stat. 677, 692, 694, related to amount and eligibility for grants, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2712, Pub. L. 89–10, title I, §1006, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 146, related to grants for local educational agencies in counties with especially high concentrations of children from low-income families.

A prior section 2712, Pub. L. 89–10, title I, §112, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2158, related to treatment of earnings for purposes of aid to families with dependent children, prior to

the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2713, Pub. L. 93–380, title I, §101(a)(10), Aug. 21, 1974, 88 Stat. 501; Pub. L. 95–561, title I, §101(d), Nov. 1, 1978, 92 Stat. 2200; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, which was enacted as part of Education Amendments of 1974, and formerly classified to section 241b–1 of this title, related to authorization of appropriations to assist otherwise lower fiscal year allotment levels under former provisions of the Elementary and Secondary Education Act of 1965.

SUBPART 2—BASIC PROGRAM REQUIREMENTS

§§2721 to 2731. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6311 et seq. of this title.

Section 2721, Pub. L. 89–10, title I, §1011, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 149, related to use of funds for educationally deprived children.

A prior section 2721, Pub. L. 89–10, title I, §116, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2158; amended Pub. L. 96–46, §1(1), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to special incentive grants, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2722, Pub. L. 89–10, title I, §1012, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 150, related to assurances and applications.

A prior section 2722, Pub. L. 89–10, title I, §117, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2159; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for local educational agencies in counties with especially high concentrations of children from low-income families, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2723, Pub. L. 89–10, title I, §1013, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 151, related to use of funds in eligible school attendance areas.

Section 2724, Pub. L. 89–10, title I, §1014, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 153, related to use of funds for eligible educationally deprived children.

Section 2725, Pub. L. 89–10, title I, §1015, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 154; amended Pub. L. 102–359, §2(c)(1), Aug. 26, 1992, 106 Stat. 962, related to schoolwide projects.

Section 2726, Pub. L. 89–10, title I, §1016, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 156, related to parental involvement.

Section 2727, Pub. L. 89–10, title I, §1017, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 158, related to participation of children enrolled in private schools.

Section 2728, Pub. L. 89–10, title I, §1018, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 160, related to fiscal requirements.

Section 2729, Pub. L. 89–10, title I, §1019, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 163, related to evaluation of programs.

Section 2730, Pub. L. 89–10, title I, §1020, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 164, related to State educational program improvement plan.

Section 2731, Pub. L. 89–10, title I, §1021, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 165, related to improvement of programs.

PRIOR PROVISIONS

Prior sections 2731 to 2740 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2731, Pub. L. 89–10, title I, §121, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2161; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications by local educational agencies for assistance under this subchapter.

Section 2732, Pub. L. 89–10, title I, §122, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat.

2161; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to designation of school attendance areas.

Section 2733, Pub. L. 89–10, title I, §123, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2163; amended Pub. L. 96–46, §1(2), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to use of funds for educationally deprived children.

Section 2734, Pub. L. 89–10, title I, §124, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2164; amended Pub. L. 96–46, §1(3), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to requirements for design and implementation of programs.

Section 2735, Pub. L. 89–10, title I, §125, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2167; amended Pub. L. 96–46, §1(4), (5), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to parental involvement.

Section 2736, Pub. L. 89–10, title I, §126, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2168; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allocation of funds.

Section 2737, Pub. L. 89–10, title I, §127, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2170, related to accountability.

Section 2738, Pub. L. 89–10, title I, §128, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2171; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to complaint resolution.

Section 2739, Pub. L. 89–10, title I, §129, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2171, related to individualized plans.

Section 2740, Pub. L. 89–10, title I, §130, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2171; amended Pub. L. 96–46, §1(6), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to participation of children enrolled in private schools.

PART B—EVEN START FAMILY LITERACY PROGRAMS

§§2741 to 2749. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2741, Pub. L. 89–10, title I, §1051, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 167, provided statement of purpose.

Section 2742, Pub. L. 89–10, title I, §1052, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 167; amended Pub. L. 102–73, title III, §303(b), July 25, 1991, 105 Stat. 350, authorized grants to carry out Even Start programs.

Section 2743, Pub. L. 89–10, title I, §1053, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 167; amended Pub. L. 102–73, title III, §303(c), July 25, 1991, 105 Stat. 351, related to allocation of funds.

Section 2744, Pub. L. 89–10, title I, §1054, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 168; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 102–73, title III, §303(d), July 25, 1991, 105 Stat. 352, related to uses of funds.

Section 2745, Pub. L. 89–10, title I, §1055, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 169; amended Pub. L. 102–73, title III, §303(e), July 25, 1991, 105 Stat. 352, related to eligible participants.

Section 2746, Pub. L. 89–10, title I, §1056, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 169; amended Pub. L. 102–73, title III, §303(f), July 25, 1991, 105 Stat. 353, related to applications for grants.

Section 2747, Pub. L. 89–10, title I, §1057, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 170; amended Pub. L. 102–73, title III, §303(g), July 25, 1991, 105 Stat. 353, related to award of grants.

Section 2748, Pub. L. 89–10, title I, §1058, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 171, required evaluations of programs.

Section 2749, Pub. L. 89–10, title I, §1059, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102

Stat. 172; amended Pub. L. 102–73, title III, §303(h), July 25, 1991, 105 Stat. 353, authorized appropriations.

PRIOR PROVISIONS

Prior sections 2751 to 2754 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2751, Pub. L. 89–10, title I, §131, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2173; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to exclusions from excess costs and comparability provisions for certain special State and local programs.

Section 2752, Pub. L. 89–10, title I, §132, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2175, related to limited exemption to supplement, not supplant, requirement where certain special programs for educationally deprived children are fully funded.

Section 2753, Pub. L. 89–10, title I, §133, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2176; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to schoolwide projects.

Section 2754, Pub. L. 89–10, title I, §134, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2177, related to noninstructional duties.

PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

§§2761 to 2768. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2761, Pub. L. 89–10, title I, §1101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 172, provided statement of purpose.

A prior section 2761, Pub. L. 89–10, title I, §141, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2177; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to entitlement and amount of grants for migratory children programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2762, Pub. L. 89–10, title I, §1102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 172; amended Pub. L. 101–600, §3(a), Nov. 16, 1990, 104 Stat. 3042, related to allocation of funds.

A prior section 2762, Pub. L. 89–10, title I, §142, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2178; amended Pub. L. 96–46, §1(7), (8), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–211, §19(a)(1), Dec. 8, 1983, 97 Stat. 1418, related to requirements for migratory children program, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2763, Pub. L. 89–10, title I, §1103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 173; amended Pub. L. 101–600, §3(b), Nov. 16, 1990, 104 Stat. 3042, related to uses of funds.

A prior section 2763, Pub. L. 89–10, title I, §143, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2179; amended Pub. L. 96–46, §1(9), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 99–159, title IV, §402, Nov. 22, 1985, 99 Stat. 904, related to coordination of migrant education activities, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2764, Pub. L. 89–10, title I, §1104, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 174; amended Pub. L. 101–600, §3(c), Nov. 16, 1990, 104 Stat. 3043, related to applications for grants.

Section 2765, Pub. L. 89–10, title I, §1105, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 175; amended Pub. L. 101–600, §3(d), Nov. 16, 1990, 104 Stat. 3044, related to award of grants.

Section 2765a, Pub. L. 89–10, title I, §1106, as added Pub. L. 101–600, §3(e)(2), Nov. 16, 1990, 104 Stat. 3045, related to annual reports and creation of information base.

Section 2765b, Pub. L. 89–10, title I, §1107, as added Pub. L. 101–600, §3(f), Nov. 16, 1990, 104 Stat. 3045, related to identification and dissemination of model programs.

Section 2766, Pub. L. 89–10, title I, §1108, formerly §1106, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176; renumbered §1108 and amended Pub. L. 101–600, §3(e)(1), (g), Nov. 16, 1990, 104 Stat. 3045, 3046, related to fiscal requirements and coordination and dissemination efforts.

Section 2767, Pub. L. 89–10, title I, §1109, formerly §1107, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176; renumbered §1109, Pub. L. 101–600, §3(e)(1), Nov. 16, 1990, 104 Stat. 3045, related to evaluation of programs.

Section 2767a, Pub. L. 89–10, title I, §1110, as added Pub. L. 101–600, §3(h), Nov. 16, 1990, 104 Stat. 3046, related to definition of "secondary school completion rate".

Section 2768, Pub. L. 89–10, title I, §1111, formerly §1108, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176; renumbered §1111, Pub. L. 101–600, §3(e)(1), Nov. 16, 1990, 104 Stat. 3045, authorized appropriations.

Prior sections 2771 and 2772 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2771, Pub. L. 89–10, title I, §146, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2180; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for programs for handicapped children.

Section 2772, Pub. L. 89–10, title I, §147, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2180; amended Pub. L. 96–46, §1(10), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, §19(a)(2), Dec. 8, 1983, 97 Stat. 1418, related to program requirements for programs for handicapped children.

PART D—PROGRAMS OPERATED BY STATE AGENCIES

SUBPART 1—PROGRAMS FOR MIGRATORY CHILDREN

§§2781 to 2783. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6391 et seq. of this title.

Section 2781, Pub. L. 89–10, title I, §1201, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176, related to grants for programs for education of children of migratory workers.

A prior section 2781, Pub. L. 89–10, title I, §151, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2181; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to amount and entitlement for grants for program for neglected and delinquent children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2782, Pub. L. 89–10, title I, §1202, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 177; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to program requirements.

A prior section 2782, Pub. L. 89–10, title I, §152, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2181; amended Pub. L. 96–46, §1(11), Aug. 6, 1979, 93 Stat. 339; Pub. L. 98–211, §19(a)(2), Dec. 8, 1983, 97 Stat. 1418, related to program requirements for programs for neglected and delinquent children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2783, Pub. L. 89–10, title I, §1203, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 178; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to coordination of migrant education activities.

A prior section 2783, Pub. L. 89–10, title I, §153, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2182; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to transition services, prior to the general amendment of the Elementary and Secondary Education Act

of 1965, Pub. L. 89–10, by Pub. L. 100–297.

SUBPART 2—PROGRAMS FOR HANDICAPPED CHILDREN

§§2791 to 2796. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 1411 et seq. of this title.

Section 2791, Pub. L. 89–10, title I, §1221, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 179; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 102–103, title III, §312, Aug. 17, 1991, 105 Stat. 505, related to amount of and eligibility for grants for programs for handicapped children.

A prior section 2791, Pub. L. 89–10, title I, §156, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2182; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to reservation of funds for territories, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2792, Pub. L. 89–10, title I, §1222, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 181; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to program requirements.

A prior section 2792, Pub. L. 89–10, title I, §157, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2182, related to minimum payments for State operated programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2793, Pub. L. 89–10, title I, §1223, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 182, related to uses of funds.

Section 2794, Pub. L. 89–10, title I, §1224, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 182; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to service and program applications.

Section 2795, Pub. L. 89–10, title I, §1225, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 183, related to children eligible for services.

Section 2796, Pub. L. 89–10,title I, §1226, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 184; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to Federal monitoring requirement.

SUBPART 3—PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN

§§2801 to 2804. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6421 et seq. of this title.

Section 2801, Pub. L. 89–10, title I, §1241, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 184, related to amount of and entitlement to grants for programs for neglected and delinquent children.

A prior section 2801, Pub. L. 89–10, title I, §161, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2183, related to applicability of former sections 2801–2824 of this title, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2802, Pub. L. 89–10, title I, §1242, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102

Stat. 184, related to program requirements.

A prior section 2802, Pub. L. 89–10, title I, §162, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2183; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to content and submission of State applications, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2803, Pub. L. 89–10, title I, §1243, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 185, related to transition services.

Section 2804, Pub. L. 89–10, title I, §1244, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 185, defined "institution for delinquent children" and "institution for neglected children".

SUBPART 4—GENERAL PROVISIONS FOR STATE OPERATED PROGRAMS

§§2811, 2812. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2811, Pub. L. 89–10, title I, §1291, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to reservation of funds for territories.

A prior section 2811, Pub. L. 89–10, title I, §164, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2183; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to approval of applications by State educational agencies, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2812, Pub. L. 89–10, title I, §1292, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to dual eligibility for programs.

Prior sections 2812 to 2817 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2812, Pub. L. 89–10, title I, §165, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2184; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State rulemaking.

Section 2813, Pub. L. 89–10, title I, §166, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2184, related to technical assistance and dissemination of information.

Section 2814, Pub. L. 89–10, title I, §167, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2184; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to monitoring.

Section 2815, Pub. L. 89–10, title I, §168, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2185; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to resolution of complaints.

Section 2816, Pub. L. 89–10, title I, §169, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2185; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to withholding of payments.

Section 2817, Pub. L. 89–10, title I, §170, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2186; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to audits and audit resolution.

PART E—PAYMENTS

§§2821 to 2826. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2821, Pub. L. 89–10, title I, §1401, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to payment methods.

A prior section 2821, Pub. L. 89–10, title I, §171, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2187; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State monitoring and enforcement plan, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2822, Pub. L. 89–10, title I, §1402, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to amount of payments to local educational agencies.

A prior section 2822, Pub. L. 89–10, title I, §172, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2187; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to reports filed with the Secretary by State educational agencies, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2823, Pub. L. 89–10, title I, §1403, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to adjustments where necessitated by appropriations.

A prior section 2823, Pub. L. 89–10, title I, §173, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to recordkeeping, fiscal control, and fund accounting, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2824, Pub. L. 89–10, title I, §1404, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 187, related to payments for State administration.

A prior section 2824, Pub. L. 89–10, title I, §174, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188, related to prohibition of consideration of Federal aid in determining State aid, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2825, Pub. L. 89–10, title I, §1405, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 188, related to funds for implementation of school improvement programs.

Section 2826, Pub. L. 89–10, title I, §1406, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 188, related to limitation on grants to Commonwealth of Puerto Rico.

PART F—GENERAL PROVISIONS

SUBPART 1—FEDERAL ADMINISTRATION

§§2831 to 2839. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2831, Pub. L. 89–10, title I, §1431, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 189, related to Federal regulations.

A prior section 2831, Pub. L. 89–10, title I, §181, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188, related to application of the General Education Provisions Act to programs under this subchapter, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2832, Pub. L. 89–10, title I, §1432, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 189, related to availability of appropriations.

A prior section 2832, Pub. L. 89–10, title I, §182, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to approval of applications, prior to the general amendment of the Elementary and Secondary

Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2833, Pub. L. 89–10, title I, §1433, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 190, related to withholding of payments.

A prior section 2833, Pub. L. 89–10, title I, §183, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2189; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 96–470, title II, §204, Oct. 19, 1980, 94 Stat. 2244, related to program evaluation, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2834, Pub. L. 89–10, title I, §1434, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 190, related to judicial review.

A prior section 2834, Pub. L. 89–10, title I, §184, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2190; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to resolution of complaints, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2835, Pub. L. 89–10, title I, §1435, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 191, related to standards for evaluation of programs.

A prior section 2835, Pub. L. 89–10, title I, §185, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2190; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 95–452, §9(a)(1)(C), as added Pub. L. 96–88, title V, §508(n)(2), Oct. 17, 1979, 93 Stat. 694, related to audits and audit resolution, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2836, Pub. L. 89–10, title I, §1436, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 191, related to coordination of Federal, State, and local administration.

A prior section 2836, Pub. L. 89–10, title I, §186, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2191; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to withholding of payments, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2837, Pub. L. 89–10, title I, §1437, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 193, related to authorization of appropriations for evaluation and technical assistance.

A prior section 2837, Pub. L. 89–10, title I, §187, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2192; amended Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to policy manual, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2838, Pub. L. 89–10, title I, §1438, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 193, related to application of General Education Provisions Act.

A prior section 2838, Pub. L. 89–10, title I, §188, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2193; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to enforcement report, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2839, Pub. L. 89–10, title I, §1439, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 193, related to National Commission on Migrant Education.

Prior sections 2841 to 2844 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2841, Pub. L. 89–10, title I, §191, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2195; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payment methods.

Section 2842, Pub. L. 89–10, title I, §192, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2195, related to amount of payments to local educational agencies.

Section 2843, Pub. L. 89–10, title I, §193, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2195; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to adjustments where necessitated by appropriations.

Section 2844, Pub. L. 89–10, title I, §194, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2196; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 97–35, title V, §554(d), Aug. 13, 1981, 95 Stat. 465, related to payments for State administration.

SUBPART 2—STATE ADMINISTRATION

§§2851 to 2854. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2851, Pub. L. 89–10, title I, §1451, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 196, related to State regulations.

A prior section 2851, Pub. L. 89–10, title I, §195, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2196; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to judicial review, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2852, Pub. L. 89–10, title I, §1452, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 197, related to records and information.

A prior section 2852, Pub. L. 89–10, title I, §196, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2197, related to National Advisory Council on the Education of Disadvantaged Children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2853, Pub. L. 89–10, title I, §1453, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 197, related to assignment of personnel.

A prior section 2853, Pub. L. 89–10, title I, §197, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2198, related to limitation on grant to Puerto Rico, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2854, Pub. L. 89–10, title I, §1454, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 197, related to prohibition regarding State aid.

A prior section 2854, Pub. L. 89–10, title I, §198, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2198; amended Pub. L. 96–88, title III, §301(a)(1), (2)(B), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms for purposes of this subchapter, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

SUBPART 3—RURAL EDUCATIONAL OPPORTUNITIES

§§2861 to 2864. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2861, Pub. L. 89–10, title I, §1456, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 198, authorized rural assistance programs.

Section 2862, Pub. L. 89–10, title I, §1457, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 198, related to application priority requirements.

Section 2863, Pub. L. 89–10, title I, §1458, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 198, related to coordination, dissemination, and report.

Section 2864, Pub. L. 89–10, title I, §1459, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, authorized appropriations.

SUBPART 4—STUDIES

§§2881 to 2883. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2881, Pub. L. 89–10, title I, §1461, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, required report on State and local evaluations.

A prior section 2881, Pub. L. 89–10, title II, §201, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2201, set out the purpose of this part, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2882, Pub. L. 89–10, title I, §1462, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, required national study on effect of programs on children.

A prior section 2882, Pub. L. 89–10, title II, §202, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, related to applications for grants and awards under this part, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2883, Pub. L. 89–10, title I, §1463, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, authorized appropriations.

Prior sections 2883 to 2890 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2883, Pub. L. 89–10, title II, §203, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, related to acceptance of gifts by the Secretary.

Section 2884, Pub. L. 89–10, title II, §204, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, authorized Secretary to make grants and contracts under this part.

Section 2885, Pub. L. 89–10, title II, §205, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, provided for instruction in basic skills.

Section 2886, Pub. L. 89–10, title II, §206, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2203, related to parental participation in basic skills instruction.

Section 2887, Pub. L. 89–10, title II, §207, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2203, related to use of technology in basic skills instruction.

Section 2888, Pub. L. 89–10, title II, §208, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, related to involvement of educational agencies and private organizations in improving basic skills.

Section 2889, Pub. L. 89–10, title II, §209, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, related to collection and dissemination of information relating to basic skills programs.

Section 2890, Pub. L. 89–10, title II, §210, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, related to coordination of programs under this part with other Federal programs.

SUBPART 5—DEFINITIONS

§2891. Omitted

CODIFICATION

Section, Pub. L. 89–10, title I, §1471, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 200, which defined terms for purposes of this chapter, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

SUBPART 6—MISCELLANEOUS PROVISIONS

§2901. Omitted

CODIFICATION

Section, Pub. L. 89–10, title I, §1491, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 202, which contained transition provisions, was omitted in the general amendment of the Elementary and

Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 2901 to 2904 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2901, Pub. L. 89–10, title II, §221, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, set out statement of purpose for basic skills improvement program.

Section 2902, Pub. L. 89–10, title II, §222, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2205; amended Pub. L. 96–46, §1(12), Aug. 6, 1979, 93 Stat. 339, related to agreements with State educational agencies.

Section 2903, Pub. L. 89–10, title II, §223, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2207, related to distribution of grants by the Secretary.

Section 2904, Pub. L. 89–10, title II, §224, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2207, provided for a State leadership program.

Division 2—Federal, State, and Local Partnership for Educational Improvement

§§2911, 2912. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2911, Pub. L. 89–10, title I, §1501, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 203, provided for findings and statement of purpose.

A prior section 2911, Pub. L. 89–10, title II, §231, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2208; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to an inexpensive book distribution program for reading motivation, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2912, Pub. L. 89–10, title I, §1502, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 204, authorized appropriations and related to duration of assistance.

A prior section 2912, Pub. L. 89–10, title II, §232, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2209; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorization of and appropriations for special mathematics programs, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

PART A—STATE AND LOCAL PROGRAMS

SUBPART 1—GENERAL PROVISIONS

§§2921, 2922. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2921, Pub. L. 89–10, title I, §1511, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 204, related to allotment to States.

A prior section 2921, Pub. L. 89–10, title II, §241, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2209, authorized appropriations for program for improving basic skills, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2922, Pub. L. 89–10, title I, §1512, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 204, related to allocation to local educational agencies.

A prior section 2922, Pub. L. 89–10, title II, §242, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2209, related to apportionment of appropriations, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 2—STATE PROGRAMS

§§2931, 2932. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2931, Pub. L. 89–10, title I, §1521, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 206, related to State uses of funds.

Section 2932, Pub. L. 89–10, title I, §1522, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 206, related to State applications.

SUBPART 3—LOCAL TARGETED ASSISTANCE PROGRAMS

§§2941 to 2943. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2941, Pub. L. 89–10, title I, §1531, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 208; amended Pub. L. 102–73, title III, §302, July 25, 1991, 105 Stat. 350, related to targeted use of funds.

A prior section 2941, Pub. L. 89–10, title III, §301, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2210; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided the statement of purpose for former subchapter III, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2942, Pub. L. 89–10, title I, §1532, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 208, related to authorized activities.

A prior section 2942, Pub. L. 89–10, title III, §302, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2210; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 92 Stat. 677, 692, authorized Secretary to make grants and contracts to carry out the purposes of program of special projects, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2943, Pub. L. 89–10, title I, §1533, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 208, related to local applications.

A prior section 2943, Pub. L. 89–10, title III, §303, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2210; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized discretionary projects of the Secretary, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 4—EFFECTIVE SCHOOLS PROGRAMS

§§2951, 2952. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2951, Pub. L. 89–10, title I, §1541, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 209, related to establishment of effective schools programs.

A prior section 2951, Pub. L. 89–10, title III, §311, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2211, set out the short title and declaration of purpose for program of metric education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2952, Pub. L. 89–10, title I, §1542, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 210, defined "effective schools programs".

Prior sections 2952 to 2954 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2952, Pub. L. 89–10, title III, §312, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2211; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts and provided a definition of "metric system of measurement".

Section 2953, Pub. L. 89–10, title III, §313, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for financial assistance.

Section 2954, Pub. L. 89–10, title III, §314, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212, authorized appropriations.

PART B—NATIONAL PROGRAMS AND ACTIVITIES

§§2961 to 2966. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2961, Pub. L. 89–10, title I, §1561, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 210, provided general authority for national programs and activities.

A prior section 2961, Pub. L. 89–10, title III, §321, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212, set out short title and statement of findings for program of arts in education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2962, Pub. L. 89–10, title I, §1562, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 211, related to National Diffusion Network activities.

A prior section 2962, Pub. L. 89–10, title III, §322, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212; amended Pub. L. 96–88, title III, §301(a), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts for Arts in Education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2963, Pub. L. 89–10, title I, §1563, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 212; amended Pub. L. 102–73, title V, §501(a), July 25, 1991, 105 Stat. 355, related to inexpensive book distribution program for reading motivation.

A prior section 2963, Pub. L. 89–10, title III, §323, as added, Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2213, authorized appropriations for Arts in Education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2964, Pub. L. 89–10, title I, §1564, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 213, related to Arts in Education program.

Section 2965, Pub. L. 89–10, title I, §1565, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 213; amended Pub. L. 102–62, title III, §311, June 27, 1991, 105 Stat. 313, related to law-related education program.

Section 2966, Pub. L. 89–10, title I, §1566, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 214; amended Pub. L. 102–73, title VI, §602(a), July 25, 1991, 105 Stat. 357, related to Blue Ribbon

Schools program.

PART C—GENERAL ADMINISTRATIVE PROVISIONS

§§2971 to 2976. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2971, Pub. L. 89–10, title I, §1571, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 214, required that States maintain effort and that Federal funds be supplementary.

A prior section 2971, Pub. L. 89–10, title III, §325, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2213; amended Pub. L. 96–88, title III, §301(a)(1), title V, §§507, 509(b), Oct. 17, 1979, 93 Stat. 677, 692, 695, set forth provisions establishing and implementing preschool partnership programs, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2972, Pub. L. 89–10, title I, §1572, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 215, related to participation of children enrolled in private schools.

Section 2973, Pub. L. 89–10, title I, §1573, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 217, related to evaluations and reporting.

Section 2974, Pub. L. 89–10, title I, §1574, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 218, related to Federal administration.

Section 2975, Pub. L. 89–10, title I, §1575, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 218, related to application of General Education Provisions Act.

Section 2976, Pub. L. 89–10, title I, §1576, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 218, contained transition provisions.

SUBCHAPTER II—CRITICAL SKILLS IMPROVEMENT

PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

§§2981, 2982. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2981, Pub. L. 89–10, title II, §2001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219, provided that this part could be cited as the "Dwight D. Eisenhower Mathematics and Science Education Act".

A prior section 2981, Pub. L. 89–10, title III, §331, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2214, set out the short title and statement of findings for program of consumer education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2982, Pub. L. 89–10, title II, §2002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219, stated purpose of this part.

A prior section 2982, Pub. L. 89–10, title III, §332, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2214; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, established an Office of Consumers' Education and provided for the appointment of a Director thereof, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 1—STATE GRANTS AND NATIONAL PROGRAMS

§§2983 to 2992. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2983, Pub. L. 89–10, title II, §2003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, authorized grant program for strengthening skills of teachers and improving instruction in mathematics and science.

A prior section 2983, Pub. L. 89–10, title III, §333, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2214; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts and provided for the availability of funds, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2984, Pub. L. 89–10, title II, §2004, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to allocation of funds.

A prior section 2984, Pub. L. 89–10, title III, §334, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2215; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for financial assistance, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2985, Pub. L. 89–10, title II, §2005, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 220; amended Pub. L. 101–589, title II, §§201, 202(b), 205(b)(1), Nov. 16, 1990, 104 Stat. 2883, 2884, 2890, related to in-State apportionment.

A prior section 2985, Pub. L. 89–10, title III, §335, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2215; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to reports and evaluations by recipients of consumer education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2986, Pub. L. 89–10, title II, §2006, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 221; amended Pub. L. 101–589, title II, §§202(a), 205(b)(1), Nov. 16, 1990, 104 Stat. 2884, 2890, related to elementary and secondary education programs.

A prior section 2986, Pub. L. 89–10, title III, §336, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2215, related to reservation of funds to carry out consumer education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2987, Pub. L. 89–10, title II, §2007, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 222; amended Pub. L. 101–589, title II, §§203, 205(b)(1), Nov. 16, 1990, 104 Stat. 2884, 2890, related to higher education programs.

Section 2988, Pub. L. 89–10, title II, §2008, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 224; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to State applications.

Section 2989, Pub. L. 89–10, title II, §2009, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 225; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to local applications.

Section 2990, Pub. L. 89–10, title II, §2010, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 226; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to participation of children and teachers from private schools.

Section 2991, Pub. L. 89–10, title II, §2011, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 227; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to Federal administration.

A prior section 2991, Pub. L. 89–10, title III, §341, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2215; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a youth employment program and set out activities implementing such program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2992, Pub. L. 89–10, title II, §2012, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102

Stat. 227; amended Pub. L. 101–589, title II, §204, Nov. 16, 1990, 104 Stat. 2884, related to national programs.

A prior section 2992, Pub. L . 89–10, title III, §342, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2216, authorized appropriations, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

§2993. Transferred

CODIFICATION

Section, Pub. L. 89–10, title II, §2013, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 227, which defined terms used in this part, was renumbered §2031 of Pub. L. 89–10 by Pub. L. 101–589, title II, §205(b)(2), Nov. 16, 1990, 104 Stat. 2890, transferred to section 2996 of this title, and subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

SUBPART 2—REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIUMS

§§2994 to 2994g. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2994, Pub. L. 89–10, title II, §2016, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2886, authorized award of grants and contracts for establishment and operation of regional mathematics and science education consortia.

Section 2994a, Pub. L. 89–10, title II, §2017, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2887, related to use of funds.

Section 2994b, Pub. L. 89–10, title II, §2018, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2888, related to application and review.

Section 2994c, Pub. L. 89–10, title II, §2019, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2889, related to regional boards.

Section 2994d, Pub. L. 89–10, title II, §2020, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2889, related to payments, Federal share, and non-Federal share.

Section 2994e, Pub. L. 89–10, title II, §2021, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2889, related to evaluations of regional consortia.

Section 2994f, Pub. L. 89–10, title II, §2022, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2890, defined terms used in subpart.

Section 2994g, Pub. L. 89–10, title II, §2023, as added Pub. L. 101–589, title II, §205(a)(2), Nov. 16, 1990, 104 Stat. 2890, authorized appropriations.

SUBPART 3—GENERAL PROVISIONS

§2996. Omitted

CODIFICATION

Section, Pub. L. 89–10, title II, §2031, formerly §2013, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 227; renumbered §2031, Pub. L. 101–589, title II, §205(b)(2), Nov. 16, 1990, 104 Stat. 2890, which defined terms used in this part, was omitted in the general amendment of the Elementary and Secondary

Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

PART B—FOREIGN LANGUAGES ASSISTANCE

§§3001 to 3006. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3001, Pub. L. 89–10, title II, §2101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 228, provided that this part could be cited as the "Foreign Language Assistance Act of 1988".

A prior section 3001, Pub. L. 89–10, title III, §346, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2216, set out short title and a declaration of findings for program of law-related education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3002, Pub. L. 89–10, title II, §2102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 228, stated findings of Congress.

A prior section 3002, Pub. L. 89–10, title III, §347, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2216; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts for law related education programs, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3003, Pub. L. 89–10, title II, §2103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 228, authorized grants for commencement or improvement and expansion of programs for foreign language study.

A prior section 3003, Pub. L. 89–10, title III, §348, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2217, authorized appropriations for program of law-related education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3004, Pub. L. 89–10, title II, §2104, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 229, related to allotment of funds.

Section 3005, Pub. L. 89–10, title II, §2105, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 229, defined terms used in this part.

Section 3006, Pub. L. 89–10, title II, §2106, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 230, authorized appropriations.

PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES

§§3011 to 3013. Omitted

CODIFICATION

Sections 3011 and 3012 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3011, Pub. L. 89–10, title II, §2201, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 230; amended Pub. L. 100–570, title I, §117(b)(1), Oct. 31, 1988, 102 Stat. 2872, authorized Presidential Awards for Teaching Excellence in Foreign Languages.

A prior section 3011, Pub. L. 89–10, title III, §351, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2217, set out short title and declaration of findings and purpose for program of environmental education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3012, Pub. L. 89–10, title II, §2202, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 230; amended Pub. L. 100–570, title I, §117(b)(1), Oct. 31, 1988, 102 Stat. 2873, contained administrative provisions.

A prior section 3012, Pub. L. 89–10, title III, §352, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2218; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §§507, 508(l)(1), Oct. 17, 1979, 93 Stat. 677, 678, 692, 694, established Office of Environmental Education and provided for appointment of a Director thereof, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3013, Pub. L. 89–10, title II, §2203, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 230, related to authorization of appropriations, prior to the general amendment of this part by Pub. L. 100–570.

Prior sections 3013 to 3018 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3013, Pub. L. 89–10, title III, §353, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2218; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts relating to environmental education.

Section 3014, Pub. L. 89–10, title III, §354, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2219; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of applications for financial assistance for environmental education.

Section 3015, Pub. L. 89–10, title III, §355, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2220; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to technical assistance to local educational agencies, nonprofit organizations and other agencies.

Section 3016, Pub. L. 89–10, title III, §356, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2220; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to special grants to nonprofit organizations.

Section 3017, Pub. L. 89–10, title III, §357, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2220; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to administration by the Secretary.

Section 3018, Pub. L. 89–10, title III, §358, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2221; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations.

SUBCHAPTER III—MAGNET SCHOOLS ASSISTANCE

§§3021 to 3032. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3021, Pub. L. 89–10, title III, §3001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 231, authorized appropriations for magnet schools assistance.

A prior section 3021, Pub. L. 89–10, title III, §361, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2221, set out short title and declaration of purpose for program of health education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3022, Pub. L. 89–10, title III, §3002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 231, related to eligibility for assistance.

A prior section 3022, Pub. L. 89–10, title III, §362, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2221; amended Pub. L. 96–88, title III, §301(a)(1), title V, §§507, 509(b), Oct. 17, 1979, 93 Stat. 677, 692, 695, authorized program of grants to State and local educational agencies, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3023, Pub. L. 89–10, title III, §3003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 231, stated purpose of this subchapter.

A prior section 3023, Pub. L. 89–10, title III, §363, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2221; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for financial assistance for program of health education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3024, Pub. L. 89–10, title III, §3004, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102

Stat. 231, authorized grants for use in magnet schools.

A prior section 3024, Pub. L. 89–10, title III, §364, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2221, authorized appropriations for a program of health education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3025, Pub. L. 89–10, title III, §3005, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 232, defined "magnet school".

Section 3026, Pub. L. 89–10, title III, §3006, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 232, related to uses of funds.

Section 3027, Pub. L. 89–10, title III, §3007, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 232, related to applications and requirements.

Section 3028, Pub. L. 89–10, title III, §3008, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 233, related to special considerations in approving applications.

Section 3029, Pub. L. 89–10, title III, §3009, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 233, related to prohibited uses for grants.

Section 3030, Pub. L. 89–10, title III, §3010, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 233, related to limitations on payments.

Section 3031, Pub. L. 89–10, title III, §3011, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 234, related to payments to local educational agencies.

A prior section 3031, Pub. L. 89–10, title III, §371, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222, provided short title for program of correction education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3032, Pub. L. 89–10, title III, §3012, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 234, related to withholding and cease and desist orders.

Prior sections 3032 to 3034 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3032, Pub. L. 89–10, title III, §372, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants relating to the academic and vocational education of antisocial, aggressive, or delinquent persons.

Section 3033, Pub. L. 89–10, title III, §373, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to technical assistance given to the Secretary.

Section 3034, Pub. L. 89–10, title III, §374, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222, authorized appropriations.

SUBCHAPTER IV—SPECIAL PROGRAMS

PART A—WOMEN'S EDUCATIONAL EQUITY

§§3041 to 3047. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3041, Pub. L. 89–10, title IV, §4001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 234, provided that this part could be cited as the "Women's Educational Equity Act" and stated Congressional findings and purpose.

A prior section 3041, Pub. L. 89–10, title III, §376, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allocation of funds for dissemination of information, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3042, Pub. L. 89–10, title IV, §4002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102

Stat. 234, authorized grants and contracts for program to achieve educational equity for women.

Section 3043, Pub. L. 89–10, title IV, §4003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 235, related to applications and to participation by men and boys.

Section 3044, Pub. L. 89–10, title IV, §4004, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 236, related to challenge grants.

Section 3045, Pub. L. 89–10, title IV, §4005, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 236, related to criteria and priorities for grant and contract awards.

Section 3046, Pub. L. 89–10, title IV, §4006, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 236, related to reports and to evaluation and dissemination of materials and programs.

Section 3047, Pub. L. 89–10, title IV, §4007, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 237, authorized appropriations.

Sections 3051 to 3057 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3051, Pub. L. 89–10, title III, §381, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2223, set out findings and purpose for program of training in biomedical sciences.

Section 3052, Pub. L. 89–10, title III, §382, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2223, set out definitions for program of training in biomedical sciences.

Section 3053, Pub. L. 89–10, title III, §383, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2224; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to projects for economically disadvantaged students.

Section 3054, Pub. L. 89–10, title III, §384, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2224; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to project activities and funding requirements.

Section 3055, Pub. L. 89–10, title III, §385, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2226; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for assistance.

Section 3056, Pub. L. 89–10, title III, §386, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2227; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to use of funds appropriated.

Section 3057, Pub. L. 89–10, title III, §387, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2227, authorized appropriations.

PART B—GIFTED AND TALENTED CHILDREN

§§3061 to 3068. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3061, Pub. L. 89–10, title IV, §4101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 237, provided that this part could be referred to as the "Jacob K. Javits Gifted and Talented Students Education Act of 1988".

A prior section 3061, Pub. L. 89–10, title III, §391, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2227, set out short title for program of population education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3062, Pub. L. 89–10, title IV, §4102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 237, stated Congressional findings and purposes.

A prior section 3062, Pub. L. 89–10, title III, §392, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2227; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts relating to population education in elementary and secondary schools, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3063, Pub. L. 89–10, title IV, §4103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 237; amended Pub. L. 102–325, title IV, §427(b)(2), July 23, 1992, 106 Stat. 549, defined terms used in

this part.

A prior section 3063, Pub. L. 89–10, title III, §393, as added Pub. L. 96–374, title VI, §601(b), Oct. 3, 1980, 94 Stat. 1471, set out short title and Congressional findings and declaration of purpose for program promoting international understanding, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3064, Pub. L. 89–10, title IV, §4104, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 238, authorized grants and contracts for programs and projects to meet educational needs of gifted and talented students.

A prior section 3064, Pub. L. 89–10, title III, §394, as added Pub. L. 96–374, title VI, §601(b), Oct. 3, 1980, 94 Stat. 1471, authorized a program of grants and contracts to promote international understanding, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3065, Pub. L. 89–10, title IV, §4105, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 239, related to program priorities.

A prior section 3065, Pub. L. 89–10, title III, §395, as added Pub. L. 96–374, title VI, §601(b), Oct. 3, 1980, 94 Stat. 1471, authorized appropriations, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3066, Pub. L. 89–10, title IV, §4106, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 239, related to participation of private school children and teachers.

Section 3067, Pub. L. 89–10, title IV, §4107, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 239, related to administration.

Section 3068, Pub. L. 89–10, title IV, §4108, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 240, authorized appropriations.

PART C—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

§3081. Omitted

CODIFICATION

Section, Pub. L. 89–10, title IV, §4301, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 240, which stated findings of Congress relating to Allen J. Ellender Fellowship Program, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 3081 to 3086 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3081, Pub. L. 89–10, title IV, §401, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2229, set out purpose of provisions relating to educational improvement, resources, and support.

Section 3082, Pub. L. 89–10, title IV, §402, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2229; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for making of grants.

Section 3083, Pub. L. 89–10, title IV, §403, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2231; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States and funding.

Section 3084, Pub. L. 89–10, title IV, §404, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2232; amended Pub. L. 96–46, §1(13)–(15), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission, form, contents, etc. of State plans.

Section 3085, Pub. L. 89–10, title IV, §405, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2234; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States.

Section 3086, Pub. L. 89–10, title IV, §406, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2234; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to participation of children enrolled in public schools in the purposes and benefits of program of educational improvement, resources, and support.

SUBPART 1—PROGRAM FOR SECONDARY SCHOOL STUDENTS AND TEACHERS

§§3091, 3092. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3091, Pub. L. 89–10, title IV, §4311, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 240, authorized grants to Close Up Foundation for program for secondary school students and teachers.

Section 3092, Pub. L. 89–10, title IV, §4312, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 240, related to applications.

SUBPART 2—PROGRAMS FOR OLDER AMERICANS AND RECENT IMMIGRANTS

§§3101, 3102. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3101, Pub. L. 89–10, title IV, §4321, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 241, authorized grants to Close Up Foundation for program for older Americans and recent immigrants.

A prior section 3101, Pub. L. 89–10, title IV, §421, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2236, provided that amounts allotted would be used only for the acquisition of school library resources and instructional equipment and materials, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3102, Pub. L. 89–10, title IV, §4322, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 241, related to applications.

A prior section 3102, Pub. L. 89–10, title IV, §422, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2237; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to program requirements for the receipt of funds available, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 3—GENERAL PROVISIONS

§§3111, 3112. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3111, Pub. L. 89–10, title IV, §4331, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 242, contained administrative provisions relating to Allen J. Ellender Fellowship Program.

A prior section 3111, Pub. L. 89–10, title IV, §431, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2237, related to authorized activities for program to improve local educational practices, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3112, Pub. L. 89–10, title IV, §4332, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 242, authorized appropriations.

A prior section 3112, Pub. L. 89–10, title IV, §432, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2238; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to program requirements, amount, availability, and allocation of funds, and approval of applications by State educational agencies, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

PART D—IMMIGRANT EDUCATION

§§3121 to 3130. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3121, Pub. L. 89–10, title IV, §4401, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 242, provided that this part could be cited as the "Emergency Immigrant Education Act of 1984".

A prior section 3121, Pub. L. 89–10, title IV, §441, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2239; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorized programs and funding for guidance, counseling, and testing, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3122, Pub. L. 89–10, title IV, §4402, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 242, defined terms used in this part.

A prior section 3122, Pub. L. 89–10, title IV, §442, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 93 Stat. 677, 692, related to program requirements for guidance, counseling, and testing, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3123, Pub. L. 89–10, title IV, §4403, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 242, related to authorization and allocation of appropriations.

A prior section 3123, Pub. L. 89–10, title IV, §443, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2240; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to establishment by Secretary of an administrative unit to provide information and advice on guidance and counseling activities, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3124, Pub. L. 89–10, title IV, §4404, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 243, related to State administrative costs.

Section 3125, Pub. L. 89–10, title IV, §4405, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 243, related to withholding.

Section 3126, Pub. L. 89–10, title IV, §4406, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 243, related to State entitlements.

Section 3127, Pub. L. 89–10, title IV, §4407, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 244, related to uses of funds.

Section 3128, Pub. L. 89–10, title IV, §4408, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 245, related to applications.

Section 3129, Pub. L. 89–10, title IV, §4409, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 246, related to payments.

Section 3130, Pub. L. 89–10, title IV, §4410, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 246, related to reports.

PART E—TERRITORIAL ASSISTANCE

§§3141, 3142. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3141, Pub. L. 89–10, title IV, §4501, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 246, related to general assistance for the Virgin Islands.

A prior section 3141, Pub. L. 89–10, title V, §501, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of a general application containing assurances submitted by each State desiring to participate in various educational programs under this chapter, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3142, Pub. L. 89–10, title IV, §4502, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 247; amended Pub. L. 102–73, title VIII, §801(b), July 25, 1991, 105 Stat. 359, related to territorial teacher training assistance.

Prior sections 3142 to 3150 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3142, Pub. L. 89–10, title V, §502, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2242; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of a single local educational agency application.

Section 3143, Pub. L. 89–10, title V, §503, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2243; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State approval of applications of State and local agencies in administration of education programs.

Section 3144, Pub. L. 89–10, title V, §504, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2244; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to rulemaking by State educational agencies applicable to programs and projects.

Section 3145, Pub. L. 89–10, title V, §505, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2244, related to technical assistance and dissemination of information by State educational agencies.

Section 3146, Pub. L. 89–10, title V, §506, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2244; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to monitoring standards adopted by State educational agencies.

Section 3147, Pub. L. 89–10, title V, §507, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2245; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to adoption of written procedures for the receiving and resolution of complaints by State educational agencies.

Section 3148, Pub. L. 89–10, title V, §508, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2245; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to withholding of payments to local educational agencies by State educational agencies.

Section 3149, Pub. L. 89–10, title V, §509, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2246; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to audits and audit resolution.

Section 3150, Pub. L. 89–10, title V, §510, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2247; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments by the Secretary to the States.

PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION

§§3151 to 3157. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3151, Pub. L. 89–10, title IV, §4601, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 247, authorized Secretary to carry out programs and projects to identify and disseminate innovative education approaches.

Section 3152, Pub. L. 89–10, title IV, §4602, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 247, related to optional tests for academic excellence.

Section 3153, Pub. L. 89–10, title IV, §4603, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102

Stat. 248, related to technology education.

Section 3154, Pub. L. 89–10, title IV, §4604, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 249, authorized programs for computer-based instruction.

Section 3155, Pub. L. 89–10, title IV, §4605, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 249; amended Pub. L. 103–227, title IX, §971(a), Mar. 31, 1994, 108 Stat. 263, authorized programs for the improvement of comprehensive school health education.

Section 3156, Pub. L. 89–10, title IV, §4606, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 250, authorized grants related to alternative curriculum schools.

Section 3156–1, Pub. L. 89–10, title IV, §4607, as added Pub. L. 100–690, title III, §3101(2), Nov. 18, 1988, 102 Stat. 4245, related to innovative alcohol abuse education programs.

Section 3156a, Pub. L. 89–10, title IV, §4608, formerly §4607, as added Pub. L. 100–569, title II, §202(3), Oct. 31, 1988, 102 Stat. 2862; renumbered §4608, Pub. L. 100–690, title III, §3101(1), Nov. 18, 1988, 102 Stat. 4245, related to National Geography Studies Centers.

Section 3156b, Pub. L. 89–10, title IV, §4609, as added Pub. L. 102–62, title III, §301(2), June 27, 1991, 105 Stat. 312; amended Pub. L. 102–359, §2(a), Aug. 26, 1992, 106 Stat. 962, related to instruction on history and principles of democracy in United States.

Section 3157, Pub. L. 89–10, title IV, §4610, formerly §4607, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 252; renumbered §4608 and amended Pub. L. 100–569, title II, §§202(1), (2), 203, Oct. 31, 1988, 102 Stat. 2862, 2863; renumbered §4610, Pub. L. 102–62, title III, §301(1), June 27, 1991, 105 Stat. 312, authorized appropriations.

Prior sections 3161 to 3164 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3161, Pub. L. 89–10, title V, §521, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2248, related to activities to strengthen State educational agency management.

Section 3162, Pub. L. 89–10, title V, §522, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2248; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to program requirements.

Section 3163, Pub. L. 89–10, title V, §523, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2249; amended Pub. L. 96–46, §1(16), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorization of appropriations.

Section 3164, Pub. L. 89–10, title V, §524, as added Pub. L. 96–46, §1(17), Aug. 6, 1979, 93 Stat. 339; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States.

PART G—READY TO LEARN TELEVISION

§§3161 to 3161g. Transferred

CODIFICATION

Part G of title IV of the Elementary and Secondary Education Act of 1965, comprising this part, was renumbered part F of title IV of the General Education Provisions Act, by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, transferred to subchapter VI (§1235 et seq.) of chapter 31 of this title, and subsequently repealed by Pub. L. 107–110, title X, §1011(3), Jan. 8, 2002, 115 Stat. 1986.

Section 3161, Pub. L. 89–10, title IV, §4701, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3586, which authorized Secretary to make contracts, cooperative agreements, or grants to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children, was renumbered section 471 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235 of this title, and subsequently repealed.

Section 3161a, Pub. L. 89–10, title IV, §4702, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3586, which set forth purposes of contracts, cooperative agreements, and grants, eligibility requirements, and requirement that programming reflect cultural diversity and needs and experiences of both boys and girls, was renumbered section 472 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235a of this title, and subsequently repealed.

Section 3161b, Pub. L. 89–10, title IV, §4703, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3587,

which related to duties of Secretary, was renumbered section 473 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235b of this title, and subsequently repealed.

Section 3161c, Pub. L. 89–10, title IV, §4704, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3588, which related to applications, was renumbered section 474 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235c of this title, and subsequently repealed.

Section 3161d, Pub. L. 89–10, title IV, §4705, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3588, which related to reports and evaluations, was renumbered section 475 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235d of this title, and subsequently repealed.

Section 3161e, Pub. L. 89–10, title IV, §4706, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589, which authorized appropriations, was renumbered section 476 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235e of this title, and subsequently repealed.

Section 3161f, Pub. L. 89–10, title IV, §4707, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589, which related to administrative costs, was renumbered section 477 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235f of this title, and subsequently repealed.

Section 3161g, Pub. L. 89–10, title IV, §4708, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589, which defined "distance learning", was renumbered section 478 of the General Education Provisions Act by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235g of this title, and subsequently repealed.

SUBCHAPTER V—DRUG EDUCATION

§§3171 to 3173. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3171, Pub. L. 89–10, title V, §5101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 252, provided that this subchapter could be cited as the "Drug-Free Schools and Communities Act of 1986".

A prior section 3171, Pub. L. 89–10, title V, §531, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2249; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to national and State councils on quality in education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3172, Pub. L. 89–10, title V, §5102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 252, stated findings of Congress.

Section 3173, Pub. L. 89–10, title V, §5103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 252, stated purpose of this subchapter.

PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

§§3181, 3182. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965,

Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3181, Pub. L. 89–10, title V, §5111, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 253; amended Pub. L. 100–690, title III, §§3301, 3308(b), Nov. 18, 1988, 102 Stat. 4247, 4251; Pub. L. 101–226, §2, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–647, title XV, §§1506(b), 1509(a), Nov. 29, 1990, 104 Stat. 4841, 4842, authorized appropriations.

Section 3182, Pub. L. 89–10, title V, §5112, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 253; amended Pub. L. 101–226, §3, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–647, title XV, §1509(b), Nov. 29, 1990, 104 Stat. 4842, related to reservations and State allotments of funds.

PART B—STATE AND LOCAL PROGRAMS

§§3191 to 3197. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3191, Pub. L. 89–10, title V, §5121, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 254; amended Pub. L. 100–690, title III, §3302, Nov. 18, 1988, 102 Stat. 4247; Pub. L. 101–226, §4, Dec. 12, 1989, 103 Stat. 1929, related to use of allotments by States.

A prior section 3191, Pub. L. 89–10, title VI, §601, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2252, set out short title for program of emergency school aid, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3192, Pub. L. 89–10, title V, §5122, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 254; amended Pub. L. 100–690, title III, §3303, Nov. 18, 1988, 102 Stat. 4248; Pub. L. 101–226, §5, Dec. 12, 1989, 103 Stat. 1929; Pub. L. 101–647, title XV, §§1503(a), 1504, Nov. 29, 1990, 104 Stat. 4837, related to State programs.

A prior section 3192, Pub. L. 89–10, title VI, §602, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2252, provided Congressional findings and declaration of purpose for program of emergency school aid, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3193, Pub. L. 89–10, title V, §5123, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 255; amended Pub. L. 100–690, title III, §3304, Nov. 18, 1988, 102 Stat. 4248; Pub. L. 101–226, §6, Dec. 12, 1989, 103 Stat. 1930, related to State applications.

A prior section 3193, Pub. L. 89–10, title VI, §603, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2252, related to United States policy with respect to the application of the provisions of the program of emergency school aid and provisions of other Federal law, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3194, Pub. L. 89–10, title V, §5124, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 256; amended Pub. L. 100–690, title III, §3305, Nov. 18, 1988, 102 Stat. 4249; Pub. L. 101–226, §7, Dec. 12, 1989, 103 Stat. 1930; Pub. L. 101–647, title XV, §1509(c), Nov. 29, 1990, 104 Stat. 4842, related to responsibilities of State educational agencies.

A prior section 3194, Pub. L. 89–10, title VI, §604, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2252; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorization of programs and appropriations, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3195, Pub. L. 89–10, title V, §5125, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 257; amended Pub. L. 100–690, title III, §3306, Nov. 18, 1988, 102 Stat. 4249; Pub. L. 101–226, §8, Dec. 12, 1989, 103 Stat. 1931; Pub. L. 101–647, title XV, §1505, Nov. 29, 1990, 104 Stat. 4839, related to local drug abuse education and prevention programs.

A prior section 3195, Pub. L. 89–10, title VI, §605, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2253; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to apportionment and reapportionment among States, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3196, Pub. L. 89–10, title V, §5126, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 257; amended Pub. L. 101–226, §§9, 22(b)(2), Dec. 12, 1989, 103 Stat. 1932, 1941; Pub. L. 101–647,

title XV, §§1507, 1509(f)(2), Nov. 29, 1990, 104 Stat. 4841, 4842, related to local applications.

A prior section 3196, Pub. L. 89–10, title VI, §606, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2254; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to eligibility of local educational agencies for assistance, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3197, Pub. L. 89–10, title V, §5127, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 259; amended Pub. L. 100–690, title III, §3307, Nov. 18, 1988, 102 Stat. 4249; Pub. L. 101–226, §10, Dec. 12, 1989, 103 Stat. 1933, related to State and local reports.

Prior sections 3197 to 3200 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3197, Pub. L. 89–10, title VI, §607, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2257; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorized activities under the program of emergency school and the preferential hiring of teacher aides.

Section 3198, Pub. L. 89–10, title VI, §608, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2258; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to special programs and projects.

Section 3199, Pub. L. 89–10, title VI, §609, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2259; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for metropolitan area projects.

Section 3200, Pub. L. 89–10, title VI, §610, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2260; amended Pub. L. 96–46, §1(18), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the submission, form, contents, approval, etc. of applications for assistance.

PART C—TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL

§§3201 to 3203. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3201, Pub. L. 89–10, title V, §5128, as added Pub. L. 100–690, title III, §3308(a)(2), Nov. 18, 1988, 102 Stat. 4250; amended Pub. L. 101–226, §11(b), Dec. 12, 1989, 103 Stat. 1934; Pub. L. 101–647, title XV, §1506(a), Nov. 29, 1990, 104 Stat. 4840, authorized grants for teacher training programs.

A prior section 3201, Pub. L. 89–10, title VI, §611, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2264; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts related to educational television and radio, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3202, Pub. L. 89–10, title V, §5129, as added Pub. L. 101–647, title XV, §1506(a), Nov. 29, 1990, 104 Stat. 4840, related to grants for training of counselors.

A prior section 3202, Pub. L. 89–10, title VI, §612, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2264; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments by Secretary, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3203, Pub. L. 89–10, title V, §5130, as added Pub. L. 101–647, title XV, §1506(a), Nov. 29, 1990, 104 Stat. 4840, related to applications.

Prior sections 3203 to 3207 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3203, Pub. L. 89–10, title VI, §613, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2265; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized grants and contracts for the purpose of evaluation of specific assisted programs and projects.

Section 3204, Pub. L. 89–10, title VI, §614, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266, authorized joint funding.

Section 3205, Pub. L. 89–10, title VI, §615, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266, related to attorney fees in suits against local educational agencies for failure to comply with program of emergency school aid.

Section 3206, Pub. L. 89–10, title VI, §616, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266, related to student assignment to neighborhood schools.

Section 3207, Pub. L. 89–10, title VI, §617, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to definitions.

PART D—NATIONAL PROGRAMS

§§3211 to 3217. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3211, Pub. L. 89–10, title V, §5131, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 259; amended Pub. L. 101–226, §12(a), Dec. 12, 1989, 103 Stat. 1934, authorized grants and contracts with institutions of higher education for drug abuse education and prevention programs.

Section 3212, Pub. L. 89–10, title V, §5132, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 260; amended Pub. L. 100–690, title III, §3309, Nov. 18, 1988, 102 Stat. 4251; Pub. L. 101–226, §13, Dec. 12, 1989, 103 Stat. 1934; Pub. L. 101–647, title XV, §1509(d), Nov. 29, 1990, 104 Stat. 4842, related to Federal activities.

Section 3213, Pub. L. 89–10, title V, §5133, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 261, related to programs for Indian youth.

Section 3214, Pub. L. 89–10, title V, §5134, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 261, related to programs for Hawaiian natives.

Section 3215, Pub. L. 89–10, title V, §5135, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 262, related to regional centers.

Section 3216, Pub. L. 89–10, title V, §5136, as added Pub. L. 101–226, §14, Dec. 12, 1989, 103 Stat. 1934; amended Pub. L. 101–647, title XV, §1509(e), Nov. 29, 1990, 104 Stat. 4842, related to emergency grants to eligible local educational agencies.

Section 3217, Pub. L. 89–10, title V, §5137, as added Pub. L. 101–226, §15, Dec. 12, 1989, 103 Stat. 1935; amended Pub. L. 101–647, title XV, §1503(b), Nov. 29, 1990, 104 Stat. 4837, related to drug-free schools demonstration program.

PART E—GENERAL PROVISIONS

§§3221 to 3224b. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3221, Pub. L. 89–10, title V, §5141, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 262; amended Pub. L. 101–226, §16, Dec. 12, 1989, 103 Stat. 1935, defined terms used in this subchapter.

A prior section 3221, Pub. L. 89–10, title VII, §701, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2369, provided short title of Bilingual Education Act, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3222, Pub. L. 89–10, title V, §5142, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102

Stat. 263; amended Pub. L. 100–690, title III, §3310, Nov. 18, 1988, 102 Stat. 4251, related to functions of Secretary of Education.

A prior section 3222, Pub. L. 89–10, title VII, §702, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2370, related to policy and authorization of appropriations for bilingual education program, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3223, Pub. L. 89–10, title V, §5143, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 264; amended Pub. L. 101–226, §17, Dec. 12, 1989, 103 Stat. 1935, related to participation of children and teachers from private nonprofit schools.

A prior section 3223, Pub. L. 89–10, title VII, §703, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2269; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2371; Pub. L. 98–524, §4(b), Oct. 19, 1984, 98 Stat. 2488, defined terms and set out general provisions for program of bilingual education, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3224, Pub. L. 89–10, title V, §5144, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 264, related to materials produced or distributed under this subchapter.

Section 3224a, Pub. L. 89–10, title V, §5145, as added Pub. L. 101–226, §22(b)(1), Dec. 12, 1989, 103 Stat. 1939; amended Pub. L. 101–647, title XV, §1509(f)(1), Nov. 29, 1990, 104 Stat. 4842, related to certification of drug and alcohol abuse prevention programs.

Section 3224b, Pub. L. 89–10, title V, §5146, as added Pub. L. 101–226, §18, Dec. 12, 1989, 103 Stat. 1936; amended Pub. L. 101–647, title XV, §1509(g), Nov. 29, 1990, 104 Stat. 4842, related to dissemination of information and technical assistance.

§3225. Transferred

CODIFICATION

Section, Pub. L. 99–570, title IV, §4302, Oct. 27, 1986, 100 Stat. 3207–153, which established National Trust for Drug-Free Youth, was transferred to section 7105 of this title, and subsequently omitted from the Code.

PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS

§3227. Omitted

CODIFICATION

Section, Pub. L. 89–10, title V, §5151, as added Pub. L. 100–690, title III, §3311(2), Nov. 18, 1988, 102 Stat. 4252; amended Pub. L. 101–226, §19(b), Dec. 12, 1989, 103 Stat. 1936; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, which related to development of early childhood education drug abuse prevention materials, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

PART G—MISCELLANEOUS PROVISIONS

§§3231 to 3233. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3231, Pub. L. 89–10, title V, §5191, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 264, related to Indian education programs.

A prior section 3231, Pub. L. 89–10, title VII, §721, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2271; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2374, related to financial assistance for bilingual education programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3232, Pub. L. 89–10, title V, §5192, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 265, related to allotments for fiscal years 1987 and 1988 under section 4124 of the Drug-Free Schools and Communities Act of 1986.

A prior section 3232, Pub. L. 89–10, title VII, §722, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2276; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2379, related to Indian children in schools, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3233, Pub. L. 89–10, title V, §5193, as added Pub. L. 101–647, title XV, §1508, Nov. 29, 1990, 104 Stat. 4841, related to identification of federally assisted programs.

A prior section 3233, Pub. L. 89–10, title VII, §723, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2276; amended S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, covered training provisions and defined "eligible applicants", prior to the general revision of this subchapter by Pub. L. 98–511.

SUBCHAPTER VI—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

PART A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

§§3241 to 3248. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3241, Pub. L. 89–10, title VI, §6001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 265, provided that this part could be cited as the "School Dropout Demonstration Assistance Act of 1988".

A prior section 3241, Pub. L. 89–10, title VII, §731, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2278; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2380, related to use of funds, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3242, Pub. L. 89–10, title VI, §6002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 265, stated purpose of this part.

A prior section 3242, Pub. L. 89–10, title VII, §732, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2280; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2380, related to grants for State programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3243, Pub. L. 89–10, title VI, §6003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 265; amended Pub. L. 101–250, §1, Mar. 6, 1990, 104 Stat. 96; Pub. L. 102–103, title I, §102, Aug. 17, 1991, 105 Stat. 497, authorized appropriations.

A prior section 3243, Pub. L. 89–10, title VII, §733, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2381, related to program evaluation requirements, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3244, Pub. L. 89–10, title VI, §6004, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102

Stat. 266; amended Pub. L. 101–250, §§2, 3, Mar. 6, 1990, 104 Stat. 96; Pub. L. 102–103, title I, §103(a), Aug. 17, 1991, 105 Stat. 497, related to grants to local educational agencies.

A prior section 3244, Pub. L. 89–10, title VII, §734, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2381, related to evaluation assistance centers, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3245, Pub. L. 89–10, title VI, §6005, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 267; amended Pub. L. 102–103, title I, §104, Aug. 17, 1991, 105 Stat. 497, related to applications for grants.

A prior section 3245, Pub. L. 89–10, title VII, §735, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2382, related to bilingual education research and development, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3246, Pub. L. 89–10, title VI, §6006, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 269; amended Pub. L. 102–103, title I, §105, Aug. 17, 1991, 105 Stat. 498, related to authorized activities.

A prior section 3246, Pub. L. 89–10, title VII, §736, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2382, related to coordination of research, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3247, Pub. L. 89–10, title VI, §6007, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270, related to distribution of assistance and limitation on costs.

A prior section 3247, Pub. L. 89–10, title VII, §737, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2383, related to education statistics, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3248, Pub. L. 89–10, title VI, §6008, as added Pub. L. 102–103, title I, §106, Aug. 17, 1991, 105 Stat. 498, related to annual reports by Secretary.

Prior sections 3251 to 3255 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3251, Pub. L. 89–10, title VII, §741, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2281; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2383, related to use of funds under training and technical assistance program.

Section 3252, Pub. L. 89–10, title VII, §742, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2281; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2384, related to multifunctional resource centers.

Section 3253, Pub. L. 89–10, title VII, §743, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2384, related to fellowships.

Section 3254, Pub. L. 89–10, title VII, §744, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2385, related to priorities in making grants or contracts.

Section 3255, Pub. L. 89–10, title VII, §745, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2385, related to stipends.

PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

§§3261 to 3266. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3261, Pub. L. 89–10, title VI, §6101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270, provided that this part could be cited as the "Secondary Schools Basic Skills Demonstration Assistance Act of 1988".

A prior section 3261, Pub. L. 89–10, title VII, §751, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2282; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2385, related to Office of Bilingual Education and Minority Languages Affairs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3262, Pub. L. 89–10, title VI, §6102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102

Stat. 270, stated purpose of this part.

A prior section 3262, Pub. L. 89–10, title VII, §752, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2386, related to National Advisory and Coordinating Council on Bilingual Education, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3263, Pub. L. 89–10, title VI, §6103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270; amended Pub. L. 101–600, §5, Nov. 16, 1990, 104 Stat. 3046, authorized appropriations.

Section 3264, Pub. L. 89–10, title VI, §6104, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 271, related to grants to local educational agencies.

Section 3265, Pub. L. 89–10, title VI, §6105, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 271, related to authorized activities.

Section 3266, Pub. L. 89–10, title VI, §6106, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 272, related to applications for grants.

PART C—GENERAL PROVISIONS

§§3271, 3272. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3271, Pub. L. 89–10, title VI, §6201, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 273; amended Pub. L. 101–250, §4, Mar. 6, 1990, 104 Stat. 97, contained provisions general to this subchapter.

Section 3272, Pub. L. 89–10, title VI, §6202, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 273, defined terms used in this subchapter.

SUBCHAPTER VII—BILINGUAL EDUCATION PROGRAMS

§§3281 to 3283. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3281, Pub. L. 89–10, title VII, §7001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 274, provided that this subchapter could be cited as the "Bilingual Education Act".

A prior section 3281, Pub. L. 89–10, title VIII, §801, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2284, set out short title for program for community schools, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3282, Pub. L. 89–10, title VII, §7002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 274, stated policy of Congress and authorized appropriations.

A prior section 3282, Pub. L. 89–10, title VIII, §802, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2284, provided Congressional statement of findings and purpose, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3283, Pub. L. 89–10, title VII, §7003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 276, defined terms used in this subchapter and contained provisions relating to regulations.

Prior sections 3283 to 3290 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3283, Pub. L. 89–10, title VIII, §803, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2285, provided a definition of a community education program.

Section 3284, Pub. L. 89–10, title VIII, §804, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92

Stat. 2285; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized State programs for community education.

Section 3285, Pub. L. 89–10, title VIII, §805, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2285; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotment and reallotment of funds.

Section 3286, Pub. L. 89–10, title VIII, §806, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2286, related to the use of community education programs for non-Federal contribution in certain Federal programs.

Section 3287, Pub. L. 89–10, title VIII, §807, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2286; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized the activities for which funds may be used.

Section 3288, Pub. L. 89–10, title VIII, §808, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2287; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the submission of a State plan containing satisfactory assurances.

Section 3289, Pub. L. 89–10, title VIII, §809, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2289; amended Pub. L. 96–46, §1(19), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants to local educational agencies.

Section 3290, Pub. L. 89–10, title VIII, §810, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2289; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for grants to public agencies and nonprofit organizations for delivery of community services through community education.

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§§3291, 3292. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3291, Pub. L. 89–10, title VII, §7021, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 279; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to assistance for bilingual education programs.

A prior section 3291, Pub. L. 89–10, title VIII, §811, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2289; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to national leadership and planning activities, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3292, Pub. L. 89–10, title VII, §7022, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 285, related to Indian children in schools.

Prior sections 3292 to 3295 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3292, Pub. L. 89–10, title VIII, §812, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2290; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the training of community education personnel.

Section 3293, Pub. L. 89–10, title VIII, §813, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2290; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized the Director of the National Institute of Education to carry out a program of research on community education programs.

Section 3294, Pub. L. 89–10, title VIII, §814, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2290; amended Pub. L. 96–88, title III, §301(a)(1), (b)(1), (2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, contained administrative provisions.

Section 3295, Pub. L. 89–10, title VIII, §815, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2291, related to the Federal share of the cost of State plans and applications of local educational agencies.

PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

§§3301 to 3307. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3301, Pub. L. 89–10, title VII, §7031, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 285, related to use of funds for data collection, evaluation, and research.

Section 3302, Pub. L. 89–10, title VII, §7032, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 286, related to grants for State programs.

Section 3303, Pub. L. 89–10, title VII, §7033, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 287, related to program evaluation requirements.

Section 3304, Pub. L. 89–10, title VII, §7034, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 287, related to evaluation assistance centers.

Section 3305, Pub. L. 89–10, title VII, §7035, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 287, related to research and development.

Section 3306, Pub. L. 89–10, title VII, §7036, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 288, related to coordination of research.

Section 3307, Pub. L. 89–10, title VII, §7037, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 289, related to education statistics.

Prior sections 3311 to 3318 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3311, Pub. L. 89–10, title IX, §901, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2292, set out the short title and the declaration of findings and purpose for program for gifted and talented children.

Section 3312, Pub. L. 89–10, title IX, §902, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2292, defined "gifted and talented children".

Section 3313, Pub. L. 89–10, title IX, §903, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2292; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations.

Section 3314, Pub. L. 89–10, title IX, §904, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2293; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State programs designed to meet the educational needs of gifted and talented children.

Section 3315, Pub. L. 89–10, title IX, §905, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2294; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to discretionary programs.

Section 3316, Pub. L. 89–10, title IX, §906, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2295; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State allotments and reallotments.

Section 3317, Pub. L. 89–10, title IX, §907, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2296; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, contained administrative provisions for programs and projects.

Section 3318, Pub. L. 89–10, title IX, §908, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2296, related to Federal share.

PART C—TRAINING AND TECHNICAL ASSISTANCE

§§3321 to 3325. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3321, Pub. L. 89–10, title VII, §7041, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 289, related to use of funds for training and technical assistance.

Section 3322, Pub. L. 89–10, title VII, §7042, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 290, related to multifunctional resource centers.

Section 3323, Pub. L. 89–10, title VII, §7043, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to fellowships.

Section 3324, Pub. L. 89–10, title VII, §7044, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to priorities in making grants and contracts.

Section 3325, Pub. L. 89–10, title VII, §7045, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to stipends.

PART D—ADMINISTRATION

§§3331, 3332. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3331, Pub. L. 89–10, title VII, §7051, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to Office of Bilingual Education and Minority Languages Affairs.

A prior section 3331, Pub. L. 89–10, title IX, §921, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2296; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for educational proficiency standards implementation, etc., prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3332, Pub. L. 89–10, title VII, §7052, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 293, related to limitation of authority.

A prior section 3332, Pub. L. 89–10, title IX, §922, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2297; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to achievement testing assistance, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

PART E—TRANSITION

§3341. Omitted

CODIFICATION

Section, Pub. L. 89–10, title VII, §7063, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 293, which related to application of this subchapter to grants and contracts entered into before Oct. 1, 1988, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 3341 to 3348 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3341, Pub. L. 89–10, title IX, §931, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2298; amended Pub. L. 98–511, title IV, §402, Oct. 19, 1984, 98 Stat. 2389, related to general provisions applicable to the Women's Educational Equity Act of 1978.

Section 3342, Pub. L. 89–10, title IX, §932, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2298; amended Pub. L. 98–511, title IV, §§401(b), 403, Oct. 19, 1984, 98 Stat. 2389, related to granting

and contracting authority and funding requirements.

Section 3343, Pub. L. 89–10, title IX, §933, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2299; amended Pub. L. 98–511, title IV, §401(b), Oct. 19, 1984, 98 Stat. 2389, related to applications and participation.

Section 3344, Pub. L. 89–10, title IX, §934, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2299; amended Pub. L. 98–511, title IV, §§401(b), 404, Oct. 19, 1984, 98 Stat. 2389, related to challenge grants.

Section 3345, Pub. L. 89–10, title IX, §935, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2299; amended Pub. L. 98–511, title IV, §§401(b), 405, Oct. 19, 1984, 98 Stat. 2389, 2390, related to criteria and priorities.

Section 3346, Pub. L. 89–10, title IX, §936, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2300; amended Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 98–511, title IV, §§401(b), 406, Oct. 19, 1984, 98 Stat. 2389, 2390, related to National Advisory Council on Women's Educational Programs.

Section 3347, Pub. L. 89–10, title IX, §937, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2300; amended Pub. L. 98–511, title IV, §§401(b), 407, Oct. 19, 1984, 98 Stat. 2389, 2391, related to reports.

Section 3348, Pub. L. 89–10, title IX, §938, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2301; amended Pub. L. 98–511, title IV, §408, Oct. 19, 1984, 98 Stat. 2391, related to authorization of appropriations.

SUBCHAPTER VIII—GUN-FREE SCHOOLS

§3351. Omitted

CODIFICATION

Section, Pub. L. 89–10, title VIII, §8001, as added Pub. L. 103–227, title X, §1032(3), Mar. 31, 1994, 108 Stat. 270, which related to gun-free school requirements, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 3351 to 3354 and 3361 to 3367 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3351, Pub. L. 89–10, title IX, §941, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2301, set out purpose of program of special grants for safe schools.

Section 3352, Pub. L. 89–10, title IX, §942, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2301, authorized appropriations.

Section 3353, Pub. L. 89–10, title IX, §943, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2301; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to local educational agencies.

Section 3354, Pub. L. 89–10, title IX, §944, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2302; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of applications by local educational agencies in order to receive grants.

Section 3361, Pub. L. 89–10, title IX, §951, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2303, set out statement of policy for ethnic heritage program.

Section 3362, Pub. L. 89–10, title IX, §952, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2303; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized an ethnic heritage studies program.

Section 3363, Pub. L. 89–10, title IX, §953, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2303, set out authorized activities for program of ethnic heritage.

Section 3364, Pub. L. 89–10, title IX, §954, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2303; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for assistance.

Section 3365, Pub. L. 89–10, title IX, §955, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2304; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related

to administration by Secretary and to funding.

Section 3366, Pub. L. 89–10, title IX, §956, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2304, related to National Advisory Council on Ethnic Heritage Studies.

Section 3367, Pub. L. 89–10, title IX, §957, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2304, authorized appropriations.

SUBCHAPTER IX—GENERAL PROVISIONS

§§3381 to 3384. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3381, Pub. L. 89–10, title IX, §9001, formerly title VI, §601, Apr. 11, 1965, 79 Stat. 55; renumbered title VII, §701, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered title VIII, §801, and amended Pub. L. 90–247, title I, §§142(b), 152(c), title VII, §§702, 703, Jan. 2, 1968, 81 Stat. 799, 803, 816, 819; Pub. L. 91–230, title I, §162, Apr. 13, 1970, 84 Stat. 152; Pub. L. 94–193, §1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–482, title V, §501(l), Oct. 12, 1976, 90 Stat. 2237; renumbered title IX, §1001, and amended Pub. L. 95–561, title VIII, §801(1), (2), title IX, §901(a), Nov. 1, 1978, 92 Stat. 2284, 2305; renumbered title X, §1001, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; renumbered §8001 and amended Pub. L. 100–297, title I, §1002, Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9001, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, defined terms used in this chapter.

Section 3382, Pub. L. 89–10, title IX, §9002, formerly title VI, §603, Apr. 11, 1965, 79 Stat. 57; renumbered title VII, §703, and amended Pub. L. 89–750, title I, §§111(f), 161, Nov. 3, 1966, 80 Stat. 1196, 1204; renumbered title VIII, §803, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; amended Pub. L. 91–230, title I, §163, title IV, §401(c)(2), Apr. 13, 1970, 84 Stat. 153, 173; renumbered title IX, §1002, Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284; renumbered title X, §1002, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered §8002, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9002, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, related to Federal administration of Elementary and Secondary Education Act of 1965.

Section 3383, Pub. L. 89–10, title IX, §9003, formerly title VIII, §804, as added Pub. L. 93–380, title I, §106, Aug. 21, 1974, 88 Stat. 512; renumbered title IX, §1003, and amended Pub. L. 95–561, title VIII, §801(1), (2), title IX, §901(b), Nov. 1, 1978, 92 Stat. 2284, 2305; Pub. L. 96–46, §§1(20), 2(a)(3), Aug. 6, 1979, 93 Stat. 339, 340; renumbered title X, §1003, and amended Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, §21(b), Dec. 8, 1983, 97 Stat. 1418; renumbered §8003, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9003, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, related to waiver of requirements for certain jurisdictions.

Section 3384, Pub. L. 89–10, title IX, §9004, formerly title VI, §605, Apr. 11, 1965, 79 Stat. 58; renumbered title VII, §705, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered title VIII, §805, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; renumbered title IX, §1004, Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284; renumbered title X, §1004, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; renumbered §8004, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9004, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, related to prohibition against use of funds for religious worship or instruction.

§3385. Repealed. Pub. L. 100–297, title V, §5352(2), Apr. 28, 1988, 102 Stat. 414

Section, Pub. L. 89–10, title X, §1005, formerly title VIII, §810, as added Pub. L. 92–318, title IV, §421(a), June 23, 1972, 86 Stat. 339; amended Pub. L. 93–380, title VI, §§631(a), 632(a), Aug. 21, 1974, 88 Stat. 585, 586; renumbered title IX, §1005, and amended Pub. L. 95–561, title VIII, §801(1), (2), title XI, §§1141(a), 1150(a)–(e), Nov. 1, 1978, 92 Stat. 2284, 2328, 2331–2333; renumbered title X, §1005, and amended Pub. L. 96–46, §§1(21), 2(a)(1), Aug. 6, 1979, 93 Stat. 339, 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507,

Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–511, title V, §513(c), Oct. 19, 1984, 98 Stat. 2400, related to improvement of educational opportunities for Indian students.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§§3385a, 3385b. Repealed. Pub. L. 100–297, title V, §5352(4), Apr. 28, 1988, 102 Stat. 414

Section 3385a, Pub. L. 92–318, title IV, §422, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(1), 1152(a), Nov. 1, 1978, 92 Stat. 2329, 2333; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–511, title V, §513(b)(1), (2), Oct. 19, 1984, 98 Stat. 2400, related to special educational training programs for teachers of Indian people.

Section 3385b, Pub. L. 92–318, title IV, §423, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(2), 1152(b), Nov. 1, 1978, 92 Stat. 2329, 2333; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–511, title V, §513(b)(3), (4), Oct. 19, 1984, 98 Stat. 2400; Pub. L. 99–570, title IV, §4133(b)(2), Oct. 27, 1986, 100 Stat. 3207–133, related to fellowships for Indian students.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§3386. Omitted

CODIFICATION

Section, Pub. L. 89–10, title IX, §9005, formerly title VIII, §812, as added Pub. L. 93–380, title I, §110, Aug. 21, 1974, 88 Stat. 513; renumbered title IX, §1006, Pub. L. 95–561, title VIII, §801 (1), (2), Nov. 1, 1978, 92 Stat. 2284; renumbered title X, §1006, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered §8005, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9005, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, which related to open meetings of educational agencies, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

CHAPTER 48—DEPARTMENT OF EDUCATION

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

3401. Congressional findings.
3402. Congressional declaration of purpose.
3403. Relationship with States.
3404. Definitions.

SUBCHAPTER II—ESTABLISHMENT OF THE DEPARTMENT

3411. Establishment of Department; appointment of Secretary.
3412. Principal officers.
3413. Office for Civil Rights.
3414. Office of Elementary and Secondary Education; inclusion of Office of Migrant Education.
3415. Office of Postsecondary Education.

3416. Office of Career, Technical, and Adult Education.
3417. Office of Special Education and Rehabilitative Services.
3418. Repealed.
3419. Institute of Education Sciences.
3420. Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.
3421. Office of General Counsel.
3422. Office of Inspector General.
3423. Repealed.
3423a. Office of Correctional Education.
3423b. Office of Non-Public Education.
3423c. Office of Indian Education.
3423d. Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.
3424. Federal Interagency Committee on Education.
3425. Office of Educational Technology.
3426. Liaison for Proprietary Institutions of Higher Education.
3427. Coordinator for the outlying areas.

SUBCHAPTER III—TRANSFERS OF AGENCIES AND FUNCTIONS

3441. Transfers from Department of Health, Education, and Welfare.
3442. Repealed.
3443. Transfers from Department of Labor.
3444. Transfer of programs from National Science Foundation.
3445. Transfers from Department of Justice.
3446. Transfers from Department of Housing and Urban Development.
3447. Effect of transfers.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

3461. Officers and employees.
3462. Experts and consultants.
3463. Personnel reduction and annual limitations.

PART B—GENERAL ADMINISTRATIVE PROVISIONS

3471. General authority.
3472. Delegation of functions.
3473. Reorganization of Department.
3474. Rules and regulations.
3475. Contracts.
3476. Regional and field offices.
3477. Acquisition and maintenance of property.
3478. Facilities at remote locations.
3479. Use of facilities.
3480. Copyrights and patents.
3481. Gifts and bequests.
3482. Technical advice.
3483. Working capital fund.
3484. Funds transfer.
3485. Seal of Department.
3486. Annual report.
3487. Repealed.
3488. Authorization of appropriations.
3489. General extension of authorizations.
3490. Potential financial interests or impaired objectivity of covered individuals or entities.

SUBCHAPTER V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

3501. Transfer and allocation of appropriations and personnel.
3502. Effect on personnel.
3503. Agency terminations.
3504. Incidental transfers.
3505. Savings provisions.
3506. Separability.
3507. Existing references to transferor officials or bodies deemed references to transferee officials or bodies.
3508. Department of Health and Human Services.
3509. Coordination of programs for handicapped.
3510. Transitional provisions.

SUBCHAPTER I—GENERAL PROVISIONS

§3401. Congressional findings

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation;

(2) there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex;

(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) in our Federal system, the primary public responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States;

(5) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(6) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted;

(7) there is a need for improvement in the management and coordination of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(8) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(9) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; and

(10) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

(Pub. L. 96–88, title I, §101, Oct. 17, 1979, 93 Stat. 669.)

EFFECTIVE DATE

Pub. L. 96–88, title VI, §601, Oct. 17, 1979, 93 Stat. 696, provided that:

"(a) The provisions of this Act [see Short Title note below] shall take effect one hundred and eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register [prescribed as May 4, 1980, by Ex. Ord. No. 12212, formerly set out below], except that at any time on or after October 1, 1979—

"(1) any of the officers provided for in title II of this Act [subchapter II of this chapter] may be nominated and appointed, as provided in such title; and

"(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act [section

3505(b)(2) of this title].

"(b) Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this Act [see Short Title note below], may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title [this section and section 602 of Pub. L. 96–88 set out below] and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–392, title VI, §601, Sept. 25, 1990, 104 Stat. 840, provided that: "This title [enacting section 3423a of this title, amending section 3424 of this title, repealing sections 1131 and 3423 of this title, and enacting provisions set out as a note under section 2403 of this title] may be cited as the 'Office of Correctional Education Act of 1990'."

SHORT TITLE

Pub. L. 96–88, §1, Oct. 17, 1979, 93 Stat. 668, provided in part: "This Act [enacting this chapter, amending sections 928, 929, 1102, 2390, 2711, and 3012 of this title, section 19 of Title 3, The President, sections 101, 5312, and 5314 to 5316 of Title 5, Government Organization and Employees, sections 2, 9, and 11 of the Inspector General Act of 1978, set out in the Appendix to Title 5, section 1004 of Title 21, Food and Drugs, and sections 761b, 794c, 821, 829, 873, 879, 882, 914, and 952 of Title 29, Labor, and enacting provisions set out as notes under this section and section 1102 of this title] may be cited as the 'Department of Education Organization Act'."

INTERIM APPOINTMENTS

Pub. L. 96–88, title VI, §602, Oct. 17, 1979, 93 Stat. 696, provided that:

"(a) In the event that one or more officers required by this Act [see Short Title note above] to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act [May 4, 1980] and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

"(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act."

EXECUTIVE ORDER NO. 12212

Ex. Ord. No. 12212, May 2, 1980, 45 F.R. 29557, which established the effective date for the Department of Education Organization Act, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§3402. Congressional declaration of purpose

The Congress declares that the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively. Therefore, the purposes of this chapter are—

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual;

(2) to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(3) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(4) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information;

(5) to improve the coordination of Federal education programs;

(6) to improve the management and efficiency of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds,

as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(7) to increase the accountability of Federal education programs to the President, the Congress, and the public.

(Pub. L. 96–88, title I, §102, Oct. 17, 1979, 93 Stat. 670.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, known as the Department of Education Organization Act, which enacted this chapter, amended sections 928, 929, 1102, 2390, 2711, and 3012 of this title, section 19 of Title 3, The President, sections 101, 5312, and 5314 to 5316 of Title 5, Government Organization and Employees, sections 2, 9, and 11 of the Inspector General Act of 1978, set out in the Appendix to Title 5, section 1004 of Title 21, Food and Drugs, and sections 761b, 794c, 821, 829, 873, 879, 882, 914, and 952 of Title 29, Labor, and enacted provisions set out as notes under sections 1102 and 3401 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

§3403. Relationship with States

(a) Rights of local governments and educational institutions

It is the intention of the Congress in the establishment of the Department to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States.

(b) Curriculum, administration, and personnel; library resources

No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

(c) Funding under pre-existing programs

The Secretary shall not, during the period within eight months after May 4, 1980, take any action to withhold, suspend, or terminate funds under any program transferred by this chapter by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

(Pub. L. 96–88, title I, §103, Oct. 17, 1979, 93 Stat. 670.)

CODIFICATION

In subsec. (c), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§3404. Definitions

As used in this chapter, unless otherwise provided or indicated by the context—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Deputy Secretary" means the Deputy Secretary of Education;

(4) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(5) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the terms "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, and postsecondary education; and

(7) the term "office" includes any office, institute, council, unit, organizational entity, or component thereof.

(Pub. L. 96–88, title I, §104, Oct. 17, 1979, 93 Stat. 671; Pub. L. 101–509, title V, §529 [title I, §112(a)(3)(A)], Nov. 5, 1990, 104 Stat. 1427, 1454.)

AMENDMENTS

1990—Par. (3). Pub. L. 101–509 substituted "Deputy Secretary" for "Under Secretary" in two places.

EFFECTIVE DATE OF 1990 AMENDMENT; CONTINUED SERVICE BY INCUMBENTS

Pub. L. 101–509, title V, §529 [title I, §112(e)], Nov. 5, 1990, 104 Stat. 1427, 1455, provided that:

"(1) This section [amending this section, section 3412 of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, section 472a of Title 25, Indians, section 3533 of Title 42, The Public Health and Welfare, and section 1452 of Title 43, Public Lands and enacting provisions set out as notes under this section and section 3501 of Title 42] shall take effect on the first day of the first pay period that begins on or after the date of enactment of this Act [Nov. 5, 1990].

"(2)(A) The incumbent in the position of Under Secretary of Health and Human Services on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Health and Human Services at the pleasure of the President after such day.

"(B) The incumbent in the position of Under Secretary of the Interior on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of the Interior at the pleasure of the President after such day.

"(C) The incumbent in the position of Under Secretary of Education on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Education at the pleasure of the President after such day.

"(D) The incumbent in the position of Under Secretary of Housing and Urban Development on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Housing and Urban Development at the pleasure of the President after such day."

CONSTRUCTION OF REFERENCES

Pub. L. 101–509, title V, §529 [title I, §112(c)], Nov. 5, 1990, 104 Stat. 1427, 1454, provided that: "Any reference in any statute, reorganization plan, regulation, executive order, or any document issued pursuant thereto in force on the date this section takes effect [see Effective Date of 1990 Amendment; Continued Service by Incumbents note above] to the Under Secretary of Health and Human Services, the Under Secretary of the Interior, the Under Secretary of Education, or the Under Secretary of Housing and Urban Development shall be deemed to be a reference to the Deputy Secretary of Health and Human Services, the Deputy Secretary of the Interior, the Deputy Secretary of Education, or the Deputy Secretary of Housing and Urban Development, respectively."

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER II—ESTABLISHMENT OF THE DEPARTMENT

§3411. Establishment of Department; appointment of Secretary

There is established an executive department to be known as the Department of Education. The Department shall be administered, in accordance with the provisions of this chapter, under the supervision and direction of a Secretary of Education. The Secretary shall be appointed by the

President, by and with the advice and consent of the Senate.

(Pub. L. 96–88, title II, §201, Oct. 17, 1979, 93 Stat. 671.)

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Education, see Parts 1, 2, and 6 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out under section 5195 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 12729

Ex. Ord. No. 12729, Sept. 24, 1990, 55 F.R. 39389, which established the President's Advisory Commission on Educational Excellence for Hispanic Americans, directed Secretary of Education to establish the White House Initiative on Educational Excellence for Hispanic Americans, set forth reporting requirements, and required active involvement of executive departments and agencies, was revoked by Ex. Ord. No. 12900, §10, Feb. 22, 1994, 59 F.R. 9061, formerly set out below.

EXECUTIVE ORDER NO. 12900

Ex. Ord. No. 12900, Feb. 22, 1994, 59 F.R. 9061, which established in the Department of Education the President's Advisory Commission on Educational Excellence for Hispanic Americans and the White House Initiative on Educational Excellence for Hispanic Americans and directed the Secretary of Education to submit to the President an Annual Federal Plan to Promote Hispanic American Educational Excellence and the Director of the Office of Personnel Management to develop a program to promote recruitment of Hispanic students for positions in the Federal Government, was revoked by Ex. Ord. No. 13230, §9, Oct. 12, 2001, 66 F.R. 52843, formerly set out below.

EXECUTIVE ORDER NO. 13230

Ex. Ord. No. 13230, Oct. 12, 2001, 66 F.R. 52841, which established in the Department of Education the President's Advisory Commission on Educational Excellence for Hispanic Americans and the White House Initiative on Educational Excellence for Hispanic Americans, set forth reporting requirements, and required cooperation by executive departments and agencies, was revoked by Ex. Ord. No. 13555, §4(a), Oct. 19, 2010, 75 F.R. 65420, set out below.

EXTENSION OF TERM OF PRESIDENT'S ADVISORY COMMISSION ON EDUCATIONAL EXCELLENCE FOR HISPANIC AMERICANS

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended until Sept. 30, 1999, by Ex. Ord. No. 13062, §1(d), Sept. 29, 1997, 62 F.R. 51755, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended until Sept. 30, 2001, by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended until Sept. 30, 2003, by Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

EX. ORD. NO. 13555. WHITE HOUSE INITIATIVE ON EDUCATIONAL EXCELLENCE FOR HISPANICS

Ex. Ord. No. 13555, Oct. 19, 2010, 75 F.R. 65417, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, to restore the country to its role as the global leader in education, to strengthen the Nation by expanding educational opportunities and improving educational outcomes for Hispanics and Latinos (Hispanics) of all ages, and to help ensure that all Hispanics receive an education that properly prepares them for college, productive careers, and satisfying lives, it is hereby ordered as follows:

SECTION 1. *Policy*. At more than 52 million strong, including 4 million in Puerto Rico, Hispanics constitute the country's largest and fastest growing minority group. They have had a profound and positive

impact on our country through, among other things, their community's strong commitment to family, faith, hard work, and service. Many Hispanics contribute to this Nation bilingually in the English and Spanish languages—a true asset for our country in an increasingly global, interdependent world.

Hispanic students are the largest minority group in our Nation's schools, numbering more than 11 million in our public elementary and secondary school system, and constituting more than 22 percent of all pre-K-12 students. Hispanic students face educational challenges of crisis proportions. Fewer than half of all Hispanic children participate in early childhood education programs, and far too few Hispanic students graduate from high school; of those who do complete high school, many are not adequately prepared for college. Only 12 percent of adult Hispanics have a bachelor's degree, and just 3 percent have completed graduate or professional degree programs. At the same time, large numbers of Hispanic adults lack the education or literacy skills they need to advance their careers; they also are less likely than members of other groups to have taken job- or career-related courses, with the exception of basic education classes, such as English as a second language.

Our country was built on and continues to thrive on its diversity, and there is no doubt that the future of the United States is inextricably linked to the future of the Hispanic community. To reach the ambitious education goals we have set for our Nation, as well as to ensure equality of opportunity for all, we must provide the opportunities that will enable Hispanic students to raise their educational attainment at every level of the American education system. America's future competitiveness in our global economy will be substantially enhanced by improving educational outcomes for Hispanics.

SEC. 2. *White House Initiative on Educational Excellence for Hispanics.*

(a) *Establishment*. There is established the White House Initiative on Educational Excellence for Hispanics (Initiative), to be housed in the Department of Education (Department). The mission of the Initiative shall be to help restore the United States to its role as the global leader in education and to strengthen the Nation by expanding educational opportunities and improving educational outcomes for Hispanics of all ages and by helping to ensure that all Hispanics receive a complete and competitive education that prepares them for college, a career, and productive and satisfying lives.

(b) *Initiative Administration*. There shall be an Executive Director of the Initiative, to be appointed by the Secretary of Education (Secretary). The Initiative shall be advised by the Commission established under section 3 of this order and supported by the Working Group established under subsection (c) of this section. The Department shall provide the staff, resources, and assistance for the Initiative and the Working Group. To the extent permitted by law, departments, agencies, and offices represented on the Working Group shall provide resources, including personnel detailed to the Initiative, to assist the Department in meeting the objectives of this order.

(c) *Interagency Working Group.*

(1) There is established the Federal Interagency Working Group on Educational Excellence for Hispanics (Working Group), which shall be convened and chaired by the Initiative's Executive Director.

(2) The Working Group shall consist of senior officials from the Department, the White House Domestic Policy Council, the Department of Labor, and the Department of Health and Human Services, as well as such additional departments, agencies, and offices as the President may designate. Senior officials shall be designated by the heads of their respective departments, agencies, and offices.

(3) The Initiative's Executive Director may establish subgroups of the Working Group to focus on different aspects of the educational system or educational challenges facing Hispanics, such as early childhood education, K?12 [sic] education, higher education, career and technical education, language acquisition, and adult education.

(d) *Initiative Objectives.*

(1) To expand educational opportunities, improve education outcomes, and deliver a complete and competitive education for all Hispanics, the Initiative shall, consistent with law, promote, encourage, and undertake efforts designed to meet the following objectives:

(i) increasing general understanding of the causes of the educational challenges faced by Hispanic students;

(ii) increasing the percentage of Hispanic children who enter kindergarten ready for success by improving access by Hispanics to high-quality programs and services that encourage the early learning and development of children from birth through age 5;

(iii) implementing successful and innovative education reform strategies and practices in America's public schools to ensure that Hispanic students, like their peers, receive a rigorous and well-rounded education, and have access to student support services that will prepare them for college, a career, and civic participation;

(iv) ensuring that all Hispanic students have access to excellent teachers and school leaders, in part by

supporting efforts to improve the recruitment, preparation, development, and retention of successful Hispanic teachers and school leaders and other effective teachers and school leaders responsible for the education of Hispanic students;

(v) reducing the dropout rate of Hispanic students and helping Hispanic students graduate from high school prepared for college and a career, in part by promoting a positive school climate and supporting successful and innovative dropout prevention and recovery strategies that better engage Hispanic youths in their learning, help them catch up academically, and provide those who have left the educational system with pathways to reentry;

(vi) increasing college access and success for Hispanic students and providing support to help ensure that a greater percentage of Hispanics complete college and contribute to the goal of having America again lead the world in the proportion of college graduates by 2020, in part through strategies to strengthen the capacity of Hispanic-Serving Institutions, community colleges, and other institutions of higher education serving large numbers of Hispanic students; and

(vii) enhancing the educational and life opportunities of Hispanics by fostering positive family and community engagement, improving the quality of, and expanding access to, adult education, literacy, and career and technical education, as well as increasing opportunities for education and career advancement in the fields of science, technology, engineering, and mathematics.

(2) In working to fulfill its mission and objectives, the Initiative shall, consistent with law:

(i) help ensure that Federal programs and initiatives administered by the Department and other agencies are serving and meeting the needs of Hispanic children, youths, and adults;

(ii) work closely with the Executive Office of the President on key Administration priorities related to the education of Hispanics;

(iii) increase the Hispanic community's participation in, and capacity to participate in, the Department's programs and education-related programs at other executive departments and agencies;

(iv) advise Department officials and, through the Working Group, other agency officials on issues related to the Hispanic community and the educational attainment of Hispanic students;

(v) advise the Secretary on the development, implementation, and coordination of educational programs and initiatives at the Department and other agencies designed to improve educational opportunities and outcomes for Hispanics of all ages;

(vi) encourage and develop partnerships with public, private, philanthropic, and nonprofit stakeholders to improve Hispanics' readiness for school, college, and career, as well as their college persistence and completion; and

(vii) develop a national network of individuals, organizations, and communities to share and implement best practices related to the education of Hispanics.

(3) The Initiative shall periodically publish reports on its activities. The Secretary and the Executive Director of the Initiative, in consultation with the Interagency Working Group and the Chair of the Commission established under section 3 of this order, may develop and submit to the President recommendations designed to advance and promote educational opportunities and attainment for Hispanics, including recommendations for short- and long-term initiatives.

(e) *Collaboration Among White House Initiatives*. The White House Initiatives on Educational Excellence for Hispanics, Historically Black Colleges and Universities, Tribal Colleges and Universities, and Asian-American and Pacific Islanders shall work together whenever appropriate in light of their shared objectives.

SEC. 3. *President's Advisory Commission on Educational Excellence for Hispanics*. There is established the President's Advisory Commission on Educational Excellence for Hispanics (Commission) in the Department.

(a) *Commission Mission and Scope*. The Commission shall advise the President and the Secretary on matters pertaining to the educational attainment of the Hispanic community, including:

(1) developing, implementing, and coordinating educational programs and initiatives at the Department and other agencies to improve educational opportunities and outcomes for Hispanics of all ages;

(2) increasing the participation of the Hispanic community and Hispanic-Serving Institutions in the Department's programs and in education programs at other agencies;

(3) engaging the philanthropic, business, nonprofit, and education communities in a national dialogue regarding the mission and objectives of this order; and

(4) establishing partnerships with public, private, philanthropic, and nonprofit stakeholders to meet the mission and policy objectives of this order.

The Commission shall meet periodically, but at least twice a year, and may work through task forces composed exclusively of Commission members, as appropriate.

(b) *Commission Membership and Chair*.

(1) The Commission shall consist of no more than 30 members appointed by the President. The Commission may include individuals with relevant experience or subject matter expertise that the President deems appropriate, as well as individuals who may serve as representatives of a variety of sectors, including the education sector (early childhood education, elementary and secondary education, higher education, career and technical education, and adult education), labor organizations, research institutions, corporate and financial institutions, public and private philanthropic organizations, and nonprofit and community-based organizations at the national, State, regional, or local levels.

(2) The President shall designate one of the members to serve as Chair of the Commission, who shall work with the Initiative's Executive Director to convene regular meetings of the Commission, determine its agenda, and direct its work, consistent with this order.

(c) *Commission Administration*. The Executive Director of the Initiative shall also serve as the Executive Director of the Commission and administer the work of the Commission. The Department shall provide funding and administrative support for the Commission, to the extent permitted by law. Members of the Commission shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707). Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (Act), may apply to the administration of the Commission, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Secretary, in accordance with the guidelines issued by the Administrator of General Services.

SEC. 4. *General Provisions.*

(a) This order supersedes Executive Order 13230 of October 12, 2001.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EX. ORD. NO. 13634. REESTABLISHMENT OF ADVISORY COMMISSION

Ex. Ord. No. 13634, Dec. 21, 2012, 77 F.R. 77249, provided:

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

SECTION 1. *Reestablishing the President's Advisory Commission on Educational Excellence for Hispanics* . The President's Advisory Commission on Educational Excellence for Hispanics (Commission), as set forth under the provisions of Executive Order 13555 of October 19, 2010, is hereby reestablished and shall terminate on September 30, 2013, unless extended by the President. The same members who were serving on the Commission on October 19, 2012, are hereby reappointed to the Commission as reestablished by this order, as if the Commission had continued without termination through the date of this Executive Order.

SEC. 2. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EXTENSION OF TERM OF PRESIDENT'S ADVISORY COMMISSION ON EDUCATIONAL EXCELLENCE FOR HISPANICS

Term of President's Advisory Commission on Educational Excellence for Hispanics extended until Sept. 30, 2015, by Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Advisory Commission on Educational Excellence for Hispanics extended until Sept. 30, 2017, by Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

EX. ORD. NO. 13621. WHITE HOUSE INITIATIVE ON EDUCATIONAL EXCELLENCE FOR AFRICAN AMERICANS

Ex. Ord. No. 13621, July 26, 2012, 77 F.R. 45471, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America,

to restore the country to its role as the global leader in education, to strengthen the Nation by improving educational outcomes for African Americans of all ages, and to help ensure that all African Americans receive an education that properly prepares them for college, productive careers, and satisfying lives, it is hereby ordered as follows:

SECTION 1. *Policy*. Over the course of America's history, African American men and women have strengthened our Nation, including by leading reforms, overcoming obstacles, and breaking down barriers. In the less than 60 years since the *Brown* v. *Board of Education* decision put America on a path toward equal educational opportunity, America's educational system has undergone a remarkable transformation, and many African American children who attended the substandard segregated schools of the 1950s have grown up to see their children attend integrated elementary and secondary schools, colleges, and universities.

However, substantial obstacles to equal educational opportunity still remain in America's educational system. African Americans lack equal access to highly effective teachers and principals, safe schools, and challenging college-preparatory classes, and they disproportionately experience school discipline and referrals to special education. African American student achievement not only lags behind that of their domestic peers by an average of two grade levels, but also behind students in almost every other developed nation. Over a third of African American students do not graduate from high school on time with a regular high school diploma, and only four percent of African American high school graduates interested in college are college-ready across a range of subjects. An even greater number of African American males do not graduate with a regular high school diploma, and African American males also experience disparate rates of incarceration.

Significantly improving the educational outcomes of African Americans will provide substantial benefits for our country by, among other things, increasing college completion rates, productivity, employment rates, and the number of African American teachers. Enhanced educational outcomes lead to more productive careers, improved economic opportunity, and greater social well-being for all Americans. Complementing the role of Historically Black Colleges and Universities (HBCUs) in preparing generations of African American students for successful careers, and the work of my Administration's separate White House Initiative on Historically Black Colleges and Universities, this new Initiative's focus on improving all the sequential levels of education will produce a more effective educational continuum for all African American students.

To reach the ambitious education goals we have set for our Nation, as well as to ensure equality of access and opportunity for all, we must provide the support that will enable African American students to improve their level of educational achievement through rigorous and well-rounded academic and support services that will prepare them for college, a career, and a lifetime of learning.

SEC. 2. *White House Initiative on Educational Excellence for African Americans*. (a) *Establishment*. There is hereby established the White House Initiative on Educational Excellence for African Americans (Initiative), to be housed in the Department of Education (Department). There shall be an Executive Director of the Initiative, to be appointed by the Secretary of Education (Secretary). The Initiative shall be supported by the Interagency Working Group established under subsection (c) of this section and advised by the Commission established under section 3 of this order.

(b) *Mission and Functions*.

(1) The Initiative will help to restore the United States to its role as the global leader in education; strengthen the Nation by improving educational outcomes for African Americans of all ages; and help ensure that African Americans receive a complete and competitive education that prepares them for college, a satisfying career, and productive citizenship.

(2) The Initiative will complement and reinforce the Historically Black Colleges and Universities Initiative established by Executive Order 13532 of February 26, 2010, and together, they both will support enhanced educational outcomes for African Americans at every level of the American education system, including early childhood education; elementary, secondary, and postsecondary education; career and technical education; and adult education.

(3) To help expand educational opportunities, improve educational outcomes, and deliver a complete and competitive education for all African Americans, the Initiative shall, consistent with applicable law, promote, encourage, and undertake efforts designed to meet the following objectives:

(i) increasing general understanding of the causes of the educational challenges faced by African American students, whether they are in urban, suburban, or rural learning environments;

(ii) increasing the percentage of African American children who enter kindergarten ready for success by improving their access to high-quality programs and services that enable early learning and development of children from birth through age 5;

(iii) decreasing the disproportionate number of referrals of African American children from general education to special education by addressing the root causes of the referrals and eradicating discriminatory

referrals;

(iv) implementing successful and innovative education reform strategies and practices in America's public schools to ensure that African American students receive a rigorous and well-rounded education in safe and healthy environments, and have access to high-level, rigorous course work and support services that will prepare them for college, a career, and civic participation;

(v) ensuring that all African American students have comparable access to the resources necessary to obtain a high-quality education, including effective teachers and school leaders, in part by supporting efforts to improve the recruitment, preparation, development, and retention of successful African American teachers and school leaders and other effective teachers and school leaders responsible for the education of African American students;

(vi) reducing the dropout rate of African American students and helping African American students graduate from high school prepared for college and a career, in part by promoting a positive school climate that does not rely on methods that result in disparate use of disciplinary tools, and by supporting successful and innovative dropout prevention and recovery strategies that better engage African American youths in their learning, help them catch up academically, and provide those who have left the educational system with pathways to reentry;

(vii) increasing college access and success for African American students and providing support to help ensure that a greater percentage of African Americans complete college and contribute to the goal of having America again lead the world in the proportion of adults who are college graduates by 2020, in part through strategies to strengthen the capacity of institutions of higher education that serve large numbers of African American students, including community colleges, HBCUs, Predominantly Black Institutions (PBIs), and other institutions; and

(viii) enhancing the educational and life opportunities of African Americans by fostering positive family and community engagement in education; reducing racial isolation and resegregation of elementary and secondary schools to promote understanding and tolerance among all Americans; improving the quality of, and expanding access to, adult education, literacy, and career and technical education; and increasing opportunities for education and career advancement in the fields of science, technology, engineering, and mathematics.

(4) In working to fulfill its mission and objectives, the Initiative shall, consistent with applicable law:

(i) identify evidence-based best practices that can provide African American students a rigorous and well-rounded education in safe and healthy environments, as well as access to support services, which will prepare them for college, a career, and civic participation;

(ii) develop a national network of individuals, organizations, and communities to share and implement best practices related to the education of African Americans, including those identified as most at risk;

(iii) help ensure that Federal programs and initiatives administered by the Department and other agencies are serving and meeting the educational needs of African Americans, including by encouraging agencies to incorporate best practices into appropriate discretionary programs where permitted by law;

(iv) work closely with the Executive Office of the President on key Administration priorities related to the education of African Americans;

(v) increase the participation of the African American community, including institutions that serve that community, in the Department's programs and in education-related programs at other agencies;

(vi) advise the officials of the Department and other agencies on issues related to the educational attainment of African Americans;

(vii) advise the Secretary on the development, implementation, and coordination of educational programs and initiatives at the Department and other agencies that are designed to improve educational opportunities and outcomes for African Americans of all ages; and

(viii) encourage and develop partnerships with public, private, philanthropic, and nonprofit stakeholders to improve African Americans' readiness for school, college, and career, as well as their college persistence and completion.

(5) The Initiative shall periodically publish reports on its activities. The Secretary and the Executive Director of the Initiative, in consultation with the Working Group and the Chair of the Commission established under subsection (c) of this section and section 3 of this order, respectively, may develop and submit to the President recommendations designed to advance and promote educational opportunities and attainment for African Americans.

(c) *Interagency Working Group*.

(1) There is established the Federal Interagency Working Group on Educational Excellence for African Americans (Working Group), which shall be convened and chaired by the Initiative's Executive Director and that shall support the efforts of the Initiative described in subsection (b) of this section.

(2) The Working Group shall consist of senior officials from the Department, the White House Domestic Policy Council, the Department of Justice, the Department of Labor, the Department of Health and Human Services, the National Science Foundation, the Department of Defense, and such additional agencies and offices as the President may subsequently designate. Senior officials shall be designated by the heads of their respective agencies and offices.

(3) The Initiative's Executive Director may establish subgroups of the Working Group to focus on different aspects of the educational system (such as early childhood education, K–12 education, higher education (including HBCUs and PBIs), career and technical education, adult education, or correctional education and reengagement) or educational challenges facing particular populations of African Americans (such as young men, disconnected or out-of-school youth, individuals with disabilities, children identified as gifted and talented, single-parent households, or adults already in the workforce).

(d) *Administration*. The Department shall provide funding and administrative support for the Initiative and the Working Group, to the extent permitted by law and within existing appropriations. To the extent permitted by law, other agencies and offices represented on the Working Group may detail personnel to the Initiative, to assist the Department in meeting the objectives of this order.

(e) *Collaboration Among White House Initiatives*. The Initiative may collaborate with the White House Initiatives on American Indian and Alaska Native Education, Educational Excellence for Hispanics, Asian-American and Pacific Islanders, and (consistent with section 3(c) of this order) Historically Black Colleges and Universities, whenever appropriate in light of their shared objectives.

SEC. 3. *President's Advisory Commission on Educational Excellence for African Americans*. (a) *Establishment*. There is established in the Department the President's Advisory Commission on Educational Excellence for African Americans (Commission).

(b) *Commission Mission and Scope*. The Commission shall advise the President and the Secretary on matters pertaining to the educational attainment of the African American community, including:

(1) the development, implementation, and coordination of educational programs and initiatives at the Department and other agencies to improve educational opportunities and outcomes for African Americans of all ages;

(2) efforts to increase the participation of the African American community and institutions that serve the African American community in the Department's programs and in education programs at other agencies;

(3) efforts to engage the philanthropic, business, nonprofit, and education communities in a national dialogue on the mission and objectives of this order; and

(4) the establishment of partnerships with public, private, philanthropic, and nonprofit stakeholders to meet the mission and policy objectives of this order.

The Commission shall meet periodically, but at least twice a year.

(c) *Commission Membership and Chair*.

(1) The Commission shall consist of not more than 25 members appointed by the President. The President shall designate one member of the Commission to serve as Chair. The Executive Director of the Initiative shall also serve as the Executive Director of the Commission and administer the work of the Commission. The Chair of the Commission shall work with the Executive Director to convene regular meetings of the Commission, determine its agenda, and direct its work, consistent with this order.

(2) The Commission may include individuals with relevant experience or subject-matter expertise that the President deems appropriate, as well as individuals who may serve as representatives of a variety of sectors, including the education sector (early childhood education, elementary and secondary education, higher education (including HBCUs and PBIs), career and technical education, and adult education), labor organizations, research institutions, the military, corporate and financial institutions, public and private philanthropic organizations, and nonprofit and community-based organizations at the national, State, regional, or local levels.

(3) In addition to the 25 members appointed by the President, the Commission shall also include two members from the President's Board of Advisors on Historically Black Colleges and Universities (Board), designated by the President. In turn, the Board will henceforth include two members from the Commission, designated by the President. This reciprocal arrangement will foster direct communication and vital consultations that will benefit both bodies.

(4) The Executive Director of the Commission and the Executive Director of the Board shall convene at least one annual joint meeting between the Commission and the Board for the purpose of sharing information and forging collaborative courses of action designed to fulfill their respective missions. Such meetings shall be in addition to other prescribed meetings of the Commission or Board.

(5) The Executive Director of the Commission shall be a non-voting, ex officio member of the Board and shall be the Commission's liaison to the Board; and the Executive Director of the Board shall be a non-voting,

ex officio member of the Commission and shall be the Board's liaison to the Commission.

(d) *Commission Administration*. The Department shall provide funding and administrative support for the Commission, to the extent permitted by law and within existing appropriations. Members of the Commission shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707). Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act"), may apply to the administration of the Commission, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Secretary, in accordance with the guidelines issued by the Administrator of General Services.

SEC. 4. *General Provisions*. (a) The heads of agencies shall assist and provide information to the Initiative as may be necessary to carry out the functions of the Initiative, consistent with applicable law.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EXTENSION OF TERM OF PRESIDENT'S ADVISORY COMMISSION ON EDUCATIONAL EXCELLENCE FOR AFRICAN AMERICANS

Term of President's Advisory Commission on Educational Excellence for African Americans extended until Sept. 30, 2015, by Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Advisory Commission on Educational Excellence for African Americans extended until Sept. 30, 2017, by Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

CREATING AND EXPANDING LADDERS OF OPPORTUNITY FOR BOYS AND YOUNG MEN OF COLOR

Memorandum of President of the United States, Feb. 27, 2014, 79 F.R. 12923, provided:

Memorandum for the Heads of Executive Departments and Agencies

Over the course of my Administration, we have made consistent progress on important goals such as reducing high school dropout rates and lowering unemployment and crime. Yet as the Congress, State and local governments, research institutions, and leading private-sector organizations have all recognized, persistent gaps in employment, educational outcomes, and career skills remain for many boys and young men of color throughout their lives.

Many boys and young men of color will arrive at kindergarten less prepared than their peers in early language and literacy skills, leaving them less likely to finish school. Labor-force participation rates for young men of color have dropped, and far too many lack the skills they need to succeed. The disproportionate number of African American and Hispanic young men who are unemployed or involved in the criminal justice system undermines family and community stability and is a drag on State and Federal budgets. And, young men of color are far more likely to be victims of murder than their white peers, accounting for almost half of the country's murder victims each year. These outcomes are troubling, and they represent only a portion of the social and economic cost to our Nation when the full potential of so many boys and young men is left unrealized.

By focusing on the critical challenges, risk factors, and opportunities for boys and young men of color at key life stages, we can improve their long-term outcomes and ability to contribute to the Nation's competiveness, economic mobility and growth, and civil society. Unlocking their full potential will benefit not only them, but all Americans.

Therefore, I am establishing the My Brother's Keeper initiative, an interagency effort to improve measurably the expected educational and life outcomes for and address the persistent opportunity gaps faced by boys and young men of color. The initiative will help us determine the public and private efforts that are working and how to expand upon them, how the Federal Government's own policies and programs can better

support these efforts, and how to better involve State and local officials, the private sector, and the philanthropic community.

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. *My Brother's Keeper Task Force*. (a) There is established a My Brother's Keeper Task Force (Task Force) to develop a coordinated Federal effort to improve significantly the expected life outcomes for boys and young men of color (including African Americans, Hispanic Americans, and Native Americans) and their contributions to U.S. prosperity. The Task Force shall be chaired by the Assistant to the President and Cabinet Secretary. In addition to the Chair, the Task Force shall consist of the following members:

(i) the Attorney General;

(ii) the Secretary of Agriculture;

(iii) the Secretary of Commerce;

(iv) the Secretary of Defense;

(v) the Secretary of Education;

(vi) the Secretary of Health and Human Services;

(vii) the Secretary of Housing and Urban Development;

(viii) the Secretary of the Interior;

(ix) the Secretary of Labor;

(x) the Secretary of Transportation;

(xi) the Director of the Office of Management and Budget;

(xii) the Chair of the Council of Economic Advisers;

(xiii) the Director of the Office of Personnel Management;

(xiv) the Administrator of the Small Business Administration;

(xv) the Chief Executive Officer of the Corporation for National and Community Service;

(xvi) the Assistant to the President for Intergovernmental Affairs and Public Engagement;

(xvii) the Director of the Domestic Policy Council;

(xviii) the Director of the Office of Science and Technology Policy;

(xix) the Director of the National Economic Council; and

(xx) the heads of such other executive departments, agencies, and offices as the Chair may, from time to time, designate.

(b) A member of the Task Force may designate a senior-level official who is from the member's department, agency, or office, and is a full-time officer or employee of the Federal Government, to perform the day-to-day Task Force functions of the member. At the direction of the Chair, the Task Force may establish subgroups consisting exclusively of Task Force members or their designees under this subsection, as appropriate.

(c) The Deputy Secretary of Education shall serve as Executive Director of the Task Force, determine its agenda, convene regular meetings of the Task Force, and supervise its work under the direction of the Chair. The Department of Education shall provide funding and administrative support for the Task Force to the extent permitted by law and within existing appropriations. Each executive department or agency shall bear its own expenses for participating in the Task Force.

SEC. 2. *Mission and Function of the Task Force*. (a) The Task Force shall, consistent with applicable law, work across executive departments and agencies to:

(i) develop a comprehensive public Web site, to be maintained by the Department of Education, that will assess, on an ongoing basis, critical indicators of life outcomes for boys and young men of color (and other ethnic, income, and relevant subgroups) in absolute and relative terms;

(ii) assess the impact of Federal policies, regulations, and programs of general applicability on boys and young men of color, so as to develop proposals that will enhance positive outcomes and eliminate or reduce negative ones;

(iii) create an Administration-wide, online public portal to identify and disseminate successful programs and practices that improve outcomes for boys and young men of color;

(iv) recommend, where appropriate, incentives for the broad adoption by national, State, and local public and private decisionmakers of effective and innovative strategies and practices for providing opportunities to and improving outcomes for boys and young men of color;

(v) consistent with applicable privacy laws and regulations, provide relevant Federal data assets and expertise to public and private efforts to increase opportunities and improve life outcomes for boys and young men of color, and explore ways to coordinate with State and local governments and non-governmental actors with useful data and expertise;

(vi) ensure coordination with other Federal interagency groups and relevant public-private initiatives;

(vii) work with external stakeholders to highlight the opportunities, challenges, and efforts affecting boys and young men of color; and

(viii) recommend to the President means of ensuring sustained efforts within the Federal Government and continued partnership with the private sector and philanthropic community as set forth in this memorandum.

(b) The Task Force shall focus on evidence-based intervention points and issues facing boys and young men of color up to the age of 25, with a particular focus on issues important to young men under the age of 15. Specifically, the Task Force shall focus on the following issues, among others: access to early childhood supports; grade school literacy; pathways to college and a career, including issues arising from school disciplinary action; access to mentoring services and support networks; and interactions with the criminal justice system and violent crime.

(c) Within 30 days of the date of this memorandum, each member of the Task Force shall provide recommended indicators of life outcomes for the public Web site described in subsection (a)(i) of this section, and a plan for providing data on such indicators.

(d) Within 45 days of the date of this memorandum, each member of the Task Force shall identify any relevant programs and data-driven assessments within the member's department or agency for consideration in the portal described in subsection (a)(iii) of this section.

(e) Within 90 days of the date of this memorandum, the Task Force shall provide the President with a report on its progress and recommendations with respect to the functions set forth in subsection (a) of this section. Additionally, the Task Force shall provide, within 1 year of the date of this memorandum, a status report to the President regarding the implementation of this memorandum.

SEC. 3. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law or Executive Order to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Education is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§3412. Principal officers

(a) Deputy Secretary of Education

(1) There shall be in the Department a Deputy Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Deputy Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

(2)(A) The Deputy Secretary shall have responsibility for the conduct of intergovernmental relations of the Department, including assuring (i) that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States and the local school systems and other instrumentalities of the States, and (ii) that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States and the local school systems and other instrumentalities of the States concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States and the local school systems and other instrumentalities of the States.

(B) Local education authorities may inform the Deputy Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other office of the Department. If the Deputy Secretary

determines, after consultation with the appropriate Federal department or agency, that such a conflict does exist, the Deputy Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with recommendations for the correction of the conflict.

(b) Assistant Secretaries and General Counsel

(1) There shall be in the Department—

(A) an Assistant Secretary for Elementary and Secondary Education;

(B) an Assistant Secretary for Postsecondary Education;

(C) an Assistant Secretary for Career, Technical, and Adult Education;

(D) an Assistant Secretary for Special Education and Rehabilitative Services;

(E) an Assistant Secretary for Civil Rights; and

(F) a General Counsel.

(2) Each of the Assistant Secretaries and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(3) There shall be in the Department, a Special Assistant for Gender Equity who shall be appointed by the Secretary. The Special Assistant shall promote, coordinate, and evaluate gender equity programs, including the dissemination of information, technical assistance, and coordination of research activities. The Special Assistant shall advise the Secretary and Deputy Secretary on all matters relating to gender equity.

(4) There shall be in the Department a Director of the Institute of Education Sciences who shall be appointed in accordance with section 114(a) of the Education Sciences Reform Act of 2002 [20 U.S.C. 9514(a)] and perform the duties described in that Act [20 U.S.C. 9501 et seq.].

(c) Inspector General

There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978.

(d) Under Secretary of Education

There may be in the Department an Under Secretary of Education who shall perform such functions as the Secretary may prescribe. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(e) Additional officers

There shall be in the Department four additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. Notwithstanding the previous sentence, the appointments of individuals to serve as the Assistant Secretary for Management shall not be subject to the advice and consent of the Senate. The officers appointed under this subsection shall perform such functions as the Secretary shall prescribe, including—

(1) congressional relations functions;

(2) public information functions, including the provision, through the use of the latest technologies, of useful information about education and related opportunities to students, parents, and communities;

(3) functions related to monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs;

(4) management and budget functions;

(5) planning, evaluation, and policy development functions, including development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvements in education; and

(6) functions related to encouraging and promoting the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(f) Statements of functions of nominees

Whenever the President submits the name of an individual to the Senate for confirmation as an

officer of the Department under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(g) Supervision by Secretary

Each officer of the Department established under this section shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

(h) Coordination of literacy related functions by Assistant Secretary for Career, Technical, and Adult Education

The Assistant Secretary for Career, Technical, and Adult Education, in addition to performing such functions as the Secretary may prescribe, shall have responsibility for coordination of all literacy related programs and policy initiatives in the Department. The Assistant Secretary for Career, Technical, and Adult Education shall assist in coordinating the related activities and programs of other Federal departments and agencies.

(i) Liaison for Community and Junior Colleges

(1) There shall be in the Department a Liaison for Community and Junior Colleges, who shall be an officer of the Department appointed by the Secretary.

(2) The Secretary shall appoint, not later than 6 months after July 23, 1992, as the Liaison for Community and Junior Colleges a person who—

(A) has attained an associate degree from a community or junior college; or

(B) has been employed in a community or junior college setting for not less than 5 years.

(3) The Liaison for Community and Junior Colleges shall—

(A) serve as principal advisor to the Secretary on matters affecting community and junior colleges;

(B) provide guidance to programs within the Department dealing with functions affecting community and junior colleges; and

(C) work with the Federal Interagency Committee on Education to improve coordination of—

(i) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

(ii) collaborative business education partnerships; and

(iii) education programs located in, and regarding, rural areas.

(Pub. L. 96–88, title II, §202, Oct. 17, 1979, 93 Stat. 671; Pub. L. 99–145, title XII, §1204(a)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 101–509, title V, §529 [title I, §112(a)(3)(B)], Nov. 5, 1990, 104 Stat. 1427, 1454; Pub. L. 102–73, title I, §101, July 25, 1991, 105 Stat. 334; Pub. L. 102–103, title II, §201, Aug. 17, 1991, 105 Stat. 498; Pub. L. 102–325, title XV, §1553(a), July 23, 1992, 106 Stat. 838; Pub. L. 103–227, title IX, §913, Mar. 31, 1994, 108 Stat. 223; Pub. L. 103–382, title II, §271(b), Oct. 20, 1994, 108 Stat. 3929; Pub. L. 107–110, title X, §1072(e)(2), Jan. 8, 2002, 115 Stat. 2089; Pub. L. 107–279, title IV, §402(1), Nov. 5, 2002, 116 Stat. 1984; Pub. L. 112–166, §2(d)(1), Aug. 10, 2012, 126 Stat. 1284; Pub. L. 113–76, div. H, title III, §307(b), Jan. 17, 2014, 128 Stat. 399.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (b)(4), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, which is classified generally to subchapter I (§9501 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The Inspector General Act of 1978, referred to in subsec. (c), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2014—Subsec. (b)(1)(C). Pub. L. 113–76, §307(b)(1), substituted "Assistant Secretary for Career, Technical, and Adult Education" for "Assistant Secretary for Vocational and Adult Education".

Subsec. (h). Pub. L. 113–76, §307(b)(2), substituted "Assistant Secretary for Career, Technical, and Adult Education" for "Assistant Secretary for Vocational and Adult Education" in two places.

2012—Subsec. (e). Pub. L. 112–166, in introductory provisions, inserted "Notwithstanding the previous sentence, the appointments of individuals to serve as the Assistant Secretary for Management shall not be subject to the advice and consent of the Senate."

2002—Subsec. (b)(4). Pub. L. 107–279 added par. (4) and struck out former par. (4) which read as follows: "There shall be in the Department an Assistant Secretary for Educational Research and Improvement who shall be—

"(A) appointed by the President, by and with the consent of the Senate; and

"(B) selected (giving due consideration to recommendations from the National Educational Research Policy and Priorities Board) from among individuals who—

"(i) are distinguished educational researchers or practitioners;

"(ii) have proven management ability; and

"(iii) have substantial knowledge of education within the United States."

Subsec. (b)(3), (4). Pub. L. 107–110 redesignated par. (3), relating to Assistant Secretary for Educational Research and Improvement, as (4).

1994—Subsec. (b)(1)(E) to (G). Pub. L. 103–227, §913(1), redesignated subpars. (F) and (G) as (E) and (F), respectively, and struck out former subpar. (E) which read as follows: "an Assistant Secretary for Educational Research and Improvement;".

Subsec. (b)(3). Pub. L. 103–382 added par. (3) relating to Special Assistant for Gender Equity.

Pub. L. 103–227, §913(2), added par. (3) relating to Assistant Secretary for Educational Research and Improvement.

1992—Subsec. (i). Pub. L. 102–325 added subsec. (i).

1991—Subsecs. (d), (e). Pub. L. 102–103 added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (h). Pub. L. 102–73 added subsec. (h).

1990—Subsec. (a). Pub. L. 101–509 substituted "a Deputy Secretary" for "an Under Secretary" in first sentence of par. (1) and "Deputy Secretary" for "Under Secretary" wherever appearing elsewhere in pars. (1) and (2).

1985—Subsec. (e). Pub. L. 99–145 struck out subsec. (e) which provided for presence in the Department of Education of an Administrator of Education for Overseas Dependents.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–103, title II, §203, Aug. 17, 1991, 105 Stat. 499, provided that:

"(a) IN GENERAL.—This Act [probably should be "this title", meaning title II of Pub. L. 102–103, amending this section and section 5314 of Title 5, Government Organization and Employees] shall take effect on the first day of the first Department of Education pay period that begins on or after the date of enactment of this Act [Aug. 17, 1991].

"(b) SPECIAL RULE.—An incumbent in a position within the Department of Education on the day preceding the day that this Act takes effect who has been appointed by the President to a position within the Department of Education with the advice and consent of the Senate may serve as the Under Secretary at the pleasure of the President after the day preceding the day that this Act takes effect."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Education, see section 529 [title I, §112(e)] of Pub. L. 101–509, set out as a note under section 3404 of this title.

§3413. Office for Civil Rights

(a) Establishment; administration; delegation of functions

There shall be in the Department an Office for Civil Rights, to be administered by the Assistant Secretary for Civil Rights appointed under section 3412(b) of this title. Notwithstanding the provisions of section 3472 of this title, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, transferred to the Secretary under section 3441(a)(3) of this title.

(b) Compliance and enforcement reports; copies submitted to Secretary

(1) The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(2) Notwithstanding any other provision of law, the report required by paragraph (1) shall be transmitted to the Secretary, the President, and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the report required by paragraph (1) to the Secretary sufficiently in advance of its submission to the President and the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the report.

(c) Authority of Assistant Secretary

In addition to the authority otherwise provided under this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of such Office, subject to the provisions of title 5 governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out the compliance and enforcement functions of such Office; and

(4) notwithstanding any other provision of this chapter, to obtain services as authorized by section 3109 of title 5 at a rate not to exceed the equivalent daily rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

(Pub. L. 96–88, title II, §203, Oct. 17, 1979, 93 Stat. 673.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b)(1) of this section relating to making an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 82 of House Document No. 103–7.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§3414. Office of Elementary and Secondary Education; inclusion of Office of Migrant Education

There shall be in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate. There shall be within the Office of Elementary and Secondary Education and directly under the supervision of the Assistant Secretary for Elementary and Secondary Education, an Office of Migrant Education, which shall be responsible for the administration of programs established by part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] and by subpart 5 of part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070d–2].

(Pub. L. 96–88, title II, §204, Oct. 17, 1979, 93 Stat. 674; Pub. L. 98–511, title VII, §701(a), Oct. 19, 1984, 98 Stat. 2405; Pub. L. 103–382, title III, §391(h), Oct. 20, 1994, 108 Stat. 4023.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Part C of title I of the Act is classified generally to part C (§6391 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in text, is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Subpart 5 of part A of title IV of this Act is classified generally to subpart 5 (§1070d–2) of part A of subchapter IV of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–382 substituted "part C" for "subpart 1 of part B".

1984—Pub. L. 98–511 inserted provisions establishing the Office of Migrant Education and specifying its functions.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

§3415. Office of Postsecondary Education

(a) There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting postsecondary education.

(b) The Assistant Secretary for Postsecondary Education shall appoint a Deputy Assistant Secretary for International and Foreign Language Education to perform such functions affecting postsecondary, international, and foreign language education as the Secretary may prescribe. The Deputy Assistant Secretary for International and Foreign Language Education shall—

(1) be an individual with extensive background and experience in international and foreign language education;

(2) have responsibility for encouraging and promoting the study of foreign languages and the study of the cultures of other countries at the elementary, secondary, and postsecondary levels in the United States; and

(3) coordinate with related international and foreign language education programs of other Federal agencies.

(Pub. L. 96–88, title II, §205, Oct. 17, 1979, 93 Stat. 674; Pub. L. 110–315, title IX, §935, Aug. 14, 2008, 122 Stat. 3460.)

AMENDMENTS

2008—Pub. L. 110–315 amended section generally. Prior to amendment, text read as follows: "There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for

Postsecondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education."

§3416. Office of Career, Technical, and Adult Education

There shall be in the Department an Office of Career, Technical, and Adult Education, to be administered by the Assistant Secretary for Career, Technical, and Adult Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting career, technical, and adult education as the Secretary shall delegate, and shall serve as principal adviser to the Secretary on matters affecting career, technical, and adult education. The Secretary, through the Assistant Secretary, shall also provide a unified approach to rural education and rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

(Pub. L. 96–88, title II, §206, Oct. 17, 1979, 93 Stat. 674; Pub. L. 113–76, div. H, title III, §307(a), Jan. 17, 2014, 128 Stat. 399.)

AMENDMENTS

2014—Pub. L. 113–76 substituted, in section catchline, "Office of Career, Technical, and Adult Education" for "Office of Vocational and Adult Education" and, in text, "Office of Career, Technical, and Adult Education" for "Office of Vocational and Adult Education", "Assistant Secretary for Career, Technical, and Adult Education" for "Assistant Secretary for Vocational and Adult Education", and "career, technical, and adult education" for "vocational and adult education" in two places.

§3417. Office of Special Education and Rehabilitative Services

There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary for Special Education and Rehabilitative Services appointed under section 3412(b) of this title. Notwithstanding the provisions of section 3472 of this title, the Secretary shall delegate to the Assistant Secretary all functions, other than administrative and support functions, transferred to the Secretary under sections 3441(a)(1) of this title (with respect to the bureau for the education and training of the handicapped), 3441(a)(2)(H) of this title, and 3441(a)(4) of this title.

(Pub. L. 96–88, title II, §207, Oct. 17, 1979, 93 Stat. 674.)

§3418. Repealed. Pub. L. 99–145, title XII, §1204(a)(1), Nov. 8, 1985, 99 Stat. 720

Section, Pub. L. 96–88, title II, §208, Oct. 17, 1979, 93 Stat. 674, provided for an Office of Education for Overseas Dependents in Department of Education.

§3419. Institute of Education Sciences

There shall be in the Department of Education the Institute of Education Sciences, which shall be administered in accordance with the Education Sciences Reform Act of 2002 [20 U.S.C. 9501 et seq.] by the Director appointed under section 114(a) of that Act [20 U.S.C. 9514(a)].

(Pub. L. 96–88, title II, §208, as added Pub. L. 107–279, title IV, §402(2), Nov. 5, 2002, 116 Stat. 1985.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in text, is title I of Pub. L. 107–279, Nov. 5, 2002,

116 Stat. 1941, which is classified generally to subchapter I (§9501 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

PRIOR PROVISIONS

A prior section 3419, Pub. L. 96–88, title II, §208, formerly §209, Oct. 17, 1979, 93 Stat. 674; Pub. L. 103–227, title IX, §911(b), Mar. 31, 1994, 108 Stat. 213; renumbered §208, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929, related to Office of Educational Research and Improvement, prior to repeal by Pub. L. 107–279, title IV, §402(2), Nov. 5, 2002, 116 Stat. 1985.

A prior section 208 of Pub. L. 96–88 was classified to section 3418 of this title prior to repeal by Pub. L. 99–145.

§3420. Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students

There shall be in the Department an Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, to be administered by a Director of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe.

(Pub. L. 96–88, title II, §209, formerly §210, Oct. 17, 1979, 93 Stat. 675; renumbered §209, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929; amended Pub. L. 107–110, title X, §1072(b), (c)(2)(A), (d), Jan. 8, 2002, 115 Stat. 2089.)

PRIOR PROVISIONS

A prior section 209 of Pub. L. 96–88 was renumbered section 208 and was classified to section 3419 of this title, prior to repeal by Pub. L. 107–279.

AMENDMENTS

2002—Pub. L. 107–110, §1072(d), substituted "Director of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students" for "Director of Bilingual Education and Minority Languages Affairs".

Pub. L. 107–110, §1072(b), (c)(2)(A), substituted "Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students" for "Office of Bilingual Education and Minority Languages Affairs" in section catchline and in text.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§3421. Office of General Counsel

There shall be in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 3412(b) of this title. The General Counsel shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(Pub. L. 96–88, title II, §210, formerly §211, Oct. 17, 1979, 93 Stat. 675; renumbered §210, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 210 of Pub. L. 96–88 was renumbered section 209 and is classified to section 3420 of this title.

§3422. Office of Inspector General

There shall be in the Department an Office of Inspector General, established in accordance with the Inspector General Act of 1978.

(Pub. L. 96–88, title II, §211, formerly §212, Oct. 17, 1979, 93 Stat. 675; renumbered §211, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 211 of Pub. L. 96–88 was renumbered section 210 and is classified to section 3421 of this title.

§3423. Repealed. Pub. L. 101–392, title VI, §602(a)(1), Sept. 25, 1990, 104 Stat. 840

Section, Pub. L. 96–88, title II, §213, Oct. 17, 1979, 93 Stat. 675, established the Intergovernmental Advisory Council on Education.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date note under section 3423a of this title.

§3423a. Office of Correctional Education

(a) Findings

The Congress finds and declares that—

(1) education is important to, and makes a significant contribution to, the readjustment of incarcerated individuals to society; and

(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

(b) Statement of purpose

It is the purpose of this subchapter to encourage and support educational programs for criminal offenders in correctional institutions.

(c) Establishment of Office

The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

(d) Functions of Office

The Secretary, through the Office of Correctional Education established under subsection (c) of this section, shall—

(1) coordinate all correctional education programs within the Department of Education;

(2) provide technical support to State and local educational agencies and schools funded by the Bureau of Indian Affairs on correctional education programs and curricula;

(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such programs;

(5) consult with, and provide outreach to, State directors of correctional education and

correctional educators; and

(6) collect from States a sample of information on the number of individuals who complete a vocational education sequence, earn a high school degree or general equivalency diploma, or earn a postsecondary degree while incarcerated and the correlation with job placement, job retention, and recidivism.

(e) Definitions

As used in this section—

(1) the term "criminal offender" means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

(2) the term "correctional institution" means any—

(A) prison,

(B) jail,

(C) reformatory,

(D) work farm,

(E) detention center, or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders; and

(3) the term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Pub. L. 96–88, title II, §212, formerly §214, as added Pub. L. 101–392, title VI, §602(a)(3), Sept. 25, 1990, 104 Stat. 840; amended Pub. L. 103–322, title II, §20408(a), Sept. 13, 1994, 108 Stat. 1827; renumbered §212, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 212 of Pub. L. 96–88 was renumbered section 211 and is classified to section 3422 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–322 substituted "under subsection (c)" for "under subsection (a)" in introductory provisions.

EFFECTIVE DATE

Pub. L. 101–392, title VII, §702, Sept. 25, 1990, 104 Stat. 843, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act [enacting subchapter II of chapter 44 of this title, this section, sections 2311a, 2327, 2328, 2394 to 2394e, 2395 to 2395e, 2396 to 2396m, 2411 to 2420a, 2424, 2466b to 2466e, 2468, 2468b to 2468e, and 3423a of this title, and subchapter III of chapter 20 of Title 25, Indians, amending sections 2301, 2311 to 2313, 2321 to 2324, 2352, 2361 to 2363, 2382, 2391, 2392, 2401 to 2404, 2421 to 2423, 2451, 2463, and 2471 of this title, section 1812 of Title 25, and sections 49f, 1533, 1604, and 1661c of Title 29, Labor, repealing sections 1131, 2371 to 2373, 2376 to 2378, 2431, 2462, 2464, 2465, and 3423 of this title, and amending provisions set out as a note under section 2301 of this title] shall take effect on July 1, 1991.

"(b) SPECIAL RULE.—Sections 3, 115, 116, 504, and 512 and part H of title III of the Carl D. Perkins Vocational and Applied Technology Education Act [former sections 2302, 2325, 2326, 2466a, and 2468a of this title and former part H (§2397 et seq.) of subchapter III of chapter 44 of this title] (as amended by this Act) shall take effect upon the enactment of this Act [Sept. 25, 1990]."

§3423b. Office of Non-Public Education

There shall be in the Department an Office of Non-Public Education to ensure the maximum potential participation of non-public school students in all Federal educational programs for which such students are eligible.

(Pub. L. 96–88, title II, §214, as added Pub. L. 103–382, title II, §271(c), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 214 of Pub. L. 96–88 was renumbered section 212 and is classified to section 3423a of this title.

Another prior section 214 of Pub. L. 96–88 was renumbered section 217 and is classified to section 3424 of this title.

§3423c. Office of Indian Education

(a) Office of Indian Education

There shall be an Office of Indian Education (referred to in this section as "the Office") in the Department of Education.

(b) Director

(1) Appointment and reporting

The Office shall be under the direction of the Director, who shall be appointed by the Secretary and who shall report directly to the Assistant Secretary for Elementary and Secondary Education.

(2) Duties

The Director shall—

(A) be responsible for administering part A of title VI of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7401 et seq.];

(B) be involved in, and be primarily responsible for, the development of all policies affecting Indian children and adults under programs administered by the Office of Elementary and Secondary Education;

(C) coordinate the development of policy and practice for all programs in the Department relating to Indian persons; and

(D) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to the education of Indian persons.

(c) Indian preference in employment

(1) In general

The Secretary shall give a preference to Indian persons in all personnel actions in the Office.

(2) Implementation

Such preference shall be implemented in the same fashion as the preference given to any veteran under section 45 of title 25.

(Pub. L. 96–88, title II, §215, as added Pub. L. 103–382, title III, §372(2), Oct. 20, 1994, 108 Stat. 3977; amended Pub. L. 114–95, title IX, §9215(v), Dec. 10, 2015, 129 Stat. 2171.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title VI of the Act is classified generally to part A (§7401 et seq.) of subchapter VI of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 215 of Pub. L. 96–88 was renumbered section 217 and is classified to section 3424 of this title.

Provisions similar to those in this section were contained in section 2641 of Title 25, Indians, prior to repeal by Pub. L. 103–382, §367.

AMENDMENTS

2015—Subsec. (b)(2)(A). Pub. L. 114–95 substituted "be responsible for administering part A of title VI of the Elementary and Secondary Education Act of 1965" for "be responsible for administering this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

The Office of Educational Research and Improvement was established by section 3419 of this title. Section 3419 was repealed and a new section 3419 establishing the Institute of Educational Sciences was enacted by Pub. L. 107–279, title IV, §402(2), Nov. 5, 2002, 116 Stat. 1985.

§3423d. Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students

(a) Establishment

There shall be, in the Department, an Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students through which the Secretary shall carry out functions relating to bilingual education.

(b) Director

(1) In general

The Office shall be headed by a Director of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for recommending improvements and providing technical assistance to other Federal programs serving language-minority and limited-English-proficient students and their families and for assisting the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of language-minority and limited-English language proficient students.

(2) Organization

The Office shall be organized as the Director determines to be appropriate in order to carry out such functions and responsibilities effectively.

(3) Inclusion

The Secretary shall ensure that limited-English-proficient and language-minority students are included in ways that are valid, reliable, and fair under all standards and assessment development conducted or funded by the Department.

(Pub. L. 96–88, title II, §216, as added Pub. L. 103–382, title III, §372(2), Oct. 20, 1994, 108 Stat. 3978; amended Pub. L. 107–110, title X, §1072(b), (c)(2)(B), (d), Jan. 8, 2002, 115 Stat. 2089.)

CODIFICATION

Another section 216 of Pub. L. 96–88 was renumbered section 218 and is classified to section 3425 of this title.

AMENDMENTS

2002—Pub. L. 107–110, §1072(c)(2)(B), substituted "Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students" for "Office of Bilingual Education and Minority Languages Affairs" in section catchline.

Subsec. (a). Pub. L. 107–110, §1072(b), substituted "Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students" for "Office of Bilingual Education and Minority Languages Affairs".

Subsec. (b)(1). Pub. L. 107–110, §1072(d), substituted "Director of English Language Acquisition,

Language Enhancement, and Academic Achievement for Limited English Proficient Students" for 'Director of Bilingual Education and Minority Languages Affairs".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

The Office of Educational Research and Improvement was established by section 3419 of this title. Section 3419 was repealed and a new section 3419 establishing the Institute of Educational Sciences was enacted by Pub. L. 107–279, title IV, §402(2), Nov. 5, 2002, 116 Stat. 1985.

§3424. Federal Interagency Committee on Education

(a) Establishment and function

There is established a Federal Interagency Committee on Education (hereafter referred to in this section as the "Committee"). The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) Coordination of Federal programs, policies and practices

The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this chapter;

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served; and

(5) full and effective involvement and participation of students and parents in Federal education programs.

(c) Membership

The Committee shall be composed of the Secretary, who shall chair the Committee, and senior policy making officials from those Federal agencies, commissions, and boards that the President may find appropriate.

(d) Designation of additional persons to attend meetings

The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) Federal vocational education and training programs study; report

The Committee shall conduct a study concerning the progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of October 17, 1979.

(f) Required meetings; establishment of subcommittees

The Committee shall meet at least twice each year. The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(g) Support assistance

The Secretary and the head of each agency represented on the Committee under subsection (c) of this section shall furnish necessary assistance to the Committee.

(Pub. L. 96–88, title II, §217, formerly §214, Oct. 17, 1979, 93 Stat. 676; renumbered §215, Pub. L. 101–392, title VI, §602(a)(2), Sept. 25, 1990, 104 Stat. 840; renumbered §217, Pub. L. 103–382, title III, §372(1), Oct. 20, 1994, 108 Stat. 3977.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§3425. Office of Educational Technology

(a) Establishment

There shall be in the Department of Education an Office of Educational Technology (hereafter in this section referred to as the "Office"), to be administered by the Director of Educational Technology. The Director of Educational Technology shall report directly to the Secretary and shall perform such additional functions as the Secretary may prescribe.

(b) Director

The Director of the Office of Educational Technology (hereafter in this section referred to as the "Director"), through the Office, shall—

(1) in support of the overall national technology policy and in consultation with other Federal departments or agencies which the Director determines appropriate, provide leadership to the Nation in the use of technology to promote achievement of the National Education Goals and to increase opportunities for all students to achieve State content and challenging State student performance standards;

(2) review all programs and training functions administered by the Department and recommend policies in order to promote increased use of technology and technology planning throughout all such programs and functions;

(3) review all relevant programs supported by the Department to ensure that such programs are coordinated with and support the national long-range technology plan developed pursuant to section 5862(b) [1] of this title; and

(4) perform such additional functions as the Secretary may require.

(c) Officers and employees

The Director is authorized to select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Office, subject to the provisions of title 5 (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(d) Experts and consultants

The Secretary may obtain the services of experts and consultants in accordance with section 3109 of title 5.

(Pub. L. 96–88, title II, §218, formerly §216, as added Pub. L. 103–227, title II, §233(a), Mar. 31, 1994, 108 Stat. 154; renumbered §218, Pub. L. 107–110, title X, §1072(e)(3), Jan. 8, 2002, 115 Stat. 2090.)

REFERENCES IN TEXT

Section 5862 of this title, referred to in subsec. (b)(3), was repealed by Pub. L. 103–382, title III, §361(a), Oct. 20, 1994, 108 Stat. 3974.

TRANSFER OF OFFICE OF TRAINING TECHNOLOGY TRANSFER

Pub. L. 103–227, title II, §236(a)(1), Mar. 31, 1994, 108 Stat. 156, provided that: "The Office of Training Technology Transfer as established under section 6103 of the Training Technology Transfer Act of 1988 ([former] 20 U.S.C. 5093) is transferred to and established in the Office of Educational Technology."

[1] *See References in Text note below.*

§3426. Liaison for Proprietary Institutions of Higher Education

(a) Establishment

There shall be in the Department a Liaison for Proprietary Institutions of Higher Education, who shall be an officer of the Department appointed by the Secretary.

(b) Appointment

The Secretary shall appoint, not later than 6 months after October 7, 1998, a Liaison for Proprietary Institutions of Higher Education who shall be a person who—

(1) has attained a certificate or degree from a proprietary institution of higher education; or

(2) has been employed in a proprietary institution setting for not less than 5 years.

(c) Duties

The Liaison for Proprietary Institutions of Higher Education shall—

(1) serve as the principal advisor to the Secretary on matters affecting proprietary institutions of higher education;

(2) provide guidance to programs within the Department that involve functions affecting proprietary institutions of higher education; and

(3) work with the Federal Interagency Committee on Education to improve the coordination of—

(A) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

(B) collaborative business and education partnerships; and

(C) education programs located in, and involving, rural areas.

(Pub. L. 96–88, title II, §219, as added Pub. L. 105–244, title IX, §961, Oct. 7, 1998, 112 Stat. 1836.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§3427. Coordinator for the outlying areas

(a) Establishment

The Secretary shall designate an office of the Department to coordinate the activities of the Department as they relate to the outlying areas.

(b) Appointment

Not later than 90 days after January 8, 2002, the head of the office designated under subsection (a) of this section shall appoint a coordinator for the outlying areas, who shall be a person with substantial experience in the operation of Federal programs in the outlying areas.

(c) Duties

The coordinator for the outlying areas shall—

(1) serve as the principal advisor to the Department on Federal matters affecting the outlying areas;

(2) evaluate, on a periodic basis, the needs of education programs in the outlying areas;

(3) assist with the coordination of programs that serve the outlying areas; and
(4) provide guidance to programs within the Department that serve the outlying areas.

(d) Outlying areas defined

As used in this section, the term "outlying areas" includes Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Marianas Islands, but does not include the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(Pub. L. 96–88, title II, §220, as added Pub. L. 107–110, title X, §1072(a), Jan. 8, 2002, 115 Stat. 2088.)

EFFECTIVE DATE

Section effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as a note under section 6301 of this title.

SUBCHAPTER III—TRANSFERS OF AGENCIES AND FUNCTIONS

§3441. Transfers from Department of Health, Education, and Welfare

(a) Functions transferred to Secretary

There are transferred to the Secretary—

(1) all functions of the Assistant Secretary for Education and of the Commissioner of Education of the Department of Health, Education, and Welfare, and all functions of the Office of such Assistant Secretary and of the Education Division of the Department of Health, Education, and Welfare and of any officer or component of such Office or Division;

(2) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under—

(A) the General Education Provisions Act [20 U.S.C. 1221 et seq.];
(B) the Elementary and Secondary Education Act of 1965;
(C) the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.];
(D) the Education Amendments of 1978;
(E) the Act of August 30, 1890 (7 U.S.C. 321–328);
(F) the National Defense Education Act of 1958;
(G) the International Education Act of 1966;
(H) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];
(I) part B of title V of the Economic Opportunity Act of 1964 [42 U.S.C. 2929 et seq.];
(J) the National Commission on Libraries and Information Science Act;
(K) the Vocational Education Act of 1963;
(L) the Career Education Incentive Act;
(M) laws relating to the relationship between (i) Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;
(N) the Model Secondary School for the Deaf Act;
(O) subpart A[C] of part IV of title III of the Communications Act of 1934 [47 U.S.C. 395 et seq.] with respect to the telecommunications demonstration program;
(P) section 550 of title 40 with respect to donations of surplus property for educational purposes; and
(Q) the Alcohol and Drug Abuse Education Act;

(3) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare with respect to or being administered by the Office for Civil

Rights which relate to functions transferred by this section;

(4)(A) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act [42 U.S.C. 422 and 1382d];

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(C) all functions of the Commissioner of Rehabilitation and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];

(5) all functions of the Advisory Council on Education Statistics; and

(6) all functions of the Federal Education Data Acquisition Council.

(b) Offices, etc., transferred to Department

There are transferred to the Department—

(1) all offices in the Office of the Assistant Secretary for Education or in the Education Division of the Department of Health, Education, and Welfare;

(2) all offices in the Department of Health, Education, and Welfare established under the provisions of law listed in subparagraphs (A) through (Q) of subsection (a)(2) of this section;

(3) all offices in the Department of Health, Education, and Welfare established under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];

(4) the Advisory Council on Education Statistics;

(5) the Federal Education Data Acquisition Council; and

(6) any advisory committee of the Department of Health, Education, and Welfare giving advice or making recommendations that primarily concern education functions transferred by this section.

(c) Administrative functions transferred to Secretary

There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(1) the Education Division of the Department of Health, Education, and Welfare;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education functions transferred by this section.

(d) Reservation of functions relating to Project Head Start

Nothing in the provisions of this section or in the provisions of this chapter shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964 [42 U.S.C. 2928 et seq.], relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

(Pub. L. 96–88, title III, §301, Oct. 17, 1979, 93 Stat. 677; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(2)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (a)(2)(A), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(B), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(2)(C), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Education Amendments of 1978, referred to in subsec. (a)(2)(D), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

Act of August 30, 1890 (7 U.S.C. 321–328), referred to in subsec. (a)(2)(E), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

The National Defense Education Act of 1958, referred to in subsec. (a)(2)(F), is Pub. L. 85–864, Sept. 2, 1958, 72 Stat. 1580, which was classified principally to chapter 17 (§401 et seq.) of this title prior to omission from the Code. For complete classification of this Act to the Code, see Tables.

The International Education Act of 1966, referred to in subsec. (a)(2)(G), is Pub. L. 89–698, Oct. 29, 1966, 80 Stat. 1066, which was classified principally to chapter 29 (§1171 et seq.) of this title and was substantially repealed by section 601(c)(2) of Pub. L. 96–374. For complete classification of this Act to the Code, see Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(2)(H), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in subsecs. (a)(2)(I) and (d), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508. Parts A and B of title V of the Economic Opportunity Act of 1964 were classified generally to parts A (§2928 et seq.) and B (§2929 et seq.) of subchapter V of chapter 34 of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

The National Commission on Libraries and Information Science Act, referred to in subsec. (a)(2)(J), is Pub. L. 91–345, July 20, 1970, 84 Stat. 440, which was classified generally to chapter 34 (§1501 et seq.) of this title, and was repealed by Pub. L. 111–340, title IV, §401(a), Dec. 22, 2010, 124 Stat. 3604.

The Vocational Education Act of 1963, referred to in subsec. (a)(2)(K), was title I of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 94–482, title II, §202(a), Oct. 12, 1976, 90 Stat. 2169, which was classified to chapter 44 (§2301 et seq.) of this title, prior to amendment by Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2435, striking out all after the enacting clause and inserting in lieu thereof titles I to V, to be cited as the Carl D. Perkins Vocational Education Act. The Act was subsequently amended extensively by Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753, which renamed it the Carl D. Perkins Vocational and Applied Technology Education Act, amended generally by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076, which renamed it the Carl D. Perkins Vocational and Technical Education Act of 1998, and again amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which renamed it the Carl D. Perkins Career and Technical Education Act of 2006. For additional details, see Codification note preceding section 2301 of this title.

The Career Education Incentive Act, referred to in subsec. (a)(2)(L), is Pub. L. 95–207, Dec. 13, 1977, 91 Stat. 1464, which was classified principally to chapter 46 (§2601 et seq.) of this title prior to its repeal by Pub. L. 97–35, title V, §587(a)(4), Aug. 13, 1981, 95 Stat. 480.

The Model Secondary School for the Deaf Act, referred to in subsec. (a)(2)(N), is Pub. L. 89–694, Oct. 15, 1966, 80 Stat. 1027, which was classified to subchapter II (§693 et seq.) of chapter 20B of this title, and was repealed by Pub. L. 99–371, title IV, §410(c), Aug. 4, 1986, 100 Stat. 794. See section 4321 et seq. of this title.

The Communications Act of 1934, referred to in subsec. (a)(2)(O), is act June 19, 1934, ch. 652, 48 Stat. 1064. Subpart A of part IV of title III of the Act (which is classified principally to subpart A (§390 et seq.) of part IV of subchapter III of chapter 5 of Title 47, Telecommunications) was amended by section 201 of Pub. L. 95–567, Nov. 2, 1978, 92 Stat. 2409, and, as so amended, the provisions relating to telecommunications demonstrations which had appeared in subpart A were restated in a new subpart B (§395 et seq.). Subpart B was subsequently redesignated subpart C by Pub. L. 101–437, title II, §203(a)(2), Oct. 17, 1990, 104 Stat. 998. For complete classification of the 1934 Act to the Code, see section 609 of Title 47 and Tables.

The Alcohol and Drug Abuse Education Act, referred to in subsec. (a)(2)(Q), is Pub. L. 91–527, Dec. 3, 1970, 84 Stat. 1385, which was classified generally to chapter 14 (§1001 et seq.) of Title 21, Food and Drugs, prior to repeal by Pub. L. 97–35, title V, §587(a)(3), Aug. 13, 1981, 95 Stat. 480.

The Rehabilitation Act of 1973, referred to in subsecs. (a)(4)(A), (C), and (b)(3), is Pub. L. 93–112, Sept.

26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Act of June 20, 1936, referred to in subsec. (a)(4)(B), is act June 20, 1936, ch. 638, 49 Stat. 1559, known as the Randolph-Sheppard Act and also popularly known as the Randolph-Sheppard Vending Stand Act, which is classified generally to chapter 6A (§107 et seq.) of this title. For complete classification of this Act to the Code, see Short Title notes set out under section 107 of this title and Tables.

CODIFICATION

"Section 550 of title 40" substituted in subsec. (a)(2)(P) for "section 203(k) of the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1996—Subsec. (a)(5) to (7). Pub. L. 104–208, §101(e) [title VII, §709(b)(2)(A)], redesignated pars. (6) and (7) as (5) and (6), respectively, and struck out former par. (5) which transferred all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare to the Secretary of Education.

Subsec. (b)(4) to (7). Pub. L. 104–208, §101(e) [title VII, §709(b)(2)(B)], redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out former par. (4) which transferred the offices, etc., of the Institute of Museum Services of the Department of Health, Education, and Welfare to the Department of Education.

1990—Subsec. (a)(2)(H). Pub. L. 101–476 substituted "Individuals with Disabilities Education Act" for "Education of the Handicapped Act".

CHANGE OF NAME

Gallaudet College, referred to in subsec. (a)(2)(M), redesignated Gallaudet University by Pub. L. 99–371, title I, §101(a), Aug. 4, 1986, 100 Stat. 781, which is classified to section 4301(a) of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

§3442. Repealed. Pub. L. 99–145, title XII, §1204(a)(1), Nov. 8, 1985, 99 Stat. 720

Section, Pub. L. 96–88, title III, §302, Oct. 17, 1979, 93 Stat. 679; Pub. L. 97–252, title XI, §1118, Sept. 8, 1982, 96 Stat. 753; Pub. L. 98–94, title XII, §1223, Sept. 24, 1983, 97 Stat. 692, provided for transfers to Department and Secretary of Education from Department and Secretary of Defense of functions relating to operation of overseas schools for and education of dependents and personnel, effectuation of transfers, and operation of overseas institutions of higher education.

§3443. Transfers from Department of Labor

(a) Functions relating to programs for the education of migrant and seasonal farmworkers

Notwithstanding the provisions of section 601 of this Act, there shall be transferred to the Secretary, at such time on or after May 4, 1980, as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor relating to such education.

(b) Authorization to conduct functions

The Secretary is authorized to conduct the functions transferred by subsection (a) of this section.

(Pub. L. 96–88, title III, §302, formerly §303, Oct. 17, 1979, 93 Stat. 680; renumbered §302, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(16)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–421.)

REFERENCES IN TEXT

Section 601 of this Act, referred to in subsec. (a), is section 601 of Pub. L. 96–88, which is set out as an

Effective Date note under section 3401 of this title.

PRIOR PROVISIONS

A prior section 302 of Pub. L. 96–88 was classified to section 3442 of this title prior to repeal by Pub. L. 99–145.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 substituted "relating to such education" for "under section 303(c)(2) of the Comprehensive Employment and Training Act".

§3444. Transfer of programs from National Science Foundation

(a) Science education; exceptions

(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to May 4, 1980, pursuant to the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.], except the programs or parts of programs, as determined after review by the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women, minorities, and the handicapped in careers in science;

(D) the conduct of basic and applied research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in paragraph (1), no mission oriented research functions or programs of the National Science Foundation or any other Federal agency shall be transferred by this chapter.

(b) Authority of Secretary; consultation and advice

The Secretary is authorized to conduct the programs transferred by subsection (a) of this section. In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

(c) Report by Secretary

The annual report to be transmitted by the Secretary pursuant to section 3486 of this title shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs, including measures to facilitate the implementations of successful innovations.

(d) Reservation of certain Foundation authority

Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs under the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.].

(Pub. L. 96–88, title III, §303, formerly §304, Oct. 17, 1979, 93 Stat. 680; renumbered §303, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The National Science Foundation Act of 1950, referred to in subsecs. (a)(1) and (d), is act May 10, 1950, ch. 171, 64 Stat. 149, as amended, which is classified generally to chapter 16 (§1861 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1861 of Title 42 and Tables.

CODIFICATION

In subsec. (a)(1), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

PRIOR PROVISIONS

A prior section 303 of Pub. L. 96–88 was renumbered section 302 and is classified to section 3443 of this title.

§3445. Transfers from Department of Justice

There are transferred to the Secretary all functions of the Attorney General and of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 [1] of the Omnibus Crime Control and Safe Streets Act of 1968.

(Pub. L. 96–88, title III, §304, formerly §305, Oct. 17, 1979, 93 Stat. 680; renumbered §304, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

Section 406 of the Omnibus Crime Control and Safe Streets Act of 1968, referred to in text, is section 406 of title I of Pub. L. 90–351, June 19, 1968, 82 Stat. 204, which was classified to section 3746 of Title 42, The Public Health and Welfare. Title I of the Act was amended generally by Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1167, and provisions formerly contained in section 406 of the Act were contained in section 705 of part G of title I of the Act, which was classified to section 3775 of Title 42. Subsequently, part G of title I of the Act was amended generally by Pub. L. 98–473, title II, §609A(a), Oct. 12, 1984, 98 Stat. 2090, and, as so amended, did not contain a section 705 or similar provisions.

PRIOR PROVISIONS

A prior section 304 of Pub. L. 96–88 was renumbered section 303 and is classified to section 3444 of this title.

[1] *See References in Text note below.*

§3446. Transfers from Department of Housing and Urban Development

There are transferred to the Secretary all functions relating to college housing loans of the Secretary of Housing and Urban Development and of the Department of Housing and Urban Development under title IV of the Housing Act of 1950 [12 U.S.C. 1749 et seq.].

(Pub. L. 96–88, title III, §305, formerly §306, Oct. 17, 1979, 93 Stat. 681; renumbered §305, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The Housing Act of 1950, referred to in text, is act Apr. 20, 1950, ch. 94, 64 Stat. 48, as amended. Title IV of the Housing Act of 1950 which was classified generally to subchapter IX (§1749 et seq.) of chapter 13 of Title 12, Banks and Banking, was repealed by Pub. L. 99–498, title VII, §702, Oct. 17, 1986, 100 Stat. 1545. For complete classification of this Act to the Code, see Short Title of 1950 Amendment note set out under section 1701 of Title 12 and Tables.

PRIOR PROVISIONS

A prior section 305 of Pub. L. 96–88 was renumbered section 304 and is classified to section 3445 of this title.

§3447. Effect of transfers

The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

(Pub. L. 96–88, title III, §306, formerly §307, Oct. 17, 1979, 93 Stat. 681; renumbered §306, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 306 of Pub. L. 96–88 was renumbered section 305 and is classified to section 3446 of this title.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

§3461. Officers and employees

(a) Appointment and compensation

The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5.

(b) Applicability of General Schedule; termination of authority; exemption from limitations on executive positions

(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, provide for the establishment in each of the grade levels GS–16, GS–17, and GS–18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980.

(2) Repealed. Pub. L. 107–279, title IV, §403(3), Nov. 5, 2002, 116 Stat. 1985.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this chapter and, on the day preceding May 4, 1980, holds a position and has duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding May 4, 1980.

(c) Repealed. Pub. L. 99–498, title XIV, §1401(d), Oct. 17, 1986, 100 Stat. 1597

(d) Senior Executive Service

Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5. Such positions shall expire on the later of three years after May 4, 1980, or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of such title.

(e) Indian preference laws

Nothing in this chapter shall be construed to prevent the application of any Indian preference law in effect on the day before October 17, 1979, to any function or office transferred by this chapter and subject to any such law on the day before October 17, 1979. Any function or office transferred by this chapter and subject to any such law shall continue to be subject to any such law.

(Pub. L. 96–88, title IV, §401, Oct. 17, 1979, 93 Stat. 681; Pub. L. 99–145, title XII, §1204(a)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 99–498, title XIV, §1401(d), Oct. 17, 1986, 100 Stat. 1597; Pub. L. 103–382, title II, §271(a)(3)(A), Oct. 20, 1994, 108 Stat. 3929; Pub. L. 107–279, title IV, §403(3), Nov. 5, 2002, 116 Stat. 1985.)

REFERENCES IN TEXT

Section 414(a)(3)(A) of the Civil Service Reform Act of 1978, referred to in subsec. (b)(5), is section 414(a)(3)(A) of Pub. L. 95–454, title IV, Oct. 13, 1978, 92 Stat. 1178, which is set out as a note under sections 3104 and 5108 of Title 5.

CODIFICATION

In subsecs. (a) and (d), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107–279 struck out par. (2) which read as follows: "At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, provide for the establishment in the Office created by section 3419 of this title of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980."

1994—Subsec. (b)(2). Pub. L. 103–382 made technical amendment to reference to section 3419 of this title to reflect renumbering of corresponding section of original act.

1986—Subsec. (c). Pub. L. 99–498 struck out subsec. (c) which read as follows: "The Secretary may appoint, without regard to the provisions of title 5 governing appointment in the competitive service, up to 175 scientific, technical, or professional employees of the Office created by section 3419 of this title and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS–16 of the General Schedule under section 5332 of such title."

1985—Subsec. (f). Pub. L. 99–145 struck out subsec. (f) which deemed any reference to "civilian component" as including a reference to overseas personnel of the overseas dependents' education system for purposes of any status of forces agreement between the United States and any other country or any international organization.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§3462. Experts and consultants

(a) In general

The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

(b) Special rule

(1) In general

Notwithstanding any other provision of law, the Secretary may use not more than 1 percent of the funds appropriated for any education program that awards such funds on a competitive basis to pay the expenses and fees of non-Federal experts necessary to review applications and proposals for such funds.

(2) Applicability

The provisions of paragraph (1) shall not apply to any education program under which funds are authorized to be appropriated to pay the fees and expenses of non-Federal experts to review applications and proposals for such funds.

(Pub. L. 96–88, title IV, §402, Oct. 17, 1979, 93 Stat. 682; Pub. L. 103–227, title IX, §981, Mar. 31, 1994, 108 Stat. 263.)

AMENDMENTS

1994—Pub. L. 103–227 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§3463. Personnel reduction and annual limitations

(a) Work-years limitation; allocations; adjustments

(1) Notwithstanding any other provision of this chapter, there shall be included in each appropriation Act containing appropriations for the administration of the Department for any fiscal year beginning after September 30, 1981 (other than an appropriation Act containing only supplemental appropriations for the Department), an annual limitation on the total number of work-years for the personnel of the Department.

(2) The Secretary shall prescribe the allocation of the work-years available under paragraph (1) among the organizational units and components of the Department.

(3) If the President transmits any reorganization plan under chapter 9 of title 5 which would result in the transfer of functions or offices to the Secretary or the Department, the message transmitting the plan shall include any adjustments which may be necessary in a work-year limitation established under paragraph (1) to reflect changes in the work-years required as a result of such plan.

(b) Full-time equivalent personnel reductions

Not later than the end of the first fiscal year beginning after May 4, 1980, the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department by this chapter shall be reduced by 500.

(c) Personnel computations

(1) Computations required to be made for purposes of this section shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5 and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(2) The Director of the Office of Personnel Management shall, by rule, establish a method for computing work-years for personnel of the Department as described in paragraph (1).

(d) Report on effects of reorganization on employees

The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after May 4, 1980, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this chapter, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this chapter;

(2) a statement of the number of employees entitled to pay savings by reason of the organization under this chapter;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

(Pub. L. 96–88, title IV, §403, Oct. 17, 1979, 93 Stat. 682; Pub. L. 104–66, title I, §1041(a), Dec. 21, 1995, 109 Stat. 714.)

CODIFICATION

In subsecs. (a) and (d), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

1995—Subsec. (a)(2). Pub. L. 104–66 struck out before period at end "and shall, within 120 days after the enactment of an appropriation Act containing a work-year limitation, prepare and transmit to the Congress a report on such allocation. Such report shall include explanations and justifications for the allocations made by the Secretary and shall indicate the necessary personnel actions which will be required as a consequence of such allocation. Not later than 120 days after the conclusion of any fiscal year to which a work-year limitation established under paragraph (1) applies, the Secretary shall prepare and transmit to the Congress a report on compliance with such limitation indicating the total work-years actually expended by the Department and by the organizational units and components to which such work-years were allocated".

PART B—GENERAL ADMINISTRATIVE PROVISIONS

§3471. General authority

(a) Force and effect of actions by Secretary

In carrying out any function transferred by this chapter, the Secretary, or any officer or employee of the Department, may exercise any authority available by law (including appropriation Acts) with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(b) Reporting requirements

(1) The director of any office continued in the Department the director of which was required, prior to May 4, 1980, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare, shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) to any officer or employee of the Department.

(Pub. L. 96–88, title IV, §411, Oct. 17, 1979, 93 Stat. 683.)

CODIFICATION

In subsec. (b)(1), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§3472. Delegation of functions

Except as otherwise provided in this chapter, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this chapter shall relieve the Secretary of responsibility for the administration of such functions.

(Pub. L. 96–88, title IV, §412, Oct. 17, 1979, 93 Stat. 684.)

§3473. Reorganization of Department

(a) Authorization; limitations

The Secretary is authorized, subject to the requirements of section 3412(f) of this title, to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate, but the authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity transferred to the Department and established by statute or any function vested by statute in such an entity or officer of such an entity, except as provided in subsection (b) of this section;

(2) the abolition of organizational entities established by this chapter; or

(3) the alteration of the delegation of functions to any specific organizational entity required by this chapter.

(b) Alteration, consolidation, or discontinuance of statutory and organizational entities

(1) The Secretary may, in accordance with paragraph (2) of this subsection, consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students;

(B) the Teacher Corps;

(C) the Community College Unit;

(D) the National Center for Education Statistics;

(E) the National Institute of Education;

(F) the Office of Environmental Education;

(G) the Office of Consumers' Education;

(H) the Office of Indian Education;

(I) the Office of Career Education;

(J) the Office of Non-Public Education;

(K) the bureau for the education and training for the handicapped; and

(L) the administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, upon the expiration of a period of ninety days after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(Pub. L. 96–88, title IV, §413, Oct. 17, 1979, 93 Stat. 684; Pub. L. 96–496, title II, §202, Dec. 4, 1980, 94 Stat. 2593; Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(c)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313; Pub. L. 107–110, title X, §1072(b), Jan. 8, 2002, 115 Stat. 2089.)

AMENDMENTS

2002—Subsec. (b)(1)(A). Pub. L. 107–110 substituted "Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students" for "Office of Bilingual Education".

1996—Subsec. (b)(1)(H) to (M). Pub. L. 104–208 redesignated subpars. (I) to (M) as (H) to (L), respectively, and struck out former subpar. (H) which authorized Secretary to consolidate, alter, discontinue, or reallocate any functions vested by statute in Office of Libraries and Learning Resources.

1980—Subsec. (b)(1). Pub. L. 96–496 redesignated subpar. (N) as (M) and struck out former subpar. (M), which authorized the Secretary to reallocate the functions or to alter or discontinue the Institute of Museum Services.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

NATIONAL INSTITUTE OF EDUCATION

The National Institute of Education was established by section 1221e of this title which as amended generally by Pub. L. 99–498, title XIV, §1401(a), Oct. 17, 1986, 100 Stat. 1589, provided objectives and duties for the Office of Educational Research and Improvement and established the National Advisory Council on Educational Research and Improvement, and section 1401(b) of Pub. L. 99–498 transferred the property and records of the National Institute of Education to the Office of Educational Research and Improvement.

OFFICE OF MIGRANT EDUCATION

Pub. L. 98–511, title VII, §701(b), Oct. 19, 1984, 98 Stat. 2405, provided that: "For the purposes of section 413(a) of the Department of Education Organization Act (20 U.S.C. 3473), the Office of Migrant Education shall be considered to be an organizational entity established by such Act [20 U.S.C. 3401 et seq.] and shall not be subject to the reorganizational authority of the Secretary of Education under that section or any other provision of law."

§3474. Rules and regulations

The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.

(Pub. L. 96–88, title IV, §414, Oct. 17, 1979, 93 Stat. 685; Pub. L. 99–145, title XII, §1204(a)(5), Nov. 8, 1985, 99 Stat. 720; Pub. L. 103–382, title II, §271(d)(1), Oct. 20, 1994, 108 Stat. 3930.)

AMENDMENTS

1994—Pub. L. 103–382 struck out subsec. (a) designation and subsec. (b) which read as follows: "The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5. Section 1232 of this title also shall apply to such rules and regulations to the extent applicable immediately prior to May 4, 1980, and to rules and regulations promulgated with respect to programs transferred under sections 3441(a)(1), (2), and (4), 3443, 3444, 3445, and 3446 of this title."

1985—Subsec. (b). Pub. L. 99–145 struck out reference to section 3442 of this title.

§3475. Contracts

(a) Authorization of Secretary

Subject to the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(b) Limitations

Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 3481 of this title.

(Pub. L. 96–88, title IV, §415, Oct. 17, 1979, 93 Stat. 685.)

CODIFICATION

In subsec. (a), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§3476. Regional and field offices

The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

(Pub. L. 96–88, title IV, §416, Oct. 17, 1979, 93 Stat. 685.)

§3477. Acquisition and maintenance of property

(a) Authorized properties; establishment of necessary facilities

The Secretary is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this chapter);

(B) laboratories;

(C) research and testing sites and facilities;

(D) quarters and related accommodations for employees and dependents of employees of the Department; and

(E) personal property (including patents), or any interest therein,

as may be necessary; and

(2) to provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) Day care center facilities

The authority available to the Secretary of Health, Education, and Welfare under section 2564 of this title, shall also be available to the Secretary.

(c) Special purpose facilities

The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

(Pub. L. 96–88, title IV, §417, Oct. 17, 1979, 93 Stat. 685.)

§3478. Facilities at remote locations

(a) Authorized services, supplies and facilities

The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) Reimbursements

The furnishing of medical treatment under paragraph (1) of subsection (a) of this section and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) of this section shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Appropriation credits and refunds

Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or used to refund excess sums when necessary.

(Pub. L. 96–88, title IV, §418, Oct. 17, 1979, 93 Stat. 686.)

§3479. Use of facilities

(a) Federal, State, local and foreign government facilities

With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(b) Public and private permittees

The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 102(3) of title 40.

(c) Appropriation credits and refunds

Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such equipment or facilities provided or to refund excess sums when necessary.

(d) Interests in real property

Any interest in real property acquired pursuant to this chapter shall be acquired in the name of the United States Government.

(Pub. L. 96–88, title IV, §419, Oct. 17, 1979, 93 Stat. 686; Pub. L. 99–145, title XII, §1204(a)(2), Nov. 8, 1985, 99 Stat. 720.)

CODIFICATION

"Section 102(3) of title 40" substituted in subsec. (b) for "section 3(e) of the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–145 struck out par. (1) designation and par. (2) which provided for treatment of personnel, upon transfer of functions and personnel from the Secretary of Defense to the Secretary of Education, as employees of the Department of Defense for the purpose of access to services and facilities provided by the Department of Defense.

§3480. Copyrights and patents

The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;
(2) licenses under copyrights, patents, and applications for patents; and
(3) releases, before suit is brought, for past infringement of patents or copyrights.

(Pub. L. 96–88, title IV, §420, Oct. 17, 1979, 93 Stat. 687.)

§3481. Gifts and bequests

The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, and to accept donations of services, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

(Pub. L. 96–88, title IV, §421, Oct. 17, 1979, 93 Stat. 687; Pub. L. 103–382, title II, §271(d)(2), Oct. 20, 1994, 108 Stat. 3930.)

AMENDMENTS

1994—Pub. L. 103–382 inserted "and to accept donations of services," after "personal,".

§3482. Technical advice

(a) Authorization

The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) Consolidation of applications for grants and contracts

The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the

statutory criteria for approval of applications for funding with respect to such functions.

(Pub. L. 96–88, title IV, §422, Oct. 17, 1979, 93 Stat. 687.)

§3483. Working capital fund

(a) Establishment; administrative services included

The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(2) central messenger, mail, telephone, and other communications services;

(3) office space, central services for document reproduction, and for graphics and visual aids; and

(4) a central library service.

(b) Capital; reimbursement of funds; credit; miscellaneous receipts; transfers

The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

(Pub. L. 96–88, title IV, §423, Oct. 17, 1979, 93 Stat. 687.)

§3484. Funds transfer

The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

(Pub. L. 96–88, title IV, §424, Oct. 17, 1979, 93 Stat. 688.)

§3485. Seal of Department

The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

(Pub. L. 96–88, title IV, §425, Oct. 17, 1979, 93 Stat. 688.)

§3486. Annual report

(a) Contents

The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. The report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward—

(1) the attainment of such goals, priorities, and plans;

(2) the more effective and efficient management of the Department and the coordination of its functions; and

(3) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs,

accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(b) Estimate on non-Federal personnel employed

The report required by subsection (a) of this section shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 3475 of this title or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

(Pub. L. 96–88, title IV, §426, Oct. 17, 1979, 93 Stat. 688.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to transmission of report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 80 of House Document No. 103–7.

§3487. Repealed. Pub. L. 103–382, title II, §271(a)(1), Oct. 20, 1994, 108 Stat. 3929

Section, Pub. L. 96–88, title IV, §427, Oct. 17, 1979, 93 Stat. 689, related to application of General Education Provisions Act, 20 U.S.C. 1221 et seq., to functions transferred by this chapter.

§3488. Authorization of appropriations

Subject to any limitation on appropriations applicable with respect to any function or office transferred to the Secretary or the Department, there are authorized to be appropriated for fiscal year 1980 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this chapter and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

(Pub. L. 96–88, title IV, §427, formerly §428, Oct. 17, 1979, 93 Stat. 689; renumbered §427, Pub. L. 103–382, title II, §271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 427 of Pub. L. 96–88 was classified to section 3487 of this title prior to repeal by Pub. L. 103–382.

§3489. General extension of authorizations

Subject to the limitations contained in subtitle A of this title, there are authorized to be appropriated for fiscal years 1982, 1983, and 1984 such sums as may be necessary to carry out each

of the following provisions of law:

(1) the Act of September 30, 1950 [1] (Public Law 874, 81st Congress);

(2) the Act of September 23, 1950 [1] (Public Law 815, 81st Congress);

(3) the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(4) the Indian Education Act;

(5) titles XI [25 U.S.C. 2000 et seq.], XIV [20 U.S.C. 921 et seq.], and XV of the Education Amendments of 1978 and part H of title XIII of the Education Amendments of 1980;

(6) the Adult Education Act; [1]

(7) section 342 of the Education Amendments of 1976 [20 U.S.C. 2532];

(8) the Asbestos School Hazards Detection and Control Act [20 U.S.C. 3601 et seq.];

(9) the Joint Resolution of October 19, 1972 (86 Stat. 907);

(10) the Vocational Education Act of 1963; [1]

(11) title IV of the Civil Rights Act of 1964 [42 U.S.C. 2000c et seq.];

(12) the Navajo Community College Act [25 U.S.C. 640a et seq.] and the Tribally Controlled Colleges and Universities Assistance Act of 1978 [25 U.S.C. 1801 et seq.];

(13) part C of title IX of the Elementary and Secondary Education Act of 1965,[1] relating to Women's Educational Equity; and

(14) title VII of the Elementary and Secondary Education Act of 1965.[1]

(Pub. L. 97–35, title V, §528, Aug. 13, 1981, 95 Stat. 450; Pub. L. 98–211, §20, Dec. 8, 1983, 97 Stat. 1418; Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(a)(2)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312; Pub. L. 105–244, title IX, §901(d), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 110–315, title IX, §941(k)(2)(E), Aug. 14, 2008, 122 Stat. 3466.)

REFERENCES IN TEXT

Subtitle A of this title, referred to in text, is subtitle A (§§502 to 528) of title V, of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 441. For complete classification of subtitle A to the Code, see Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in par. (1), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§236 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Act of September 23, 1950 (Public Law 815, 81st Congress), referred to in par. (2), is act Sept. 23, 1950, ch. 995, as amended generally by Aug. 12, 1958, Pub. L. 85–620, title I, 72 Stat. 548, which was classified generally to chapter 19 (§631 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, §331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

The General Education Provisions Act, referred to in par. (3), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Indian Education Act, referred to in par. (4), is Pub. L. 92–318, title IV, June 23, 1972, 86 Stat. 334, as amended. For complete classification of this Act to the Code, see Tables.

The Education Amendments of 1978, referred to in par. (5), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Education Amendments of 1978 is classified principally to chapter 22 (§2000 et seq.) of Title 25, Indians. Title XIV of the Education Amendments of 1978 is known as the Defense Dependents Education Act of 1978 and is classified principally to chapter 25A (§921 et seq.) of this title. Title XV of the Education Amendments of 1978 enacted sections 1221j and 1226c–1 of this title, repealed sections 1901, 1921, 1941 to 1944, 1961 to 1966, and 1981 to 1983 of this title, and enacted provisions set out as a note under section 1231a of this title, provisions formerly set out as notes under sections 1123 and 2711 of this title, and provisions set out as a note under section 287 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

The Education Amendments of 1980, referred to in par. (5), is Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367, as amended. Part H of title XIII of the Education Amendments of 1980, Pub. L. 96–374, title XIII, §§1371–1373, 1376, 1377, 1381–1383, Oct. 3, 1980, 94 Stat. 1502, 1503, is not classified to the Code. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 1001 of this title and Tables.

The Adult Education Act, referred to in par. (6), was title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat.

1216, as amended, which was classified generally to chapter 30 (§1201 et seq.) of this title, prior to repeal by Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

The Asbestos School Hazards Detection and Control Act, referred to in par. (8), is Pub. L. 96–270, June 14, 1980, 94 Stat. 487, which is classified generally to chapter 49 (§3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Joint Resolution of October 19, 1972 (86 Stat. 907), referred to in par. (9), is Pub. L. 92–506, Oct. 19, 1972, 86 Stat. 907, which is not classified to the Code.

The Vocational Education Act of 1963, referred to in par. (10), was title I of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 94–482, title II, §202(a), Oct. 12, 1976, 90 Stat. 2169, which was classified to chapter 44 (§2301 et seq.) of this title, prior to amendment by Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2435, striking out all after the enacting clause and inserting in lieu thereof titles I to V, to be cited as the Carl D. Perkins Vocational Education Act. The Act was subsequently amended extensively by Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753, which renamed it the Carl D. Perkins Vocational and Applied Technology Education Act, amended generally by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076, which renamed it the Carl D. Perkins Vocational and Technical Education Act of 1998, and again amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which renamed it the Carl D. Perkins Career and Technical Education Act of 2006. For additional details, see the Codification note preceding section 2301 of this title.

The Civil Rights Act of 1964, referred to in par. (11), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title IV of the Civil Rights Act of 1964 is classified generally to subchapter IV (§2000c et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Navajo Community College Act, referred to in par. (12), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in par. (12), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in pars. (13) and (14), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Prior to the general amendment of that Act by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 140, part C of title IX of the Act was classified generally to part C (§3341 et seq.) of subchapter IX of chapter 47 of this title, and title VII of the Act, known as the Bilingual Education Act, was classified generally to subchapter VII (§3281 et seq.) of chapter 47 of this title.

CODIFICATION

Section was enacted as part of the Omnibus Education Reconciliation Act of 1981 and also as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the Department of Education Organization Act which comprises this chapter.

AMENDMENTS

2008—Par. (12). Pub. L. 110–315 substituted "the Tribally Controlled Colleges and Universities Assistance Act of 1978" for "the Tribally Controlled College or University Assistance Act of 1978".

1998—Par. (12). Pub. L. 105–244 substituted "Tribally Controlled College or University Assistance Act of 1978" for "Tribally Controlled Community College Assistance Act of 1978".

1996—Pars. (12) to (15). Pub. L. 104–208 redesignated pars. (13) to (15) as (12) to (14), respectively, and struck out former par. (12) which listed the Library Services and Construction Act as one of the laws for which funds were authorized to be appropriated under this section.

1983—Par. (15). Pub. L. 98–211 added par. (15).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

SHORT TITLE

Pub. L. 97–35, title V, §501, Aug. 13, 1981, 95 Stat. 441, provided that: "This title [see Tables for classification of sections 501 to 596 of Pub. L. 97–35] may be cited as the 'Omnibus Education Reconciliation Act of 1981'."

APPLICABILITY TO OTHER LAWS; GENERAL RESTRICTIONS

Pub. L. 97–35, title V, §502, Aug. 13, 1981, 95 Stat. 441, provided that:

"(a) Any provision of law which is not consistent with the provisions of this subtitle [see Tables for classification of sections 502 to 528 of Pub. L. 97–35] is hereby superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

"(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle (including any authorization of appropriations contained in section 528 of this title [this section]), no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.

"(c) No funds are authorized to be appropriated for the fiscal year 1982, 1983, or 1984 to pay for the expenses of any advisory council which provides advice to a program for which there are no authorizations of appropriations made under this subtitle or made by an amendment made by this subtitle."

[1] *See References in Text note below.*

§3490. Potential financial interests or impaired objectivity of covered individuals or entities

(a) Maintenance of integrity and ethical values within Department of Education

Within 60 days after December 26, 2007, the Secretary of Education shall implement procedures—

(1) to assess whether a covered individual or entity has a potential financial interest in, or impaired objectivity towards, a product or service purchased with, or guaranteed or insured by, funds administered by the Department of Education or a contracted entity of the Department; and

(2) to disclose the existence of any such potential financial interest or impaired objectivity.

(b) Review by Inspector General

(1) Within 60 days after the implementation of the procedures described in subsection (a), the Inspector General of the Department of Education shall report to the Committees on Appropriations of the House of Representatives and the Senate on the adequacy of such procedures.

(2) Within 1 year, the Inspector General shall conduct at least 1 review to ensure that such procedures are properly implemented and are effective to uncover and disclose the existence of potential financial interests or impaired objectivity described in subsection (a).

(3) The Inspector General shall report to such Committees any recommendations for modifications to such procedures that the Inspector General determines are necessary to uncover and disclose the existence of such potential financial interests or impaired objectivity.

(c) Definition

For purposes of this section, the term "covered individual or entity" means—

(1) an officer or professional employee of the Department of Education;

(2) a contractor or subcontractor of the Department, or an individual hired by the contracted entity;

(3) a member of a peer review panel of the Department; or

(4) a consultant or advisor to the Department.

(Pub. L. 110–161, div. G, title III, §306, Dec. 26, 2007, 121 Stat. 2198.)

CODIFICATION

Section was enacted as part of the Department of Education Appropriations Act, 2008, and also as part of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008, and the Consolidated Appropriations Act, 2008, and not as part of the Department of Education Organization Act which comprises this chapter.

SUBCHAPTER V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

§3501. Transfer and allocation of appropriations and personnel

(a) Personnel and appropriations in connection with functions and offices transferred by this chapter; use of unexpended funds

Except as otherwise provided in this chapter, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this chapter, subject to section 1531 of title 31, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions specified to carry out functions or offices transferred by this chapter

Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this chapter, personnel occupying those positions on the effective date of this chapter, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on May 4, 1980, shall be subject to the provisions of section 3503 of this title.

(Pub. L. 96–88, title V, §501, Oct. 17, 1979, 93 Stat. 689.)

CODIFICATION

In subsec. (a), "section 1531 of title 31" substituted for "section 202 of the Budget and Accounting Procedures Act of 1950 [31 U.S.C. 581c]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (b), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§3502. Effect on personnel

(a) Non-separation or non-reduction in grade or compensation of full-time personnel and part-time personnel holding permanent positions

Except as otherwise provided in this chapter, the transfer pursuant to this subchapter of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Positions compensated in accordance with Executive Schedule

Any person who, on the day preceding May 4, 1980, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(Pub. L. 96–88, title V, §502, Oct. 17, 1979, 93 Stat. 690.)

CODIFICATION

In subsec. (b), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

ABOLISHED POSITIONS DEEMED TRANSFERRED

Pub. L. 96–88, title V, §508(l)(4), Oct. 17, 1979, 93 Stat. 694, provided that: "Positions abolished as a consequence of the amendments made by this subsection [amending sections 1102, 2390, and 3012 of this title] shall, for purposes of section 502(a) [subsec. (a) of this section], be deemed to be permanent positions transferred pursuant to title V of this Act [this subchapter]."

§3503. Agency terminations

(a) Specific terminations

On May 4, 1980, the following entities shall terminate:

(A) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(B) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(C) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(b) Positions authorized to be compensated at rate prescribed for level IV or V of the Executive Schedule

Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this chapter shall also terminate.

(Pub. L. 96–88, title V, §503, Oct. 17, 1979, 93 Stat. 690; Pub. L. 99–145, title XII, §1204(a)(3), Nov. 8, 1985, 99 Stat. 720.)

CODIFICATION

In subsec. (a), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–145 struck out par. (1) designation and par. (2) which provided for termination of Office of Dependents' Education of Department of Defense whenever President exercises authority under section 3442(a) of this title.

§3504. Incidental transfers

(a) Authorization of Director of Office of Management and Budget; termination of affairs

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this chapter, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out the provisions of this chapter. The Director shall provide for the termination of the affairs of all entities terminated by this chapter and for such further measures and dispositions as may be necessary to effectuate the purposes of this chapter.

(b) Transfer of positions within Senior Executive Service

After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this chapter.

(Pub. L. 96–88, title V, §504, Oct. 17, 1979, 93 Stat. 690.)

§3505. Savings provisions

(a) Orders, determinations, etc.

All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter to the Secretary or the Department, and

(2) which are in effect on May 4, 1980,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) Proceedings and applications; transfer

(1) The provisions of this chapter shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on May 4, 1980, before any department, agency, commission, or component thereof, functions of which are transferred by this chapter; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Actions

Except as provided in subsection (e) of this section—

(1) the provisions of this chapter shall not affect suits commenced prior to May 4, 1980, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this chapter had not been enacted.

(d) Liabilities incurred

No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this chapter.

(e) Parties

If, before May 4, 1980, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Review

Orders and actions of the Secretary in the exercise of functions transferred under this chapter shall be subject to judicial review to the same extent and in the same manner as if such orders and actions

had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this chapter shall apply to the exercise of such function by the Secretary.

(Pub. L. 96–88, title V, §505, Oct. 17, 1979, 93 Stat. 691.)

CODIFICATION

In subsecs. (a)(2), (b)(1), (c)(1), and (e), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§3506. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

(Pub. L. 96–88, title V, §506, Oct. 17, 1979, 93 Stat. 692.)

§3507. Existing references to transferor officials or bodies deemed references to transferee officials or bodies

With respect to any function transferred by this chapter and exercised on or after May 4, 1980, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this chapter transfers such functions.

(Pub. L. 96–88, title V, §507, Oct. 17, 1979, 93 Stat. 692.)

CODIFICATION

"May 4, 1980" substituted in text for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§3508. Department of Health and Human Services

(a) Redesignation of Department of Health, Education, and Welfare

The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Reference to Department, Secretary, etc., of Health, Education, and Welfare deemed reference to Department, Secretary, etc., of Health and Human Services

Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on May 4, 1980, shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or office transferred to the Secretary or the Department under this chapter.

(Pub. L. 96–88, title V, §509, Oct. 17, 1979, 93 Stat. 695; Pub. L. 107–217, §6(b), Aug. 21, 2002, 116 Stat. 1304; Pub. L. 108–178, §2(b)(2), Dec. 15, 2003, 117 Stat. 2640.)

CODIFICATION

In subsec. (b), "May 4, 1980" substituted for "the effective date of this chapter" pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–178 amended Pub. L. 107–217, §6(b). See 2002 Amendment note below.

2002—Subsec. (b). Pub. L. 107–217, §6(b), which had repealed subsec. (b) of this section, was itself repealed by Pub. L. 108–178 insofar as it related to subsec. (b) of this section, and Pub. L. 108–178 further provided that subsec. (b) of this section was revived to read as if Pub. L. 107–217, §6(b), had not been enacted.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

§3509. Coordination of programs for handicapped

The Secretary of Health and Human Services shall identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting handicapped individuals carried out by or under the Department of Health and Human Services, shall promote efficiency among such programs, and shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

(Pub. L. 96–88, title V, §510, Oct. 17, 1979, 93 Stat. 695.)

§3510. Transitional provisions

With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this chapter.

(Pub. L. 96–88, title V, §511, Oct. 17, 1979, 93 Stat. 695.)

CHAPTER 49—ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL

Sec.

3601. Congressional statement of findings and purposes.
3602. Asbestos Hazards School Safety Task Force.
3603. State plan.
3604. Asbestos hazards detection program.
3605. Asbestos Hazards Control Loan Program.
3606. Standards and safety procedures.
3607. Recovery of costs by United States.
3608. Employee protection.
3609. Retained rights.
3610. Definitions.
3611. Authorization of appropriations.

§3601. Congressional statement of findings and purposes

(a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe

or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for identifying hazardous conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without an improved program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this chapter to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this chapter to—

(1) direct the Secretary of Education to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 1221(c)(1)(A) [1] of this title) to prepare a plan describing the manner in which information relating to programs established under this chapter shall be distributed to local educational agencies;

(3) provide scientific, technical, and financial assistance to State educational agencies and local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools;

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

(Pub. L. 96–270, §2, June 14, 1980, 94 Stat. 487.)

REFERENCES IN TEXT

Section 1221 of this title, referred to in subsec. (b)(2), was amended generally by Pub. L. 103–382, title II, §211, Oct. 20, 1994, 108 Stat. 3912, and, as so amended, no longer contains a subsec. (c)(1)(A). However, the term "applicable program" is defined in subsec. (c)(1) of that section.

SHORT TITLE

Pub. L. 96–270, §1, June 14, 1980, 94 Stat. 487, provided that: "This Act [enacting this chapter and amending section 1411 of this title] may be cited as the 'Asbestos School Hazard Detection and Control Act of

1980'."

[1] *See References in Text note below.*

§3602. Asbestos Hazards School Safety Task Force

(a) Establishment; composition; membership; chairman; appointment; vacancies

(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this chapter referred to as "Task Force"). The Task Force shall be composed of ten members, who shall be appointed by the Secretary within 30 days after June 14, 1980, as follows:

(A) One representative of the Department of Education, recommended by the Secretary of Education.

(B) One representative of the Department of Health and Human Services.

(C) One representative of the National Cancer Institute.

(D) One representative of the Environmental Protection Agency, recommended by the Administrator of such agency.

(E) One representative of the National Institute of Environmental Health Sciences.

(F) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(G) Four representatives from among organizations concerned with education and health.

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of such buildings to conditions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b) Meetings; quorum; hearings

(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings.

(c) Compensation; travel expenses

(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS–16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(d) Availability of Department of Education personnel; use of mails

(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Education to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) Duties

The duties of the Task Force shall include—

(1) the compilation of medical, scientific, and technical information explaining—

(A) the health and safety hazards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this chapter;

(3) the review of applications for grants and loans under sections 3604 and 3605 of this title, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 3606 of this title by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(f) Termination

The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 3605 of this title has expired.

(Pub. L. 96–270, §3, June 14, 1980, 94 Stat. 488.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§3603. State plan

(a) Submission by State educational agency receiving administrative funds for programs; contents

Not later than six months after June 14, 1980, the State educational agency of any State which receives administrative funds for any applicable program (as defined under section 1221(c)(1)(A) [1] of this title) shall submit to the Secretary a plan which—

(1) describes the manner in which the State, not later than nine months after June 14, 1980, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this chapter;

(B) the health hazards associated with exposure to asbestos fibers; and

(C) the procedures established by the Secretary under section 3606 of this title for carrying out activities under programs under this chapter, and such other relevant information regarding

such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually revise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b) of this section.

(b) Reporting requirements respecting plan implementation

Not later than six months after the submission of the plan described in subsection (a) of this section, and each six months thereafter during the two-year period beginning on June 14, 1980, the State agency or unit designated under paragraph (4) of subsection (a) of this section shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection.

(Pub. L. 96–270, §4, June 14, 1980, 94 Stat. 490.)

REFERENCES IN TEXT

Section 1221 of this title, referred to in subsec. (a), was amended generally by Pub. L. 103–382, title II, §211, Oct. 20, 1994, 108 Stat. 3912, and, as so amended, no longer contains a subsec. (c)(1)(A). However, the term "applicable program" is defined in subsec. (c)(1) of that section.

[1] *See References in Text note below.*

§3604. Asbestos hazards detection program

(a) Grants to local and State educational agencies for Federal share; duration of granting authority; amount of Federal share

(1)(A) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 3606(a)(1) of this title. Grants may be made under this section only during the two-year period beginning on June 14, 1980.

(B) The Secretary may make grants to State educational agencies for the Federal share of the costs of carrying out any asbestos detection program if—

(i) the State, through the State educational agency or some other appropriate State agency, is making grants to local educational agencies for asbestos hazard detection programs, and

(ii) such programs meet the standards established by the Secretary under section 3606(a)(1) of this title.

(C) Grants may be made under this section only during the two-year period beginning after June 14, 1980.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has

limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program.

(b) Application for grants; procedures applicable for approval; programs completed before January 1, 1976; determinations respecting amount of grant

(1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force. The Secretary may not approve an application unless the application—

(A) contains a description of the methods to be used by the local educational agency, or in the case of an application by the State educational agency the methods to be used by the local educational agencies receiving grants from the State, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing;

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 3606(a)(1) of this title and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before June 14, 1980, unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for which a grant is sought was carried out in a manner which substantially conforms to the requirements established by the Secretary under section 3606(a)(1) of this title.

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1976.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Secretary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

(A) Visual inspections of school buildings.

(B) The sampling of building and insulation materials.

(C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.

(c) Reporting requirements for recipients

Local and State educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.

(d) Availability of appropriated funds for education and technical assistance programs

During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

(Pub. L. 96–270, §5, June 14, 1980, 94 Stat. 491.)

§3605. Asbestos Hazards Control Loan Program

(a) Establishment; administration; loans to local educational agencies for share of project costs; project criteria; increase in amount of loans

(1) There is established within the Department of Education an Asbestos Hazards Control Loan Program (hereinafter in this chapter referred to as the "Loan Program"), which shall be administered by the Secretary in accordance with this section.

(2) The Secretary may make loans under this section to local educational agencies in an amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 3606(a)(2) of this title.

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such paragraph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

(b) Loan agreements; required terms; additional terms and conditions

Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury.

Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this chapter.

(c) Application for loans; procedures applicable for approval; projects completed before January 1, 1976

(1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the two-year period beginning on June 14, 1980. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including

information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was conducted in accordance with the standards established by the Secretary under section 3606(a)(1) of this title, or, in the case of testing conducted before June 14, 1980, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 3606(b) of this title, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a)(2) of this section); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No loans may be made by the Secretary under this section for projects described in subsection (a)(2) of this section which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 3606(b) of this title.

No loan may be awarded under this section for any project described in subsection (a)(2) of this section which was completed before January 1, 1976.

(d) Reporting requirements for Secretary

During each of the three calendar years after 1980, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

(Pub. L. 96–270, §6, June 14, 1980, 94 Stat. 492.)

§3606. Standards and safety procedures

(a) Establishment and distribution to designated State agency or unit; establishment of criteria for loan program eligibility

(1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 3603(a)(4) of this title—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 3605 of this title. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence of asbestos fibers in schools, as determined in accordance with standards under paragraph (1)(B) of this subsection.

(b) Establishment of regulations

After reviewing recommendations submitted to the Secretary by the Task Force under section 3602(e)(5) of this title, the Secretary, with the concurrence of the Task Force, shall by regulation establish—

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 3605 of this title, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) Avoidance of duplication of similar activities of Environmental Protection Agency

In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(Pub. L. 96–270, §7, June 14, 1980, 94 Stat. 494.)

§3607. Recovery of costs by United States

(a) Suit by United States on behalf of grant or loan recipient for recovery of costs of activities of recipient; proceeds of judgment

(1) As a condition of the award of any grant under section 3604 of this title or loan under section 3605 of this title, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 3604 of this title;

(B) the amount outstanding on any loan made to the recipient under section 3605 of this title; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) Investigation and report by Attorney General respecting feasibility of recovery of costs from any person determined by Attorney General to be liable

The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this chapter. Within one year after June 14, 1980, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations.

(c) Expeditious proceedings by Attorney General

If the Attorney General determines in the report under subsection (b) of this section that the United States should seek to recover the amounts expended by the United States to carry out this chapter, the Attorney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b) of this section.

(Pub. L. 96–270, §8, June 14, 1980, 94 Stat. 495.)

§3608. Employee protection

No State or local educational agency receiving assistance under this chapter may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

(Pub. L. 96–270, §9, June 14, 1980, 94 Stat. 496.)

§3609. Retained rights

Except as otherwise provided in section 3607 of this title, nothing in this chapter shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

(Pub. L. 96–270, §10, June 14, 1980, 94 Stat. 496.)

§3610. Definitions

For purposes of this chapter—

(1) the term "asbestos" means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term "Attorney General" means the Attorney General of the United States;

(3) the term "imminent hazard to the health and safety" means, for purposes of section 3605 of this title, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a)(10) [1] of the Elementary and Secondary Education Act of 1965;

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or secondary school" means—

(A) any elementary or secondary school (as defined in section 198(a)(7) [1] of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term "Secretary" means the Secretary of Education, or his designee;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and

(9) the term "State educational agency" has the same meaning given such term by section 198(a)(17) [1] of the Elementary and Secondary Education Act of 1965.

(Pub. L. 96–270, §11, June 14, 1980, 94 Stat. 496.)

REFERENCES IN TEXT

Section 198 of the Elementary and Secondary Education Act of 1965, referred to in pars. (4)(A), (5)(A), and (9), is section 198 of Pub. L. 89–10, title I, as added by Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2198, which was classified to section 2854 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 140. For definitions, see section 7801 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] *See References in Text note below.*

§3611. Authorization of appropriations

(a) Sums available during obligation period for asbestos detection and asbestos hazards control loan programs

(1) There are authorized to be appropriated—

(A) for the asbestos detection program under section 3604 of this title, for the fiscal year ending September 30, 1981, and for the succeeding fiscal year, a total of not more than $22,500,000; and

(B) for the asbestos hazards control loan program under section 3605 of this title, not more than $75,000,000 for the fiscal year ending September 30, 1981, and $75,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs automatically eligible for contingent extension

Programs under this chapter shall be considered automatically eligible for the one-year contingent extension under section 1226a [1] of this title.

(c) Greatest financial need as basis for approval of applications in case of insufficient funds

If funds appropriated to carry out this chapter are insufficient to pay the total amount required to make all the grants and loans authorized under this chapter, the Secretary shall establish criteria to be used in determining which applicants for grants or loans under this chapter have the greatest financial need for receiving funds under this chapter and shall make determinations regarding the approval of applications for such grants or loans in accordance with such criteria.

(d) Authority of Secretary dependent on specific appropriations

Notwithstanding any other provision of this chapter, the authority of the Secretary to enter into agreements, or to make payments, under this chapter shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 96–270, §12, June 14, 1980, 94 Stat. 497.)

REFERENCES IN TEXT

Section 1226a of this title, referred to in subsec. (b), was in the original a reference to section 414 of the General Education Provisions Act. Section 414 of that Act was renumbered as section 422 by Pub. L. 103–382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and is classified to section 1226a of this title.

[1] *See References in Text note below.*

CHAPTER 50—NATIONAL CENTER FOR THE STUDY OF AFRO-AMERICAN HISTORY AND CULTURE

Sec.

3701. National Afro-American History and Culture Commission.
3702. Organization of Commission.
3703. Omitted.

§3701. National Afro-American History and Culture Commission

(a) Establishment and membership

There is established a commission to be known as the National Afro-American History and Culture Commission (hereinafter in this chapter referred to as the "Commission") which shall be composed of fifteen members, as specified in section 3702 of this title.

(b) Duties

The Commission shall have the following duties:

(1) The Commission shall be responsible for the development of a definitive plan for the construction and operation of the National Center for the Study of Afro-American History and Culture and shall submit the plan, together with any recommendations for additional legislation, to the President of the United States and the Congress not later than twenty-four months after October 10, 1980. The plan shall include, but not be limited to, identification of—

(A) the main objectives to be achieved by the establishment, development, and operation of the National Center for the Study of Afro-American History and Culture;

(B) the types of uses, both public and private, to be accommodated by such a center;

(C) the criteria and recommendations for the design and appearance of such a center;

(D) the proposed ownership and operation of the center;

(E) the criteria and recommendations for interpretive, cultural, and educational programs and uses of the center;

(F) the areas where cooperative agreements might be developed between the center and

Afro-American institutions, organizations, and universities to enhance their programs and projects relating to the knowledge, preservation, and presentation of the history and culture of Afro-Americans;

(G) the estimates of costs, both public and private, for implementing the plan; and

(H) the procedures to be used in implementing the plan.

(2)(A) The Commission shall solicit subscriptions of funds from private and public sources to help meet the costs of carrying out its duties under this section; the costs of the construction, furnishing, and operation of the center; the costs of research programs and research staff positions, and reasonable administrative costs which may include, subject to the availability of funds, payment to members of the Commission of travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5. Any funds so received by the Commission shall be placed in a special deposit account with the Treasurer of the United States, and may be expended by the Commission only to meet the costs specified in this subparagraph.

(B) The General Services Administration, the Smithsonian Institution, and other agencies of the Government may donate or loan to the Commission for the purposes of the center any works of art, artifacts, or other materials under their control.

(c) Acquisition and disposal of property

For the purpose of carrying out this chapter, the Commission may—

(1) acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), transfer from any Federal or State agency, exchange, or otherwise, suitable land (together with any buildings or other improvements thereon) and interest in land in the vicinity of Wilberforce, Ohio, for the location of the headquarters of the center;

(2) borrow or acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), or otherwise, any other real or personal property necessary for the establishment and operation of the center; and

(3) sell, exchange, or otherwise dispose of any property acquired under this subsection and designate any proceeds from such disposal for the benefit of the center.

(Pub. L. 96–430, title II, §202, Oct. 10, 1980, 94 Stat. 1846.)

SHORT TITLE

Pub. L. 96–430, title II, §201, Oct. 10, 1980, 94 Stat. 1846, provided that: "This title [enacting this chapter] may be cited as the 'National Center for the Study of Afro-American History and Culture Act'."

§3702. Organization of Commission

(a) Membership

The Commission shall be composed of fifteen members as follows:

(1) The Secretary of the Interior (or his designee).

(2) The Secretary of Education (or his designee).

(3) The Librarian of Congress (or his designee).

(4) The President of the Association for the Study of Afro-American Life and History.

(5) The presidents of Wilberforce University and Central State University in Ohio.

(6) Nine members appointed by the President, who are especially qualified to serve on the Commission by reason of their background and experience. No more than two members appointed under this paragraph shall be from any one State.

(b) Terms of office

Subject to subsection (c) of this section, the members of the Commission specified in paragraphs (1) through (5) of subsection (a) of this section shall serve for the life of the Commission. The members of the Commission appointed under paragraph (6) of such subsection shall serve for terms

of four years, except that of the members first appointed—

(1) three shall be appointed for terms of one year;

(2) three shall be appointed for terms of two years; and

(3) three shall be appointed for terms of four years;

as designated by the President at the time of appointment.

(c) Membership continuation

If any member of the Commission who was appointed to the Commission under paragraphs (1) through (5) [1] as an officer designated under such paragraphs leaves such office, such member may continue as a member of the Commission for not longer than the thirty-day period beginning on the date he leaves that office.

(d) Vacancies

(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(e) Quorum

Six members of the Commission shall constitute a quorum.

(f) Voting

The Commission shall act by affirmative majority vote.

(g) Officers

The Commission shall elect a chairman and other officers from among its members to serve for terms established by the Commission.

(h) Meetings

The Commission shall meet at the call of the chairman or a majority of its members, but not less than two times each year. The headquarters of the Commission shall be at Wilberforce, Ohio, and the Commission shall conduct its meetings in such city unless circumstances otherwise require.

(i) Seal; bylaws; rules and regulations

The Commission may adopt an official seal which shall be judicially noticed and may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this chapter.

(j) Compensation

Members of the Commission shall serve without pay.

(k) Temporary services

The Commission may procure, subject to the availability of funds, temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5.

(l) Personnel details

Upon request of the Commission, and subject to the availability of funds, the head of any Federal agency may detail to the Commission on a reimbursable basis any of the personnel of such agency to assist the Commission in carrying out its duties under this chapter.

(m) Administrative support services

The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this chapter.

(Pub. L. 96–430, title II, §203, Oct. 10, 1980, 94 Stat. 1847.)

[1] *So in original. Probably should be followed by "of subsection (a) of this section".*

§3703. Omitted

CODIFICATION

Section, Pub. L. 96–430, title II, §204, Oct. 10, 1980, 94 Stat. 1848, which required the National Afro-American History and Culture Commission to submit to appropriate committees of Congress a report containing a detailed statement of the financial transactions of the Commission and the activities undertaken by the Commission during the previous year, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 179 of House Document No. 103–7.

CHAPTER 51—ELEMENTARY AND SECONDARY EDUCATION BLOCK GRANT

SUBCHAPTER I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF DISADVANTAGED CHILDREN

§§3801 to 3808. Repealed. Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3801, Pub. L. 97–35, title V, §552, Aug. 13, 1981, 95 Stat. 464, set out declaration of policy for program of financial assistance to meet the special educational needs of disadvantaged children.

Section 3802, Pub. L. 97–35, title V, §553, Aug. 13, 1981, 95 Stat. 464, related to duration of assistance.

Section 3803, Pub. L. 97–35, title V, §554(a)–(c), Aug. 13, 1981, 95 Stat. 464, related to applicability of title I of the Elementary and Secondary Education Act of 1965.

Section 3804, Pub. L. 97–35, title V, §555, Aug. 13, 1981, 95 Stat. 465; Pub. L. 98–211, §1, Dec. 8, 1983, 97 Stat. 1412; Pub. L. 98–312, §5, June 12, 1984, 98 Stat. 234, related to programs authorized for assistance.

Section 3805, Pub. L. 97–35, title V, §556, Aug. 13, 1981, 95 Stat. 465; Pub. L. 98–211, §§2–4, Dec. 8, 1983, 97 Stat. 1412–1414, related to approval of applications.

Section 3806, Pub. L. 97–35, title V, §557, Aug. 13, 1981, 95 Stat. 466; Pub. L. 98–211, §5, Dec. 8, 1983, 97 Stat. 1415, related to participation of children in private schools.

Section 3807, Pub. L. 97–35, title V, §558, Aug. 13, 1981, 95 Stat. 468; Pub. L. 98–211, §§6–8, Dec. 8, 1983, 97 Stat. 1415, related to general provisions for program of financial assistance to meet the special educational needs of disadvantaged children.

Section 3808, Pub. L. 97–35, title V, §559, as added Pub. L. 98–211, §22, Dec. 8, 1983, 97 Stat. 1418, related to national assessment of compensatory education assistance.

SHORT TITLE

Pub. L. 97–35, title V, §551, Aug. 13, 1981, 95 Stat. 463, provided that subtitle D [§§551 to 596] of title V of Pub. L. 97–35 was to be cited as the "Education Consolidation and Improvement Act of 1981", prior to repeal by Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER II—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

§§3811 to 3816. Repealed. Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3811, Pub. L. 97–35, title V, §561, Aug. 13, 1981, 95 Stat. 469; Pub. L. 98–211, §9(a), Dec. 8, 1983, 97 Stat. 1415, related to statement of purpose of program of consolidating various Federal programs for elementary and secondary education.

Section 3812, Pub. L. 97–35, title V, §562, Aug. 13, 1981, 95 Stat. 469; Pub. L. 98–211, §10, Dec. 8, 1983, 97 Stat. 1416, related to authorization of appropriations.

Section 3813, Pub. L. 97–35, title V, §563, Aug. 13, 1981, 95 Stat. 470; Pub. L. 98–211, §11, Dec. 8, 1983, 97 Stat. 1416, related to allotment of funds to States.

Section 3814, Pub. L. 97–35, title V, §564, Aug. 13, 1981, 95 Stat. 470; Pub. L. 98–211, §§9(b), 12, Dec. 8, 1983, 97 Stat. 1415, 1416, related to State applications.

Section 3815, Pub. L. 97–35, title V, §565, Aug. 13, 1981, 95 Stat. 471; Pub. L. 98–211, §21(a), Dec. 8, 1983, 97 Stat. 1418, related to allocation of funds to local educational agencies.

Section 3816, Pub. L. 97–35, title V, §566, Aug. 13, 1981, 95 Stat. 471; Pub. L. 98–211, §§9(c), 13, Dec. 8, 1983, 97 Stat. 1416, related to local applications.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART A—BASIC SKILLS DEVELOPMENT

§§3821 to 3823. Repealed. Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3821, Pub. L. 97–35, title V, §571, Aug. 13, 1981, 95 Stat. 472, related to use of funds for program of basic skills development.

Section 3822, Pub. L. 97–35, title V, §572, Aug. 13, 1981, 95 Stat. 472, related to State leadership and support services.

Section 3823, Pub. L. 97–35, title V, §573, Aug. 13, 1981, 95 Stat. 473; Pub. L. 98–211, §14, Dec. 8, 1983, 97 Stat. 1416, related to school level programs.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART B—EDUCATIONAL IMPROVEMENT AND SUPPORT SERVICES

§§3831, 3832. Repealed. Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3831, Pub. L. 97–35, title V, §576, Aug. 13, 1981, 95 Stat. 473, related to statement of purpose for program of educational improvement and support services.

Section 3832, Pub. L. 97–35, title V, §577, Aug. 13, 1981, 95 Stat. 474, related to authorized activities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART C—SPECIAL PROJECTS

§§3841, 3842. Repealed. Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3841, Pub. L. 97–35, title V, §581, Aug. 13, 1981, 95 Stat. 475, related to statement of purpose for program of special projects.

Section 3842, Pub. L. 97–35, title V, §582, Aug. 13, 1981, 95 Stat. 475; Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 97–313, Oct. 14, 1982, 96 Stat. 1462, related to authorized activities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART D—SECRETARY'S DISCRETIONARY FUNDS

§3851. Repealed. Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293

Section, Pub. L. 97–35, title V, §583, Aug. 13, 1981, 95 Stat. 476; Pub. L. 98–312, §4(b), June 12, 1984, 98 Stat. 234; Pub. L. 99–498, title XIV, §1404, Oct. 17, 1986, 100 Stat. 1599, related to authorization of discretionary program.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART E—GENERAL PROVISIONS

§§3861 to 3863. Repealed. Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3861, Pub. L. 97–35, title V, §585, Aug. 13, 1981, 95 Stat. 477, related to funding requirements for program of consolidating Federal programs for elementary and secondary education.

Section 3862, Pub. L. 97–35, title V, §586, Aug. 13, 1981, 95 Stat. 477, related to participation of children enrolled in private schools.

Section 3863, Pub. L. 97–35, title V, §587, Aug. 13, 1981, 95 Stat. 480, related to repeal of various programs included in consolidation of Federal programs for elementary and secondary education.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER III—GENERAL PROVISIONS

§§3871 to 3876. Repealed. Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3871, Pub. L. 97–35, title V, §591, Aug. 13, 1981, 95 Stat. 480; Pub. L. 98–211, §15, Dec. 8, 1983, 97 Stat. 1416, related to Federal regulations.

Section 3872, Pub. L. 97–35, title V, §592, Aug. 13, 1981, 95 Stat. 480; Pub. L. 98–211, §16, Dec. 8, 1983, 97 Stat. 1417, related to withholding of payments.

Section 3873, Pub. L. 97–35, title V, §593, Aug. 13, 1981, 95 Stat. 481; Pub. L. 98–211, §17, Dec. 8, 1983, 97 Stat. 1417, related to judicial review.

Section 3874, Pub. L. 97–35, title V, §594, Aug. 13, 1981, 95 Stat. 481, related to availability of appropriations.

Section 3875, Pub. L. 97–35, title V, §595, Aug. 13, 1981, 95 Stat. 481, related to definitions.

Section 3876, Pub. L. 97–35, title V, §596, Aug. 13, 1981, 95 Stat. 482; Pub. L. 98–211, §18(a), Dec. 8, 1983, 97 Stat. 1417, related to application of other laws.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

CHAPTER 52—EDUCATION FOR ECONOMIC SECURITY

Sec.

3901. Statement of purpose.
3902. Definitions.

SUBCHAPTER I—NATIONAL SCIENCE FOUNDATION SCIENCE AND ENGINEERING EDUCATION

3911. Congressional declaration of policy.
3912. Functional objectives; uses of funds.
3913. Teacher institutes.
3914. Materials development and methods research for mathematics, science, and engineering.
3915. Graduate fellowships.
3916. Other functional activities.
3917. Repealed.
3918. Approval of proposals.
3919. Special consideration of underrepresented and underserved population.
3920. Availability of funds.
3921. Prohibition against the Federal control of education.
3922. Participation of teachers from private schools.

SUBCHAPTER II—EDUCATION FOR ECONOMIC SECURITY

3961 to 3973. Repealed.

SUBCHAPTER III—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

PART A—HIGHER EDUCATION PARTNERSHIPS

3981. Statement of purpose.
3982. Definitions.
3983. Program authorized.
3984. Authorized activities.
3985. Application.
3986. Submission of applications.

3987. Approval of applications.
3988. Payments; Federal share; limitation.

PART B—ELEMENTARY AND SECONDARY EDUCATION PARTNERSHIPS

3991. Purpose.
3992. Programs authorized.
3993. Amendment to State application.
3994. Eligible programs.
3995. Local applications.
3996. Submission of applications.
3997. Approval of applications.
3998. Computation of grant amounts.

SUBCHAPTER IV—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE

4001 to 4003. Repealed.

SUBCHAPTER V—ASBESTOS SCHOOL HAZARD ABATEMENT

4011. Findings and purpose.
4012. Asbestos hazard abatement program.
4013. State records and priority lists.
4014. Financial assistance.
4015. Administrative provisions.
4016. Annual report.
4017. Recovery of costs.
4018. Employee protection.
4019. Affect on rights under other laws.
4020. Definitions.
4021. Authorization.
4022. Asbestos Trust Fund.

SUBCHAPTER VI—EXCELLENCE IN EDUCATION PROGRAM

4031 to 4037. Repealed.

SUBCHAPTER VII—MAGNET SCHOOLS ASSISTANCE

4051 to 4062. Repealed.

SUBCHAPTER VIII—EQUAL ACCESS

4071. Denial of equal access prohibited.
4072. Definitions.
4073. Severability.
4074. Construction.

SUBCHAPTER IX—STAR SCHOOLS PROGRAM

4081 to 4086. Repealed.

§3901. Statement of purpose

It is the purpose of this chapter to improve the quality of mathematics and science teaching and instruction in the United States.

(Pub. L. 98–377, §2, Aug. 11, 1984, 98 Stat. 1267.)

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–159, §1, Nov. 22, 1985, 99 Stat. 887, provided: "That this Act [enacting sections 366, 1221e–1c, and 3911 to 3922 of this title, and section 1886 of Title 42, The Public Health and Welfare, amending sections 351a, 351c, 351d, 353, 1134h, 1221e–1b, 1411, 2007, 2311, 2312, 2322, 2323, 2333, 2361 to 2363, 2383, 2392, 2417, 2462, 2464, 2471, 2763, 3902, 3963 to 3973, 3982, 3983, 3985 to 3988, 4003, 4033, 4051, 4053,

4056, and 4059 of this title, sections 1503 and 1753 of Title 29, Labor, and sections 1862 to 1864, 1868 to 1872, 1873, 1874, 1881a, 1882, and 1885 to 1885d of Title 42, omitting sections 3911 to 3915, 3921 to 3923, 3931 to 3933, 3941, and 3951 to 3954 of this title, repealing sections 1873a and 1884 of Title 42, enacting provisions set out as notes under sections 351f, 1087bb, 1411, and 2311 of this title and section 1861 of Title 42, and amending provisions set out as notes under sections 1087bb and 2301 of this title and sections 1861 and 1882 of Title 42] may be cited as the 'National Science, Engineering, and Mathematics Authorization Act of 1986'."

SHORT TITLE

Pub. L. 98–377, §1, Aug. 11, 1984, 98 Stat. 1267, provided: "That this Act [enacting this chapter] may be cited as the 'Education for Economic Security Act'."

Part A of title III of Pub. L. 98–377, as amended, which enacted part A of subchapter III of this chapter, is known as "Partnerships in Education for Mathematics, Science, and Engineering Act", see note set out under section 3981 of this title.

Title V of Pub. L. 98–377, which enacted subchapter V of this chapter, is known as "Asbestos School Hazard Abatement Act of 1984", see note set out under section 4011 of this title.

Title VIII of Pub. L. 98–377, which enacted subchapter VIII of this chapter, is known as "The Equal Access Act", see note set out under section 4071 of this title.

Title IX of Pub. L. 98–377, which enacted subchapter IX of this chapter, is known as the "Star Schools Program Assistance Act", see note set out under section 4081 of this title.

§3902. Definitions

For the purpose of this chapter—

(1) The term "area career and technical education school" has the same meaning given that term under section 2302(3) of this title.

(2) The term "Director" means the Director of the National Science Foundation.

(3) The term "elementary school" has the same meaning given that term under section 7801 of this title.

(4) The term "Governor" means the chief executive of a State.

(5) The term "Foundation" means the National Science Foundation.

(6) The term "institution of higher education" has the same meaning given that term by section 1001 of this title.

(7) The term "local educational agency" has the same meaning given that term under section 7801 of this title.

(8) The term "secondary school" has the same meaning given that term under section 7801 of this title.

(9) The term "Secretary" means the Secretary of Education.

(10) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(11) The term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this chapter [1] by the Governor or by State law.

(12) The term "State educational agency" has the meaning given that term under section 7801 of this title.

(Pub. L. 98–377, §3, Aug. 11, 1984, 98 Stat. 1267; Pub. L. 99–159, title II, §221, Nov. 22, 1985, 99 Stat. 897; Pub. L. 105–244, title I, §102(a)(6)(F), Oct. 7, 1998, 112 Stat. 1618; Pub. L. 107–110, title X, §1076(l)(1), Jan. 8, 2002, 115 Stat. 2092; Pub. L. 109–270, §2(d), Aug. 12, 2006, 120 Stat. 747; Pub. L. 114–95, title IX, §9215(dd)(1), Dec. 10, 2015, 129 Stat. 2173.)

REFERENCES IN TEXT

This chapter, referred to in par. (11), was in the original "this title" and has been translated as if the reference was to "this Act" to reflect the probable intent of Congress inasmuch as this section is not part of a

title of Pub. L. 98–377.

AMENDMENTS

2015—Pars. (3), (7). Pub. L. 114–95, §9215(dd)(1)(A), (B), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

Par. (8). Pub. L. 114–95, §9215(dd)(1)(C), substituted "section 7801 of this title" for "section 198(a)(7) of the Elementary and Secondary Education Act of 1965".

Par. (12). Pub. L. 114–95, §9215(dd)(1)(D), made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

2006—Par. (1). Pub. L. 109–270 substituted "area career and technical education school" for "area vocational education school" and "section 2302(3) of this title." for "section 2471(3) of this title.."

2002—Par. (3). Pub. L. 107–110, §1076(l)(1)(A), substituted "7801 of this title" for "198(a)(7) of the Elementary and Secondary Education Act of 1965".

Par. (7). Pub. L. 107–110, §1076(l)(1)(B), substituted "7801 of this title" for "198(a)(10) of the Elementary and Secondary Education Act of 1965".

Par. (12). Pub. L. 107–110, §1076(l)(1)(C), substituted "7801 of this title" for "198(a)(17) of the Elementary and Secondary Education Act of 1965".

1998—Par. (6). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

1985—Par. (1). Pub. L. 99–159 substituted reference to section 2471(3) of this title for reference to section 195(2) of the Vocational Education Act of 1965.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] *See References in Text note below.*

SUBCHAPTER I—NATIONAL SCIENCE FOUNDATION SCIENCE AND ENGINEERING EDUCATION

§3911. Congressional declaration of policy

(a) The Congress declares that the science and engineering education responsibilities of the National Science Foundation are—

(1) to improve the quality of instruction in the fields of mathematics, science, and engineering;

(2) to support research, fellowships, teacher-faculty-business exchange programs in mathematics, science, and engineering;

(3) to improve the quality and availability of instrumentation for mathematics, science, and engineering instruction;

(4) to encourage partnerships in education between local and State education agencies, business

and industry, colleges and universities, and cultural and professional institutions and societies; and

(5) to improve the quality of education at all levels in the fields of mathematics, science, and engineering.

(b) In exercising its responsibilities to strengthen scientific and engineering research potential and science and engineering education programs at all levels, the Foundation shall avoid undue concentration of support for research and education activities.

(Pub. L. 98–377, title I, §101, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 893.)

PRIOR PROVISIONS

A prior section 3911, Pub. L. 98–377, title I, §101, Aug. 11, 1984, 98 Stat. 1268, related to grants for teacher institutes, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3913 of this title.

UNDERGRADUATE SCIENCE IMPROVEMENT

Pub. L. 100–570, title I, §112, Oct. 31, 1988, 102 Stat. 2870, provided that:

"(a) The Congress finds that the support of undergraduate science and engineering education is a critical component in a comprehensive national policy intended to ensure the Nation's future supply of scientists and engineers.

"(b) In accordance with the provisions of this Act [see Tables for classification], the Foundation shall support undergraduate science and engineering activities in instrumentation and laboratory improvement, undergraduate faculty enhancement, undergraduate research opportunities, undergraduate curriculum development, and efforts to encourage the participation of women, minorities, and the disabled in such fields.

"(c) In carrying out the provisions of this section, the Foundation shall take into account the special needs of two-year and four-year colleges and universities."

§3912. Functional objectives; uses of funds

(a) In carrying out its science and engineering education responsibilities, the Foundation shall have the following functional objectives: public understanding of science and technology, faculty enhancement, student education and training, instructional development and instrumentation, and materials development and dissemination.

(b) Funds under this subchapter shall, consistent with such functional objectives, be used for—

(1) enhancement of public understanding of science and engineering through informal education activities using a variety of mediums such as broadcasting, museums, clubs, and amateur science societies;

(2) development of new science and engineering faculty resources and talents;

(3) enhancement of the quality of science and engineering instruction in colleges of teacher education;

(4) development of four-year college faculty and instructors in high technology fields;

(5) development of two-year community college faculty and instructors especially in high technology fields;

(6) development of precollege mathematics, science and engineering education and training;

(7) encouragement of potential students, including underrepresented and underserved populations, to pursue careers in mathematics, science, engineering, and critical foreign languages;

(8) development of instructional instrumentation and systems for postsecondary technical, engineering, and scientific education; and

(9) development of science, engineering, and education networks to aid in the development and dissemination of successful curricula, methods, and materials.

(Pub. L. 98–377, title I, §102, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 894.)

PRIOR PROVISIONS

A prior section 3912, Pub. L. 98–377, title I, §102, Aug. 11, 1984, 98 Stat. 1268, related to submission, contents, etc., of applications, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159.

§3913. Teacher institutes

(a) Authorization to make competitive grants; covered institutions, businesses, etc.; purpose

The Foundation shall, in accordance with the provisions of this subchapter, make competitive grants to institutions of higher education, businesses, nonprofit private organizations (including schools), local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of title 47), and appropriate State agencies to support institutes and workshops for supervisors and teachers in public and private elementary and secondary schools for the purpose of improving the subject knowledge and teaching skills of such teachers in the areas of mathematics and science.

(b) Equitable distribution of grants; awards in each State

In making grants under this section, the Foundation shall assure that there is an equitable distribution among States of institutes established and operated with funds made available under this section. The Foundation shall award not less than one institute in each State, except that the Foundation may waive this requirement if there is no proposal from a State which meets the requirements of this subchapter. Proposals which exceed $300,000 in any fiscal year incorporating the services or resources of more than two entities in the design and operation of the institute, may be funded at the discretion of the Director of the Foundation.

(c) Cooperation of advanced technology businesses and other businesses

Institutes assisted under this subchapter may, to the extent possible, involve the cooperation of advanced technology businesses and other businesses which are able to supply assistance in the teaching of mathematics and science.

(d) Requirement of involvement in planning and development

In making grants under this subchapter, the Foundation shall require assurances that local education agencies will be involved in the planning and development of the institute in the case of applications submitted by other eligible applicants described in subsection (a) of this section, or that one or more such applicants will be involved in the planning and development of the institute in the case of applications submitted by State or local education agencies.

(Pub. L. 98–377, title I, §103, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 894.)

PRIOR PROVISIONS

A prior section 3913, Pub. L. 98–377, title I, §113, Aug., 11, 1984, 98 Stat. 1269, related to distribution of assistance and limitation on grants, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See subsec. (b) of this section.

§3914. Materials development and methods research for mathematics, science, and engineering

(a) Authorization to award competitive grants; covered institutions, businesses, etc.; purposes

The Foundation is authorized, in accordance with the provisions of this subchapter, to award competitive grants to institutions of higher education, businesses, nonprofit private organizations, local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of title 47), and appropriate State agencies—

(1) for instructional curriculum improvement and faculty development in mathematics, science, and engineering;

(2) for programs designed to enhance public understanding of mathematics, science, and engineering, including the use of public broadcasting entities; and

(3) for research on methods of instruction and educational programs in mathematics, science,

engineering, and critical foreign languages.

(b) Scope of studies

Studies conducted under subsection (a)(3) of this section may include—

(1) teaching and learning research and its application to local and private sector instructional materials development and to improved teacher training programs;

(2) research on the use of local and informal science education activities;

(3) research on recruitment, retention, and improvement of mathematics, science, engineering, and critical languages faculties; and

(4) analysis of materials and methods for mathematics, science, and engineering education used in other countries and their potential application in the United States.

(c) Matching grant requirements

Funds awarded for such competitive grants shall be expended through a system requiring matching of the grant. The minimum amount required as a match shall be equal to a percentage of the grant that is determined by the Foundation. Funds made available for matching purposes may include in-kind services or other resources.

(d) Materials or methods research application requirements

In making grant applications for materials or methods research for the purposes described in subsections (a)(1) and (a)(3) of this section, the Foundation shall assure the involvement of appropriate State or local education agencies in the case of applications submitted by other entities described in subsection (a) of this section, or that one or more of such other entities will be consulted in the case of applications submitted by State or local education agencies.

(Pub. L. 98–377, title I, §104, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 895.)

PRIOR PROVISIONS

A prior section 3914, Pub. L. 98–377, title I, §114, Aug. 11, 1984, 98 Stat. 1269, related to cooperation with business concerns, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3913(c) of this title.

§3915. Graduate fellowships

The Foundation is authorized, in accordance with the provisions of this subchapter, to establish and carry out a program of graduate fellowships for the purpose of encouraging and assisting promising students to continue their education and research in mathematics, science, and engineering.

(Pub. L. 98–377, title I, §105, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 896.)

PRIOR PROVISIONS

A prior section 3915, Pub. L. 98–377, title I, §115, Aug. 11, 1984, 98 Stat. 1269, related to special consideration for applications meeting the needs of underrepresented and underserved populations, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3919 of this title.

§3916. Other functional activities

(a) The Foundation is authorized to expend up to 15 per centum of the funds available for science and engineering education for applications which the Foundation determines will meet one or more of the functional objectives described in section 3912(b) of this title.

(b) Such programs may include a program for the exchange of mathematics, science, or engineering faculty between institutions of higher education (particularly institutions having nationally recognized research facilities) and eligible institutions. For the purposes of this section, the term "eligible institution" means an institution of higher education which—

(1) has an enrollment which includes a substantial percentage of students who are members of a

minority group, or who are economically or educationally disadvantaged; or

(2) is located in a community that is not within commuting distance of a major institution of higher education; and

(3) demonstrates a commitment to meet the special educational needs of students who are members of a minority group or are economically or educationally disadvantaged.

(Pub. L. 98–377, title I, §106, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 896.)

§3917. Repealed. Pub. L. 104–66, title II, §2141(a), Dec. 21, 1995, 109 Stat. 731

Section, Pub. L. 98–377, title I, §107, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 896; amended Pub. L. 103–437, §7(c), Nov. 2, 1994, 108 Stat. 4588, related to developing and annual update of a strategic plan for science and engineering education.

§3918. Approval of proposals

The Foundation shall adopt approval procedures designed to assure that awards are made on the basis of the scientific and educational merit as determined by the peer review process. To the maximum extent possible, the Foundation shall assure that there is an equitable distribution of resources with respect to institutions and geographical areas.

(Pub. L. 98–377, title I, §108, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 896.)

§3919. Special consideration of underrepresented and underserved population

In providing financial assistance under this subchapter, the Foundation shall make every effort to ensure that consideration is given to proposals which contain provisions designed to meet the needs of underrepresented and underserved populations.

(Pub. L. 98–377, title I, §109, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 897.)

§3920. Availability of funds

Funds to carry out this subchapter for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education. For fiscal year 1986, funds to carry out this subchapter shall be available from amounts authorized by section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986.

(Pub. L. 98–377, title I, §110, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 897.)

REFERENCES IN TEXT

Section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986, referred to in text, is section 102(a)(8) of Pub. L. 99–159, title I, Nov. 22, 1985, 99 Stat. 887, which is not classified to the Code.

§3921. Prohibition against the Federal control of education

The provisions of section 1232a [1] of this title, relating to prohibition against Federal control of education, shall apply to each program and award authorized by this subchapter.

(Pub. L. 98–377, title I, §111, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 897.)

REFERENCES IN TEXT

Section 1232a of this title, referred to in text, was in the original a reference to section 432 of the General

Education Provisions Act. Sections 425 and 432 of that Act were renumbered as sections 432 and 438, respectively, by Pub. L. 103–382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231b–2 and 1232a, respectively, of this title.

PRIOR PROVISIONS

A prior section 3921, Pub. L. 98–377, title I, §121, Aug. 11, 1984, 98 Stat. 1269, related to programs authorized for mathematics and science education development, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3914 of this title.

[1] *See References in Text note below.*

§3922. Participation of teachers from private schools

The Foundation shall, after consultation with appropriate private school representatives, make provision for the benefit of teachers in private elementary and secondary schools in the programs authorized by this subchapter, in order to assure equitable participation of such teachers.

(Pub. L. 98–377, title I, §112, as added Pub. L. 99–159, title II, §201, Nov. 22, 1985, 99 Stat. 897.)

PRIOR PROVISIONS

Prior sections 3922 to 3954 were omitted in the general revision of this subchapter by section 201 of Pub. L. 99–159.

Prior section 3922, Pub. L. 98–377, title I, §122, Aug. 11, 1984, 98 Stat. 1269, related to requirements, contents, etc., for applications and defined "eligible applicant".

Prior section 3923, Pub. L. 98–377, title I, §123, Aug. 11, 1984, 98 Stat. 1270, related to special consideration for applications meeting the needs of underrepresented and underserved populations. See section 3919 of this title.

Prior section 3931, Pub. L. 98–377, title I, §132, Aug. 11, 1984, 98 Stat. 1270, related to establishment, etc., of the merit scholarship program.

Prior section 3932, Pub. L. 98–377, title I, §133, Aug. 11, 1984, 98 Stat. 1271, related to criteria, etc., for selection of merit scholars.

Prior section 3933, Pub. L. 98–377, title I, §134, Aug. 11, 1984, 98 Stat. 1271, related to amount of stipends and conditions for scholarships.

Prior section 3941, Pub. L. 98–377, title I, §141, Aug. 11, 1984, 98 Stat. 1272, related to authority, etc., of the Director to make grants, to enter into contracts, and to conduct programs from discretionary funds. See section 3916 of this title.

Prior section 3951, Pub. L. 98–377, title I, §161, Aug. 11, 1984, 98 Stat. 1272, related to the administrative authorities of the Foundation and reporting requirements.

Prior section 3952, Pub. L. 98–377, title I, §162, Aug. 11, 1984, 98 Stat. 1273, related to participation of teachers from private schools. See section 3922 of this title.

Prior section 3953, Pub. L. 98–377, title I, §163, Aug. 11, 1984, 98 Stat. 1273, related to prohibition against Federal control of education. See section 3921 of this title.

Prior section 3954, Pub. L. 98–377, title I, §164, Aug. 11, 1984, 98 Stat. 1273, related to authorization of appropriations for purposes of former provisions. See section 3920 of this title.

SUBCHAPTER II—EDUCATION FOR ECONOMIC SECURITY

§§3961 to 3973. Repealed. Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324

Section 3961, Pub. L. 98–377, title II, §201, Aug. 11, 1984, 98 Stat. 1273, related to purpose of subchapter.

Section 3962, Pub. L. 98–377, title II, §202, Aug. 11, 1984, 98 Stat. 1274, defined "junior or community college".

Section 3963, Pub. L. 98–377, title II, §203, Aug. 11, 1984, 98 Stat. 1274; Pub. L. 99–159, title II, §222(a),

Nov. 22, 1985, 99 Stat. 897; Pub. L. 100–418, title VI, §6005, Aug. 23, 1988, 102 Stat. 1471, related to program authorized.

Section 3964, Pub. L. 98–377, title II, §204, Aug. 11, 1984, 98 Stat. 1274; Pub. L. 99–159, title II, §223, Nov. 22, 1985, 99 Stat. 897, related to allotment to States.

Section 3965, Pub. L. 98–377, title II, §205, Aug. 11, 1984, 98 Stat. 1275; Pub. L. 99–159, title II, §222(b), Nov. 22, 1985, 99 Stat. 897, related to in-State apportionment.

Section 3966, Pub. L. 98–377, title II, §206, Aug. 11, 1984, 98 Stat. 1275; Pub. L. 99–159, title II, §224, Nov. 22, 1985, 99 Stat. 898, related to elementary and secondary education programs.

Section 3967, Pub. L. 98–377, title II, §207, Aug. 11, 1984, 98 Stat. 1277; Pub. L. 99–159, title II, §225, Nov. 22, 1985, 99 Stat. 899, related to higher education programs.

Section 3968, Pub. L. 98–377, title II, §208, Aug. 11, 1984, 98 Stat. 1278; Pub. L. 99–159, title II, §226, Nov. 22, 1985, 99 Stat. 899, related to State assessments of mathematics, science, foreign languages, and computer learning.

Section 3969, Pub. L. 98–377, title II, §209, Aug. 11, 1984, 98 Stat. 1279; Pub. L. 99–159, title II, §227, Nov. 22, 1985, 99 Stat. 899, related to State applications.

Section 3970, Pub. L. 98–377, title II, §210, Aug. 11, 1984, 98 Stat. 1280; Pub. L. 99–159, title II, §228, Nov. 22, 1985, 99 Stat. 900, related to local educational agency assessments.

Section 3971, Pub. L. 98–377, title II, §211, Aug. 11, 1984, 98 Stat. 1281; Pub. L. 99–159, title II, §228A, Nov. 22, 1985, 99 Stat. 900, related to participation of children and teachers from private nonprofit schools.

Section 3972, Pub. L. 98–377, title II, §212, Aug. 11, 1984, 98 Stat. 1281; Pub. L. 99–159, title II, §229, Nov. 22, 1985, 99 Stat. 900, related to Secretary's discretionary fund for programs of national significance.

Section 3973, Pub. L. 98–377, title II, §213, Aug. 11, 1984, 98 Stat. 1282; Pub. L. 99–159, title II, §230, Nov. 22, 1985, 99 Stat. 900, related to payments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER III—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

PART A—HIGHER EDUCATION PARTNERSHIPS

§3981. Statement of purpose

It is the purpose of this part to supplement State and local resources to—

(1) improve the quality of instruction in the fields of mathematics, science, and engineering in the State;

(2) furnish additional resources and support for research, student scholarships, and faculty exchange programs in the fields of mathematics, science, and engineering; and

(3) encourage partnerships in education between the business community, institutions of higher education, and elementary and secondary schools in the community.

(Pub. L. 98–377, title III, §302, Aug. 11, 1984, 98 Stat. 1283; Pub. L. 100–418, title VI, §6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted "part" for "subchapter" in introductory text.

SHORT TITLE

Pub. L. 98–377, title III, §301, Aug. 11, 1984, 98 Stat. 1283, as amended by Pub. L. 100–418, title VI, §6031(b)(2), Aug. 23, 1988, 102 Stat. 1483, provided that: "This part [part A (§§301–309) of title III of Pub. L. 98–377 enacting this part] may be cited as the 'Partnerships in Education for Mathematics, Science, and

Engineering Act'."

§3982. Definitions

As used in this part—

(1) the term "applicant" means with respect to activities described in section 3984(a) of this title an institution of higher education and the other participants described in paragraph (3) of section 3984(a) of this title, and with respect to activities described in section 3984(b) of this title a local educational agency and the other participants described in paragraph (3) of section 3984(b) of this title;

(2) the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials; and

(3) the term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Pub. L. 98–377, title III, §303, Aug. 11, 1984, 98 Stat. 1283; Pub. L. 99–159, title II, §232, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, §6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted "part" for "subchapter" in introductory text.

1985—Pub. L. 99–159 struck out pars. (3), (4), and (5) which defined "Foundation", "institution of higher education", and "States", respectively, and redesignated par. (6) as (3).

§3983. Program authorized

(a) Authority of Secretary

The Secretary is authorized, in accordance with the provisions of this part, to make grants to applicants to pay the Federal share of the costs of the activities described in section 3984 of this title.

(b) Authorization of appropriations

There are authorized to be appropriated $50,000,000 for each of the fiscal years 1986 and 1987. There are authorized to be appropriated to carry out the provisions of this part $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(Pub. L. 98–377, title III, §304, Aug. 11, 1984, 98 Stat. 1284; Pub. L. 99–159, title II, §§231, 233, Nov. 22, 1985, 99 Stat. 900, 901; Pub. L. 100–297, title II, §2301, Apr. 28, 1988, 102 Stat. 319; Pub. L. 100–418, title VI, §6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted "part" for "subchapter" wherever appearing.

Subsec. (b). Pub. L. 100–297 substituted "1986 and 1987" for "1986, 1987, and 1988, to carry out the provisions of this subchapter" and inserted provision authorizing appropriations to carry out provisions of this part of $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

1985—Subsec. (a). Pub. L. 99–159, §231, substituted "Secretary" for "Foundation".

Subsec. (b). Pub. L. 99–159, §233, amended subsec. (b) generally, substituting authorizations of $50,000,000 for each of the fiscal years 1986, 1987, and 1988, for authorizations of $30,000,000 for fiscal year 1984 and $60,000,000 for fiscal year 1985.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

§3984. Authorized activities

(a) Higher education partnership in education programs and activities; eligible applicants

(1) An applicant may use payments received under this part in any fiscal year for higher education programs and activities described in this subsection.

(2) Grants under this subsection may be used for partnership in education programs—

(A) for the improvement of instruction in mathematics, science, computer science, and engineering education at the postsecondary level;

(B) for awarding scholarships to students at institutions of higher education in the fields of mathematics, science, computer science, and engineering;

(C) for the operation of faculty exchange programs by the institutions of higher education and business concerns within the State;

(D) for research in the fields of mathematics, science, computer science, and engineering;

(E) for the acquisition, rehabilitation, and renovation of equipment and instrumentation for use in instruction in the fields of mathematics, science, computer science, and engineering; and

(F) to promote public understanding of science, mathematics, and computer science.

(3) Education partnerships under this subsection may include institutions of higher education, business concerns, nonprofit private organizations, local educational agencies, professional mathematic and scientific associations, museums, libraries, educational television stations, and if the State so desires, appropriate State agencies.

(b) Elementary and secondary partnership in education programs and activities; eligible applicants

(1) An applicant may use payments received under this part in any fiscal year for programs and activities described in this subsection.

(2) A local educational agency may carry out an elementary and secondary school partnership in education program under which—

(A) elementary and secondary school teachers in the schools of local educational agencies who teach mathematics, science, or computer science are made available to local business concerns and business concerns with establishments located in the community to serve in such concerns or establishments;

(B) personnel of local business concerns and business concerns with establishments located in the community serve as consultants, lecturers, teaching assistants, or teachers of mathematics, science, or computer science in the elementary and secondary schools within the State;

(C) training and retraining is furnished to elementary and secondary school teachers of mathematics, science, and computer science under a cooperative arrangement between the State or local educational agency and appropriate business concerns;

(D) secondary school students observe, participate, and work in local business concerns and business concerns with establishments located in the community; and

(E) computer clubs and extracurricular activities involving modern technologies are established in elementary and secondary schools.

(3) Partnerships under this subsection may include local educational agencies, business concerns, nonprofit private organizations, institutions of higher education, professional mathematic and scientific associations, museums, libraries, educational television stations, and, if the State so desires, appropriate State agencies.

(Pub. L. 98–377, title III, §305, Aug. 11, 1984, 98 Stat. 1284; Pub. L. 100–418, title VI, §6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsecs. (a)(1), (b)(1). Pub. L. 100–418 substituted "part" for "subchapter" wherever appearing.

§3985. Application

(a) Requirements; terms, assurances, and conditions

Any applicant which desires to receive a grant under this part shall submit an application approved under section 3986 of this title to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities for which assistance under this part is sought;

(2) provide assurances that not more than 5 per centum of the amount received by the applicant in any fiscal year may be expended on administrative expenses;

(3) with respect to each program for which assistance is sought, provide assurances that—

(A) 30 per centum of the funds for each such project will be furnished by business concerns within the community;

(B) 20 per centum of the funds will be supplied by—

(i) the State,

(ii) the institution of higher education or the local educational agency, as the case may be, participating in the program; and

(iii) the other parties participating in the program;

(C) no stipend will be paid directly to employees of a profitmaking business concern; and

(D) teachers participating in the exchange program may not be employed by the participating business concern with which the teacher served within three years after the end of the exchange program unless the teacher repays the full cost of the exchange program to the State and local educational agency, as the case may be; and

(4) provide assurances that whenever the program for which assistance is sought includes scholarships, the scholarships be awarded to undergraduate students at institutions of higher education within the State who wish to pursue a course of study in mathematics or science, engineering or computer science, and that each student awarded a scholarship under this part will receive a stipend which shall not exceed the cost of tuition at the institution of higher education plus a stipend of not to exceed $750 for each academic year of study for which the scholarship is awarded;

(5) set forth policies and procedures to assure that whenever the application includes a local educational agency, to the extent consistent with the number and location of children in the school district of such agency who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted under this part;

(6) provide assurances that consideration is given to programs and activities designed to meet the needs of underrepresented and underserved populations;

(7) provide assurances that in the consideration of applications submitted under section 3986(a) of this title that equitable consideration is given to applications submitted by private and public institutions of higher education; and

(8) provide such additional assurances as the Secretary determines essential to ensure compliance with the requirements of this part.

(b) Regional joint application

A regional consortium of applicants in two or more States may file a joint application under the provisions of subsection (a) of this section.

(Pub. L. 98–377, title III, §306, Aug. 11, 1984, 98 Stat. 1285; Pub. L. 99–159, title II, §231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, §6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–418 substituted "part" for "subchapter" wherever appearing.
1985—Subsec. (a). Pub. L. 99–159 substituted "Secretary" for "Foundation" in two places in provisions preceding par. (1) and in par. (8).

§3986. Submission of applications

Each applicant within a State which desires to receive a grant under this part shall submit the application prepared in accordance with section 3985 of this title to the State agency on [1] higher education or the State educational agency, as the case may be, for approval and shall submit the approved application to the Secretary under section 3985 of this title. Each such application shall be submitted jointly by the local educational agency in the case of activities described in section 3984(a) of this title, or an institution of higher education in the case of activities described in section 3984(b) of this title, and each business concern or other party that is to participate in the program for which assistance is sought.

(Pub. L. 98–377, title III, §307, Aug. 11, 1984, 98 Stat. 1286; Pub. L. 99–159, title II, §231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, §6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted "part" for "subchapter".
1985—Pub. L. 99–159 substituted "Secretary" for "Foundation".

[1] So in original. Probably should be "for".

§3987. Approval of applications

(a) Criteria; consistency of applications with State plans

(1) The Secretary shall establish criteria for approval of applications under this part.
(2) No application may be approved by the Secretary unless the State educational agency or the State agency for higher education, as the case may be, determines that the application is consistent with State plans for elementary and secondary education or State plans for higher education, as the case may be, in the State.

(b) Procedures for equitable distribution of grants among States

The Secretary shall adopt approval procedures designed to assure that there is equitable distribution of grants among the States.

(Pub. L. 98–377, title III, §308, Aug. 11, 1984, 98 Stat. 1286; Pub. L. 99–159, title II, §231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, §6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–418 substituted "part" for "subchapter".
1985—Pub. L. 99–159 substituted "Secretary" for "Foundation" in pars. (1) and (2) of subsec. (a) and in subsec. (b).

§3988. Payments; Federal share; limitation

(a) Federal and non-Federal shares

(1) The Secretary shall pay, to each applicant having an application approved under section 3987 of this title, the Federal share of the cost of the program described in the application.
(2) The Federal share for each fiscal year shall be 50 per centum.
(3) The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Fiscal year State limitation

Not more than 15 per centum of the funds appropriated under this part in any fiscal year may be paid to applicants in any single State.

(Pub. L. 98–377, title III, §309, Aug. 11, 1984, 98 Stat. 1286; Pub. L. 99–159, title II, §231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, §6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsecs. (a)(3), (b). Pub. L. 100–418 substituted "part" for "subchapter".
1985—Subsec. (a)(1). Pub. L. 99–159 substituted "Secretary" for "Foundation".

PART B—ELEMENTARY AND SECONDARY EDUCATION PARTNERSHIPS

§3991. Purpose

It is the purpose of this part to supplement State and local resources to—

(1) improve the quality of instruction in the fields of mathematics and science in elementary and secondary schools;

(2) furnish additional resources and support for the acquisition of equipment, and instructional and reference materials and improvement of laboratory facilities in elementary and secondary schools; and

(3) encourage partnerships in science and mathematics education between the business community, museums, libraries, professional mathematics and scientific associations, private nonprofit organizations, appropriate State agencies and elementary and secondary schools.

(Pub. L. 98–377, title III, §321, as added Pub. L. 100–418, title VI, §6031(a)(2), Aug. 23, 1988, 102 Stat. 1479.)

CLUBS FOR BOYS AND GIRLS INTERESTED IN SCIENCE; AUTHORIZATION OF APPROPRIATIONS; PURPOSES; PERSONNEL AND FACILITIES

Pub. L. 85–875, Sept. 2, 1958, 72 Stat. 1700, provided: "That in order to strengthen future scientific accomplishment in our Nation by assisting in the development of a body of boys and girls with a special interest in science, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and for each fiscal year thereafter, such sums, not in excess of $50,000, as may be necessary to enable the Commissioner of Education [now Secretary of Education] to encourage, foster, and assist in the establishment in localities throughout the Nation of clubs which are composed of boys and girls who have an especial interest in science.

"SEC. 2. (a) The Commissioner of Education [now Secretary of Education] shall carry out his duties under the first section with a view to the ultimate chartering by the Congress of a Corporation, similar to the Future Farmers of America, which will seek to—

"(1) develop an interest in science on the part of the young people of America,

"(2) provide an opportunity for the exchange of scientific information and ideas among members of the clubs,

"(3) encourage the promotion of science fairs at which members of the clubs may display their scientific works and projects, and

"(4) develop an awareness of the satisfactions to be derived through a career devoted to science.

"(b) The Commissioner of Education [now Secretary of Education] may utilize any of the personnel and facilities of the Office of Education [now Department of Education] in carrying out this Act."

§3992. Programs authorized

(a) Grants

The Secretary may make grants to States to pay the Federal share of the cost of the programs described in section 3994 of this title.

(b) Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out this part [1] $20,000,000 for fiscal year 1988.

(Pub. L. 98–377, title III, §322, as added Pub. L. 100–418, title VI, §6031(a)(2), Aug. 23, 1988, 102 Stat. 1480.)

REFERENCES IN TEXT

This part, referred to in subsec. (b), was in the original "this chapter" and was translated as reading "this part" to reflect the probable intent of Congress because title III of Pub. L. 98–377, which comprises this subchapter, does not contain chapters.

[1] *See References in Text note below.*

§3993. Amendment to State application

(a) Application

A State shall be eligible to receive a grant under this part if—

(1) the State submits to the Secretary as part of its application under section 209 [1] such information and assurances as the Secretary may require at such time as the Secretary shall establish; and

(2) the Secretary approves such application.

(b) Application requirements

The Secretary shall require each application to include—

(1) a description of the State's procedures relating to the use of funds from grants received under this part, including the approval process for local applications;

(2) an assurance that not more than 1 percent of the amount received shall be used for administrative expenses; and

(3) an assurance that the State will, to the extent possible, assist local school districts in economically depressed areas to obtain matching funds from business concerns.

(Pub. L. 98–377, title III, §323, as added Pub. L. 100–418, title VI, §6031(a)(2), Aug. 23, 1988, 102 Stat. 1480.)

REFERENCES IN TEXT

Section 209, referred to in subsec. (a)(1), is section 209 of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1279, as amended, which was classified to section 3969 of this title prior to repeal by Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324.

[1] *See References in Text note below.*

§3994. Eligible programs

(a) In general

A State may use funds from grants received in any fiscal year under this part for elementary and secondary programs described in this section. The State educational agency shall administer such funds, which shall be awarded to such programs on a competitive basis.

(b) Use of funds

Funds from grants received under this part may be used for the following:

(1) Improvement of elementary and secondary resources

Such funds may be used for acquisition of equipment, instructional and reference materials, and partnership in education programs designed to—

(A) improve instruction in mathematics and science education at the elementary and secondary level;

(B) improve laboratory facilities, classroom and library resources in elementary and secondary mathematics and science education; and

(C) attract matching dollars and in kind contributions of equipment, learning resources or shared time from business concerns, libraries, museums, nonprofit private organizations, professional mathematics and scientific associations, and appropriate State agencies.

(2) Advanced placement programs

(A) Such funds may be used for advanced placement programs operated by local educational agencies that are designed to allow qualified secondary students to attend college preparatory schools, colleges, or universities on a part-time or full-time basis with respect to science and mathematics instruction.

(B) A local educational agency that receives funds from a grant under this part for an advanced placement program described in subparagraph (A) shall allocate to such program a percentage of funds received from the State on a per student basis according to—

(i) the number of students participating in the program; and

(ii) the instruction time such students receive under the program.

(Pub. L. 98–377, title III, §324, as added Pub. L. 100–418, title VI, §6031(a)(2), Aug. 23, 1988, 102 Stat. 1480.)

§3995. Local applications

(a) Eligibility

An applicant that desires to receive a grant under this part shall submit an application to the State educational agency, at such time, and in such manner, as the State may require. Such application may take the form of an amendment to an assessment submitted by the local educational agency under section 210,[1] if appropriate.

(b) Requirements for application

The State shall require each application to include—

(1) a description of the activities for which assistance under this part is sought;

(2) assurances that not more than 5 percent of the amount received by the applicant in any fiscal year shall be expended on administrative expenses;

(3) if the funds are to be used for improvement of elementary and secondary resources as described in subsection (b)(1) of this section—

(A) an estimate of the amount to be spent on equipment, facilities improvement, library resources, and classroom instructional material;

(B) an estimate of the number of elementary and secondary students who will be aided by activities and expenditures under the grant;

(C) assurances that—

(i) except as provided in subsection (c) of this section, a minimum of 25 percent of the funds for each project will be supplied by business concerns within the community;

(ii) no stipend shall be paid directly to employees of a profitmaking business concern;

(iii) provision shall be made for the equitable participation in the project of children who are enrolled in private elementary and secondary schools; and

(iv) consideration will be given to programs and activities designed to meet the needs of educationally disadvantaged and other traditionally underserved populations; and

(4) if the funds are to be used for advanced placement programs as described in subsection (b)(2) of this section, a commitment as to the percentage of funds received from the State on a per student basis that shall be used by the local educational agency to defray costs of the advanced placement program.

(c) Waiver

The State may waive or reduce the amount of matching funds required under subsection (b)(3)(C)(i) of this section if the State determines that—

(1) substantial need exists in the area served by the applicant for a grant under this part; and

(2) the required amount of matching funds cannot be made available.

(d) Joint applications

A regional consortium of applicants in 2 or more local school districts may file a joint application under subsection (a) of this section.

(Pub. L. 98–377, title III, §325, as added Pub. L. 100–418, title VI, §6031(a)(2), Aug. 23, 1988, 102 Stat. 1481.)

REFERENCES IN TEXT

Section 210, referred to in subsec. (a), is section 210 of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1280, as amended, which was classified to section 3970 of this title prior to repeal by Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324.

[1] *See References in Text note below.*

§3996. Submission of applications

An applicant within a State that desires to receive a grant under this part [1] shall submit an application prepared in accordance with section 3995 of this title to the State educational agency for approval. Each application with respect to funds for improvement of elementary and secondary resources under section 3994(b)(1) of this title shall be submitted jointly by the local educational agency and each business concern or other party that is to participate in the activities for which assistance is sought.

(Pub. L. 98–377, title III, §326, as added Pub. L. 100–418, title VI, §6031(a)(2), Aug. 23, 1988, 102 Stat. 1482.)

REFERENCES IN TEXT

This part, referred to in text, was in the original "this chapter" and was translated as reading "this part" to reflect the probable intent of Congress because title III of Pub. L. 98–377, which comprises this subchapter, does not contain chapters.

[1] *See References in Text note below.*

§3997. Approval of applications

(a) Criteria

The State shall establish criteria for approval of applications under this section. Such criteria shall include—

(1) consideration of the local district's need for, and inability to locally provide for, the activities, equipment, library and instructional materials requested;

(2) the number and nature of elementary and secondary students who will benefit from the planned program; and

(3) the expressed level of financial and in-kind commitment from other parties to the program.

(b) Approval procedures

The State shall adopt approval procedures designed to ensure that grants are equitably distributed among—

(1) rural, urban, and suburban areas; and

(2) small, medium, and large local educational agencies.

(Pub. L. 98–377, title III, §327, as added Pub. L. 100–418, title VI, §6031(a)(2), Aug. 23, 1988, 102 Stat. 1482.)

§3998. Computation of grant amounts

(a) Payments to grantees

(1) Payment by State

The State shall pay to the extent of amounts received by it from the Secretary under this part, to each applicant having an application approved under section 3997 of this title, the Federal share of the cost of the program described in the application.

(2) Amount

(A) Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 75 percent.

(B) In the case of an applicant that receives a waiver under section 3995(c) of this title, the Federal share for each fiscal year may be as much as 100 percent.

(3) Non-Federal share

The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Payments to States

Except as provided in subsection (c) of this section, each State shall receive under this part the greater of—

(1) an amount equal to its share of funds appropriated under chapter 1 of the Education Consolidation and Improvement Act; or

(2) $225,000.

(c) Reduction for insufficient funding

If sums appropriated to carry out this part are not sufficient to permit the Secretary to pay in full the grants which States may receive under subsection (b) of this section, the amount of such grants shall be ratably reduced.

(Pub. L. 98–377, title III, §328, as added Pub. L. 100–418, title VI, §6031(a)(2), Aug. 23, 1988, 102 Stat. 1482.)

REFERENCES IN TEXT

The Education Consolidation and Improvement Act, referred to in subsec. (b)(1), probably means the Education Consolidation and Improvement Act of 1981, which is subtitle D [§§551 to 596] of title V of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 463, as amended. Chapter 1 of the Act was classified generally to subchapter I (§3801 et seq.) of chapter 51 of this title, prior to repeal by Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293. For complete classification of this Act to the Code, see Tables.

SUBCHAPTER IV—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE

§§4001 to 4003. Repealed. Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324

Section 4001, Pub. L. 98–377, title IV, §401, Aug. 11, 1984, 98 Stat. 1287, related to Presidential awards.

Section 4002, Pub. L. 98–377, title IV, §402, Aug. 11, 1984, 98 Stat. 1287, related to administrative provisions.

Section 4003, Pub. L. 98–377, title IV, §403, Aug. 11, 1984, 98 Stat. 1287; Pub. L. 99–159, title II, §241, Nov. 22, 1985, 99 Stat. 901, related to authorization of appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER V—ASBESTOS SCHOOL HAZARD ABATEMENT

§4011. Findings and purpose

(a) Findings

The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentration far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for remedying hazardous conditions in schools;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without a program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this subchapter to mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) Purpose

It is the purpose of this subchapter to—

(1) direct the Administrator of the Environmental Protection Agency to establish a program to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos hazards in schools;

(3) provide financial assistance for the abatement of asbestos threats to the health and safety of school children or employees; and

(4) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

(Pub. L. 98–377, title V, §502, Aug. 11, 1984, 98 Stat. 1287; Pub. L. 101–637, §14(a)(2), (b)(1), (2), Nov. 28, 1990, 104 Stat. 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(2), made technical amendment to section catchline.

Subsecs. (a), (b). Pub. L. 101–637, §14(b)(1), (2), inserted headings.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–637, §1, Nov. 28, 1990, 104 Stat. 4589, provided that: "This Act [enacting section 2656 of Title 15, Commerce and Trade, amending this section, sections 4012 to 4022 of this title, and sections 2643, 2646, and 2647 of Title 15, enacting provisions set out as notes under this section and sections 2646 and 2656 of Title 15, and amending provisions set out as a note under this section] may be cited as the 'Asbestos School Hazard Abatement Reauthorization Act of 1990'."

SHORT TITLE

SPub. L. 98–377, title V, §501, Aug. 11, 1984, 98 Stat. 1287, as amended by Pub. L. 101–637, §14(a)(1), Nov. 28, 1990, 104 Stat. 4594, provided that: "This title [enacting this subchapter] may be cited as the 'Asbestos School Hazard Abatement Act of 1984'."

FINDINGS AND PURPOSES

Pub. L. 101–637, §2, Nov. 28, 1990, 104 Stat. 4589, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

"(2) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act [of 1986, see Short Title of 1986 Amendment note set out under section 2601 of Title 15, Commerce and Trade] to inspect for asbestos, develop an asbestos management plan, and implement such plan.

"(3) The Environmental Protection Agency has estimated it will cost local education agencies more than $3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

"(4) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies will be unable to carry out sufficient response actions to prevent the release of asbestos fibers into the air.

"(5) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impact in their educational mission.

"(6) The effective regulation of interstate commerce for the protection of human health and the environment requires the continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

"(b) PURPOSES.—The purposes of this Act [see Short Title of 1990 Amendment note above] are the following:

"(1) To direct the Environmental Protection Agency to maintain a program to assist local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

"(2) To provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

"(3) To provide financial assistance to State and local agencies for training of persons involved with inspections and abatement of asbestos, for conducting necessary reinspections of school buildings, and for the actual abatement of asbestos threats to the health and safety of school children or employees.

"(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools."

§4012. Asbestos hazard abatement program

(a) Abatement program

There is hereby established a program within the Environmental Protection Agency to be known as the Asbestos Hazards Abatement Program (hereinafter in this subchapter referred to as "Program").

(b) Duties

The duties of the Administrator in implementing and effectuating the Program shall include—

(1) the compilation of medical, scientific, and technical information including, but not limited to—

(A) the health and safety hazards associated with asbestos materials;

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers; and

(C) the means of abating the threat posed by asbestos and asbestos containing materials;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State and local educational agencies and to other institutions, including parent and employee organizations, for the purpose of carrying out activities described in this subchapter;

(3) not later than November 15 of each year for which this subchapter is authorized, the development and distribution of applications, or notifications to all local educational agencies of the availability of application forms including information for obtaining such forms; and

(4) the review of applications for financial assistance, and the approval or disapproval of such applications, in accordance with the provisions of section 4014 of this title.

(Pub. L. 98–377, title V, §503, Aug. 11, 1984, 98 Stat. 1288; Pub. L. 101–637, §§4, 14(a)(3), (b)(3), (4), Nov. 28, 1990, 104 Stat. 4590, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(3), made technical amendment to section catchline.

Subsec. (a). Pub. L. 101–637, §14(b)(3), inserted heading and struck out par. (1) designation before "There is hereby established".

Subsec. (b). Pub. L. 101–637, §14(b)(4), inserted heading.

Subsec. (b)(2). Pub. L. 101–637, §4(1), (2), substituted "educational agencies" for "agencies" and "institutions, including parent and employee organizations," for "institutions".

Subsec. (b)(3). Pub. L. 101–637, §4(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "the development within forty-five days of August 11, 1984, of an interim or final application form, which shall be distributed promptly to local educational agencies; and".

§4013. State records and priority lists

(a) Records

The Governor of each State shall maintain records on—

(1) the presence of asbestos materials in school buildings of local educational agencies;

(2) the asbestos detection and abatement activities and other response actions conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(3) repairs made to restore school buildings to conditions comparable to those which existed before the abatement activities referred to in paragraph (2) were undertaken.

(b) Priority list

(1) Each year, in accordance with procedures established by the Administrator, the Governor of

each State shall:

(A) submit to the Administrator a priority list of all schools under the authority of a local educational agency within the State, without regard to the public or private nature of the school involved, that are candidates for abatement activities and other response actions; and

(B) forward to the Administrator for each candidate for abatement activities and other response actions all applications for financial assistance prepared by the local educational agencies in accordance with the provisions of section 4014 of this title; and [1]

(2) The priority list shall rank the potential candidates for abatement action based on the nature and magnitude of the existing and potential exposure presented by the asbestos materials.

(3) For each school listed, the Governor shall certify that the statement of need contained in the application for assistance accurately reflects the financial resources available to the local educational agency for the asbestos abatement program.

(4) For the purpose of determining the adequacy of the financial resources available to a local educational agency for the abatement of asbestos threats the Governor shall, to the extent practicable, consider the following:

(A) A measure of financial need used by the State in which the local educational agency is located.

(B) The estimated per capita income of the locality of such agency or of those directly or indirectly providing financial support for such agency.

(C) The extent to which the local school millage rate falls above or below (i) the millage rate average of the State and (ii) the millage rate of other local educational agencies with comparable enrollment, per capita income, and resource base.

(D) The ratio, expressed as a percentage, of the estimated cost of the project to the total budget of the local educational agency.

(E) The borrowing capacity of the local educational agency.

(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.

(G) Any other factor that demonstrates that the local educational agency has limited financial resources.

(Pub. L. 98–377, title V, §504, Aug. 11, 1984, 98 Stat. 1289; Pub. L. 101–637, §§5, 14(a)(4), (b)(5), (6), Nov. 28, 1990, 104 Stat. 4590, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(4), substituted "State records and priority lists" for "State plans" in section catchline.

Subsec. (a). Pub. L. 101–637, §§5(a)(1), 14(b)(5), inserted heading and substituted "The Governor of each State shall maintain records on" for "Not later than three months after August 11, 1984, the Governor of each State shall submit to the Administrator a plan which describes the procedures to be used by the State for maintaining records on" in introductory provisions.

Subsec. (a)(2). Pub. L. 101–637, §5(a)(2), (3), inserted "and other response actions" after "abatement activities" and inserted "and" after semicolon at end.

Subsec. (a)(3). Pub. L. 101–637, §5(a)(4), substituted "paragraph (2)" for "subparagraph (B)".

Subsec. (b). Pub. L. 101–637, §14(b)(6)(A), inserted heading.

Subsec. (b)(1). Pub. L. 101–637, §5(b)(1), substituted "Each year, in accordance with procedures established by the Administrator," for "Not later than six months after August 11, 1984, and annually thereafter," in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 101–637, §§5(b)(2), (3), 14(b)(6)(B), substituted "abatement activities and other response actions" for "abatement", struck out "and the Secretary of the Department of Education" after "submit to the Administrator", and inserted "and" after semicolon at end.

Subsec. (b)(1)(B). Pub. L. 101–637, §§5(b)(2), 14(b)(6)(B), (C), substituted "abatement activities and other response actions" for "abatement", struck out "section 4012(b)(3) of this title and" before "section 4014", and struck out "and the Secretary of the Department of Education" after "forward to the Administrator".

Subsec. (b)(1)(C). Pub. L. 101–637, §5(b)(4), struck out subpar. (C) which read as follows: "forward to the Secretary of the Department of Education a copy of all information submitted to the Administrator in

accordance with subsection (b)(3) of this section."

Subsec. (b)(4)(C). Pub. L. 101–637, §14(b)(6)(D), inserted a comma after "per capita income".

Subsec. (b)(4)(F), (G). Pub. L. 101–637, §5(c), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (c). Pub. L. 101–637, §5(d), struck out subsec. (c) which read as follows: "Not later than nine months after the submission of the plan described in subsection (a) of this section, and each twelve months thereafter, the Governor shall submit to the Administrator a report which describes the actions taken by the State in accordance with its plan under such subsection."

[1] *So in original. Probably should end with a period instead of "; and".*

§4014. Financial assistance

(a) Assistance Program

There is hereby established within the Environmental Protection Agency an Asbestos Hazards Abatement Assistance Program (hereinafter in this chapter referred to as the "Assistance Program"), which shall be administered in accordance with this section.

(b) Application submission

(1) Applications for financial assistance shall be submitted by a local educational agency to the Governor, or the Governor's designee, who shall establish a priority list based on the criteria of section 4013(b)(2) of this title.

(2) Pursuant to section 4013 of this title, the Governor shall submit applications, together with the Governor's report and priority list, to the Administrator who shall review and rank such applications pursuant to subsection (c)(2) of this section and propose financing pursuant to the criteria of section 4013(b)(4) of this title. The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year.

(c) Review of application

(1) The Administrator shall provide financial assistance on a school-by-school basis to local educational agencies in accordance with other provisions of this section to carry out projects for—

(A) abating the threat posed by materials containing asbestos to the health and safety of children or employees;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring school buildings to conditions comparable to those existing before abatement activities were undertaken pursuant to this section.

(2) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the abatement program by the Governor pursuant to section 4013(b)(2) of this title; and

(B)(i) the likelihood of release of asbestos fibers into a school environment;

(ii) any other evidence of the risk caused by the presence of asbestos including, but not limited to, situations in which there is a substantial quantity of dry loose asbestos-containing material on horizontal surfaces or asbestos-containing material is substantially deteriorated or damaged, and there is asbestos-containing material in an air plenum or in a high traffic area, confined space, or within easy reach of a passerby;

(iii) the extent to which the corrective action proposed by the applicant will reduce the exposure of school children and school employees; and

(iv) the extent to which the corrective action proposed by the applicant uses the least burdensome methods which protect human health and the environment.

(3) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title.

(d) Limitation

In no event shall financial assistance be provided under this subchapter to an applicant if—

(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

(e) Amount of loan or grant

(1) An applicant for financial assistance may be granted a loan of up to 100 percent of the costs of an abatement program or, if the Administrator determines the applicant is unable to undertake and complete an asbestos materials abatement program with a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed 50 percent of the total costs of abatement, in the amount which the Administrator deems necessary.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the abatement program with loan funds.

(f) Loan agreement

Loans under this section shall be made pursuant to agreements which shall provide for the following:

(1) the loan shall not bear interest;

(2) the loan shall have a maturity period of not more than twenty years (as determined by the Administrator) and shall be repayable during such period at such times and in such amounts as the Administrator may specify in the loan agreement;

(3) repayment shall be made to the Secretary of the Treasury for deposit in the Asbestos Trust Fund established by section 4022 of this title; and

(4) such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g) Application requirements

(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator in accordance with such procedures as may be developed by the Administrator.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

(i) the nature and extent of the asbestos problem for which the assistance is sought;

(ii) the asbestos content of the material to be abated;

(iii) the methods which will be used to abate the asbestos materials;

(iv) the amount and type of financial assistance requested;

(v) a description of the financial resources of the local educational agency; and

(vi) a justification for the type and amount of the financial assistance requested.

(B) the application contains a certification that—

(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;

(C) the application contains assurances that the local educational agency will furnish such

information as is necessary for the Administrator to make the report required by section 4016 of this title.

(3) No financial assistance may be provided by the Administrator under this section for projects described in subsection (a)(2) of this section on which abatement action was completed prior to January 1, 1984.

(4) Except as provided in section 4021(b)(1) of this title, in approving applications the Administrator shall provide assistance to the local educational agencies having the highest priority among applications being considered in order of ranking until the appropriated funds are expended.

(Pub. L. 98–377, title V, §505, Aug. 11, 1984, 98 Stat. 1290; Pub. L. 99–519, §3(a), Oct. 22, 1986, 100 Stat. 2988; Pub. L. 100–368, §6(b), July 18, 1988, 102 Stat. 833; Pub. L. 101–637, §§6, 14(a)(5), (b)(7), (c)(1)–(4), Nov. 28, 1990, 104 Stat. 4591, 4594–4596.)

REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsecs. (d)(2) and (g)(2)(B), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, as amended. Title II of the Act, as added by Pub. L. 99–519, §2, Oct. 22, 1986, 100 Stat. 2970, is classified generally to subchapter II (§2641 et seq.) of chapter 53 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(5), made technical amendment to section catchline.

Subsec. (a). Pub. L. 101–637, §14(b)(7)(A), inserted heading.

Subsec. (b). Pub. L. 101–637, §14(b)(7)(B), inserted heading.

Subsec. (b)(1). Pub. L. 101–637, §14(c)(1), struck out comma after "educational agency".

Subsec. (b)(2). Pub. L. 101–637, §6(a)(1), (2), substituted "the Governor shall submit applications," for "applications shall be submitted," and inserted "The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year."

Subsec. (b)(3). Pub. L. 101–637, §6(a)(3), struck out par. (3) which read as follows: "Within sixty days of receipt of the information described in section 4013(b)(1) of this title, the Secretary of the Department of Education shall review such information and, in the Secretary's discretion, provide to the Administrator comments and recommendations based upon the needs of local educational agencies for financial assistance. Within sixty days of receipt of the Secretary's report, or expiration of the time allowed for such report, the Administrator shall approve or disapprove applications for financial assistance."

Subsec. (c). Pub. L. 101–637, §14(b)(7)(C), inserted heading.

Subsec. (c)(2)(A). Pub. L. 101–637, §14(c)(2)(A), inserted "and" after semicolon at end.

Subsec. (c)(2)(B)(ii). Pub. L. 101–637, §14(c)(2)(B), inserted a comma after "confined space".

Subsec. (c)(2)(B)(iv). Pub. L. 101–637, §14(c)(2)(B), which directed the insertion of a comma after "techniques", could not be executed because of the intervening amendment by Pub. L. 101–637, §6(b). See below.

Pub. L. 101–637, §6(b), substituted "uses the least burdensome methods which protect human health and the environment" for "is cost-effective compared to other techniques including management of material containing asbestos".

Subsec. (c)(3). Pub. L. 101–637, §6(c), substituted "shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title." for "shall consider—

"(A) the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title; and

"(B) the report, if any, of the Secretary of Education pursuant to section 4013(b)(5) of this title."

Subsec. (d). Pub. L. 101–637, §6(d), inserted heading and amended text generally. Prior to amendment, text read as follows: "In no event shall financial assistance be provided under this subchapter to an applicant if the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program. In making such a determination, the Administrator may consult with the Secretary of Education."

Subsec. (e). Pub. L. 101–637, §14(b)(7)(D), inserted heading.

Subsec. (e)(1). Pub. L. 101–637, §14(c)(3), substituted "percent" for "per centum" in two places.

Subsec. (f). Pub. L. 101–637, §14(b)(7)(E), inserted heading.

Subsec. (f)(3). Pub. L. 101–637, §6(e), substituted "for deposit in the Asbestos Trust Fund established by

section 4022 of this title" for "for deposit in the general fund".

Subsec. (g). Pub. L. 101–637, §14(b)(7)(F), inserted heading.

Subsec. (g)(1). Pub. L. 101–637, §6(f)(1), substituted "in accordance with such procedures as may be developed by the Administrator" for "within the five-year period beginning on August 11, 1984".

Subsec. (g)(2)(B)(i), (ii). Pub. L. 101–637, §6(f)(2), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

"(i) any employee engaged in an asbestos material abatement program will be trained and equipped pursuant to section 4015(b)(2)(B) of this title; and

"(ii) no child or inadequately informed or protected school employee will be permitted in the vicinity of any asbestos abatement activity;".

Subsec. (g)(3), (4). Pub. L. 101–637, §§6(f)(3), 14(c)(4), redesignated subpar. (B) appearing after par. (3) as par. (4), inserted a comma after "section 4021(b)(1) of this title", and struck out former par. (4) which read as follows:

"(A) No financial assistance may be provided under this section to any school—

"(i) which uses any person who has not been accredited pursuant to section 2646(b) or (c) of title 15, to carry out activities described in section 2646(a) of title 15, or

"(ii) which uses any laboratory which has not been accredited pursuant to section 2646(d) of title 15, to carry out activities described in such section.

"(B) This paragraph shall apply to any financial assistance provided under this section after October 22, 1986, for activities performed after the following dates:

"(i) In the case of activities performed by persons, after the date which is one year after October 22, 1986.

"(ii) In the case of activities performed by laboratories, after the date which is 180 days after the date on which a laboratory accreditation program is completed under section 2646(d) of title 15."

1988—Subsec. (g)(4)(B)(i). Pub. L. 100–368, §6(b)(1), substituted reference to October 22, 1986, for reference to August 11, 1984.

Subsec. (g)(4)(B)(ii). Pub. L. 100–368, §6(b)(2), substituted "section 2646(d) of title 15" for "subsection (d)".

1986—Subsec. (g)(4). Pub. L. 99–519 added par. (4).

FINANCIAL ASSISTANCE TO CARRY OUT INSPECTIONS FOR ASBESTOS-CONTAINING MATERIAL

Pub. L. 99–519, §4(b), Oct. 22, 1986, 100 Stat. 2989, provided that:

"(1) Notwithstanding section 505(c) of the Asbestos School Hazard Abatement Act of 1984 [20 U.S.C. 4014(c)], for fiscal years 1988 and 1989 the Administrator shall provide financial assistance under section 505 of such Act in the form of grants to States or local educational agencies to carry out inspections for asbestos-containing material in school buildings and preparation of management plans for school buildings under this title [probably means title II of the Toxic Substances Control Act, 15 U.S.C. 2641 et seq.].

"(2) Not more than 2 percent of any grant awarded to a State pursuant to paragraph (1) may be used by the State for administrative purposes. For purposes of the preceding sentence, administrative purposes do not include salaries of persons who inspect for asbestos-containing material or assist in the preparation of management plans.

"(3) In determining which local educational agencies to approve grants for, the Administrator shall take into account the financial need of the agency. Of the amount available under the Asbestos School Hazard Abatement Act of 1984 [20 U.S.C. 4011 et seq.] for fiscal years 1988 and 1989, not more than 10 percent may be obligated for the purposes described in this subsection."

§4015. Administrative provisions

(a) Regulations

The Administrator shall promulgate rules and regulations as necessary to implement the authorities and requirements of this subchapter.

(b) Procedures

The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 4014 of this title, for—

(1) abating asbestos materials in school buildings;

(2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

(c) Relationship to other laws

Nothing contained in this subchapter shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.

(d) Other authority

In order to effectuate the purposes of this subchapter, the Administrator may also adopt such other procedures, standards, and regulations as the Administrator deems necessary, including—

(1) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(2) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(3) periodic reporting with respect to the activities that have taken place using funds loaned or granted under this subchapter.

(Pub. L. 98–377, title V, §506, Aug. 11, 1984, 98 Stat. 1292; Pub. L. 101–637, §§7, 14(a)(6), (b)(8), (9), Nov. 28, 1990, 104 Stat. 4592, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637 inserted section catchline.

Subsec. (a). Pub. L. 101–637, §14(b)(8), inserted heading.

Subsec. (b). Pub. L. 101–637, §7(2), added subsec. (b) and struck out former subsec. (b) which read as follows: "The Administrator shall also establish—

"(1) procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 4014 of this title for—

"(A) abating asbestos materials in school buildings;

"(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

"(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

"(2) within ninety days, standards for determining—

"(A) which contractors are qualified to carry out the activities referred to in paragraph (1), and

"(B) what training, equipment, protective clothing and other information and material must be supplied to adequately advise and protect school employees utilized to carry out the activities in paragraph (1).

"(3) nothing contained in this subchapter shall be construed, interpreted or applied to diminish in any way the level of protection required under State or Federal worker protection laws."

Subsec. (c). Pub. L. 101–637, §7(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 101–637, §§7(1), 14(b)(9), redesignated subsec. (c) as (d), inserted heading, and inserted a comma after "standards" in introductory provisions.

§4016. Annual report

During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report on the loan and grant program authorized by section 4014 of this title.

(1) describe the number of applications received;

(2) describe the number of loans and grants made in the preceding calendar year and specify each applicant for and recipient of a loan or grant;

(3) specify the number of loan or grant applications which were disapproved during the

preceding calendar year and describe the reasons for such disapprovals;

(4) describe the types of programs for which loans or grants were made;

(5) specify the estimated total costs of such programs to the recipients of loans or grants and specify the amount of loans or grants made under the program authorized by this section; and

(6) estimate the number of schools still in need of assistance and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards.

(Pub. L. 98–377, title V, §507, Aug. 11, 1984, 98 Stat. 1293; Pub. L. 101–637, §§8, 14(a)(7), Nov. 28, 1990, 104 Stat. 4592, 4594.)

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(7), made technical amendment to section catchline.

Pub. L. 101–637, §8(a), amended first sentence generally. Prior to amendment, first sentence read as follows: "During each of the ten calendar years after 1984, the Administrator shall prepare and submit not later than February 1 of each year a report to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives on the loan and grant program authorized by section 4014 of this title."

Par. (6). Pub. L. 101–637, §8(b), inserted before period at end "and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards".

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§4017. Recovery of costs

(a) Loan condition

(1) As a condition of the award of any financial assistance under section 4014 of this title, the recipient of any such loan or grant shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such section.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from a judgment recovered by the recipient in such suit) shall be used to repay to the United States, by deposit in the Asbestos Trust Fund established by section 4022 of this title, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount (i) outstanding on any loan and (ii) of any grant made to the recipient; and

(B) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Administrator).

(b) Expeditious recovery

The Attorney General shall, where appropriate, proceed in an expeditious manner to recover the amounts expended by the United States to carry out this subchapter from the persons identified by the Attorney General as being liable for such costs.

(Pub. L. 98–377, title V, §508, Aug. 11, 1984, 98 Stat. 1293; Pub. L. 101–637, §§9, 14(a)(8), (b)(10), (11), (c)(5), Nov. 28, 1990, 104 Stat. 4592, 4594–4596.)

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(8), inserted section catchline.

Subsec. (a). Pub. L. 101–637, §14(b)(10), inserted heading.

Subsec. (a)(1). Pub. L. 101–637, §14(c)(5), substituted "section" for "sections" after "such".

Subsec. (a)(2). Pub. L. 101–637, §9, inserted "by deposit in the Asbestos Trust Fund established by section

4022 of this title," after "repay to the United States,".
Subsec. (b). Pub. L. 101–637, §14(b)(11), inserted heading.

§4018. Employee protection

No State or local educational agency receiving assistance under this subchapter may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

(Pub. L. 98–377, title V, §509, Aug. 11, 1984, 98 Stat. 1294; Pub. L. 101–637, §14(a)(9), Nov. 28, 1990, 104 Stat. 4594.)

AMENDMENTS

1990—Pub. L. 101–637 inserted section catchline.

§4019. Affect on rights under other laws

Except as otherwise provided in section 4017 of this title, nothing in this subchapter shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

(Pub. L. 98–377, title V, §510, Aug. 11, 1984, 98 Stat. 1294; Pub. L. 101–637, §14(a)(10), Nov. 28, 1990, 104 Stat. 4594.)

AMENDMENTS

1990—Pub. L. 101–637 inserted section catchline.

§4020. Definitions

For purposes of this subchapter:

(1) The term "asbestos" means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite.

(2) The term "Attorney General" means the Attorney General of the United States.

(3) The term "threat" or "hazard" means that an asbestos material is friable or easily damaged, or within reach of students or employees or otherwise susceptible to damage (including damage from water, vibration, or air circulation) which could result in the dispersal of asbestos fibers into the school environment.

(4) The term "local educational agency" means—

(A) any local educational agency as defined in section 7801 of this title; and

(B) the governing authority of any nonprofit elementary or secondary school.

(5) The term "nonprofit elementary or secondary school" means—

(A) any elementary school or secondary school as defined in section 7801 of this title owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) any school of any agency of the United States.

(6) The term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph.

(7) The term "Administrator" means the Administrator of the Environmental Protection Agency, or the Administrator's designee.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Bureau of Indian Affairs.

(9) The term "response action" has the meaning given such term by section 2642(11) of title 15.

(Pub. L. 98–377, title V, §511, Aug. 11, 1984, 98 Stat. 1294; Pub. L. 101–637, §§10, 14(a)(11), (c)(6), Nov. 28, 1990, 104 Stat. 4592, 4594, 4596; Pub. L. 103–382, title III, §394(c), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 107–110, title X, §1076(l)(2), Jan. 8, 2002, 115 Stat. 2092; Pub. L. 114–95, title IX, §9215(dd)(2), Dec. 10, 2015, 129 Stat. 2173.)

AMENDMENTS

2015—Par. (4)(A). Pub. L. 114–95, §9215(dd)(2)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: "any local educational agency as defined in section 7801 of this title; and".

Par. (5)(A). Pub. L. 114–95, §9215(dd)(2)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: "any elementary or secondary school as defined in section 7801 of this title owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and".

2002—Par. (4)(A). Pub. L. 107–110, §1076(l)(2)(A), which directed amendment of subpar. (A) by substituting in the original "9101" for "198(a)(10)", was executed by substituting "section 7801 of this title" for "section 8801 of this title", to reflect the probable intent of Congress and prior amendment by Pub. L. 103–382, §394(c)(1), which had substituted "14101" for "198(a)(10)" in the original. See 1994 Amendment note below.

Par. (5)(A). Pub. L. 107–110, §1076(l)(2)(B), which directed amendment of subpar. (A) by substituting in the original "9101" for "198(a)(7)", was executed by substituting "section 7801 of this title" for "section 8801 of this title", to reflect the probable intent of Congress and prior amendment by Pub. L. 103–382, §394(c)(2), which had substituted "14101" for "198(a)(7)" in the original. See 1994 Amendment note below.

1994—Par. (4)(A). Pub. L. 103–382, §394(c)(1), substituted "section 8801 of this title" for "section 198(a)(10) of the Elementary and Secondary Education Act of 1965".

Par. (5)(A). Pub. L. 103–382, §394(c)(2), substituted "section 8801 of this title" for "section 198(a)(7) of the Elementary and Secondary Education Act of 1965".

1990—Pub. L. 101–637, §14(a)(11), (c)(6)(A), inserted section catchline and substituted "this subchapter:" for "this subchapter—".

Pars. (1), (2). Pub. L. 101–637, §14(c)(6)(B), (C), substituted "The" for "the" at beginning and a period for semicolon at end.

Par. (3). Pub. L. 101–637, §§10(1), 14(c)(6)(B)–(D), substituted "The" for "the" at beginning and a period for semicolon at end, struck out "each" before "reach of students", and inserted ", vibration," after "damage from water".

Par. (4). Pub. L. 101–637, §14(c)(6)(B), (C), substituted "The" for "the" at beginning and a period for semicolon at end.

Par. (5). Pub. L. 101–637, §14(c)(6)(E), which directed the insertion of "secondary" before "school", was executed by making the insertion in the introductory provisions to reflect the probable intent of Congress.

Pub. L. 101–637, §14(c)(6)(B), (C), substituted "The" for "the" at beginning and a period for semicolon at end.

Pars. (6), (7). Pub. L. 101–637, §14(c)(6)(B), (C), substituted "The" for "the" at beginning and a period for semicolon at end.

Par. (8). Pub. L. 101–637, §14(c)(6)(B), substituted "The" for "the" at beginning.
Par. (9). Pub. L. 101–637, §10(2), added par. (9).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§4021. Authorization

(a) Amount; availability until expended

(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 4022 of this title such sums as are contained in such trust fund in each of such fiscal years.

(2) The sums appropriated under this subchapter shall remain available until expended.

(b) Minimum State amount; fiscal year obligation requirement; reserved funds for administration and asbestos abatement oriented program expenditures; appropriations out of Asbestos Trust Fund

(1) A State with qualified applicants shall receive no less than one-half of 1 per centum of the sums appropriated under this subchapter or the total of the amounts requested by such applicants, whichever is less. Those amounts available in each fiscal year under this paragraph shall be obligated before the end of that fiscal year. For the purposes of this paragraph the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Bureau of Indian Affairs and, taken together, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Of those sums appropriated for the implementation of this subchapter, not more than 5 percent may be reserved during each fiscal year for the administration of this subchapter and for programs including (but not limited to) the following:

(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the determination of proper abatement programs.

(C) The development of rules and regulations regarding inspection, reporting, and recordkeeping.

(D) The development of a comprehensive testing and technical assistance program.

(3) Of those sums appropriated for any fiscal year for the implementation of this subchapter, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.

(Pub. L. 98–377, title V, §512, Aug. 11, 1984, 98 Stat. 1295; Pub. L. 99–519, §4(a), Oct. 22, 1986, 100 Stat. 2989; Pub. L. 100–368, §6(a), July 18, 1988, 102 Stat. 833; Pub. L. 101–637, §§11, 14(a)(12), Nov. 28, 1990, 104 Stat. 4592, 4595.)

REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsec. (b)(2)(A), (3)(A), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, as amended. Title II of the Act, as added by Pub. L. 99–519, §2, Oct. 22, 1986, 100 Stat. 2970, is classified generally to subchapter II (§2641 et seq.) of chapter 53 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(12), inserted section catchline.

Subsec. (a)(1). Pub. L. 101–637, §11(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "There are hereby authorized to be appropriated for the asbestos abatement program not more than $50,000,000 for the fiscal year ending on September 30, 1984, $50,000,000 for the fiscal year ending on September 30, 1985, and $100,000,000 for each of the five succeeding fiscal years. In addition, for such purposes there are authorized to be appropriated out of the Asbestos Trust Fund established by section 4022 of this title $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990."

Subsec. (b)(2). Pub. L. 101–637, §11(b), added par. (2) and struck out former par. (2) which read as follows: "Of those sums appropriated for the implementation of this subchapter, up to 10 per centum shall be reserved during the fiscal year ending September 30, 1984, and up to 5 per centum for the fiscal year ending September 30, 1985, for the administration of this subchapter and for programs including, but not limited to, the following:

"(A) the establishment of a training center for contractors, engineers, school employees, parents and other personnel to provide instruction on asbestos assessment and abatement;

"(B) the development and dissemination of abatement guidance documents to assist in evaluation of potential hazards, and the determination of proper abatement programs;

"(C) the development of rules and regulations regarding inspection, reporting and record-keeping; and

"(D) the development of a comprehensive testing and technical assistance program."

Subsec. (b)(3). Pub. L. 101–637, §11(b), added par. (3).

1988—Pub. L. 100–368 moved last sentence (as added by Pub. L. 98–377) to end of subsec. (a)(1).

1986—Pub. L. 99–519 inserted sentence at end authorizing appropriations out of the Asbestos Trust Fund for years 1987, 1988, 1989, and 1990.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§4022. Asbestos Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the "Asbestos Trust Fund", consisting of such amounts as may be transferred or credited to such Trust Fund as provided in this section.

(b) Transfers to Trust Fund

(1) Transfer

There are hereby transferred to the Asbestos Trust Fund amounts equivalent to—

(A) amounts received in the Treasury on or after January 1, 1987, as repayments of loans made under section 4014 of this title,

(B) amounts received as deposits from local educational agencies under section 2647(a) of title 15, and

(C) amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 4017(a)(1) of this title.

(2) Monthly transfers

The amounts transferred by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Asbestos Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were more or less than the amounts required to be transferred.

(c) Management of Trust Fund

(1) Investment

(A) In general

The Secretary of the Treasury shall invest such portion of the Asbestos Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States and may be acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) Sale of obligations

Any obligation acquired by the Asbestos Trust Fund may be sold by the Secretary of the Treasury at the market price.

(C) Interest on certain proceeds

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Asbestos Trust Fund shall be credited to and form a part of the Trust Fund.

(2) Repealed. Pub. L. 104–66, title I, §1131(c), Dec. 21, 1995, 109 Stat. 725

(d) Expenditures from Asbestos Trust Fund

Amounts in the Asbestos Trust Fund shall be available, as provided by appropriation Acts, only for purposes of carrying out the Asbestos Hazards Abatement Assistance Program under section 4014 of this title.

(e) Authority to borrow

(1) In general

There are authorized to be appropriated to the Asbestos Trust Fund, as repayable advances, $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

(2) Repayment of advances

(A) In general

Advances made under this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Asbestos Trust Fund.

(B) Rate of interest

Interest on advances made under this subsection shall be at a rate determined by the Secretary (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(f) Effective date

The amendments made by this section shall take effect on January 1, 1986.

(Pub. L. 99–519, §5, Oct. 22, 1986, 100 Stat. 2990; Pub. L. 101–637, §12, Nov. 28, 1990, 104 Stat. 4593; Pub. L. 104–66, title I, §1131(c), Dec. 21, 1995, 109 Stat. 725.)

CODIFICATION

Section was enacted as part of the Asbestos Hazard Emergency Response Act of 1986, and not as part of the Asbestos School Hazard Abatement Act of 1984 which comprises this subchapter nor as part of the Education for Economic Security Act which comprises this chapter.

AMENDMENTS

1995—Subsec. (c)(2). Pub. L. 104–66 struck out heading and text of par. (2). Text read as follows: "It shall be the duty of the Secretary of the Treasury to hold the Asbestos Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years."

1990—Subsec. (b)(1). Pub. L. 101–637, §12(a), substituted a comma for "as in effect on October 22, 1986, and" in subpar. (A) and ", and" for period at end of subpar. (B), and added subpar. (C).

Subsec. (d). Pub. L. 101–637, §12(b), struck out before period at end "as in effect on October 22, 1986".

SUBCHAPTER VI—EXCELLENCE IN EDUCATION PROGRAM

§§4031 to 4037. Repealed. Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324

Section 4031, Pub. L. 98–377, title VI, §602, Aug. 11, 1984, 98 Stat. 1295, related to statement of purpose.

Section 4032, Pub. L. 98–377, title VI, §603, Aug. 11, 1984, 98 Stat. 1296, related to definitions.

Section 4033, Pub. L. 98–377, title VI, §604, Aug. 11, 1984, 98 Stat. 1296; Pub. L. 99–159, title II, §251, Nov. 22, 1985, 99 Stat. 901; Pub. L. 99–425, title VII, §701, Sept. 30, 1986, 100 Stat. 977, related to school excellence awards.

Section 4034, Pub. L. 98–377, title VI, §605, Aug. 11, 1984, 98 Stat. 1296, related to selection of schools for awards.

Section 4035, Pub. L. 98–377, title VI, §606, Aug. 11, 1984, 98 Stat. 1298, related to amount and conditions of awards.

Section 4036, Pub. L. 98–377, title VI, §607, Aug. 11, 1984, 98 Stat. 1298, related to special school awards.

Section 4037, Pub. L. 98–377, title VI, §608, Aug. 11, 1984, 98 Stat. 1298, related to research, evaluation, dissemination, and monitoring activities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SHORT TITLE

Pub. L. 98–377, title VI, §601, Aug. 11, 1984, 98 Stat. 1295, which provided that title VI of Pub. L. 98–377 was to be cited as the "Excellence in Education Act", was repealed by Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324.

SUBCHAPTER VII—MAGNET SCHOOLS ASSISTANCE

§§4051 to 4062. Repealed. Pub. L. 100–297, title II, §2303, Apr. 28, 1988, 102 Stat. 324

Section 4051, Pub. L. 98–377, title VII, §701, Aug. 11, 1984, 98 Stat. 1299; Pub. L. 99–159, title II, §261, Nov. 22, 1985, 99 Stat. 901, related to authorization of appropriations.

Section 4052, Pub. L. 98–377, title VII, §702, Aug. 11, 1984, 98 Stat. 1299, related to eligibility requirements.

Section 4053, Pub. L. 98–377, title VII, §703, Aug. 11, 1984, 98 Stat. 1299; Pub. L. 99–159, title II, §262,

Nov. 22, 1985, 99 Stat. 901, related to statement of purpose.

Section 4054, Pub. L. 98–377, title VII, §704, Aug. 11, 1984, 98 Stat. 1299, related to program authorization.

Section 4055, Pub. L. 98–377, title VII, §705, Aug. 11, 1984, 98 Stat. 1300, defined term "magnet school".

Section 4056, Pub. L. 98–377, title VII, §706, Aug. 11, 1984, 98 Stat. 1300; Pub. L. 99–159, title II, §263, Nov. 22, 1985, 99 Stat. 902, related to uses of funds.

Section 4057, Pub. L. 98–377, title VII, §707, Aug. 11, 1984, 98 Stat. 1300, related to applications and requirements.

Section 4058, Pub. L. 98–377, title VII, §708, Aug. 11, 1984, 98 Stat. 1301, related to special considerations in approving applications.

Section 4059, Pub. L. 98–377, title VII, §709, Aug. 11, 1984, 98 Stat. 1301; Pub. L. 99–159, title II, §264, Nov. 22, 1985, 99 Stat. 902, related to prohibitions on use of grants.

Section 4060, Pub. L. 98–377, title VII, §710, Aug. 11, 1984, 98 Stat. 1301, related to limitation on payments.

Section 4061, Pub. L. 98–377, title VII, §711, Aug. 11, 1984, 98 Stat. 1301; Pub. L. 98–558, title VII, §702, Oct. 30, 1984, 98 Stat. 2900, related to payments.

Section 4062, Pub. L. 98–377, title VII, §712, Aug. 11, 1984, 98 Stat. 1302, related to withholding.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER VIII—EQUAL ACCESS

§4071. Denial of equal access prohibited

(a) Restriction of limited open forum on basis of religious, political, philosophical, or other speech content prohibited

It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

(b) "Limited open forum" defined

A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time.

(c) Fair opportunity criteria

Schools shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that—

(1) the meeting is voluntary and student-initiated;

(2) there is no sponsorship of the meeting by the school, the government, or its agents or employees;

(3) employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;

(4) the meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and

(5) nonschool persons may not direct, conduct, control, or regularly attend activities of student groups.

(d) Construction of subchapter with respect to certain rights

Nothing in this subchapter shall be construed to authorize the United States or any State or

political subdivision thereof—

(1) to influence the form or content of any prayer or other religious activity;

(2) to require any person to participate in prayer or other religious activity;

(3) to expend public funds beyond the incidental cost of providing the space for student-initiated meetings;

(4) to compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;

(5) to sanction meetings that are otherwise unlawful;

(6) to limit the rights of groups of students which are not of a specified numerical size; or

(7) to abridge the constitutional rights of any person.

(e) Federal financial assistance to schools unaffected

Notwithstanding the availability of any other remedy under the Constitution or the laws of the United States, nothing in this subchapter shall be construed to authorize the United States to deny or withhold Federal financial assistance to any school.

(f) Authority of schools with respect to order, discipline, well-being, and attendance concerns

Nothing in this subchapter shall be construed to limit the authority of the school, its agents or employees, to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.

(Pub. L. 98–377, title VIII, §802, Aug. 11, 1984, 98 Stat. 1302.)

SHORT TITLE

Pub. L. 98–377, title VIII, §801, Aug. 11, 1984, 98 Stat. 1302, provided that: "This title [enacting this subchapter] may be cited as 'The Equal Access Act'."

§4072. Definitions

As used in this subchapter—

(1) The term "secondary school" means a public school which provides secondary education as determined by State law.

(2) The term "sponsorship" includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

(3) The term "meeting" includes those activities of student groups which are permitted under a school's limited open forum and are not directly related to the school curriculum.

(4) The term "noninstructional time" means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

(Pub. L. 98–377, title VIII, §803, Aug. 11, 1984, 98 Stat. 1303.)

§4073. Severability

If any provision of this subchapter or the application thereof to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the subchapter and the application to other persons or circumstances shall not be affected thereby.

(Pub. L. 98–377, title VIII, §804, Aug. 11, 1984, 98 Stat. 1304.)

§4074. Construction

The provisions of this subchapter shall supersede all other provisions of Federal law that are inconsistent with the provisions of this subchapter.

(Pub. L. 98–377, title VIII, §805, Aug. 11, 1984, 98 Stat. 1304.)

SUBCHAPTER IX—STAR SCHOOLS PROGRAM

§§4081 to 4086. Repealed. Pub. L. 103–382, title III, §364, Oct. 20, 1994, 108 Stat. 3975

Section 4081, Pub. L. 98–377, title IX, §902, as added Pub. L. 100–297, title II, §2302, Apr. 28, 1988, 102 Stat. 320; amended Pub. L. 102–103, title III, §301, Aug. 17, 1991, 105 Stat. 499, related to purpose of star schools program.

Section 4082, Pub. L. 98–377, title IX, §903, as added Pub. L. 100–297, title II, §2302, Apr. 28, 1988, 102 Stat. 320; amended Pub. L. 102–103, title III, §302, Aug. 17, 1991, 105 Stat. 499, authorized grants for telecommunications facilities and equipment, instructional programming, and technical assistance.

Section 4083, Pub. L. 98–377, title IX, §904, as added Pub. L. 100–297, title II, §2302, Apr. 28, 1988, 102 Stat. 321; amended Pub. L. 102–103, title III, §303, Aug. 17, 1991, 105 Stat. 500, related to eligibility of telecommunications partnerships for grants.

Section 4084, Pub. L. 98–377, title IX, §905, as added Pub. L. 100–297, title II, §2302, Apr. 28, 1988, 102 Stat. 321; amended Pub. L. 102–103, title III, §304, Aug. 17, 1991, 105 Stat. 501, related to applications for grants.

Section 4085, Pub. L. 98–377, title IX, §906, as added Pub. L. 100–297, title II, §2302, Apr. 28, 1988, 102 Stat. 323, related to dissemination of courses and materials under star schools program.

Section 4085a, Pub. L. 98–377, title IX, §907, as added Pub. L. 102–103, title III, §305(2), Aug. 17, 1991, 105 Stat. 502, related to continuing eligibility for grants.

Section 4085b, Pub. L. 98–377, title IX, §908, as added Pub. L. 102–103, title III, §305(2), Aug. 17, 1991, 105 Stat. 503; amended Pub. L. 103–227, title IX, §961, Mar. 31, 1994, 108 Stat. 263, required independent evaluation of the star schools program.

Section 4085c, Pub. L. 98–377, title IX, §909, as added Pub. L. 102–103, title III, §305(2), Aug. 17, 1991, 105 Stat. 504, authorized assistance for acquiring satellite time.

Section 4085d, Pub. L. 98–377, title IX, §910, as added Pub. L. 102–103, title III, §305(2), Aug. 17, 1991, 105 Stat. 504, authorized grants for dissemination and technical assistance to State and local educational agencies.

Section 4086, Pub. L. 98–377, title IX, §911, formerly §907, as added Pub. L. 100–297, title II, §2302, Apr. 28, 1988, 102 Stat. 324; amended Pub. L. 102–73, title VIII, §802(c), July 25, 1991, 105 Stat. 361; renumbered §911, Pub. L. 102–103, title III, §305(1), Aug. 17, 1991, 105 Stat. 502, defined terms used in this subchapter.

SHORT TITLE

Section 901 of title IX of Pub. L. 98–377, as added by Pub. L. 100–297, title II, §2302, Apr. 28, 1988, 102 Stat. 320, provided that title IX of Pub. L. 98–377 [enacting this subchapter] could be cited as the "Star Schools Program Assistance Act", prior to repeal by Pub. L. 103–382, title III, §364, Oct. 20, 1994, 108 Stat. 3975.

CHAPTER 53—EMERGENCY IMMIGRANT EDUCATION ASSISTANCE

§§4101 to 4108. Repealed. Pub. L. 100–297, title I, §1003(c), Apr. 28, 1988, 102 Stat. 293

Section 4101, Pub. L. 98–511, title VI, §602, Oct. 19, 1984, 98 Stat. 2401; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, related to definitions for chapter.

Section 4102, Pub. L. 98–511, title VI, §603, Oct. 19, 1984, 98 Stat. 2401, related to authorization and allocation of appropriations.

Section 4103, Pub. L. 98–511, title VI, §604, Oct. 19, 1984, 98 Stat. 2402, related to State administrative costs.

Section 4104, Pub. L. 98–511, title VI, §605, Oct. 19, 1984, 98 Stat. 2402, related to withholding.
Section 4105, Pub. L. 98–511, title VI, §606, Oct. 19, 1984, 98 Stat. 2402, related to State entitlements.
Section 4106, Pub. L. 98–511, title VI, §607, Oct. 19, 1984, 98 Stat. 2403, related to uses of funds.
Section 4107, Pub. L. 98–511, title VI, §608, Oct. 19, 1984, 98 Stat. 2404, related to applications.
Section 4108, Pub. L. 98–511, title VI, §609, Oct. 19, 1984, 98 Stat. 2405, related to payments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SHORT TITLE

Pub. L. 98–511, title VI, §601, Oct. 19, 1984, 98 Stat. 2401, provided that title VI of Pub. L. 98–511 was to be cited as the "Emergency Immigrant Education Act of 1984", prior to repeal by Pub. L. 100–297, title I, §1003(c), Apr. 28, 1988, 102 Stat. 293.

CHAPTER 54—LEADERSHIP IN EDUCATIONAL ADMINISTRATION

§§4201 to 4206. Repealed. Pub. L. 99–498, title V, §501(b), Oct. 17, 1986, 100 Stat. 1514

Section 4201, Pub. L. 98–558, title IX, §901, Oct. 30, 1984, 98 Stat. 2902, provided for citation of chapter as "Leadership on Educational Administration Development Act of 1984" and contained statement of purpose and declaration of Congressional intent in enacting chapter.

Section 4202, Pub. L. 98–558, title IX, §902, Oct. 30, 1984, 98 Stat. 2903, authorized appropriations for fiscal years 1985 to 1990 to carry out chapter.

Section 4203, Pub. L. 98–558, title IX, §903, Oct. 30, 1984, 98 Stat. 2903, provided for establishment of technical assistance centers.

Section 4204, Pub. L. 98–558, title IX, §904, Oct. 30, 1984, 98 Stat. 2904, set out general criteria for contracts to establish and operate technical assistance centers.

Section 4205, Pub. L. 98–558, title IX, §905, Oct. 30, 1984, 98 Stat. 2904, authorized Secretary to prescribe regulations to carry out chapter.

Section 4206, Pub. L. 98–558, title IX, §906, Oct. 30, 1984, 98 Stat. 2904; Pub. L. 99–500, §101(d) [title I, §134(a)], Oct. 18, 1986, 100 Stat. 1783–180, 1783–192, and Pub. L. 99–591, §101(d) [title I, §134(a)], Oct. 30, 1986, 100 Stat. 3341–180, 3341–192, defined terms used in chapter.

CHAPTER 55—EDUCATION OF THE DEAF

SUBCHAPTER I—GALLAUDET UNIVERSITY; NATIONAL TECHNICAL INSTITUTE FOR THE DEAF; OTHER PROGRAMS

PART A—GALLAUDET UNIVERSITY

Sec.
4301. Continuation of Gallaudet College as Gallaudet University.
4302. Property rights.
4303. Board of Trustees.
4304. Laurent Clerc National Deaf Education Center.
4305. Agreement with Gallaudet University.
4311, 4321, 4322. Repealed.

PART B—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

4331. Authority.
4332. Agreement for National Technical Institute for the Deaf.

PART C—OTHER PROGRAMS

4341. Cultural experiences grants.

SUBCHAPTER II—GENERAL PROVISIONS

4351. Definitions.
4352. Gifts.
4353. Audit.
4354. Reports.
4355. Monitoring, evaluation, and reporting.
4356. Liaison for educational programs.
4357. Federal endowment programs for Gallaudet University and the National Technical Institute for the Deaf.
4358. Repealed.
4359. Oversight and effect of agreements.
4359a. International students.
4359b. Research priorities.
4360. National study on the education of the deaf.
4360a. Authorization of appropriations.
4361. Supervision of public business of Gallaudet University.
4362. Purchases through General Services Administration.
4363. Financial and program audit by Secretary.

SUBCHAPTER I—GALLAUDET UNIVERSITY; NATIONAL TECHNICAL INSTITUTE FOR THE DEAF; OTHER PROGRAMS

PART A—GALLAUDET UNIVERSITY

§4301. Continuation of Gallaudet College as Gallaudet University

(a) Gallaudet University

The Gallaudet College created by an Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. On and after August 4, 1986, Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this chapter.

(b) Purpose

The purpose of Gallaudet University shall be to provide education and training to individuals who are deaf and otherwise to further the education of individuals who are deaf.

(Pub. L. 99–371, title I, §101, Aug. 4, 1986, 100 Stat. 781; Pub. L. 102–421, title I, §151(a)(1), (4), Oct. 16, 1992, 106 Stat. 2163, 2164; Pub. L. 103–73, title II, §203(a), Aug. 11, 1993, 107 Stat. 732.)

REFERENCES IN TEXT

An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes, referred to in subsec. (a), is act June 18, 1954, ch. 324, 68 Stat. 265, as amended, which was classified generally to subchapter I (§691 et seq.) of chapter 20B of this title, and was repealed by Pub. L. 99–371, title IV, §410(a), Aug. 4, 1986, 100 Stat. 794.

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 99–371, Aug. 4, 1986, 100 Stat. 781, known as the Education of the Deaf Act of 1986, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 691 and 691a of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73 inserted comma after "Hereafter" in original, which for purposes of codification had been translated as "On or after August 4, 1986,", requiring no change in text.

1992—Subsec. (b). Pub. L. 102–421 substituted "individuals who are deaf" for "deaf individuals" after "training to" and for "the deaf" after "education of".

EFFECTIVE DATE OF 1992 AMENDMENT

Section 161 of title I of Pub. L. 102–421 provided that: "The amendments described in this title [enacting sections 4304, 4305, 4357, 4358, and 4359a of this title, amending this section and sections 4303, 4331, 4332, 4351 to 4356, and 4360 of this title, and repealing sections 4311, 4321, 4322, 4341 to 4344, 4357, and 4358 of this title] are made upon October 1, 1992, and take effect upon such date."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–244, title IX, §911, Oct. 7, 1998, 112 Stat. 1829, provided that: "This part [part B (§§911–925) of title IX of Pub. L. 105–244, enacting sections 4359b, 4360, and 4360a of this title, amending sections 4304, 4305, 4332, 4351, 4353 to 4355, 4357, 4359, and 4359a of this title, and repealing sections 4358 and 4360 of this title] may be cited as the 'Education of the Deaf Amendments of 1998'."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–73, title II, §201(a), Aug. 11, 1993, 107 Stat. 732, provided that: "This title [amending this section and sections 4302 to 4305, 4331, 4332, 4351, 4353 to 4357, 4359, 4359a, and 4360 of this title] may be cited as the 'Education of the Deaf Act Amendments of 1993'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–421, §1, Oct. 16, 1992, 106 Stat. 2151, provided that: "This Act [enacting sections 4304, 4305, 4357, 4358, and 4359a of this title, amending this section and sections 1424a, 1431, 1441, 4303, 4331, 4332, 4351 to 4356, and 4360 of this title, repealing sections 4311, 4321, 4322, 4341 to 4344, 4357, and 4358 of this title, and enacting provisions set out as notes under this section and section 1424a of this title] may be cited as the 'Education of the Deaf Act Amendments of 1992'."

SHORT TITLE

Pub. L. 99–371, §1, Aug. 4, 1986, 100 Stat. 781, provided: "That this Act [enacting this chapter, repealing sections 681 to 685, 691 to 691g, 693 to 693b, and 695 to 695c of this title, and repealing provisions set out as notes under sections 681 and 693 of this title] may be cited as the 'Education of the Deaf Act of 1986'."

§4302. Property rights

(a) Property rights described

Gallaudet University is vested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) Disposal of real property

(1) With the approval of the Secretary, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation,

for the construction, equipment, or improvement of buildings for such use, or for investment purposes, but, if invested, only the income from the investment may be used for current expenses of the corporation.

(Pub. L. 99–371, title I, §102, Aug. 4, 1986, 100 Stat. 781; Pub. L. 103–73, title II, §203(b), Aug. 11, 1993, 107 Stat. 733.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 691b of this title, prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–73, §203(b)(1), substituted "Secretary" for "Secretary of Education".
Subsec. (b)(2). Pub. L. 103–73, §203(b)(2), substituted "but, if invested," for "but if invested".

REAL PROPERTY PROVISIONS

The following acts contained provisions relating to acquisition, exchange, and adjustment of boundaries of properties of Gallaudet University and its predecessors, Gallaudet College and Columbia Institution for the Deaf:

July 1, 1916, ch. 209, 39 Stat. 310.
Aug. 3, 1939, ch. 414, 53 Stat. 1179.
Sept. 13, 1960, Pub. L. 86–776, §§1, 2, 74 Stat. 916, 917.
Nov. 20, 1981, Pub. L. 97–80, title II, §202(a)(1), 95 Stat. 1082.

§4303. Board of Trustees

(a) Composition of Board

(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members who shall include—

(A) three public members of whom (i) one shall be a United States Senator appointed by the President of the Senate, and (ii) two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) eighteen other members, all of whom shall be elected by the Board of Trustees and of whom one shall be elected pursuant to regulations of the Board of Trustees, on nomination by the Gallaudet University Alumni Association, for a term of three years.

(2) The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(3) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall constitute a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) Powers of Board

The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation (including the construction of buildings and other facilities), and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or hard of hearing;

(5) elect a chairperson and other officers and prescribe their duties and terms of office, and appoint an executive committee to consist of five members, and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such schools, departments, and other units as the Board of Trustees deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to section 4353 of this title, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

(Pub. L. 99–371, title I, §103, Aug. 4, 1986, 100 Stat. 782; Pub. L. 102–421, title I, §§101(c), 111, Oct. 16, 1992, 106 Stat. 2152; Pub. L. 103–73, title II, §203(c), Aug. 11, 1993, 107 Stat. 733.)

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 691d and 691e of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73, §203(c)(1), in par. (1) substituted "members who shall include—" for "members selected as follows:" in introductory provisions and inserted comma after "Association" in subpar. (B), redesignated second sentence of par. (1) as par. (2), and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 103–73, §203(c)(2), inserted comma after "facilities)" in par. (1), substituted "or hard of hearing;" for "or individuals who are hard of hearing." in par. (4), and struck out "the provisions of" before "section 4353" in par. (8).

1992—Subsec. (a)(1)(B). Pub. L. 102–421, §111(1), struck out ", who on August 4, 1986, shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to August 4, 1986," after "elected by the Board of Trustees".

Subsec. (b)(1). Pub. L. 102–421, §111(2)(A), inserted "(including the construction of buildings and other facilities)" after "corporation".

Subsec. (b)(4), (6). Pub. L. 102–421, §111(2)(B), (C), amended pars. (4) and (6) generally. Prior to amendment, pars. (4) and (6) read as follows:

"(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

"(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the Board deems necessary to carry out the purpose of Gallaudet University;".

Subsec. (b)(8). Pub. L. 102–421, §101(c), made technical amendment to reference to section 4353 of this title to reflect change in reference to corresponding section of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§4304. Laurent Clerc National Deaf Education Center

(a) General authority

(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the

agreement under section 4305 of this title, to maintain and operate the Laurent Clerc National Deaf Education Center (referred to in this section as the "Clerc Center") to carry out exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf or hard of hearing throughout the Nation.

(B) The elementary and secondary education programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English-speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

(C) The elementary and secondary education programs described in subparagraph (A) shall include—

(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for students who are deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for high school and other secondary study; and

(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for students who are deaf from grades nine through twelve, inclusive, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for college, other postsecondary opportunities, or the workplace.

(2) The Model Secondary School for the Deaf may provide residential facilities for students enrolled in the school—

(A) who live beyond a reasonable commuting distance from the school; or

(B) for whom such residency is necessary for them to receive a free appropriate public education within the meaning of part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.].

(b) Administrative requirements

(1) The Clerc Center shall—

(A) provide technical assistance and outreach throughout the Nation to meet the training and information needs of parents of infants, children, and youth who are deaf or hard of hearing; and

(B) provide technical assistance and training to personnel for use in teaching (i) students who are deaf or hard of hearing, in various educational environments, and (ii) students who are deaf or hard of hearing with a broad spectrum of needs as described in subsection (a) of this section.

(2) To the extent possible, the Clerc Center shall provide the services required under paragraph (1)(B) in an equitable manner, based on the national distribution of students who are deaf or hard of hearing in educational environments as determined by the Secretary for purposes of section 618(a)(1) of the Individuals with Disabilities Education Act [20 U.S.C. 1418(a)(1)]. Such educational environments shall include—

(A) regular classes;

(B) resource rooms;

(C) separate classes;

(D) separate, public or private, nonresidential schools; and

(E) separate, public or private, residential schools and homebound or hospital environments.

(3) If a local educational agency, educational service agency, or State educational agency refers a child to, or places a child in, one of the elementary or secondary education programs to meet its obligation to make available a free appropriate public education under part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.], the agency or unit shall be responsible for ensuring that the special education and related services provided to the child by the education

program are in accordance with part B of that Act and that the child is provided the rights and procedural safeguards under section 615 of that Act [20 U.S.C. 1415].

(4) If the parents or guardian places a child in one of the elementary or secondary education programs, the University shall—

(A) notify the appropriate local educational agency, educational service agency, or State educational agency of that child's attendance in the program;

(B) work with local educational agencies, educational service agencies, and State educational agencies, where appropriate, to ensure a smooth transfer of the child to and from that program; and

(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.] and procedural safeguards in accordance with the following provisions of section 615 of such Act [20 U.S.C. 1415]:

(i) Paragraphs (1), and (3) through (8) of subsection (b).

(ii) Subsections (c) through (g).

(iii) Subsection (h), except for the matter in paragraph (4) pertaining to transmission of findings and decisions to a State advisory panel.

(iv) Paragraphs (1) and (2) of subsection (i).

(v) Subsection (j)—

(I) except that such subsection shall not be applicable to a decision by the University to refuse to admit a child; or

(II) to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days written notice to the child's parents and to the local educational agency in which the child resides, unless the dismissal involves a suspension, expulsion, or other change in placement covered under section 615(k) [20 U.S.C. 1415(k)].

(vi) Subsections (k) through (o).

(5) The University, for purposes of the elementary and secondary education programs carried out at the Clerc Center, shall—

(A)(i) select challenging State academic content standards, aligned academic achievement standards, and State academic assessments of a State, adopted and implemented, as appropriate, pursuant to paragraphs (1) and (2) of section 6311(b) of this title and approved by the Secretary; and

(ii) implement such standards and assessments for such programs by not later than the beginning of the 2016–2017 academic year;

(B) adopt the accountability system, consistent with section 6311(c) of this title, of the State from which standards and assessments are selected under subparagraph (A)(i); and

(C) publicly report the results of the academic assessments implemented under subparagraph (A), except where such reporting would not yield statistically reliable information or would reveal personally identifiable information about an individual student, and the results of the annual evaluation of the programs at the Clerc Center, as determined under subparagraph (B).

(Pub. L. 99–371, title I, §104, as added Pub. L. 102–421, title I, §112, Oct. 16, 1992, 106 Stat. 2152; amended Pub. L. 103–73, title II, §203(d), Aug. 11, 1993, 107 Stat. 733; Pub. L. 105–244, title IX, §912, Oct. 7, 1998, 112 Stat. 1829; Pub. L. 108–446, title III, §305(d), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 110–315, title IX, §901, Aug. 14, 2008, 122 Stat. 3450; Pub. L. 114–95, title IX, §9215(ee), Dec. 10, 2015, 129 Stat. 2173.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(2)(B) and (b)(3), (4)(C), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

2015—Subsec. (b)(5)(A)(i). Pub. L. 114–95, §9215(ee)(1)(A), substituted "select challenging State academic content standards, aligned academic achievement standards, and State academic assessments of a State, adopted and implemented, as appropriate, pursuant to paragraphs (1) and (2) of section 6311(b) of this title" for "select challenging academic content standards, challenging student academic achievement standards, and academic assessments of a State, adopted and implemented, as appropriate, pursuant to paragraphs (1) and (3) of section 6311(b) of this title".

Subsec. (b)(5)(A)(ii). Pub. L. 114–95, §9215(ee)(1)(B), substituted "2016–2017 academic year" for "2009–2010 academic year".

Subsec. (b)(5)(B). Pub. L. 114–95, §9215(ee)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "annually determine whether such programs at the Clerc Center are making adequate yearly progress, as determined according to the definition of adequate yearly progress defined (pursuant to section 6311(b)(2)(C) of this title) by the State that has adopted and implemented the standards and assessments selected under subparagraph (A)(i); and".

Subsec. (b)(5)(C). Pub. L. 114–95, §9215(ee)(3), substituted "the results of the annual evaluation of the programs at the Clerc Center" for "whether the programs at the Clerc Center are making adequate yearly progress".

2008—Pub. L. 110–315, §901(1), substituted "Laurent Clerc National Deaf Education Center" for "Elementary and secondary education programs" in section catchline.

Subsec. (a)(1)(A). Pub. L. 110–315, §901(2), inserted "the Laurent Clerc National Deaf Education Center (referred to in this section as the 'Clerc Center') to carry out" after "maintain and operate".

Subsec. (b)(1). Pub. L. 110–315, §901(3)(A), substituted "Clerc Center" for "elementary and secondary education programs" in introductory provisions.

Subsec. (b)(2). Pub. L. 110–315, §901(3)(B)(ii), substituted "618(a)(1)" for "618(a)(1)(A)" in introductory provisions. See 2004 Amendment note below.

Pub. L. 110–315, §901(3)(B)(i), substituted "Clerc Center" for "elementary and secondary education programs" in introductory provisions.

Subsec. (b)(4)(C). Pub. L. 110–315, §901(3)(C)(i), realigned margins.

Subsec. (b)(4)(C)(i). Pub. L. 110–315, §901(3)(C)(ii), substituted "(8)" for "(6)".

Subsec. (b)(4)(C)(vi). Pub. L. 110–315, §901(3)(C)(iii), substituted "(o)" for "(m)".

Subsec. (b)(5). Pub. L. 110–315, §901(3)(D), added par. (5).

2004—Subsec. (b)(2). Pub. L. 108–446, which directed amendment of "section 104(b)(2) of the Education of the Deaf Act" by substituting "618(a)(1)" for "618(a)(1)(A)" in introductory provisions, was not executed to this section, which is section 104 of the Education of the Deaf Act of 1986. See 2008 Amendment note above.

1998—Subsec. (b)(1). Pub. L. 105–244, §912(1), inserted "and" after semicolon in subpar. (A), substituted a period for "; and" at end of subpar. (B), and struck out subpar. (C) which read as follows: "establish and publish priorities for research, development, and demonstration through a process that allows for public input."

Subsec. (b)(2). Pub. L. 105–244, §912(2), in introductory provisions, substituted "paragraph (1)(B)" for "paragraph (1)" and "section 618(a)(1)(A)" for "section 618(b)".

Subsec. (b)(3). Pub. L. 105–244, §912(3), substituted "educational service agency" for "intermediate educational unit".

Subsec. (b)(4)(A). Pub. L. 105–244, §912(4)(A), substituted "educational service agency" for "intermediate educational unit".

Subsec. (b)(4)(B). Pub. L. 105–244, §912(4)(B), substituted "educational service agencies" for "intermediate educational units".

Subsec. (b)(4)(C). Pub. L. 105–244, §912(5), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act and procedural safeguards in accordance with the following provisions of section 615 of such Act:

"(i) Subparagraphs (A), (C), (D), and (E) of paragraph (1) of subsection (b), and paragraph (2) of such subsection.

"(ii) Subsection (d), except the portion of paragraph (4) requiring that findings and decisions be transmitted to a State advisory panel.

"(iii) Paragraphs (1) through (3) of subsection (e). Paragraph (3) of such subsection is not applicable to a decision by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child's parents and to the local educational agency in which the child resides.

"(iv) Subsection (f)."

1993—Pub. L. 103–73, §203(d)(1), substituted "education" for "educational" in section catchline.

Subsec. (a)(1). Pub. L. 103–73, §203(d)(2), in subpar. (A) substituted "deaf or hard" for "deaf and individuals who are hard", in subpar. (B) inserted "education" after "elementary and secondary" and substituted "non-English-speaking" for "non-English speaking", and in subpar. (C), in introductory provisions, inserted "education" after "elementary and secondary", in cl. (i) substituted "students" for "individuals" wherever appearing and "deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent," for "deaf,", and in cl. (ii) substituted "students" for "individuals" wherever appearing and "deaf from grades nine through twelve, inclusive," for "deaf,".

Subsec. (b)(1). Pub. L. 103–73, §203(d)(3), substituted "infants, children, and youth" for "infants and children" in subpar. (A) and a period for the semicolon at end of subpar. (C).

Subsec. (b)(4). Pub. L. 103–73, §203(d)(4), substituted "program" for "programs" in subpar. (A), "the child to and from that program" for "students to and from those programs" in subpar. (B), and "a decision" for "decisions" in subpar. (C)(iii).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§4305. Agreement with Gallaudet University

(a) General authority

The Secretary and Gallaudet University shall establish, and periodically update, an agreement governing the operation and national mission activities, including construction and provision of equipment, of the elementary and secondary education programs at the University. The Secretary or the University shall determine the necessity for the periodic update described in the preceding sentence.

(b) Provisions of agreement

The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this chapter and such agreement;

(2) provide that the University will make an annual report, to be part of the report required under section 4354 of this title, to the Secretary on the operations and national mission activities of the elementary and secondary education programs, including such other information as the Secretary may consider necessary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School or the Model Secondary School for the Deaf will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, commonly referred to as the Davis-Bacon Act; except that the Secretary of Labor shall have, with

respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40; and

(5) include such other conditions as the Secretary or the University considers necessary to carry out the purposes of this part.

(Pub. L. 99–371, title I, §105, as added Pub. L. 102–421, title I, §113, Oct. 16, 1992, 106 Stat. 2154; amended Pub. L. 103–73, title II, §203(e), Aug. 11, 1993, 107 Stat. 734; Pub. L. 105–244, title IX, §913, Oct. 7, 1998, 112 Stat. 1830; Pub. L. 110–315, title IX, §902, Aug. 14, 2008, 122 Stat. 3451.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(4), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2008—Subsec. (b)(4). Pub. L. 110–315 substituted "subchapter IV of chapter 31 of title 40, commonly referred to as the Davis-Bacon Act" for "the Act of March 3, 1931 (40 U.S.C. 276a—276a–5) commonly referred to as the Davis-Bacon Act" and "section 3145 of title 40" for "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)".

1998—Subsec. (a). Pub. L. 105–244 substituted "and periodically update, an" for "within 1 year after October 16, 1992, a new" and "The Secretary or the University shall determine the necessity for the periodic update described in the preceding sentence." for "The Secretary and the University shall periodically update the agreement as determined to be necessary by the Secretary or the University."

1993—Subsec. (b)(2). Pub. L. 103–73, §203(e)(1), substituted "will" for "shall".

Subsec. (b)(4). Pub. L. 103–73, §203(e)(2), substituted "Elementary School or the Model" for "Elementary School and the Model" and "except that the Secretary" for "and the Secretary".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§§4311, 4321, 4322. Repealed. Pub. L. 102–421, title I, §101(a)(1), Oct. 16, 1992, 106 Stat. 2151

Section 4311, Pub. L. 99–371, title I, §111, Aug. 4, 1986, 100 Stat. 783; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to authority of Gallaudet University to maintain and operate the Kendall Demonstration Elementary School.

Section 4321, Pub. L. 99–371, title I, §121, Aug. 4, 1986, 100 Stat. 783; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to authority of Gallaudet University to maintain and operate a model secondary school for the deaf.

Section 4322, Pub. L. 99–371, title I, §122, Aug. 4, 1986, 100 Stat. 784, authorized continuation of agreement with Gallaudet University for model secondary school.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

PART B—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

PRIOR PROVISIONS

A prior part B of subchapter I of this chapter, consisted of section 4311 of this title, prior to repeal by Pub. L. 102–421, title I, §§101(a)(1), Oct. 16, 1992, 106 Stat. 2151.

§4331. Authority

For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this part is authorized to operate and maintain a National Technical Institute for the Deaf.

(Pub. L. 99–371, title I, §111, formerly title II, §201, Aug. 4, 1986, 100 Stat. 784; renumbered title I, §111, Pub. L. 102–421, title I, §101(b)(3), (4), Oct. 16, 1992, 106 Stat. 2151; Pub. L. 103–73, title II, §203(f), Aug. 11, 1993, 107 Stat. 734.)

AMENDMENTS

1993—Pub. L. 103–73 substituted "part" for "subchapter".

PRIOR PROVISIONS

A prior section 111 of Pub. L. 99–371, title I, Aug. 4, 1986, 100 Stat. 783, as amended, authorized Gallaudet University to operate Kendall Demonstration Elementary School and was classified to section 4311 of this title, prior to repeal by Pub. L. 102–421.

Provisions similar to this section were contained in section 681 of this title prior to repeal by Pub. L. 99–371.

§4332. Agreement for National Technical Institute for the Deaf

(a) General authority

(1) The Secretary is authorized to establish or continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf.

(2) The Secretary and the institution of higher education with which the Secretary has an agreement under this section—

(A) shall periodically assess the need for modification of the agreement; and

(B) shall periodically update the agreement as determined necessary by the Secretary or the institution.

(b) Provisions of agreement

The agreement shall—

(1) provide that Federal funds appropriated for the benefit of NTID will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this chapter and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of NTID in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of individuals who are deaf, and members of the public familiar with the need for services provided by NTID;

(3) provide that the Board of Trustees or other governing body of the institution will prepare and submit to the Secretary, not later than June 1 following the fiscal year for which the report is submitted, an annual report containing an accounting of all indirect costs paid to the institution of higher education under the agreement with the Secretary, which accounting the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and to the Committee on Health, Education, Labor, and Pensions of the Senate, with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part;

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of NTID will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, commonly referred to as the Davis-Bacon Act; except that the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40; and

(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or hard of hearing.

(c) Limitation

If, within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which has the same ratio with respect to the current market value of the facility as the amount of Federal funds expended for construction of such facility bears to the total cost of construction of the facility. The current market value of the facility shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(Pub. L. 99–371, title I, §112, formerly title II, §202, Aug. 4, 1986, 100 Stat. 785; renumbered title I, §112, and amended Pub. L. 102–421, title I, §§101(b)(3), (4), 121, 151(a)(4), Oct. 16, 1992, 106 Stat. 2151, 2155, 2164; Pub. L. 103–73, title II, §§202, 203(g), Aug. 11, 1993, 107 Stat. 732, 734; Pub. L. 105–244, title IX, §914, Oct. 7, 1998, 112 Stat. 1830; Pub. L. 110–315, title IX, §903, Aug. 14, 2008, 122 Stat. 3451.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 684 of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–315, §903(1), struck out at end "The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this part, shall give preference to institutions which are located in metropolitan industrial areas."

Subsec. (b)(3). Pub. L. 110–315, §903(2)(A), substituted "Committee on Health, Education, Labor, and Pensions of the Senate" for "Committee on Labor and Human Resources of the Senate".

Subsec. (b)(5). Pub. L. 110–315, §903(2)(B), substituted "subchapter IV of chapter 31 of title 40, commonly referred to as the Davis-Bacon Act" for "the Act of March 3, 1931 (40 U.S.C. 276a—276a–5) commonly referred to as the Davis-Bacon Act" and "section 3145 of title 40" for "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)".

1998—Subsec. (a)(2). Pub. L. 105–244 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall, within 1 year after October 16, 1992, assess the need for modification of the agreement. The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall also periodically update the agreement as determined to be necessary by the Secretary or the institution."

1993—Pub. L. 103–73, §203(g)(1), substituted "National Technical Institute for the Deaf" for "Institute" in

section catchline.

Subsec. (a)(1). Pub. L. 103–73, §203(g)(2)(A), substituted "part" for "chapter".

Subsec. (a)(2). Pub. L. 103–73, §203(g)(2)(B), in first sentence struck out comma after "The Secretary" and after "this section".

Subsec. (b)(1), (2). Pub. L. 103–73, §202, substituted "NTID" for "the Institute" wherever appearing.

Subsec. (b)(3). Pub. L. 103–73, §203(g)(3)(A), substituted "Secretary, not later than June 1 following the fiscal year for which the report is submitted, an annual report containing" for "Secretary an annual report, including", "which accounting" for "which report", and "Representatives" for "Representatives,".

Subsec. (b)(4). Pub. L. 103–73, §203(g)(3)(B), struck out "and" at end of par. (4).

Subsec. (b)(5). Pub. L. 103–73, §203(g)(3)(C), substituted "except that the Secretary" for "and the Secretary" and "; and" for period at end.

Pub. L. 103–73, §202, substituted "NTID" for "the Institute".

Subsec. (b)(6). Pub. L. 103–73, §203(g)(3)(D), substituted "or hard of hearing" for "or individuals who are hard of hearing".

Subsec. (c). Pub. L. 103–73, §203(g)(4), inserted a comma after "If".

1992—Subsec. (a). Pub. L. 102–421, §121(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 102–421, §151(a)(4), substituted "individuals who are deaf" for "the deaf".

Subsec. (b)(3). Pub. L. 102–421, §121(2), substituted "will prepare and submit to the Secretary an annual report, including an accounting of all indirect costs paid to the institution of higher education under the agreement with the Secretary, which report the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate," for "will make an annual report together with an accounting of all indirect costs paid to the institution of higher education under the agreement to the Secretary, which the Secretary shall transmit to the Congress".

Subsec. (b)(6). Pub. L. 102–421, §121(3), added par. (6).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

ESTABLISHMENT OF INSTITUTE

Pursuant to an agreement entered into between the Secretary and the Rochester Institute of Technology on Dec. 20, 1966, the National Technical Institute for the Deaf (N.T.I.D.) was established and located at Rochester, New York.

PART C—OTHER PROGRAMS

§4341. Cultural experiences grants

(a) In general

The Secretary is authorized to, on a competitive basis, make grants to, and enter into contracts and cooperative agreements with, eligible entities to support the activities described in subsection (b).

(b) Activities

In carrying out this section, the Secretary shall support activities providing cultural experiences, through appropriate nonprofit organizations with a demonstrated proficiency in providing such activities, that—

(1) enrich the lives of deaf and hard-of-hearing children and adults;

(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard-of-hearing persons; or

(3) promote the integration of hearing, deaf, and hard-of-hearing persons through shared cultural, educational, and social experiences.

(c) Applications

An eligible entity that desires to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 99–371, title I, §121, as added Pub. L. 110–315, title IX, §904(a), Aug. 14, 2008, 122 Stat. 3452.)

PRIOR PROVISIONS

A prior section 4341, Pub. L. 99–371, title III, §301, Aug. 4, 1986, 100 Stat. 786, established Commission on Education of the Deaf, prior to repeal by Pub. L. 102–421, title I, §§101(a)(2), 161, Oct. 16, 1992, 106 Stat. 2151, 2164, effective Oct. 1, 1992.

A prior section 121 of Pub. L. 99–371 was classified to section 4321 of this title, prior to repeal by Pub. L. 102–421.

Prior sections 4342 to 4344 were repealed by Pub. L. 102–421, title I, §§101(a)(2), 161, Oct. 16, 1992, 106 Stat. 2151, 2164, effective Oct. 1, 1992.

Section 4342, Pub. L. 99–371, title III, §302, Aug. 4, 1986, 100 Stat. 786; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, outlined duties of Commission and provided for reports to Congress.

Section 4343, Pub. L. 99–371, title III, §303, Aug. 4, 1986, 100 Stat. 787, related to personnel of Commission, hearings, quorums, consultation with other entities, information and statistics, and agency cooperation.

Section 4344, Pub. L. 99–371, title III, §304, Aug. 4, 1986, 100 Stat. 788, provided for compensation of members of Commission.

SUBCHAPTER II—GENERAL PROVISIONS

PRIOR PROVISIONS

A prior subchapter II of this chapter, consisting of sections 4331 and 4332 of this title, was redesignated part B of subchapter I of this chapter by Pub. L. 102–421, title I, §101(b)(3), Oct. 16, 1992, 106 Stat. 2151.

§4351. Definitions

As used in this chapter—

(1) The term "international student" means an individual who—

(A) is not a citizen or national of, or lawfully admitted for permanent residence in, the United States;

(B) does not provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen of, or lawfully admitted for permanent residence in, the United States; and

(C) is not lawfully admitted for permanent residence in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the Virgin Islands.

(2) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment therein, including architect's services, but excluding off-site improvements.

(3) The term "institution of higher education" means an educational institution in any State which (A) admits as regular students only individuals having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (B) is legally authorized within such State to provide a program of education beyond secondary education; (C) provides an educational program for which it awards a bachelor's degree; (D) includes one or more professional or graduate schools; (E) is a public or nonprofit private institution; and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of subparagraph (F), the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(4) The term "Secretary" means the Secretary of Education.

(5) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(6) The term "NTID" means the National Technical Institute for the Deaf.

(7) The term "University" means Gallaudet University.

(Pub. L. 99–371, title II, §201, formerly title IV, §401, Aug. 4, 1986, 100 Stat. 789; renumbered title II, §201, and amended Pub. L. 102–421, title I, §§101(b)(5), (6), 131, 151(a)(3), (b), Oct. 16, 1992, 106 Stat. 2151, 2155, 2164; Pub. L. 103–73, title II, §204(a), Aug. 11, 1993, 107 Stat. 734; Pub. L. 105–244, title IX, §915, Oct. 7, 1998, 112 Stat. 1830.)

PRIOR PROVISIONS

A prior section 201 of Pub. L. 99–371 was renumbered section 111 and is classified to section 4331 of this title.

Provisions similar to this section were contained in sections 682, 693a, and 695a of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1998—Par. (1)(C). Pub. L. 105–244, §915(1), struck out "Palau (but only until the Compact of Free Association with Palau takes effect)," after "Guam,".

Par. (5). Pub. L. 105–244, §915(2), inserted "and" after "Virgin Islands," and struck out ", and Palau (but only until the Compact of Free Association with Palau takes effect)" after "Mariana Islands".

1993—Pub. L. 103–73 substituted "and" for "or" at end of par. (1)(B), redesignated pars. (4) and (6) to (9) as (3) to (7), respectively, and struck out former pars. (3) and (5) which defined "elementary school" and "secondary school", respectively.

1992—Par. (1). Pub. L. 102–421, §131(1), added par. (1) and struck out former par. (1) which read as follows: "The term 'Board of Trustees' means (unless the context requires otherwise) the Board of Trustees of Gallaudet University established under section 4303 of this title."

Par. (2). Pub. L. 102–421, §151(b)(1), substituted "therein" for "thereof".

Par. (3). Pub. L. 102–421, §151(a)(3), (b)(2), substituted "children who are deaf or hard-of-hearing" for "deaf children".

Par. (4). Pub. L. 102–421, §151(b)(3), substituted a semicolon for last comma in subpars. (A) to (E) of first sentence and "subparagraph" for "clause" in second sentence.

Pub. L. 102–421, §131(2), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "The term 'Institute' means the National Technical Institute for the Deaf."

Pars. (5), (6). Pub. L. 102–421, §131(2)(B), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

Par. (7). Pub. L. 102–421, §131(2)(B), (3), redesignated par. (8) as (7) and substituted "the Commonwealth of the Northern Mariana Islands, and Palau (but only until the Compact of Free Association with Palau takes effect)." for "the Northern Mariana Islands and the Trust Territory of the Pacific Islands.". Former par. (7) redesignated (6).

Pars. (8), (9). Pub. L. 102–421, §131(2)(B), (4), added pars. (8) and (9) and redesignated former par. (8) as (7).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§4352. Gifts

The University and NTID are authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the University or NTID, or for the use, as appropriate, for any programs, departments, or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(Pub. L. 99–371, title II, §202, formerly title IV, §402, Aug. 4, 1986, 100 Stat. 789; renumbered title II, §202, and amended Pub. L. 102–421, title I, §§101(b)(5), (6), 132, Oct. 16, 1992, 106 Stat. 2151, 2156.)

PRIOR PROVISIONS

A prior section 202 of Pub. L. 99–371 was renumbered section 112 and is classified to section 4332 of this title.

Provisions similar to subsec. (a) of this section were contained in section 691c of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1992—Pub. L. 102–421, §132, amended section generally. Prior to amendment, section read as follows:

"(a) GALLAUDET UNIVERSITY.—Gallaudet University is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of Gallaudet University, or for the use of any of its departments or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

"(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the Institute, or for the use of any of its programs as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§4353. Audit

(a) Government Accountability Office authority

All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use,

shall be settled and adjusted in the Government Accountability Office.

(b) Independent financial and compliance audit

(1) In general

Gallaudet University shall have an annual independent financial and compliance audit made of the programs and activities of the University, including the national mission and school operations of the elementary and secondary education programs at Gallaudet. The institution of higher education with which the Secretary has an agreement under section 4332 of this title shall have an annual independent financial and compliance audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.

(2) Compliance

As used in paragraph (1), compliance means compliance with sections 4302(b), 4305(b)(4), 4332(b)(5), 4353(c),[1] 4357(b)(2) of this title, subsections (c) through (f) of section 4357 of this title, and subsections (a), (b), and (c) of section 4359a of this title.

(3) Submission of audits

A copy of each audit described in paragraph (1) shall be provided to the Secretary and the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 15 days of acceptance of the audit by the University or the institution authorized to establish and operate the NTID under section 4332(a) of this title, as the case may be, but not later than January 10 of each year.

(c) Limitations regarding expenditure of funds

(1) In general

No funds appropriated under this chapter for Gallaudet University, including the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf, or for the National Technical Institute for the Deaf may be expended on the following:

(A) Alcoholic beverages.

(B) Goods or services for personal use.

(C) Housing and personal living expenses (but only to the extent such expenses are not required by written employment agreement).

(D) Lobbying, except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions.

(E) Membership in country clubs and social or dining clubs and organizations.

(2) Policies

(A) Not later than 180 days after October 16, 1992, the University and NTID shall develop policies, to be applied uniformly, for the allowability of expenditures for each institution. These policies should reflect the unique nature of these institutions. The principles established by the Office of Management and Budget for costs of educational institutions may be used as guidance in developing these policies. General principles relating to allowability and reasonableness of all costs associated with the operations of the institutions shall be addressed. These policies shall be submitted to the Secretary for review and comments, and to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) Policies under subparagraph (A) shall include the following:

(i) Noninstitutional professional activities.

(ii) Fringe benefits.

(iii) Interest on loans.

(iv) Rental cost of buildings and equipment.

(v) Sabbatical leave.

(vi) Severance pay.
(vii) Travel.
(viii) Royalties and other costs for uses of patents.

(C) The Secretary is not authorized to add items to those specified in subparagraph (B).

(Pub. L. 99–371, title II, §203, formerly title IV, §403, Aug. 4, 1986, 100 Stat. 790; renumbered title II, §203, and amended Pub. L. 102–421, title I, §§101(b)(5), (6), 133, Oct. 16, 1992, 106 Stat. 2151, 2156; Pub. L. 103–73, title II, §§202, 204(b), Aug. 11, 1993, 107 Stat. 732, 734; Pub. L. 105–244, title IX, §916, Oct. 7, 1998, 112 Stat. 1830; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–315, title IX, §905, Aug. 14, 2008, 122 Stat. 3452; Pub. L. 111–39, title VIII, §802(b), July 1, 2009, 123 Stat. 1957.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 691f of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

2009—Subsec. (b)(2). Pub. L. 111–39 substituted "and subsections (a), (b), and (c) of section 4359a of this title." for "and subsections (b) and (c) of section 4359a of this title."

2008—Subsec. (b)(2). Pub. L. 110–315, §905(1)(A), substituted "sections 4302(b), 4305(b)(4), 4332(b)(5), 4353(c), 4357(b)(2) of this title, subsections (c) through (f) of section 4357 of this title, and subsections (b) and (c) of section 4359a of this title" for "sections 4302(b), 4305(b)(4), 4332(b)(5) of this title, and subsection (c) of this section, paragraphs (2) and (3) of section 4357(b) of this title, subsections (b)(2), (b)(3), and (c) through (f), of section 4357 of this title, and subsections (b) and (c) of section 4359a of this title".

Subsec. (b)(3). Pub. L. 110–315, §905(1)(B), inserted "and the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate" after "Secretary".

Subsec. (c)(2)(A). Pub. L. 110–315, §905(2), substituted "Committee on Health, Education, Labor, and Pensions of the Senate" for "Committee on Labor and Human Resources of the Senate".

2004—Subsec. (a). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading and text.

1998—Subsec. (b). Pub. L. 105–244 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "Gallaudet University shall have an annual independent financial audit made of the programs and activities of the University. The institution of higher education with which the Secretary has an agreement under section 4332 of this title shall have an annual independent financial audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary."

1993—Subsec. (b). Pub. L. 103–73, §204(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an annual independent audit made of the programs and activities of the University and of NTID, respectively."

Pub. L. 103–73, §202, substituted "NTID" for "the Institute".

1992—Subsec. (c). Pub. L. 102–421, §133, added subsec. (c).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

[1] *So in original. Probably should be followed by "and".*

§4354. Reports

The Board of Trustees of Gallaudet University and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 4332 of this title shall prepare and submit an annual report to the Secretary, and to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, not later than 100 days after the end of each fiscal year, which shall include the following:

(1) The number of students during the preceding academic year who enrolled and whether these were first-time enrollments, who graduated, who found employment, or who left without completing a program of study, reported under each of the programs of the University (elementary, secondary, undergraduate, and graduate) and of NTID.

(2) For the preceding academic year, and to the extent possible, the following data on individuals who are deaf and from minority backgrounds and who are students (at all educational levels) or employees:

(A) The number of students enrolled full- and part-time.

(B) The number of these students who completed or graduated from each of the educational programs.

(C) The disposition of these students on the date that is one year after the date of graduation or completion of programs at NTID and at the University and its elementary and secondary schools in comparison to students from non-minority backgrounds.

(D) The number of students needing and receiving support services (such as tutoring and counseling) at all educational levels.

(E) The number of recruitment activities by type and location for all educational levels.

(F) Employment openings/vacancies and grade level/type of job and number of these individuals that applied and that were hired.

(G) Strategies (such as parent groups and training classes in the development of individualized education programs) used by the elementary and secondary programs and the extension centers to reach and actively involve minority parents in the educational programs of their children who are deaf or hard of hearing and the number of parents who have been served as a result of these activities.

(3)(A) A summary of the annual audited financial statements and auditor's report of the University, as required under section 4353 of this title, and (B) a summary of the annual audited financial statements and auditor's report of NTID programs and activities, and such supplementary schedules presenting financial information for NTID for the end of the Federal fiscal year as determined by the Secretary.

(4) For the preceding fiscal year, a statement showing the receipts of the University and NTID and from what Federal sources, and a statement showing the expenditures of each institution by function, activity, and administrative and academic unit.

(5) A statement showing the use of funds (both corpus and income) provided by the Federal Endowment Program under section 4357 of this title.

(6) A statement showing how such Endowment Program funds are invested, what the gains or losses (both realized and unrealized) on such investments were for the most recent fiscal year, and what changes were made in investments during that year.

(7) Such additional information as the Secretary may consider necessary.

(Pub. L. 99–371, title II, §204, formerly title IV, §404, Aug. 4, 1986, 100 Stat. 790; renumbered title

II, §204, and amended Pub. L. 102–421, title I, §§101(b)(5), (6), 134, Oct. 16, 1992, 106 Stat. 2151, 2157; Pub. L. 103–73, title II, §204(c), Aug. 11, 1993, 107 Stat. 735; Pub. L. 105–244, title IX, §917, Oct. 7, 1998, 112 Stat. 1831; Pub. L. 110–315, title IX, §906, Aug. 14, 2008, 122 Stat. 3453.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 691f of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

2008—Pub. L. 110–315, §906(1), substituted "Committee on Health, Education, Labor, and Pensions of the Senate" for "Committee on Labor and Human Resources of the Senate" in introductory provisions.

Par. (1). Pub. L. 110–315, §906(2), struck out "preparatory," after "secondary,".

Par. (2)(C). Pub. L. 110–315, §906(3), substituted "on the date that is one year after the date of graduation or completion" for "upon graduation/completion".

Par. (3)(B). Pub. L. 110–315, §906(4), substituted "of NTID programs and activities" for "of the institution of higher education with which the Secretary has an agreement under section 4332 of this title, including specific schedules and analyses for all NTID funds, as required under section 4353 of this title".

1998—Par. (3). Pub. L. 105–244 substituted "A summary of the annual" for "The annual" in subpar. (A) and substituted "a summary of the annual" for "the annual" in subpar. (B).

1993—Par. (1). Pub. L. 103–73, §204(c)(1), substituted "first-time" for "first time".

Par. (2)(G). Pub. L. 103–73, §204(c)(2), substituted "individualized education programs" for "Individualized Education Programs" and "children who are deaf or hard of hearing" for "children who are deaf".

Par. (3). Pub. L. 103–73, §204(c)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The annual audited financial statements of the University and NTID, respectively, together with the auditor's report."

Par. (6). Pub. L. 103–73, §204(c)(4), substituted "Program funds are" for "Program is".

1992—Pub. L. 102–421, §134, amended section generally, substituting present provisions for provisions requiring annual reports from Board of Trustees of Gallaudet University and National Technical Institute for the Deaf and providing for an annual monitoring and evaluation report.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§4355. Monitoring, evaluation, and reporting

(a) Activities

The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of the University (including the elementary, secondary, undergraduate, and graduate programs) and of NTID. The Secretary may also conduct studies related to the provision of preschool, elementary, secondary, and postsecondary education and other related services to individuals who are deaf or hard of hearing. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to section 3109 of title 5.

(b) Report

The Secretary shall annually transmit information to Congress on the monitoring and evaluation

activities pursuant to subsection (a) of this section, together with such recommendations, including recommendations for legislation, as the Secretary may consider necessary.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2014 to carry out the monitoring and evaluation activities authorized under this section.

(Pub. L. 99–371, title II, §205, formerly title IV, §405, Aug. 4, 1986, 100 Stat. 790; renumbered title II, §205, and amended Pub. L. 102–421, title I, §§101(b)(5), (6), 135(a), Oct. 16, 1992, 106 Stat. 2151, 2158; Pub. L. 103–73, title II, §204(d), Aug. 11, 1993, 107 Stat. 735; Pub. L. 105–244, title IX, §918, Oct. 7, 1998, 112 Stat. 1831; Pub. L. 110–315, title IX, §907, Aug. 14, 2008, 122 Stat. 3453.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §907(1), struck out "preparatory," before "undergraduate".

Subsec. (b). Pub. L. 110–315, §907(2), substituted "The Secretary shall annually transmit information to Congress on" for "The Secretary, as part of the annual report required under section 3486 of this title, shall include a description of".

Subsec. (c). Pub. L. 110–315, §907(3), substituted "fiscal years 2009 through 2014" for "fiscal years 1998 through 2003".

1998—Subsec. (c). Pub. L. 105–244 substituted "1998 through 2003" for "1993, 1994, 1995, 1996, and 1997".

1993—Subsec. (a). Pub. L. 103–73 substituted "individuals who are deaf or hard of hearing" for "individuals who are deaf" and struck out "the provisions of" after "pursuant to".

1992—Pub. L. 102–421, §135(a), amended section generally. Prior to amendment, section read as follows: "The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of Gallaudet University and of the National Technical Institute for the Deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§4356. Liaison for educational programs

(a) Designation of liaison

The Secretary shall designate an individual in the Office of Special Education and Rehabilitative Services of the Department of Education from among individuals who have experience in the education of individuals who are deaf to serve as liaison between the Department and Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for individuals who are deaf under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing.

(b) Duties of liaison

The individual serving as liaison for educational programs for individuals who are deaf or hard of hearing shall:

(1) provide information to institutions regarding the Department's efforts directly affecting the operation of such programs by such institutions;

(2) review research and other activities carried out by the University, NTID, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing for the purpose of determining overlap and opportunities for coordination among such entities; and

(3) provide such support and assistance as such institutions may request and the Secretary considers appropriate.

(c) Authority of Secretary

Nothing in this section may be construed to affect the authority of the Secretary under this chapter or any other Act with respect to Gallaudet University or the National Technical Institute for the Deaf.

(Pub. L. 99–371, title II, §206, formerly title IV, §406, Aug. 4, 1986, 100 Stat. 790; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; renumbered title II, §206, and amended Pub. L. 102–421, title I, §§101(b)(5), (6), 136, 151(a)(4), (5), Oct. 16, 1992, 106 Stat. 2151, 2159, 2164; Pub. L. 103–73, title II, §204(e), Aug. 11, 1993, 107 Stat. 735; Pub. L. 110–315, title IX, §908, Aug. 14, 2008, 122 Stat. 3453.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315 substituted "The" for "Not later than 30 days after August 4, 1986, the".

1993—Subsec. (b). Pub. L. 103–73, which directed amendment of subsec. (b) by inserting "or hard of hearing" after "individuals who are deaf", was executed by making the insertion in introductory provisions but not in par. (2) to reflect the probable intent of Congress.

1992—Pub. L. 102–421, §151(a)(5), struck out "for the deaf" after "educational programs" in section catchline.

Subsec. (a). Pub. L. 102–421, §151(a)(4), substituted "individuals who are deaf" for "the deaf" in two places.

Pub. L. 102–421, §136(1), substituted ", the Rehabilitation Act of 1973, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing." for "and the Rehabilitation Act of 1973."

Subsec. (b). Pub. L. 102–421, §151(a)(4), substituted "individuals who are deaf" for "the deaf" in introductory provisions.

Subsec. (b)(1) to (3). Pub. L. 102–421, §136(2), struck out "and" at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

1990—Subsec. (a). Pub. L. 101–476 substituted "Individuals with Disabilities Education Act" for "Education of the Handicapped Act".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

§4357. Federal endowment programs for Gallaudet University and the National Technical Institute for the Deaf

(a) Establishment of programs

(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 4332 of this title are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

(b) Federal payments

(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) of this section from amounts appropriated under subsection (h) of this section for the fund involved.

(2) Subject to the availability of appropriations, the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources during the fiscal year in which the appropriations are made available (excluding transfers from other endowment funds of the institution involved).

(c) Investments

(1) Except as provided in subsection (e) of this section, the University and NTID, respectively, shall invest the Federal contribution of its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of title 26, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the advisory group established under section 4332 of this title is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothocate,[1] encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

(d) Withdrawals and expenditures

(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

(C) The University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the current fiscal year.

(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its

Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(ii) a life-threatening situation occasioned by natural disaster or arson; or

(iii) another unusual occurrence or exigent circumstance.

(e) Investment and expenditure flexibility

The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) of this section after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations or to the withdrawal and expenditure limitations of subsection (d)(3) of this section.

(f) Recovery of payments

After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

(g) Definitions

As used in this section:

(1) The term "corpus", with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

(2) The term "Federal endowment fund" means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

(3) The term "income", with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

(4) The term "institution involved" means the University or NTID, as the case may be.

(h) Authorization of appropriations

(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 2009 through 2014.

(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 2009 through 2014.

(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

(i) Effective date

The provisions of this section shall take effect as if included in this chapter as enacted on August 4, 1986.

(Pub. L. 99–371, title II, §207, as added Pub. L. 102–421, title I, §137(2), Oct. 16, 1992, 106 Stat. 2159; amended Pub. L. 103–73, title II, §204(f), Aug. 11, 1993, 107 Stat. 735; Pub. L. 105–244, title IX, §919, Oct. 7, 1998, 112 Stat. 1831; Pub. L. 110–315, title IX, §909, Aug. 14, 2008, 122 Stat. 3453.)

PRIOR PROVISIONS

A prior section 4357, Pub. L. 99–371, title II, §207, formerly title IV, §407, Aug. 4, 1986, 100 Stat. 791; renumbered title II, §207, Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, provided for Gallaudet University Federal endowment program, prior to repeal effective Oct. 1, 1992, by Pub. L. 102–421, title I, §§137(1), 161, Oct. 16, 1992, 106 Stat. 2159, 2164.

AMENDMENTS

2008—Subsec. (h)(1), (2). Pub. L. 110–315 substituted "fiscal years 2009 through 2014" for "fiscal years 1998 through 2003".

1998—Subsec. (b)(2). Pub. L. 105–244, §919(1)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved)."

Subsec. (b)(3). Pub. L. 105–244, §919(1)(B), struck out par. (3) which read as follows: "Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed $1,000,000, the non-Federal contribution to the Federal endowment fund shall be $2 for each Federal dollar provided in excess of $1,000,000 (excluding transfers from other endowment funds of the institution involved)."

Subsec. (c)(1). Pub. L. 105–244, §919(2), inserted "the Federal contribution of" after "shall invest".

Subsec. (d)(2)(C). Pub. L. 105–244, §919(3)(A), substituted "The University" for "Beginning on October 1, 1992, the University".

Subsec. (d)(3)(A). Pub. L. 105–244, §919(3)(B), substituted "current" for "prior".

Subsec. (h)(1), (2). Pub. L. 105–244, §919(4), substituted "1998 through 2003" for "1993 through 1997".

1993—Subsec. (c)(3). Pub. L. 103–73, §204(f)(1), substituted "advisory group established under section 4332 of this title" for "Advisory Board of NTID".

Subsec. (e). Pub. L. 103–73, §204(f)(2), substituted "such investment limitations or" for "such investment limitations and".

Subsec. (i). Pub. L. 103–73, §204(f)(3), substituted "this chapter as enacted on August 4, 1986" for "the provisions of the Education of the Deaf Act of 1986".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

[1] So in original. Probably should be "hypothecate,"

§4358. Repealed. Pub. L. 105–244, title IX, §920, Oct. 7, 1998, 112 Stat. 1831

Section, Pub. L. 99–371, title II, §208, as added Pub. L. 102–421, title I, §138, Oct. 16, 1992, 106 Stat. 2162, related to scholarship program for deaf education or special education careers.

A prior section 4358, Pub. L. 99–371, title II, §208, formerly title IV, §408, Aug. 4, 1986, 100 Stat. 792; renumbered title II, §208, Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, provided for a National Technical Institute for the Deaf endowment program, prior to repeal effective Oct. 1, 1992, by Pub. L. 102–421, title I, §§137(1), 161, Oct. 16, 1992, 106 Stat. 2159, 2164. See section 4357 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§4359. Oversight and effect of agreements

(a) Oversight activities

Nothing in this chapter shall be construed to diminish the oversight activities of the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under part B of subchapter I of this chapter.

(b) Construction of agreements

The agreements described in subsection (a) of this section shall continue in effect, to the extent

that such agreements are not inconsistent with this chapter.

(Pub. L. 99–371, title II, §208, formerly title IV, §409, Aug. 4, 1986, 100 Stat. 794; renumbered title II, §209, Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151; amended Pub. L. 103–73, title II, §204(g), Aug. 11, 1993, 107 Stat. 735; renumbered §208 and amended Pub. L. 105–244, title IX, §921, Oct. 7, 1998, 112 Stat. 1831; Pub. L. 110–315, title IX, §910, Aug. 14, 2008, 122 Stat. 3453.)

PRIOR PROVISIONS

A prior section 208 of Pub. L. 99–371 was classified to section 4358 of this title, prior to repeal by Pub. L. 105–244.

Another prior section 208 of Pub. L. 99–371 was classified to section 4358 of this title, prior to repeal by Pub. L. 102–421.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315 substituted "Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate" for "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives".

1998—Subsec. (a). Pub. L. 105–244, §921(1), substituted "Committee on Education and the Workforce" for "Committee on Education and Labor".

1993—Subsec. (a). Pub. L. 103–73, §204(g)(1), substituted "an agreement under part B of subchapter I of this chapter" for "an agreement under title II".

Subsec. (b). Pub. L. 103–73, §204(g)(2), struck out "the provisions of" after "inconsistent with".

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§4359a. International students

(a) Enrollment

(1) In general

Except as provided in paragraph (2), effective with new admissions for academic year 1993–1994 and each succeeding academic year, the University (including undergraduate and graduate students) and NTID shall limit the enrollment of international students to approximately 15 percent of the total postsecondary student population enrolled respectively at the University or NTID, except that in any school year no United States citizen who is qualified to be admitted to the University or NTID and applies for admission to the University or NTID shall be denied admission because of the admission of an international student.

(2) Distance learning

International students who participate in distance learning courses that are at the University or the NTID, who are residing outside of the United States, and are not enrolled in a degree program at the University or the NTID shall—

(A) not be counted as international students for purposes of the cap on international students under paragraph (1), except that in any school year no United States citizen who applies to participate in distance learning courses that are at the University or NTID shall be denied participation in such courses because of the participation of an international student in such courses; and

(B) not be charged a tuition surcharge, as described in subsection (b).

(b) Tuition surcharge

Except as provided in subsections (a)(2)(B) and (c), the tuition for postsecondary international students enrolled in the University (including undergraduate and graduate students) or NTID shall include, for academic year 2009–2010 and any succeeding academic year, a surcharge of—

(1) 100 percent for a postsecondary international student from a non-developing country; and

(2) 50 percent for a postsecondary international student from a developing country, or a country that was a developing country for any academic year during the student's period of uninterrupted enrollment in a degree program at the University or NTID, except that such a surcharge shall not be adjusted retroactively.

(c) Reduction of surcharge

(1) In general

Beginning with the academic year 2009–2010, the University or NTID may reduce the surcharge—

(A) under subsection (b)(1) from 100 percent to not less than 50 percent if—

(i) a student described under subsection (b)(1) demonstrates need; and

(ii) such student has made a good-faith effort to secure aid through such student's government or other sources; and

(B) under subsection (b)(2) from 50 percent to not less than 25 percent if—

(i) a student described under subsection (b)(2) demonstrates need; and

(ii) such student has made a good faith effort to secure aid through such student's government or other sources.

(2) Development of sliding scale

The University and NTID shall develop a sliding scale model that—

(A) will be used to determine the amount of a tuition surcharge reduction pursuant to paragraph (1); and

(B) shall be approved by the Secretary.

(d) Definition

In this section, the term "developing country" means a country with a per-capita income of not more than $5,345, measured in 2005 United States dollars, as adjusted by the Secretary to reflect inflation since 2005.

(Pub. L. 99–371, title II, §209, formerly §210, as added Pub. L. 102–421, title I, §139, Oct. 16, 1992, 106 Stat. 2163; amended Pub. L. 103–73, title II, §204(h), Aug. 11, 1993, 107 Stat. 735; renumbered §209 and amended Pub. L. 105–244, title IX, §922, Oct. 7, 1998, 112 Stat. 1832; Pub. L. 110–315, title IX, §911, Aug. 14, 2008, 122 Stat. 3454.)

PRIOR PROVISIONS

A prior section 209 of Pub. L. 99–371 was renumbered section 208 and is classified to section 4359 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §911(1), designated existing provisions as par. (1), inserted heading, substituted "Except as provided in paragraph (2), effective with" for "Effective with" and "undergraduate" for "preparatory, undergraduate,", and added par. (2).

Subsecs. (b) to (d). Pub. L. 110–315, §911(2), added subsecs. (b) to (d) and struck out former subsecs. (b) to (d), which related to tuition surcharge, reduction of surcharge, and definition of "developing country", respectively.

1998—Subsec. (a). Pub. L. 105–244, §922(a)(1), substituted "15 percent" for "10 percent" and inserted before period ", except that in any school year no United States citizen who is qualified to be admitted to the University or NTID and applies for admission to the University or NTID shall be denied admission because of the admission of an international student".

Subsec. (b). Pub. L. 105–244, §922(a)(2), substituted "surcharge of 100 percent for the academic year

1999–2000 and any succeeding academic year" for "surcharge of 75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995".

1993—Subsec. (b). Pub. L. 103–73, §204(h)(1), substituted "75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995" for "75 percent beginning the academic year 1993–1994, and 90 percent beginning the academic year 1994–1995".

Subsec. (c). Pub. L. 103–73, §204(h)(2), substituted "Beginning with the academic year 1993–1994" for "Beginning the academic year 1993–1994 and thereafter" in introductory provisions and redesignated subpars. (A) to (C) as pars. (1) to (3), respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§4359b. Research priorities

(a) Research priorities

Gallaudet University and the National Technical Institute for the Deaf shall each establish and disseminate priorities for their national mission with respect to deafness related research, development, and demonstration activities, that reflect public input, through a process that includes consumers, constituent groups, and the heads of other federally funded programs. The priorities for the University shall include activities conducted as part of the University's elementary and secondary education programs under section 4304 of this title.

(b) Research reports

The University and NTID shall each prepare and submit an annual research report, to the Secretary, the Committee on Education and Labor of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, not later than January 10 of each year, that shall include—

(1) a summary of the public input received as part of the establishment and dissemination of priorities required by subsection (a) of this section, and the University's and NTID's response to the input; and

(2) a summary description of the research undertaken by the University and NTID, the start and projected end dates for each research project, the projected cost and source or sources of funding for each project, and any products resulting from research completed in the prior fiscal year.

(Pub. L. 99–371, title II, §210, as added Pub. L. 105–244, title IX, §923, Oct. 7, 1998, 112 Stat. 1832; amended Pub. L. 110–315, title IX, §912, Aug. 14, 2008, 122 Stat. 3455.)

PRIOR PROVISIONS

A prior section 210 of Pub. L. 99–371 was renumbered section 209 and is classified to section 4359a of this title.

Another prior section 210 of title II of Pub. L. 99–371, formerly title IV, §410, Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210, Pub. L. 102–241, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, repealed sections 681 to 685, 691 to 691g, 693 to 693b, and 695 to 695c of this title and provisions set out as notes under sections 681 and 693 of this title, prior to repeal by Pub. L. 102–421, title I, §139, Oct. 16, 1992, 106 Stat. 2163.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–315 substituted "Committee on Education and Labor of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate" for "Committee on Education and the Workforce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate".

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§4360. National study on the education of the deaf

(a) Conduct of study

(1) In general

The Secretary shall establish a commission on the education of the deaf (in this section referred to as the "commission") to conduct a national study on the education of the deaf, to identify education-related barriers to successful postsecondary education experiences and employment for individuals who are deaf, and those education-related factors that contribute to successful postsecondary education experiences and employment for individuals who are deaf.

(2) Definition

In this section the term "deaf", when used with respect to an individual, means an individual with a hearing impairment, including an individual who is hard of hearing, an individual deafened later in life, and an individual who is profoundly deaf.

(b) Public input and consultation

(1) In general

In conducting such study, the commission shall obtain input from the public. To obtain such input, the commission shall—

(A) publish a notice with an opportunity for comment in the Federal Register;

(B) consult with individuals and organizations representing a wide range of perspectives on deafness-related issues, including organizations representing individuals who are deaf, parents of children who are deaf, educators, and researchers; and

(C) take such other action as the commission deems appropriate, which may include holding public meetings.

(2) Structured opportunities

The commission shall provide structured opportunities to receive and respond to the viewpoints of the individuals and organizations described in paragraph (1)(B).

(c) Report

The commission shall report to the Secretary and Congress not later than 18 months after August 14, 2008, regarding the results of the study. The report shall contain—

(1) recommendations relating to educated-related factors that contribute to successful postsecondary education experiences and employment for individuals who are deaf, including recommendations for legislation, that the commission deems appropriate; and

(2) a detailed summary of the input received under subsection (b) of this section and the ways in which the report addresses such input.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 and 2010 to carry out the provisions of this section.

(Pub. L. 99–371, title II, §211, as added Pub. L. 105–244, title IX, §924, Oct. 7, 1998, 112 Stat. 1832; amended Pub. L. 110–315, title IX, §913, Aug. 14, 2008, 122 Stat. 3455.)

PRIOR PROVISIONS

A prior section 4360, Pub. L. 99–371, title II, §211, formerly title IV, §411, Aug. 4, 1986, 100 Stat. 794; renumbered title II, §211, and amended Pub. L. 102–421, title I, §§101(b)(5), (6), 140, 151(a)(4), Oct. 16, 1992, 106 Stat. 2151, 2163, 2164; Pub. L. 103–73, title II, §204(i), Aug. 11, 1993, 107 Stat. 735, authorized appropriations for this chapter, prior to repeal by Pub. L. 105–244, §3, title IX, §923, Oct. 7, 1998, 112 Stat. 1585, 1832, effective Oct. 1, 1998. See section 4360a of this title.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–315, §913(a), inserted "establish a commission on the education of the deaf (in this section referred to as the 'commission') to" after "The Secretary shall".

Subsec. (b). Pub. L. 110–315, §913(b), substituted "commission" for "Secretary" wherever appearing.

Subsec. (c). Pub. L. 110–315, §913(c)(1), in introductory provisions, substituted "commission shall report to the Secretary and Congress not later than 18 months after August 14, 2008" for "Secretary shall report to Congress not later than 18 months after October 7, 1998".

Subsec. (c)(1). Pub. L. 110–315, §913(c)(2), substituted "recommendations relating to educated-related factors that contribute to successful postsecondary education experiences and employment for individuals who are deaf, including" for "recommendations, including" and "commission" for "Secretary".

Subsec. (d). Pub. L. 110–315, §913(d), substituted "such sums as may be necessary for each of the fiscal years 2009 and 2010" for "$1,000,000 for each of the fiscal years 1999 and 2000".

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§4360a. Authorization of appropriations

(a) Gallaudet University

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2014 to carry out the provisions of subchapter I of this chapter and this subchapter, relating to—

(1) Gallaudet University;

(2) Kendall Demonstration Elementary School; and

(3) the Model Secondary School for the Deaf.

(b) National Technical Institute for the Deaf

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2014 to carry out the provisions of subchapter I of this chapter and this subchapter relating to the National Technical Institute for the Deaf.

(Pub. L. 99–371, title II, §212, as added Pub. L. 105–244, title IX, §925, Oct. 7, 1998, 112 Stat. 1833; amended Pub. L. 110–315, title IX, §914, Aug. 14, 2008, 122 Stat. 3455.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 4360 of this title, prior to repeal by Pub. L. 105–244.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, §914(1), substituted "fiscal years 2009 through 2014" for "fiscal years 1998 through 2003" in introductory provisions.

Subsec. (b). Pub. L. 110–315, §914(2), substituted "fiscal years 2009 through 2014" for "fiscal years 1998 through 2003".

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§4361. Supervision of public business of Gallaudet University

The Secretary of Education is charged with the supervision of public business relating to Gallaudet University.

(R.S. §441; Mar. 4, 1911, ch. 285, §1, 36 Stat. 1422; 1940 Reorg. Plan No. IV, §11, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234; 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; June 18, 1954, ch. 324, §1, 68 Stat. 265; Oct. 17, 1979, Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, 93 Stat. 677, 692; Aug. 4, 1986, Pub. L. 99–371, title I, §101(a), 100 Stat. 781.)

CODIFICATION

Section was not enacted as part of the Education of the Deaf Act of 1986, which comprises this chapter.

Section was formerly classified to section 691h of this title.

CHANGE OF NAME

Pursuant to section 101(a) of Pub. L. 99–371, which is classified to section 4301(a) of this title, "Gallaudet University" was substituted in text for "Gallaudet College" which had been substituted in text for "Columbia Institution for the Deaf" pursuant to section 1 of act June 18, 1954, which was formerly classified to section 691 of this title. Previously, act Mar. 4, 1911, ch. 285, 36 Stat. 1422, had redesignated the "Columbia Institution for the Deaf and Dumb" as the "Columbia Institution for the Deaf".

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred to Secretary of Education functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Gallaudet College [now Gallaudet University] and Department of Health, Education, and Welfare.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Department of the Interior relating to administration of Columbia Institution for the Deaf transferred to Federal Security Agency to be administered under direction and supervision of Federal Security Administrator by §11(d) of 1940 Reorg. Plan No. IV, set out in the Appendix to Title 5.

§4362. Purchases through General Services Administration

On and after September 8, 1978, Gallaudet University and the National Technical Institute for the Deaf are authorized to make purchases through the General Services Administration.

(Pub. L. 95–355, title I, §100, Sept. 8, 1978, 92 Stat. 531; Pub. L. 99–371, title I, §101(a), Aug. 4, 1986, 100 Stat. 781.)

CODIFICATION

Section is from the Second Supplemental Appropriations Act, 1978, and not enacted as part of the Education of the Deaf Act of 1986, which comprises this chapter, and contained additional provisions relating to purchases by the American Printing House for the Blind and Howard University which are set out as sections 106 and 130 of this title, respectively.

Section, as it relates to Gallaudet University, was formerly classified to section 691i of this title, and as it relates to the National Technical Institute for the Deaf, was formerly classified to section 686 of this title.

CHANGE OF NAME

"Gallaudet University" substituted in text for "Gallaudet College" pursuant to section 101(a) of Pub. L. 99–371, which is classified to section 4301(a) of this title.

§4363. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, §301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and was not enacted as part of the Education of the Deaf Act of 1986 which comprises this chapter, and contained additional provisions relating to the American Printing House for the Blind and Howard University, which are set out as sections 106a and 130a of this title, respectively.

CHAPTER 56—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

Sec.

4401. Findings.
4402. Definitions.

SUBCHAPTER I—AMERICAN INDIANS AND ALASKA NATIVES

4411. Establishment of Institute.
4412. Board of Trustees.
4413. Executive Board.
4414. General powers of Board.
4415. President of Institute.
4416. Staff of Institute.
4417. Functions of Institute.
4418. Indian preference.
4419. Nonprofit and nonpolitical nature of Institute.
4420. Tax status; tort liability.
4421. Transfer of functions.
4422. Reports.
4423. Headquarters.
4424. Compliance with other Acts.
4425. Endowment programs.
4426. Provision of facilities.

SUBCHAPTER II—NATIVE HAWAIIANS AND ALASKA NATIVES

4441. Program for Native Hawaiian and Alaska Native culture and arts development.
4442. Administrative provisions.

SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

4451. Authorization of appropriations.

§4401. Findings

The Congress finds that—

(1) Indian art and culture and Native Hawaiian art and culture have contributed greatly to the artistic and cultural richness of the Nation;

(2) Indian art and culture and Native Hawaiian art and culture occupy a unique position in American history as being our only native art form and cultural heritage;

(3) the enhancement and preservation of this Nation's native art and culture has a fundamental positive influence on the American people;

(4) although the encouragement and support of Indian and Native Hawaiian arts and crafts are primarily a matter for private, local, and Indian and Native Hawaiian initiative, it is also an appropriate matter of concern to the Federal Government;

(5) it is appropriate and necessary for the Federal Government to support research and scholarship in Indian art and culture and Native Hawaiian art and culture and to complement programs for the advancement of such art and culture by tribal, private, and public agencies and organizations;

(6) current Federal initiatives in the area of Indian art and culture and Native Hawaiian art and culture are fragmented and inadequate; and

(7) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Indian art and culture and Native Hawaiian art and culture, it is desirable to establish—

(A) a national Institute of American Indian and Alaska Native Culture and Arts Development, and

(B) a program for Native Hawaiian culture and arts development.

(Pub. L. 99–498, title XV, §1502, Oct. 17, 1986, 100 Stat. 1600.)

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–239, title VII, §721, May 4, 1994, 108 Stat. 606, provided that: "This title [probably should be "subtitle" meaning subtitle C [§§721, 722] of title VII of Pub. L. 103–239, amending section 4441 of this title] may be cited as the 'Alaska Native Culture and Arts Development Act'."

SHORT TITLE

Pub. L. 99–498, title XV, §1501, Oct. 17, 1986, 100 Stat. 1600, provided that: "This title [enacting this chapter] may be cited as the 'American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act'."

§4402. Definitions

For the purpose of this chapter—

(1) The term "Indian art and culture" includes (but is not limited to) the traditional and contemporary expressions of Indian language, history, visual and performing arts, and crafts.

(2) The term "Native Hawaiian art and culture" includes the traditional and contemporary expressions of Native Hawaiian language, history, visual and performing arts, and crafts.

(3) The term "Institute" means the Institute of American Indian and Alaska Native Culture and Arts Development established by this chapter.

(4) The term "Indian" means any person who is a member of an Indian tribe.

(5) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(6) The term "Native Hawaiian" means any descendent of a person who, prior to 1778, was a native of the Hawaiian Islands.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Board" means the Board of Trustees of the Institute established under this chapter.

(Pub. L. 99–498, title XV, §1503, Oct. 17, 1986, 100 Stat. 1600.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

SUBCHAPTER I—AMERICAN INDIANS AND ALASKA NATIVES

§4411. Establishment of Institute

(a) In general

There is hereby established a corporation to be known as the "Institute of American Indian and Alaska Native Culture and Arts Development", which shall be under the direction and control of a Board of Trustees established under section 4412 of this title.

(b) Succession and amendment of charter

The corporation established under subsection (a) of this section shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

(Pub. L. 99–498, title XV, §1504, Oct. 17, 1986, 100 Stat. 1601.)

AVAILABILITY OF FISCAL YEAR 1988 APPROPRIATIONS

Pub. L. 100–202, §101(g) [title I, §100], Dec. 22, 1987, 101 Stat. 1329–213, 1329–228, provided: "That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act [this chapter], the amounts appropriated for fiscal year 1988 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available to operate the Institute until the Board of Regents and President of the Institute have been named and had an opportunity to organize, and for use under part A of that Act [this subchapter]."

AVAILABILITY OF APPROPRIATIONS; IMPLEMENTATION OF CHAPTER; INTERIM AUTHORITY OF SECRETARY

Pub. L. 99–500, §101(h) [title I, §100], Oct. 18, 1986, 100 Stat. 1783–242, 1783–255, and Pub. L. 99–591, §101(h) [title I, §100], Oct. 30, 1986, 100 Stat. 3341–242, 3341–255, provided: "That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act [this chapter], the amounts appropriated for fiscal year 1987 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available for use under part A of that Act [this subchapter] and—

"(1) that Act shall be implemented in a reasonable period of time and shall be fully implemented by no later than October 1, 1987,

"(2) until the earlier of—

"(A) October 1, 1987, or

"(B) the appointment and confirmation of a majority of the members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development under section 1505(a)(1)(A) of that Act [20 U.S.C. 4412(a)(1)(A)],

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

"(3) until the earlier of—

"(A) October 1, 1987, or

"(B) the appointment of a President of such Institute under section 1508 of that Act [20 U.S.C. 4415],

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

"(3) [(4)] until the earlier of—

"(A) October 1, 1987, or

"(B) the appointment of a President of such Institute under section 1508 of that Act,

the Secretary of the Interior shall have the authority conferred upon the President of such Institute under this [that] Act".

§4412. Board of Trustees

(a) Composition

(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

(A) Subject to the provisions of subsection (i) of this section, the voting members shall be appointed by the President of the United States, not later than 180 days after October 17, 1986, from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views, and diverse fields of expertise, including finance, law, fine arts, and higher education administration.

(B) The nonvoting members shall consist of—

(i) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives;

(ii) 2 Members of the Senate appointed by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader of the Senate;

(iii) the President of the Institute, ex officio; and

(iv) the president of the student body of the Institute, ex officio.

(2) In making appointments pursuant to paragraph (1)(A), the President of the United States shall—

(A) consult with the Indian tribes and the various organizations of Indians;

(B) publish in the Federal Register an announcement of the expiration of terms no less than 4 months before such expiration;

(C) solicit nominations from Indian tribes and various Indian organizations to fill the vacancies;

(D) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board; and

(E) ensure that a majority of the Board appointed under paragraph (1)(A) are Indians.

(3) The President shall carry out the activities described in subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President for whom no nominations have been received.

(4) Members of Congress appointed under this section, or their designees, shall be entitled to attend all meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

(b) Terms of office

(1) Except as otherwise provided in this section, members shall be appointed for terms of office of 6 years.

(2) The terms of office on the Board for the Members of the House of Representatives and of the Senate shall expire at the end of the congressional term of office during which such Member or Senator was appointed to the Board.

(3) Of the members of the Board first appointed under subsection (a)(1)(A) of this section—

(A) 4 shall be appointed for terms of office of 2 years;

(B) 4 shall be appointed for terms of office of 4 years; and

(C) 5 shall be appointed for terms of office of 6 years,

as determined by the drawing of lots during the first meeting of the Board.

(4) No member of the Board appointed under subsection (a)(1)(A) of this section shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(c) Vacancies

Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the Board appointed under subsection (a)(1)(B) of this section, a replacement shall be appointed in the same manner in which the original appointment was made.

(d) Removal

No member of the Board may be removed during the term of office of such member except for just and sufficient cause.

(e) Chairman and Vice Chairman

The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the members of the Board appointed pursuant to subsection (a)(1)(A) of this section. Such Chairman and Vice Chairman so designated shall serve for 12 calendar months. Thereafter, the Chairman and Vice Chairman shall be elected from among the members of the Board appointed pursuant to subsection (a)(1)(A) of this section and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board appointed pursuant to subsection (a)(1)(A) of this section, and the member filling such vacancy shall serve for the remainder of the unexpired term.

(f) Quorum

Unless otherwise provided by the bylaws of the Institute, a majority of the members appointed under subsection (a)(1)(A) of this section shall constitute a quorum.

(g) Powers

The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this chapter, including the organization and procedures of the Board.

(h) Compensation

Members of the Board appointed pursuant to subsection (a)(1)(A) of this section shall, for each day they are engaged in the performance of the duties under this chapter, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(i) Appointment exception for continuity

(1) In order to maintain the stability and continuity of the Board, the Board shall have the power to recommend the continuation of members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall transmit the recommendation to the President no later than 75 days prior to the expiration of the term of the member.

(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities.

(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the member covered by paragraph (2) shall be deemed to expire 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4) of this section, relating to continuation of service pending replacement, shall continue to apply.

(Pub. L. 99–498, title XV, §1505, Oct. 17, 1986, 100 Stat. 1601; Pub. L. 102–325, title XIII, §1331(a), July 23, 1992, 106 Stat. 805; Pub. L. 112–166, §2(ee), Aug. 10, 2012, 126 Stat. 1290.)

AMENDMENTS

2012—Subsec. (a)(1)(A). Pub. L. 112–166 struck out "by and with the advice and consent of the Senate" after "United States".

1992—Subsec. (a)(1)(A). Pub. L. 102–325, §1331(a)(1), substituted "Subject to the provisions of subsection (i) of this section, the voting" for "The voting" and inserted before period at end ", and diverse fields of expertise, including finance, law, fine arts, and higher education administration".

Subsec. (a)(3), (4). Pub. L. 102–325, §1331(a)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (i). Pub. L. 102–325, §1331(a)(4), added subsec. (i) and struck out former subsec. (i) which read as follows: "(i) REVIEW BY SECRETARY OF THE INTERIOR.—For so long as any employee of the Institute is covered under title 5, the Board (acting by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause."

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Feb. 22, 1991, 56 F.R. 8099, provided:

Memorandum for the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development

By the authority vested in me as President of the United States by section 301 of Title 3 of the United States Code, I hereby delegate to the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development the responsibility under section 1505(a)(2)(B) of P.L. 99–498 (20 U.S.C. 4412(a)(2)(B)) to publish in the Federal Register an announcement of the expiration of the terms of the presidentially appointed members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development no less than 4 months prior to their expiration. The authority delegated by this memorandum may be further redelegated within the Institute.

The delegation of authority to the Secretary of the Interior by memorandum of June 22, 1988, is hereby rescinded.

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

§4413. Executive Board

(a) Composition

The Board shall have an Executive Board composed of—

(1) the chairman of the Board;
(2) the vice chairman of the Board;
(3) the secretary of the Board;
(4) the treasurer of the Board; and
(5) an at-large member of the Board elected by the Board at its initial meeting.

(b) Vacancies

In the case of any vacancy which occurs in the position of at-large member before the expiration of such member's term, the Board shall elect a replacement to complete that term.

(c) Meetings

The Executive Board shall hold not more than 4 regular meetings per calendar year. Special meetings may be held upon the call of the chairman or 3 members of the Executive Board.

(d) Quorum

A majority of the Executive Board shall constitute a quorum.

(e) Powers

The Executive Board may hold and use all the powers of the Board, subject to the approval of the Board.

(Pub. L. 99–498, title XV, §1506, Oct. 17, 1986, 100 Stat. 1603.)

§4414. General powers of Board

(a) In general

In carrying out the provisions of this chapter, the Board shall have the power, consistent with the provisions of this chapter—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract [1] without regard to section 3324 of title 31;

(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 4426 of this title, if the ventures are related to and further the mission of the Institute;

(4) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(6) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this chapter and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(7) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(8) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(9) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(10) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(11) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this chapter;

(12) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses;

(13) to use any funds or property received by the Institute to carry out the purpose of this chapter, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 4451 of this title for investment, without regard to

any other provision of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds; and

(14) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this chapter and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

(b) Accounting for non-Federal funds

Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.

(c) Interest and investments

Interest and earnings on amounts received by the Institute pursuant to section 4451 of this title invested under subsection (a)(12) [2] of this section shall be the property of the Institute and shall be expended to carry out this chapter. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12) [2] of this section.

(Pub. L. 99–498, title XV, §1507, Oct. 17, 1986, 100 Stat. 1603; Pub. L. 100–297, title V, §5406(e), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, §501, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102–325, title XIII, §1331(b), July 23, 1992, 106 Stat. 806; Pub. L. 103–208, §2(l), Dec. 20, 1993, 107 Stat. 2486.)

REFERENCES IN TEXT

Subsection (a)(12) of this section, referred to in subsec. (c), was redesignated subsec. (a)(13) of this section, repealed, and a new subsec. (a)(13) added by Pub. L. 102–325, title XIII, §1331(b)(1)(A), (C), July 23, 1992, 106 Stat. 806, and former subsec. (a)(11) of this section was redesignated subsec. (a)(12).

AMENDMENTS

1993—Subsec. (a)(12). Pub. L. 103–208 substituted semicolon for period at end.

1992—Subsec. (a)(2). Pub. L. 102–325, §1331(b)(1)(B), added par. (2) and struck out former par. (2) which read as follows: "to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31;".

Subsec. (a)(3) to (12). Pub. L. 102–325, §1331(b)(1)(A), (B), added par. (3) and redesignated former pars. (3) to (11) as (4) to (12), respectively. Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 102–325, §1331(b)(1)(C), added par. (13) and struck out former par. (13) which read as follows: "to use any funds or property received by the Institute to carry out the purpose of this chapter; and".

Pub. L. 102–325, §1331(b)(1)(A), redesignated par. (12) as (13). Former par. (13) redesignated (14).

Subsec. (14). Pub. L. 102–325, §1331(b)(1)(A), redesignated par. (13) as (14).

Subsec. (c). Pub. L. 102–325, §1331(b)(2), substituted "shall be expended" for "may be expended".

1990—Subsec. (a)(11). Pub. L. 101–644, §501(b), amended par. (11) generally. Prior to amendment, par. (11) read as follows: "to obtain insurance or make other provisions against losses;".

Subsec. (c). Pub. L. 101–644, §501(a), added subsec. (c).

1988—Pub. L. 100–297 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L.

100–297, set out as a note under section 1071 of this title.

[1] *So in original. Probably should be "contracts".*

[2] *See References in Text note below.*

§4415. President of Institute

(a) Appointment

The Institute shall have a President who shall be appointed by the Board. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairman of the Board, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute and shall have authority over all personnel and activities of the Institute.

(b) Compensation

The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS–18 of the General Schedule.

(Pub. L. 99–498, title XV, §1508, Oct. 17, 1986, 100 Stat. 1604.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§4416. Staff of Institute

(a) Exemption from civil service

Except as otherwise provided in this section, title 5 shall not apply to the Institute.

(b) Appointment and compensation

(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the President of the Institute deems necessary for the efficient administration of the Institute.

(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5 applies. If the Board determines that such action is necessary for purposes of recruitment or retention of officers or employees necessary to the functions of the Institute, the Board is authorized, by formal action, to establish a rate of, or a range for, basic compensation that is comparable to the rate of compensation paid to officers or employees having similar duties and responsibilities in other institutions of higher education.

(3)(A) Not later than 180 days after the President of the Institute is appointed, the President of the Institute shall make policies and procedures governing—

(i) the establishment of positions at the Institute,
(ii) basic compensation for such positions (including health and retirement benefits),
(iii) entitlement to compensation,
(iv) conditions of employment,
(v) discharge from employment,
(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) Appeal to Board

Any officer or employee of the Institute may appeal to the Board any determination by the President of the Institute to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President of the Institute with respect to the employment of such officer or employee.

(d) No reduction in classification or compensation

Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.

(e) Leave

(1) Any individual who—

(A) elects under subsection (g) of this section to be covered under the provisions of this section, or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute,

shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b) of this section, with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

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

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) of this section shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(f) Applicability

(1) This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—

(A) the continued employment of any individual employed before October 17, 1986; or

(B) such individual's right to receive the compensation attached to such position.

(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.

(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute.

(g) Termination of civil service positions

(1) On June 30, 1989, any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5 may elect to continue to be subject to such subchapter, and any such individual who is subject to chapter 84 of such title may elect to continue to be subject to such chapter.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5 or chapter 84 of such title shall, so long as continually employed by the Institute without a break in service subject to such subchapter or such chapter 84, as the case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The Institute shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(h) Collective bargaining

The Institute shall be considered an agency for the purpose of chapter 71 of title 5.

(i) Workmen's compensation

Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5.

(Pub. L. 99–498, title XV, §1509, Oct. 17, 1986, 100 Stat. 1604; Pub. L. 100–297, title V, §5406(a), Apr. 28, 1988, 102 Stat. 417; Pub. L. 102–325, title XIII, §1331(c), July 23, 1992, 106 Stat. 806; Pub. L. 103–382, title III, §386(a), Oct. 20, 1994, 108 Stat. 4020.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(2), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–382 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: "This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—

"(1) the continued employment of any individual employed immediately before October 17, 1986, or

"(2) such individual's right to receive the compensation attached to such position."

1992—Subsec. (b)(2). Pub. L. 102–325 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5 applies."

1988—Subsec. (g)(1). Pub. L. 100–297 substituted "On June 30, 1989" for "At the end of the 2-year period beginning on the date referred to in section 4421(f) of this title".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

§4417. Functions of Institute

(a) Primary functions

The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, Indian art and culture, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

(b) Administrative entities

(1) The Board shall be responsible for establishing the policies and internal organization that relate to the control and monitoring of all subdivisions, administrative entities, and departments of the Institute.

(2) The specific responsibilities of each subdivision, entity, and department of the Institute are solely within the discretion of the Board, or its designee.

(3) The Board shall establish, within the Institute, departments for the study of culture and arts and for research and exchange, and a museum. The Board shall establish the areas of competency for the departments created under this paragraph, which may include (but are not limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature and Museology and a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.

(c) Other programs

In addition to the centers and programs described in subsection (b) of this section, the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Indian art and culture through—

(A) resident programs;

(B) cooperative programs; and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Indian art and culture; and

(3) coordinate efforts to preserve, support, revitalize, and develop evolving forms of Indian art and culture.

(Pub. L. 99–498, title XV, §1510, Oct. 17, 1986, 100 Stat. 1606; Pub. L. 101–644, title V, §502, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102–325, title XIII, §1331(d), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "There shall be established within the Institute—

"(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include (but not be limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology;

"(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

"(A) a learning resources center;

"(B) programs of institutional support and development;

"(C) research programs;

"(D) fellowship programs;

"(E) seminars;

"(F) publications;

"(G) scholar-in-residence and artist-in-residence programs; and

"(H) inter-institutional programs of cooperation at national and international levels; and

"(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute."

1990—Subsec. (b)(2). Pub. L. 101–644, §502(1), redesignated subpars. (B) to (I) as (A) to (H), respectively, and struck out former subpar. (A) which related to a museum of Indian arts.

Subsec. (b)(3). Pub. L. 101–644, §502(2)–(4), added par. (3).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note

under section 1001 of this title.

§4418. Indian preference

(a) In general

Notwithstanding any other provision of Federal or State law, the Institute is authorized to develop a policy or policies for the Institute to extend preference to Indians in—

(1) admissions to, and enrollment in, programs conducted by the Institute,

(2) employment by the Institute, and

(3) contracts, fellowships, and grants awarded by the Institute.

(b) Hiring preference

In carrying out section 4416(b)(1) of this title, the President of the Institute shall, to the maximum extent practicable, give preference in hiring to Indians.

(Pub. L. 99–498, title XV, §1511, Oct. 17, 1986, 100 Stat. 1607; Pub. L. 102–325, title XIII, §1331(e), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 inserted "develop a policy or policies for the Institute to" after "is authorized to".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§4419. Nonprofit and nonpolitical nature of Institute

(a) Stock

The Institute shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) Nonprofit nature

No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) Nonpolitical nature

The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(Pub. L. 99–498, title XV, §1512, Oct. 17, 1986, 100 Stat. 1607.)

§4420. Tax status; tort liability

(a) Tax status

The Institute and the franchise, capital, reserves, income, and property of the Institute shall be exempt from all taxation now or hereafter imposed by the United States, by any Indian tribe, or by any State or political subdivision thereof.

(b) Tort liability

(1) The Institute shall be subject to liability relating to tort claims only to the extent a Federal agency is subject to such liability under chapter 171 of title 28.

(2) For purposes of chapter 171 of title 28, the Institute shall be treated as a Federal agency (within the meaning of section 2671 of such title).

(3) For purposes of chapter 171 of title 28, the President of the Institute shall be deemed the head of the Agency.

(Pub. L. 99–498, title XV, §1513, Oct. 17, 1986, 100 Stat. 1608; Pub. L. 100–446, title II, Sept. 27, 1988, 102 Stat. 1818.)

AMENDMENTS

1988—Pub. L. 100–446 inserted "; tort liability" in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§4421. Transfer of functions

(a) Institute of American Indian Arts

There are hereby transferred to the Institute of American Indian and Alaska Native Culture and Art Development, and such Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary in 1962.

(b) Certain matters relating to transferred functions

(1) Subject to subsection (d) of this section, all personnel, liabilities, contracts, real property (including the collections of the museum located on the site known as the "Santa Fe Indian School" but not the museum building), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this chapter (regardless of the administrative entity providing the services on the date before the transfer) shall be transferred to the Institute.

(2) Personnel engaged in functions transferred by this chapter shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) References in other laws

All laws and regulations relating to the Institute of American Indian Arts established by the Secretary in 1962 shall, insofar as such laws and regulations are appropriate, and not inconsistent with the provisions of this chapter, remain in full force and effect and apply with respect to the Institute. All references in any other Federal law to the Institute of American Indian Arts, or any officer transferred to the Institute of American Indian and Alaska Native Culture and Arts Development under subsection (b) of this section, shall be deemed to refer to the Institute of American Indian and Alaska Native Culture and Arts Development or an officer of the Institute of American Indian and Alaska Native Culture and Arts Development.

(d) Forgiveness of amounts owed; hold harmless

(1) Subject to paragraph (2)—

(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

(2) With respect to all programs of the Federal Government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States may not seek any monetary damages or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.

(Pub. L. 99–498, title XV, §1514, Oct. 17, 1986, 100 Stat. 1608; Pub. L. 100–153, §8, Nov. 5, 1987, 101 Stat. 887; Pub. L. 100–297, title V, §5406(d), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, §503, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, §1331(f), July 23, 1992,

106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102–325, §1331(f)(1), substituted "Subject to subsection (d) of this section, all personnel" for "All personnel".

Subsec. (d)(2). Pub. L. 102–325, §1331(f)(2), substituted "monetary damages" for "monetary damage".

1990—Subsec. (d). Pub. L. 101–644, §503, added subsec. (d) and struck out former subsec. (d) which read as follows: "Unless the Board provides otherwise, the Secretary of the Interior shall, until October 1, 1989, provide such technical and support assistance to the Institute as the Secretary determines reasonable or necessary to assist the Institute. Such assistance shall include audit, accounting, computer services, and building and maintenance services."

Subsecs. (e), (f). Pub. L. 101–644, §503(1), struck out subsec. (e) which related to completion of transfers, final date of control of Institute by Secretary, payment of unexpended or unobligated funds, and responsibility for subsequently incurred obligations, and subsec. (f) which related to contract with University of New Mexico, terms of contract, and composition of advisory council.

1988—Subsec. (e)(3), (4). Pub. L. 100–297 added pars. (3) and (4).

1987—Subsec. (d). Pub. L. 100–153, §8(1), (2), substituted "Unless the Board provides otherwise" for "During the 2-year period beginning on the date referred to in subsection (f) of this section" and inserted ", until October 1, 1989," after "Secretary of the Interior shall".

Subsec. (e). Pub. L. 100–153, §8(3), added subsec. (e) and struck out former subsec. (e) which read as follows: "During the period beginning on October 17, 1986, and ending on the date referred to in subsection (f) of this section, the Advisory Board for Institute of American Indian Arts shall continue to act in an advisory role for the Board and the Institute of American Indian and Alaska Native Culture and Arts Development."

Subsec. (f). Pub. L. 100–153, §8(3), added subsec. (f) and struck out former subsec. (f) which read as follows: "The provisions of this section (other than subsection (e) of this section) shall take effect on October 1, 1986."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

§4422. Reports

(a) Annual report

The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

(b) Budget proposal

(1) After September 30, 1988 and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(2) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(3) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

(Pub. L. 99–498, title XV, §1515, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 100–297, title V, §5406(f), Apr. 28, 1988, 102 Stat. 418; Pub. L. 102–325, title XIII, §1331(g), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: "Prior to October 1, 1988, the Board shall submit a budget proposal to the Secretary of the Interior. The Secretary shall submit that proposal to the Congress."

1988—Subsec. (b)(1). Pub. L. 100–297, §5406(f)(1), substituted "Prior to October 1, 1988" for "During the 2-year period beginning on the date referred to in section 4421(f) of this title".

Subsec. (b)(2). Pub. L. 100–297, §5406(f)(2), substituted "September 30, 1988" for "the period described in paragraph (1)".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to submitting an annual report to Congress, and provisions in subsec. (b) of this section relating to submitting annual budget proposal to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 201 of House Document No. 103–7.

§4423. Headquarters

Santa Fe, New Mexico, shall be maintained as the location for the Institute of Indian and Alaska Native Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Board may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

(Pub. L. 99–498, title XV, §1516, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 102–325, title XIII, §1331(h), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Pub. L. 102–325 struck out "The site of the Institute of American Indian Arts, at" before "Santa Fe, New Mexico" and substituted "the Board may enter" for "the Secretary may enter".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§4424. Compliance with other Acts

(a) In general

The Institute shall comply with the provisions of—

(1) Public Law 95–341 (42 U.S.C. 1996 [, 1996a]), popularly known as the American Indian Religious Freedom Act,

(2) the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and

(3) division A of subtitle III of title 54.

(b) Criminal laws

All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or the property of the United States shall apply to the funds and property of the Institute.

(c) Other Federal assistance

(1) Funds received by the institute [1] pursuant to this chapter [2] shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement.

(2) The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant, contract, cooperative agreement, or project as a condition to the application for, or receipt of, Federal assistance. This subsection shall not be construed to effect [3] in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.

(Pub. L. 99–498, title XV, §1517, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 101–644, title V, §504, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, §1331(i), July 23, 1992, 106 Stat. 808; Pub. L. 113–287, §5(e)(2), Dec. 19, 2014, 128 Stat. 3268.)

REFERENCES IN TEXT

Public Law 95–341, popularly known as the American Indian Religious Freedom Act, referred to in subsec. (a)(1), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The Archaeological Resources Protection Act of 1979, referred to in subsec. (a)(2), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§470aa et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of Title 16 and Tables.

This chapter, referred to in subsec. (c)(1), was in the original "this Act" and was translated as reading "this title", meaning title XV of Pub. L. 99–498 to reflect the probable intent of Congress.

AMENDMENTS

2014—Subsec. (a)(3). Pub. L. 113–287 substituted "division A of subtitle III of title 54" for "the National Historic Preservation Act (16 U.S.C. 470 et seq.)".

1992—Subsec. (c). Pub. L. 102–325 designated existing provisions as par. (1) and added par. (2).

1990—Subsec. (c). Pub. L. 101–644 added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

[1] So in original. Probably should be capitalized.

[2] See References in Text note below.

[3] So in original. Probably should be "affect".

§4425. Endowment programs

(a) Program enhancement endowment

(1)(A) From the total amount appropriated for this subsection pursuant to section 4451(a) of this title, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

(B) The President of the Institute shall provide—

(i) for the deposit into the trust fund referred to in subparagraph (A)—

(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

(II) any earnings on the funds deposited under this paragraph; or

(ii) for the reservation for the sole use of the Institute of any noncash, in-kind contributions of

real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of November 29, 1990 and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year. All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992.

(4) Amounts appropriated under section 4451(a) of this title for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

(b) Capital improvement endowment

(1) In addition to the trust fund established under subsection (a) of this section, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to section 4451(a) of this title for the purpose of establishing a separate special endowment for capital improvement (hereafter in this subsection referred to as the "capital endowment fund") to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from any private, non-Federal governmental, or tribal source.

(5) Subject to paragraph (3), amounts appropriated under section 4451(a) of this title for use under

this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

(6) For the purpose of complying with the contribution requirement in this subsection, the Institute may use funds or in-kind contributions of real or personal property. For the purposes of this paragraph, all contributions, in-kind and real estate, which are held by the Institute beginning on November 29, 1990, and which were received after June 2, 1988, but which have not been included in their entirety in computations under this section shall be eligible for matching Federal funds appropriated in any year.

(c) General administrative provisions

(1) Funds in the trust funds described in subsections (a) and (b) of this section shall be invested under the same conditions and limitations as funds are invested under section 1065(c)(2) of this title and the regulations implementing such section (as such regulations were in effect at the time the funds are invested).

(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

(3) Any amounts deposited in a trust fund authorized under subsection (a) of this section may be used to secure loans procured for the purposes of constructing or improving Institute facilities.

(4) The President of the Institute shall provide for such other provisions governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this chapter as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) of this section and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) of this section as will allow the Secretary of the Treasury to audit and monitor activities under this section.

(Pub. L. 99–498, title XV, §1518, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 100–297, title V, §5406(b), Apr. 28, 1988, 102 Stat. 417; Pub. L. 101–644, title V, §505, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, §1331(j), July 23, 1992, 106 Stat. 808; Pub. L. 103–382, title III, §386(b), Oct. 20, 1994, 108 Stat. 4020.)

AMENDMENTS

1994—Subsec. (b)(6). Pub. L. 103–382, §386(b)(1), added par. (6).

Subsec. (c)(1). Pub. L. 103–382, §386(b)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Funds in the trust funds described in subsections (a) and (b) of this section shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time."

1992—Subsec. (a)(3). Pub. L. 102–325, §1331(j)(1)(A), substituted "November 29, 1990" for "the date of enactment of this Act".

Pub. L. 102–325, §1331(j)(1)(B), inserted at end "All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992."

Subsec. (b)(4). Pub. L. 102–325, §1331(j)(2), inserted ", non-Federal governmental," after "any private".

Subsec. (c)(3), (4). Pub. L. 102–325, §1331(j)(3), added par. (3) and redesignated former par. (3) as (4).

1990—Pub. L. 101–644 amended section generally, substituting present provisions consisting of subsecs. (a) to (c) for former text which provided: in subsec. (a), establishment of program; in subsec. (b), use of funds; in subsec. (c), compliance with matching requirement; and in subsec. (d), payment of Federal contribution.

1988—Subsec. (a)(1). Pub. L. 100–297, §5406(b)(1), substituted "From amounts appropriated under section 4451(a) of this title, not more than $500,000" for "From the amount appropriated pursuant to section 4441(a) of this title, the Secretary shall make available to the Institute not more than $500,000 which".

Subsec. (d). Pub. L. 100–297, §5406(b)(2), in subsec. heading substituted "Payment of Federal contribution" for "Allocation of funds", and in text substituted "Amounts appropriated under section 4451(a) of this title for use under this section shall be paid by the Secretary of the Treasury to the Institute as" for "From the amount appropriated pursuant to section 4441(a) of this title, the Secretary shall allocate to the Institute an amount for".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

§4426. Provision of facilities

(a) Plan

The Board shall prepare a master plan on the short- and long-term facilities needs of the Institute. The master plan shall include evaluation of all facets of existing Institute programs, including support activities and programs and facilities. The master plan shall include impact projections for the Institute's move to a new campus site. This master plan shall evaluate development and construction requirements (based on a growth plan approved by the Board), including (but not limited to) items such as infrastructure and site analysis, development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions.

(b) Deadline for transmittal

The plan required by this subsection shall be transmitted to Congress no later than 18 months after July 23, 1992. Such plan shall include a prioritization of needs, as determined by the Board.

(Pub. L. 99–498, title XV, §1519, as added Pub. L. 102–325, title XIII, §1331(k), July 23, 1992, 106 Stat. 808.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SUBCHAPTER II—NATIVE HAWAIIANS AND ALASKA NATIVES

§4441. Program for Native Hawaiian and Alaska Native culture and arts development

(a) In general

The Secretary of the Interior is authorized to make grants for the purpose of supporting programs for Native Hawaiian or Alaska Native culture and arts development to any private, nonprofit organization or institution which—

(1) primarily serves and represents Native Hawaiians or Alaska Natives, and

(2) has been recognized by the Governor of the State of Hawaii or the Governor of the State of Alaska, as appropriate, for the purpose of making such organization or institution eligible to receive such grants.

(b) Purpose of grants

Grants made under subsection (a) of this section shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

(1) to provide scholarly study of, and instruction in, Native Hawaiian or Alaska Native art and culture,

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian or Alaska Native art and culture, or

(3) to establish centers and programs with respect to Native Hawaiian or Alaska Native art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 4417 of this title.

(c) Management of grants

(1) Any organization or institution which is the recipient of a grant made under subsection (a) of this section shall establish a governing board to manage and control the program with respect to which such grant is made.

(2) For any grants made with respect to Native Hawaiian art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

(C) include the president of the University of Hawaii,

(D) include the president of the Bishop Museum, and

(E) serve for a fixed term of office.

(3) For any grants made with respect to Alaska Native art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

(A) include Alaska Natives and individuals widely recognized in the field of Alaska Native art and culture,

(B) represent the Eskimo, Indian and Aleut cultures of Alaska, and

(C) serve for a fixed term.

(Pub. L. 99–498, title XV, §1521, Oct. 17, 1986, 100 Stat. 1610; Pub. L. 103–239, title VII, §722(2), May 4, 1994, 108 Stat. 606.)

AMENDMENTS

1994—Pub. L. 103–239 amended section generally, substituting provisions relating to development program for Native Hawaiian and Alaska Native culture and arts for provisions relating to development program for Native Hawaiian culture and arts.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–239, §801, May 4, 1994, 108 Stat. 607, provided that: "This Act [see Short Title note set out under section 6101 of this title] shall take effect on the date of enactment of this Act [May 4, 1994]."

§4442. Administrative provisions

(a) Payments

The Secretary may award grants under this subchapter in installments, in advance, or by way of reimbursement and may make necessary adjustments in payments of grants on account of overpayments or underpayments.

(b) Recovery of overpayments

(1) If the Secretary or a court of competent jurisdiction finds that—

(A) any person—

(i) has—

(I) made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or

(II) knowingly failed, or caused another to fail, to disclose a material fact; and

(ii) as a result of such action, has received any funds under this subchapter which such person would not have otherwise received, or

(B) any person misappropriates any funds paid by the Secretary under this subchapter,

such person shall be liable to repay the amount of such funds to the United States. Any such finding by the Secretary may be made only after an opportunity for a fair hearing.

(2) Any amount repaid under this subsection shall be returned to the general fund of the Treasury of the United States.

(c) Penalties

Whoever—

(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for such person or for any other person any payment of funds provided under this subchapter, or

(2) misappropriates any funds provided under this subchapter,

shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Pub. L. 99–498, title XV, §1522, Oct. 17, 1986, 100 Stat. 1611.)

SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

§4451. Authorization of appropriations

(a) Subchapter I

(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of subchapter I of this chapter.

(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

(3) Except as provided for amounts subject to section 4425(d) [1] of this title, amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

(A) the beginning of the fiscal year, or

(B) upon enactment of such appropriation.

(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this chapter,[1] amounts appropriated in an appropriations Act for any fiscal year to carry out this chapter [1] may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.

(b) Subchapter II

There are authorized to be appropriated for the purpose of carrying out the provisions of subchapter II of this chapter—

(1) for fiscal year 1987, $1,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

(Pub. L. 99–498, title XV, §1531, Oct. 17, 1986, 100 Stat. 1612; Pub. L. 100–297, title V, §5406(c), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, §506, Nov. 29, 1990, 104 Stat. 4672.)

REFERENCES IN TEXT

Section 4425 of this title, referred to in subsec. (a)(3), was amended generally by Pub. L. 101–644, title V, §505, Nov. 29, 1990, 104 Stat. 4669, and, as so amended, provisions similar to subsec. (d) are contained in subsec. (a)(4).

This chapter, referred to in subsec. (a)(5), was in the original "this Act" and was translated as reading "this

title", meaning title XV of Pub. L. 99–498 to reflect the probable intent of Congress.

AMENDMENTS

1990—Subsec. (a)(4), (5). Pub. L. 101–644 added pars. (4) and (5).

1988—Subsec. (a). Pub. L. 100–297 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There are authorized to be appropriated for the purpose of carrying out the provisions of subchapter I of this chapter—

"(1) for fiscal year 1987, $4,000,000, and

"(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions."

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

[1] *See References in Text note below.*

CHAPTER 57—JAMES MADISON MEMORIAL FELLOWSHIP PROGRAM

Sec.

4501. Purpose.
4502. Foundation.
4503. Fellowship recipients.
4504. Period for award.
4505. Recipient's choice of institution.
4506. Recipient's eligibility.
4507. Selection of fellowship recipients.
4508. Amount of fellowships.
4509. Fellowship conditions.
4510. James Madison Memorial Fellowship Trust Fund.
4511. Expenditures and audit.
4512. President and Executive Secretary of Foundation.
4513. Administrative provisions.
4514. Definitions.
4515. Appropriations.
4516. Constitutional Law Resource Centers.
4517. Appropriations for universities.

§4501. Purpose

It is the purpose of this chapter to establish the James Madison Fellowship Program which is designed to encourage graduate study of the American Constitution, its roots, its formation, its principles, and its development.

(Pub. L. 99–500, §101(b) [title VIII, §802], Oct. 18, 1986, 100 Stat. 1783–39, 1783–76, and Pub. L. 99–591, §101(b) [title VIII, §802], Oct. 30, 1986, 100 Stat. 3341–39, 3341–76.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

SHORT TITLE

Pub. L. 99–500, §101(b) [title VIII, §801], Oct. 18, 1986, 100 Stat. 1783–39, 1783–76, and Pub. L. 99–591, §101(b) [title VIII, §801], Oct. 30, 1986, 100 Stat. 3341–39, 3341–76, provided that: "This title [enacting this chapter] may be cited as the 'James Madison Memorial Fellowship Act'."

§4502. Foundation

(a) Establishment

In order to commemorate the bicentennial of the Constitution, there is established, as an independent establishment of the executive branch, the James Madison Memorial Fellowship Foundation.

(b) Board of Trustees; membership; term of office

(1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) Two Members of the Senate, of different political parties, shall be appointed by the President upon the recommendation of the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate.

(B) Two Members of the House of Representatives, of different political parties, shall be appointed by the President upon the recommendation of the Speaker of the House, in consultation with the Minority Leader of the House of Representatives.

(C) Two members of the Federal judiciary shall be appointed by the President upon the recommendation of the Chief Justice of the United States.

(D) Six members, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, two shall be members of the general public, and three shall be members of the academic community, appointed upon the recommendation of the Librarian of Congress.

(E) The Secretary of Education or his designate shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(2) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made. This provision shall not apply to members ex officio.

(3) A member of the Board whose term has expired may continue to serve until the earlier of—

(A) the date on which a successor has taken office; or

(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.

(c) Officers

Members of the Board shall elect from the members of the Board a Chairman and such other officers as may be necessary to carry out the duties of the Foundation.

(d) Reimbursement for expenses

(1) Subject to paragraph (2), members of the Board shall serve without pay.

(2) Members of the Board and the President, Executive Secretary, and other personnel of the Foundation shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties at rates applicable to judges of the United States under section 456(a) of title 28.

(Pub. L. 99–500, §101(b) [title VIII, §803], Oct. 18, 1986, 100 Stat. 1783–39, 1783–76, and Pub. L. 99–591, §101(b) [title VIII, §803], Oct. 30, 1986, 100 Stat. 3341–39, 3341–76; Pub. L. 101–208, §1, Dec. 7, 1989, 103 Stat. 1836; Pub. L. 102–221, §1(1), Dec. 11, 1991, 105 Stat. 1676.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1991—Subsec. (b)(3). Pub. L. 102–221 added par. (3).

1989—Subsec. (d). Pub. L. 101–208 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties."

§4503. Fellowship recipients

(a) The Foundation is authorized to award fellowships to outstanding students and teachers who will pursue graduate study leading to the degree of Master of Arts in teaching or other appropriate masters degree for teachers, with a major in social studies or American history. Each recipient must take at least twelve semester hours, or its equivalent in topics directly related to the Constitution of the United States, as determined by the Board.

(b)(1) James Madison fellowships shall be awarded to individuals who are, or who desire to become, social studies and American history teachers in accordance with paragraphs (2) and (3).

(2) Junior fellowships shall be awarded to graduate students who are about to complete or have recently completed their undergraduate course of study, and plan to begin graduate work on a relatively full-time basis.

(3) Senior fellowships shall be awarded to experienced teachers who wish to undertake work for a graduate degree on a part-time basis during summers or in evening programs.

(Pub. L. 99–500, §101(b) [title VIII, §804], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, §101(b) [title VIII, §804], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§4504. Period for award

Junior fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed two academic years. Senior fellowship shall be granted for such periods as the Foundation may prescribe, but not to exceed five calendar years.

(Pub. L. 99–500, §101(b) [title VIII, §805], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, §101(b) [title VIII, §805], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§4505. Recipient's choice of institution

Fellowship recipients may attend any institution of higher education in the United States with an accredited graduate program which offers courses of study or training which emphasize the origins of the Constitution of the United States, its principles, its development, and its comparison with other forms of government, as determined according to criteria established by the Foundation.

(Pub. L. 99–500, §101(b) [title VIII, §806], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, §101(b) [title VIII, §806], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§4506. Recipient's eligibility

Each student awarded a fellowship under this chapter shall demonstrate the potential, and a serious intention, to follow a career of educating students in secondary schools. Each institution of higher

education at which such a student is in attendance shall make reasonable efforts to encourage such a student to meet the objectives of this section.

Each student receiving a Fellowship under this chapter [1] shall enter into an agreement under which the recipient shall:

(a) within a 5-year period after completing the education for which the fellowship was awarded, teach on a full-time basis students in secondary school for a period of not less than one year for each year for which asistance [2] was received;

(b) repay all of the Fellowship assistance received plus interest at the rate of 6% per annum and, if applicable, reasonable collection fees for each school year for which assistance was received for which such recipient failed to teach as provided in paragraph (a); and

(c) not be considered to be in violation of the agreement entered into during any period during which the recipient:

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months; or

(6) is seeking and unable to find full-time employment as a teacher.

(Pub. L. 99–500, §101(b) [title VIII, §807], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, §101(b) [title VIII, §807], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

REFERENCES IN TEXT

This chapter, referred to in provisions preceding par. (a), was in the original "this Act" and was translated as reading "this title" meaning title VIII of section 101(b) of Pub. L. 99–500 and Pub. L. 99–591 which enacted this chapter, to reflect the probable intent of Congress.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

[1] See References in Text note below.

[2] So in original. Probably should be "assistance".

§4507. Selection of fellowship recipients

(a) Criteria for selection

Madison Fellows shall be selected for their academic achievements and their potential to become secondary school teachers of social studies and American history.

(b) Competition for selection; application

(1) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the selection of fellowship recipients. Each applicant must have a demonstrated interest in pursuing a course of study which emphasizes the Constitution, its principles, and its history, and have a demonstrated record of willingness to devote themselves to civil responsibility.

(2) Each application shall be accompanied by an essay explaining the importance of the study of the Constitution both to the applicant's career aspirations and contributions to public service, and to citizenship generally in a constitutional regime.

(3)(A) Each application shall include a description of a program of study for the graduate program, designating the courses to be taken, and the proposed Master's thesis, where appropriate.

(B) For the purpose of this paragraph, the Board of Trustees of the Foundation shall establish general criteria for programs in constitutional studies.

(c) Regional selection of recipients

The Foundation shall adopt selection procedures which shall assure that at least one Madison Fellow shall be selected each year from each State, the District of Columbia, and the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas in which there are at least two resident applicants who meet the minimum criteria established by the Foundation; and, if sufficient funding is available, to invite applications from scholars overseas for study in the United States.

(Pub. L. 99–500, §101(b) [title VIII, §808], Oct. 18, 1986, 100 Stat. 1783–39, 1783–78, and Pub. L. 99–591, §101(b) [title VIII, §808], Oct. 30, 1986, 100 Stat. 3341–39, 3341–78.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§4508. Amount of fellowships

Each student awarded a fellowship shall receive a stipend which shall not exceed the cost to the student for tuition, fees, books, room and board, or $12,000, whichever is less, for each academic year of study.

(Pub. L. 99–500, §101(b) [title VIII, §809], Oct. 18, 1986, 100 Stat. 1783–39, 1783–78, and Pub. L. 99–591, §101(b) [title VIII, §809], Oct. 30, 1986, 100 Stat. 3341–39, 3341–78.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§4509. Fellowship conditions

(a) A student awarded a Madison Fellowship shall continue to receive payments only during such periods as the Foundation finds that the student is maintaining satisfactory progress in an approved program of study or research. Recipients of junior fellowships shall devote essentially full time to their program of study.

(b) The Foundation is authorized to require reports from any fellowship recipient containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in a program of study or research, with such exceptions as the Foundation may establish.

(Pub. L. 99–500, §101(b) [title VIII, §810], Oct. 18, 1986, 100 Stat. 1783–39, 1783–79, and Pub. L. 99–591, §101(b) [title VIII, §810], Oct. 30, 1986, 100 Stat. 3341–39, 3341–79.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§4510. James Madison Memorial Fellowship Trust Fund

(a) Establishment

There shall be established in the Treasury of the United States a trust fund consisting of appropriations and amounts contributed by the Foundation for the Commemoration of the Constitution and other private sources to be available, in accordance with the provisions of this chapter, to carry out the provisions of this chapter.

(b) Investment of amounts appropriated

(1) At the request of the Trust Fund, it shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the fund. Such investments may be made only in interest-bearing obligations of the United States issued directly to the fund.

(2) The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations directly to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. All requests of the Trust Fund to the Secretary of the Treasury provided for in this section shall be binding upon the Secretary.

(c) Sale of obligations acquired by fund

At the request of the Trust Fund, the Secretary of the Treasury shall redeem any obligation issued directly to the fund. Obligations issued to the fund under subsection (b)(2) of this section shall be redeemed at par plus accrued interest. Any other obligations issued directly to the fund shall be redeemed at the market price.

(d) Interest and proceeds from sale or redemption of obligations credited to fund

The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 99–500, §101(b) [title VIII, §811], Oct. 18, 1986, 100 Stat. 1783–39, 1783–79, and Pub. L. 99–591, §101(b) [title VIII, §811], Oct. 30, 1986, 100 Stat. 3341–39, 3341–79; Pub. L. 102–221, §1(2), Dec. 11, 1991, 105 Stat. 1676; Pub. L. 108–7, div. J, title I, §126, Feb. 20, 2003, 117 Stat. 440.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–7, §126(1), added heading and text of subsec. (b) and struck out former subsec. (b) which read as follows: "It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest."

Subsec. (c). Pub. L. 108–7, §126(2), added heading and text of subsec. (c) and struck out former subsec. (c) which read as follows: "Any obligations acquired by the fund (except special obligations issued exclusively to

the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest."

1991—Subsec. (a). Pub. L. 102–221 struck out "(1)" before "There shall be", substituted "and other" for "an other" after "Constitution", and struck out par. (2) which read as follows: "No funds in the Trust Fund may be available for fellowships until the contributions from private sources are equal to $10,000,000."

§4511. Expenditures and audit

(a) The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter.

(b) The activities of the Foundation under this chapter may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 99–500, §101(b) [title VIII, §812], Oct. 18, 1986, 100 Stat. 1783–39, 1783–80, and Pub. L. 99–591, §101(b) [title VIII, §812], Oct. 30, 1986, 100 Stat. 3341–39, 3341–80; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

§4512. President and Executive Secretary of Foundation

(a)(1) The Board may appoint a President of the Foundation to serve full-time or part-time and for such a term as the Board shall determine.

(2) The President shall carry out such of the functions and duties of the Foundation as the Board may determine, subject to the supervision and direction of the Board.

(3) The President shall be compensated at a rate to be determined by the Board without regard to subchapter III of chapter 53 of title 5, not to exceed the rate for level III of the Executive Schedule under section 5314 of that title.

(4) Sections 5532,[1] 8344, and 8468 of title 5 shall not apply to a person while such person is serving as President of the Foundation.

(b)(1) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board.

(2) The Executive Secretary shall be the chief operating officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board or the President, as determined by the Board.

(3) The Executive Secretary shall be compensated at the rate specified for employees placed in grade GS–18 of the General Schedule set forth in section 5332 of title 5.

(Pub. L. 99–500, §101(b) [title VIII, §813], Oct. 18, 1986, 100 Stat. 1783–39, 1783–80, and Pub. L. 99–591, §101(b) [title VIII, §813], Oct. 30, 1986, 100 Stat. 3341–39, 3341–80; Pub. L. 101–208, §2, Dec. 7, 1989, 103 Stat. 1836; Pub. L. 101–557, title V, §501, Nov. 15, 1990, 104 Stat. 2771; Pub. L. 101–589, title II, §253, Nov. 16, 1990, 104 Stat. 2895.)

REFERENCES IN TEXT

Section 5532 of title 5, referred to in subsec. (a)(4), was repealed by Pub. L. 106–65, div. A, title VI,

§651(a)(1), Oct. 5, 1999, 113 Stat. 664.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1990—Subsec. (a)(4). Pub. L. 101–557 and Pub. L. 101–589 amended par. (4) identically, striking out at end "The first sentence of this paragraph shall not, in the case of any individual, apply longer than December 31, 1990."

1989—Pub. L. 101–208 amended section generally. Prior to amendment, section read as follows:

"(a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

"(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade GS–18 of the General Schedule set forth in section 5332 of title 5."

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

[1] *See References in Text note below.*

§4513. Administrative provisions

(a) General powers

The Foundation is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary to carry out this chapter,[1] without regard to the provisions of title 5 governing appointments in the competitive service, but at General Schedule pay rates not in excess of the maximum rate for grade GS–15 of the General Schedule under section 5332 of that title;

(2) to procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) to prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) to enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter,[1] and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 6101 of title 41;

(7) to make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31;

(8) to rent office space in the District of Columbia or its environs;

(9) to conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging research and study of constitutionalism in America;

(10) to expend not more than 5 percent of its annual operating budget to pay the costs of fundraising activities, including public and private gatherings; and

(11) to make other necessary expenditures.

(b) Annual report

The foundation [2] shall submit to the President and to the Congress an annual report of its operations under this chapter.

(c) Detailing of agency personnel to Foundation

On request of the Chairman of the Foundation, the head of a Federal agency may detail personnel of the agency to the Foundation to assist the Foundation in carrying out this chapter.[1] Details under this subsection shall be without reimbursement by the Foundation to the agency from which personnel are detailed.

(Pub. L. 99–500, §101(b) [title VIII, §814], Oct. 18, 1986, 100 Stat. 1783–39, 1783–80, and Pub. L. 99–591, §101(b) [title VIII, §814], Oct. 30, 1986, 100 Stat. 3341–39, 3341–80; Pub. L. 101–208, §3, Dec. 7, 1989, 103 Stat. 1837.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c), was in the original "this Act" and was translated as reading "this title" meaning title VIII of section 101(b) of Pub. L. 99–500 and Pub. L. 99–591 which enacted this chapter, to reflect the probable intent of Congress.

This chapter, referred to in subsec. (a)(6), was in the original "this chapter" and was translated as reading "this title" meaning title VIII of section 101(b) of Pub. L. 99–500 and Pub. L. 99–591 which enacted this chapter, to reflect the probable intent of Congress.

CODIFICATION

In subsec. (a)(6), "section 6101 of title 41" substituted for "section 5 of title 41" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a)(7), "section 3324(a) and (b) of title 31" substituted for "section 529 of title 31" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1989—Subsec. (a)(1). Pub. L. 101–208, §3(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade GS–15 of the General Schedule set forth in section 5332 of title 5;".

Subsec. (a)(8). Pub. L. 101–208, §3(1)(B), amended par. (8) generally. Prior to amendment, par. (8) read as follows: "to rent office space;".

Subsec. (a)(10), (11). Pub. L. 101–208, §3(1)(C)–(E), added par. (10) and redesignated former par. (10) as (11).

Subsec. (c). Pub. L. 101–208, §3(2), added subsec. (c).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submitting an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 176 of House Document No. 103–7.

[1] See References in Text note below.

[2] So in original. Probably should be capitalized.

§4514. Definitions

As used in this chapter—

(1) the term "Board" means the Board of Trustees of the James Madison Memorial Fellowship

Foundation;

(2) the term "Foundation" means the James Madison Memorial Fellowship Foundation;

(3) the term "institution of higher education" has the same meaning given that term by section 1001 of this title; and

(4) the term "secondary school" has the same meaning given that term by section 7801 of this title.

(Pub. L. 99–500, §101(b) [title VIII, §815], Oct. 18, 1986, 100 Stat. 1783–39, 1783–81, and Pub. L. 99–591, §101(b) [title VIII, §815], Oct. 30, 1986, 100 Stat. 3341–39, 3341–81; Pub. L. 105–244, title I, §102(a)(6)(G), Oct. 7, 1998, 112 Stat. 1618; Pub. L. 107–110, title X, §1076(m), Jan. 8, 2002, 115 Stat. 2092; Pub. L. 114–95, title IX, §9215(vv), Dec. 10, 2015, 129 Stat. 2184.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2015—Par. (4). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

2002—Par. (4). Pub. L. 107–110 substituted "7801" for "8801".

1998—Par. (3). Pub. L. 105–244, §102(a)(6)(G)(i), substituted "section 1001" for "section 1141(a)".

Par. (4). Pub. L. 105–244, §102(a)(6)(G)(ii), substituted "section 8801" for "section 1141(d)".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§4515. Appropriations

There are appropriated to the James Madison Memorial Trust Fund $20,000,000 to carry out the provisions of this chapter, $10,000,000 of which shall be available on November 1, 1987, and to remain available until expended; and $10,000,000 of which shall be available on November 1, 1988, and to remain available until expended.

(Pub. L. 99–500, §101(b) [title VIII, §816], Oct. 18, 1986, 100 Stat. 1783–39, 1783–81, and Pub. L. 99–591, §101(b) [title VIII, §816], Oct. 30, 1986, 100 Stat. 3341–39, 3341–81.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§4516. Constitutional Law Resource Centers

(a) Establishment

It is the purpose of this section to establish four centers where nationally recognized distinguished experts in Constitutional law will produce, on a periodic basis, articles of current interest relating to the Constitution of the United States which are suitable for use by James Madison scholars, educational institutions, law school reviews, bar associations, and the news media.

(b) Endowments

In order to encourage recipient universities to provide such a continuing service, four endowments shall be established with funds from appropriations provided herein and such other amounts as may be contributed from other sources.

(c) Chair for Professor of Constitutional Law

The income from each endowment shall be used to help support a chair for a Professor of Constitutional law.[1] Each endowment shall be held in trust with the income from the portion provided herein used exclusively to contribute toward the salary and related costs of the professor filling the chair and for services directly related to the support of such professor such as secretarial and research services. The recipient university shall from sources other than that portion of the endowment funded herein furnish the office, classroom and related services suitable to such a member of the faculty.

The professor holding each chair shall file a copy of such articles with the Library of Congress, which shall make them available to libraries in the usual manner and the recipient of the endowment shall also make a copy available upon request by accredited educational institutions, bar associations, and general news media without royalty or charge other than the costs associated with printing or reprinting, handling and distribution.

(d) Investment of endowment

That portion of each endowment provided by this chapter [2] and any accumulations attributable to such grant shall be invested by the recipient university in interest bearing obligations of the United States or in obligations guaranteed both as to principal and interest by the United States and shall be subject to audit by the Government Accountability Office for the sole purpose of determining that such funds are accounted for or have been used as provided herein. If a grantee university elects to discontinue such chair and support services, the corpus of the endowment attributable to the Federal grant shall revert to the Treasury of the United States.

(e) Application for grant of endowment

The application for the grant for an endowment shall require only such information and supporting material as is reasonably necessary to assure that the funds will be used for the purposes described herein. Acceptance of the grant by each university shall constitute an agreement and obligation of that university to fulfill the obligations set forth in this section.

(f) Amount of grant of endowment; recipients of offer

The grants for each endowment shall be for $800,000 and shall be offered to Howard University School of Law in Washington, D.C., Drake University School of Law in Des Moines, Iowa, the University of Akron School of Law in Akron, Ohio, and the University of South Carolina School of Law at Columbia, South Carolina.

(Pub. L. 99–500, §101(b) [title VIII, §817], Oct. 18, 1986, 100 Stat. 1783–39, 1783–81, and Pub. L. 99–591, §101(b) [title VIII, §817], Oct. 30, 1986, 100 Stat. 3341–39, 3341–81; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act" and was translated as reading "this title" meaning title VIII of section 101(b) of Pub. L. 99–500 and Pub. L. 99–591 which enacted this chapter, to reflect the probable intent of Congress.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

TEMPORARY AUTHORITY TO RECEIVE, REVIEW, AND CERTIFY FOR PAYMENT GRANT

APPLICATIONS

Pub. L. 100–202, §101(a) [title V, §501], Dec. 22, 1987, 101 Stat. 1329, 1329–29, provided in part: "That until the Board of Trustees of the James Madison Memorial Fellowship Foundation is appointed, the Commission on the Bicentennial of the United States Constitution is authorized to receive, review and certify for payment the applications for grants of endowment funds for the establishment of Constitutional Law Resource Centers as provided and appropriated under the James Madison Memorial Fellowship Act, title VIII, sections 817 and 818, Public Law 99–500 and Public Law 99–591 [20 U.S.C. 4516, 4517]".

[1] *So in original. Probably should be capitalized.*

[2] *See References in Text note below.*

§4517. Appropriations for universities

There is hereby appropriated to each recipient University named above or to the trustee of the fund designated by the President of the University the sum of $800,000 to carry out the provisions of section 4516 of this title, to be available on November 1, 1987, and to remain available until expended.

(Pub. L. 99–500, §101(b) [title VIII, §818], Oct. 18, 1986, 100 Stat. 1783–39, 1783–82, and Pub. L. 99–591, §101(b) [title VIII, §818], Oct. 30, 1986, 100 Stat. 3341–39, 3341–82.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

CHAPTER 58—DRUG-FREE SCHOOLS AND COMMUNITIES

§§4601, 4602. Repealed. Pub. L. 100–297, title I, §1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4601, Pub. L. 99–570, title IV, §4102, Oct. 27, 1986, 100 Stat. 3207–125, related to Congressional findings.

Section 4602, Pub. L. 99–570, title IV, §4103, Oct. 27, 1986, 100 Stat. 3207–125, related to purpose of chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SHORT TITLE

Pub. L. 99–570, title IV, §4101, Oct. 27, 1986, 100 Stat. 3207–125, which provided that subtitle B [§§4101 to 4144] of title IV of Pub. L. 99–570 was to be cited as the "Drug-Free Schools and Communities Act of 1986", was repealed by Pub. L. 100–297, title I, §1003(e), Apr. 28, 1988, 102 Stat. 293.

WHITE HOUSE CONFERENCE FOR A DRUG FREE AMERICA

Pub. L. 99–570, title I, subtitle S (§1931 et seq.), Oct. 27, 1986, 100 Stat. 3207–56, as amended by Pub. L. 100–138, Oct. 23, 1987, 101 Stat. 820, established the White House Conference for a Drug Free America, provided for its purpose, responsibilities, participants, authorization of appropriations, and required a final report to be submitted not later than July 31, 1988, with the President to report annually to Congress for three years thereafter on the status and implementation of the findings and recommendations of the Conference.

EXECUTIVE ORDER NO. 12595

Ex. Ord. No. 12595, May 5, 1987, 52 F.R. 17383, established and set forth the functions of the White House Conference for a Drug Free America.

SUBCHAPTER I—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

§§4611, 4612. Repealed. Pub. L. 100–297, title I, §1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4611, Pub. L. 99–570, title IV, §4111, Oct. 27, 1986, 100 Stat. 3207–126, related to authorization of appropriations.

Section 4612, Pub. L. 99–570, title IV, §4112, Oct. 27, 1986, 100 Stat. 3207–126, related to reservations and State allotments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER II—STATE AND LOCAL PROGRAMS

§§4621 to 4626. Repealed. Pub. L. 100–297, title I, §1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4621, Pub. L. 99–570, title IV, §4121, Oct. 27, 1986, 100 Stat. 3207–127, related to use of allotments by States.

Section 4622, Pub. L. 99–570, title IV, §4122, Oct. 27, 1986, 100 Stat. 3207–127, related to State programs.

Section 4623, Pub. L. 99–570, title IV, §4123, Oct. 27, 1986, 100 Stat. 3207–128, related to State applications.

Section 4624, Pub. L. 99–570, title IV, §4124, Oct. 27, 1986, 100 Stat. 3207–128; Pub. L. 100–418, title VI, §6091(a), Aug. 23, 1988, 102 Stat. 1499, related to responsibilities of State educational agencies.

Section 4625, Pub. L. 99–570, title IV, §4125, Oct. 27, 1986, 100 Stat. 3207–129, related to local drug abuse education and prevention programs.

Section 4626, Pub. L. 99–570, title IV, §4126, Oct. 27, 1986, 100 Stat. 3207–130, related to local applications.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER III—NATIONAL PROGRAMS

§§4641 to 4645. Repealed. Pub. L. 100–297, title I, §1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4641, Pub. L. 99–570, title IV, §4131, Oct. 27, 1986, 100 Stat. 3207–131, related to grants to institutions of higher education.

Section 4642, Pub. L. 99–570, title IV, §4132, Oct. 27, 1986, 100 Stat. 3207–132, related to Federal activities.

Section 4643, Pub. L. 99–570, title IV, §4133(a), Oct. 27, 1986, 100 Stat. 3207–133, related to programs for Indian youth.

Section 4644, Pub. L. 99–570, title IV, §4134, Oct. 27, 1986, 100 Stat. 3207–134, related to programs for Hawaiian natives.

Section 4645, Pub. L. 99–570, title IV, §4135, Oct. 27, 1986, 100 Stat. 3207–135, related to regional centers.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§§4661 to 4664. Repealed. Pub. L. 100–297, title I, §1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4661, Pub. L. 99–570, title IV, §4141, Oct. 27, 1986, 100 Stat. 3207–135, related to definitions for chapter.

Section 4662, Pub. L. 99–570, title IV, §4142, Oct. 27, 1986, 100 Stat. 3207–136, related to functions of Secretary of Education.

Section 4663, Pub. L. 99–570, title IV, §4143, Oct. 27, 1986, 100 Stat. 3207–136, related to participation of children and teachers from private nonprofit schools.

Section 4664, Pub. L. 99–570, title IV, §4144, Oct. 27, 1986, 100 Stat. 3207–136, related to materials distributed or produced under chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§4665. Transferred

CODIFICATION

Section, Pub. L. 99–570, title IV, §4302, Oct. 27, 1986, 100 Stat. 3207–153, which established National Trust for Drug-Free Youth, was transferred to section 3225 of this title, then to section 7105 of this title, and subsequently omitted from the Code.

CHAPTER 59—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

Sec.

4701. Findings.
4702. Definitions.
4703. Establishment of Barry Goldwater Scholarship and Excellence in Education Foundation.
4704. Barry Goldwater scholarship and excellence in education awards.
4705. Stipends.
4706. Scholarship conditions.
4707. Barry Goldwater Scholarship and Excellence in Education Fund.
4708. Expenditures from fund.
4709. Executive Secretary.
4710. Administrative provisions.
4711. Authorization of appropriations.

§4701. Findings

The Congress makes the following findings:

(1) Senator Barry Goldwater of the State of Arizona has served his country for 56 years as a soldier and statesman, including service in the United States Senate for a period of 30 years.

(2) Senator Goldwater has a distinguished record as a Senator, including service as Chairman of the Select Committee on Intelligence of the Senate and as Chairman of the Committee on Armed Services of the Senate.

(3) Senator Goldwater has long maintained a special interest in the education of America's youth, particularly in the fields of science and mathematics.

(4) It would, therefore, be a fitting tribute to the leadership, courage, and vision of Senator Goldwater to establish in his name a scholarship program to foster and encourage excellence in science and mathematics.

(Pub. L. 99–661, div. A, title XIV, §1402, Nov. 14, 1986, 100 Stat. 4008.)

SHORT TITLE

Pub. L. 99–661, div. A, title XIV, §1401, Nov. 14, 1986, 100 Stat. 4007, provided that: "This title [enacting this chapter] may be cited as the 'Barry Goldwater Scholarship and Excellence in Education Act'."

§4702. Definitions

In this chapter:

(1) The term "Foundation" means the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 4703(a) of this title.

(2) The term "Board" means the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 4703(b) of this title.

(3) The term "fund" means the Barry Goldwater Scholarship and Excellence in Education Fund provided for under section 4707 of this title.

(4) The term "institution of higher education" means any such institution as defined in section 1001 of this title.

(5) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas.

(6) The term "eligible person" means a citizen or national of the United States or a permanent resident alien of the United States.

(Pub. L. 99–661, div. A, title XIV, §1403, Nov. 14, 1986, 100 Stat. 4008; Pub. L. 105–244, title I, §102(a)(6)(H), Oct. 7, 1998, 112 Stat. 1618.)

AMENDMENTS

1998—Par. (4). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§4703. Establishment of Barry Goldwater Scholarship and Excellence in Education Foundation

(a) Establishment

There is established, as an independent establishment of the executive branch of the United States Government, the Barry Goldwater Scholarship and Excellence in Education Foundation.

(b) Board of Trustees

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members, as follows:

(1) Two members from the Senate, one appointed by the majority leader and one appointed by the minority leader of the Senate.

(2) Two members from the House of Representatives, one appointed by the majority leader and one appointed by the minority leader of the House of Representatives.

(3) Eight members, not more than four of whom shall be of the same political party, to be appointed by the President, by and with the advice and consent of the Senate.

(4) The Secretary of Education, or his designee, who shall serve ex officio as a member of the Board but shall not be eligible to serve as Chairman.

(c) Term of office

(1) The term of office of each member of the Board shall be six years, except that—

(A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years;

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made; and

(C) notwithstanding the term limitation provided for under this paragraph, a member appointed under subsection (b) of this section may continue to serve under such appointment until the successor to the member is appointed.

(2) A Member of Congress appointed to the Board under clause (1) or (2) of subsection (b) of this section may not serve as a member of the Board for more than a total of six years.

(d) Travel and subsistence pay

Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(Pub. L. 99–661, div. A, title XIV, §1404, Nov. 14, 1986, 100 Stat. 4008; Pub. L. 100–26, §3(10), Apr. 21, 1987, 101 Stat. 274; Pub. L. 102–190, div. A, title X, §1089(1), Dec. 5, 1991, 105 Stat. 1485; Pub. L. 103–160, div. A, title XI, §1179(a), Nov. 30, 1993, 107 Stat. 1770.)

AMENDMENTS

1993—Subsec. (c)(1)(C). Pub. L. 103–160 added subpar. (C).

1991—Subsec. (b)(3). Pub. L. 102–190 struck out before period at end ", at least one of whom shall be a representative of the aerospace industry and at least one of whom shall be a representative of a private foundation concerned with aerospace education".

1987—Subsec. (c)(2). Pub. L. 100–26 substituted "clause (1) or (2)" for "clause (2) or (3)".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 of Title 10, Armed Forces.

§4704. Barry Goldwater scholarship and excellence in education awards

(a) Award of scholarships and fellowships

(1) The Foundation may award scholarships and fellowships to eligible persons for study in the fields of science and mathematics. Such scholarships and fellowships shall be awarded to persons as provided in this chapter who meet the minimum criteria established by the Foundation.

(2) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers in mathematics and the natural sciences.

(3) Fellowships shall be awarded to outstanding graduate students who intend to pursue advanced degrees in mathematics and the natural sciences.

(4) The Foundation may provide, directly or by contract, for the conduct of nationwide competition for the purpose of selecting recipients of scholarships and fellowships awarded under this chapter.

(b) Barry Goldwater Scholars

Recipients of scholarships and fellowships under this chapter shall be known as "Barry Goldwater Scholars".

(c) Award of honoraria to volunteers

(1) The Foundation may award honoraria to outstanding educators, teachers, and persons who have volunteered to assist in secondary schools who have made significant contributions to improve the quality of instruction in mathematics and sciences in the secondary school. To the extent the Board determines such action practicable, honoraria awarded under this subsection shall be awarded annually to persons described in the preceding sentence as follows:

(A) To two persons selected at large from each State.

(B) To one person selected from each county in each State.

(C) To persons affiliated with secondary schools on military reservations.

(D) To persons affiliated with the dependent overseas school system.

(2) The Board shall establish a schedule of honoraria to be awarded under paragraph (1).

(Pub. L. 99–661, div. A, title XIV, §1405, Nov. 14, 1986, 100 Stat. 4009.)

§4705. Stipends

Each person awarded a scholarship or fellowship under this chapter shall receive a stipend which shall not exceed the cost to such person for tuition, fees, books, room and board, or such lesser amount as may be prescribed by the Board.

(Pub. L. 99–661, div. A, title XIV, §1406, Nov. 14, 1986, 100 Stat. 4010.)

§4706. Scholarship conditions

(a) In general

A person awarded a scholarship under this chapter may receive payments authorized under this chapter only during such periods as the Foundation finds that the person is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(b) Reports

The Foundation may require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any person awarded a scholarship under this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such person is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in subsection (a) of this section.

(Pub. L. 99–661, div. A, title XIV, §1407, Nov. 14, 1986, 100 Stat. 4010.)

§4707. Barry Goldwater Scholarship and Excellence in Education Fund

(a) Establishment of fund

There is established in the Treasury of the United States a trust fund to be known as the Barry Goldwater Scholarship and Excellence in Education Fund. The fund shall consist of amounts appropriated to it pursuant to section 4711 of this title and amounts credited to it under subsection (d) of this section.

(b) Investment of fund assets

It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in public debt securities of the United States with maturities suitable to the fund. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of 1/8 of 1 percent, the rate of interest of such special obligations shall be the multiple of 1/8 of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Authority to sell obligations

Any obligation acquired by the fund may be sold by the Secretary at the market price.

(d) Proceeds from certain transactions credited to fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 99–661, div. A, title XIV, §1408, Nov. 14, 1986, 100 Stat. 4010; Pub. L. 102–190, div. A, title X, §1089(2), Dec. 5, 1991, 105 Stat. 1485; Pub. L. 102–484, div. A, title X, §1054(h), Oct. 23, 1992, 106 Stat. 2503.)

CODIFICATION

In subsec. (b), "chapter 31 of title 31" substituted for "the Second Liberty Bond Act" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–484 struck out "(except special obligations issued exclusively to the fund)" after "by the fund".

1991—Subsec. (b). Pub. L. 102–190, §1089(2)(A), substituted "public debt securities of the United States with maturities suitable to the fund." for "interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States."

Subsec. (c). Pub. L. 102–190, §1089(2)(B)(ii), struck out ", and such special obligations may be redeemed at par plus accrued interest" after "market price".

Pub. L. 102–190, §1089(2)(B)(i), which directed striking out of "(exceptional special obligations issued exclusively to the fund)", could not be executed because those words did not appear. See 1992 Amendment note above.

§4708. Expenditures from fund

(a) In general

The Secretary of the Treasury may pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this chapter.

(b) Audits by GAO

The activities of the Foundation under this chapter may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 99–661, div. A, title XIV, §1409, Nov. 14, 1986, 100 Stat. 4011; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

§4709. Executive Secretary

(a) Appointment by Board

There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this chapter as the Board shall prescribe.

(b) Compensation

The Executive Secretary of the Foundation shall serve as a noncareer appointee of the Senior Executive Service and shall be compensated at a rate determined by the Board in accordance with section 5383 of title 5.

(Pub. L. 99–661, div. A, title XIV, §1410, Nov. 14, 1986, 100 Stat. 4011; Pub. L. 102–190, div. A, title X, §1089(3), Dec. 5, 1991, 105 Stat. 1485.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–190 substituted "serve as a noncareer appointee of the Senior Executive Service and shall be compensated at a rate determined by the Board in accordance with section 5383" for "be compensated at the rate specified for employees in grade GS–18 of the General Schedule under section 5332".

§4710. Administrative provisions

(a) In general

In order to carry out this chapter, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case may an employee other than the Executive Secretary be compensated at a rate to exceed the maximum rate provided for employees in grade GS–15 of the General Schedule under section 5332 of title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 under section 5332 of such title;

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and use the services of voluntary and noncompensated personnel and for travel

expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts or other arrangements, or make grants, to carry out the provisions of this chapter, and enter into such contracts or other arrangements, or make such grants, with the concurrence of two-thirds of the members of the Board, without performance or other bonds and without regard to section 6101 of title 41;

(7) rent office space in the Washington, District of Columbia, metropolitan area; and

(8) make other necessary expenditures.

(b) Annual report

The Foundation shall submit to the President and to Congress an annual report of its operations under this chapter.

(Pub. L. 99–661, div. A, title XIV, §1411, Nov. 14, 1986, 100 Stat. 4011; Pub. L. 103–160, div. A, title XI, §1179(b), Nov. 30, 1993, 107 Stat. 1770.)

CODIFICATION

In subsec. (a)(6), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1993—Subsec. (a)(7). Pub. L. 103–160 substituted "the Washington, District of Columbia, metropolitan area" for "the District of Columbia".

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§4711. Authorization of appropriations

There is hereby authorized to be appropriated to the fund $40,000,000 to carry out this chapter.

(Pub. L. 99–661, div. A, title XIV, §1412, Nov. 14, 1986, 100 Stat. 4012.)

CHAPTER 60—FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

§4801. Repealed. Pub. L. 103–382, title III, §365, Oct. 20, 1994, 108 Stat. 3975

Section, Pub. L. 100–297, title III, §3202, Apr. 28, 1988, 102 Stat. 338, established Fund for the Improvement and Reform of Schools and Teaching.

SHORT TITLE

Pub. L. 100–297, title III, §3201, Apr. 28, 1988, 102 Stat. 338, provided that part B of title III of Pub. L. 100–297 (enacting this chapter) could be cited as the "Fund for the Improvement and Reform of Schools and Teaching Act", prior to repeal by Pub. L. 103–382, title III, §365, Oct. 20, 1994, 108 Stat. 3975.

SUBCHAPTER I—GRANTS FOR SCHOOLS AND TEACHERS

§§4811, 4812. Repealed. Pub. L. 103–382, title III, §365, Oct. 20, 1994, 108 Stat. 3975

Section 4811, Pub. L. 100–297, title III, §3211, Apr. 28, 1988, 102 Stat. 338, authorized grants and contracts to improve educational opportunities for, and the performance of, elementary and secondary school students and teachers.

Section 4812, Pub. L. 100–297, title III, §3212, Apr. 28, 1988, 102 Stat. 339, related to applications for grants.

SUBCHAPTER II—FAMILY-SCHOOL PARTNERSHIP

§§4821 to 4823. Repealed. Pub. L. 103–382, title III, §365, Oct. 20, 1994, 108 Stat. 3975

Section 4821, Pub. L. 100–297, title III, §3221, Apr. 28, 1988, 102 Stat. 339, stated findings of Congress and purposes of this subchapter.

Section 4822, Pub. L. 100–297, title III, §3222, Apr. 28, 1988, 102 Stat. 340, related to local educational agencies eligible for grants.

Section 4823, Pub. L. 100–297, title III, §3223, Apr. 28, 1988, 102 Stat. 340, authorized demonstration grants for development of innovative and promising family-school educational partnership activities.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§§4831 to 4833. Repealed. Pub. L. 103–382, title III, §365, Oct. 20, 1994, 108 Stat. 3975

Section 4831, Pub. L. 100–297, title III, §3231, Apr. 28, 1988, 102 Stat. 341, established Fund for the Improvement and Reform of Schools and Teaching Board.

Section 4832, Pub. L. 100–297, title III, §3232, Apr. 28, 1988, 102 Stat. 343, related to dissemination and reporting of exemplary projects and required reports.

Section 4833, Pub. L. 100–297, title III, §3233, Apr. 28, 1988, 102 Stat. 343, related to coordination with Fund for the Improvement of Postsecondary Education.

SUBCHAPTER IV—GENERAL PROVISIONS

§§4841 to 4843. Repealed. Pub. L. 103–382, title III, §365, Oct. 20, 1994, 108 Stat. 3975

Section 4841, Pub. L. 100–297, title III, §3241, Apr. 28, 1988, 102 Stat. 343, related to special grant rules.

Section 4842, Pub. L. 100–297, title III, §3242, Apr. 28, 1988, 102 Stat. 343, authorized appropriations.

Section 4843, Pub. L. 100–297, title III, §3243, Apr. 28, 1988, 102 Stat. 344, defined terms used in this chapter.

CHAPTER 61—EDUCATION FOR NATIVE HAWAIIANS

§§4901 to 4909. Repealed. Pub. L. 103–382, title III, §363, Oct. 20, 1994, 108 Stat. 3975

Section 4901, Pub. L. 100–297, title IV, §4001, Apr. 28, 1988, 102 Stat. 358, stated findings of Congress relating to education of Native Hawaiians.

Section 4902, Pub. L. 100–297, title IV, §4002, Apr. 28, 1988, 102 Stat. 358, stated purpose of this chapter.

Section 4903, Pub. L. 100–297, title IV, §4003, Apr. 28, 1988, 102 Stat. 359, authorized grants to implement Kemehameha Elementary Education Program model curriculum.

Section 4904, Pub. L. 100–297, title IV, §4004, Apr. 28, 1988, 102 Stat. 359, authorized grants to develop and operate Family-Based Education Centers in Hawaiian Islands.

Section 4905, Pub. L. 100–297, title IV, §4005, Apr. 28, 1988, 102 Stat. 360, related to Native Hawaiian higher education demonstration program.

Section 4906, Pub. L. 100–297, title IV, §4006, Apr. 28, 1988, 102 Stat. 361, related to Native Hawaiian gifted and talented demonstration program.

Section 4907, Pub. L. 100–297, title IV, §4007, Apr. 28, 1988, 102 Stat. 362; Pub. L. 101–476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, related to Native Hawaiian special education program.

Section 4908, Pub. L. 100–297, title IV, §4008, Apr. 28, 1988, 102 Stat. 362, contained administrative provisions.

Section 4909, Pub. L. 100–297, title IV, §4009, Apr. 28, 1988, 102 Stat. 362, defined terms used in this chapter.

For similar provisions, see section 7901 et seq. of this title.

CHAPTER 62—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

§§5001 to 5004. Repealed. Pub. L. 103–382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5001, Pub. L. 100–418, title VI, §6001, Aug. 23, 1988, 102 Stat. 1469, provided that this chapter could be cited as the "Education and Training for a Competitive America Act of 1988".

Section 5002, Pub. L. 100–418, title VI, §6002, Aug. 23, 1988, 102 Stat. 1469, stated findings of Congress and purpose.

Section 5003, Pub. L. 100–418, title VI, §6003, Aug. 23, 1988, 102 Stat. 1470, defined terms used in this chapter.

Section 5004, Pub. L. 100–418, title VI, §6004, Aug. 23, 1988, 102 Stat. 1470, contained general restrictions relating to grants and contracts under this chapter.

SUBCHAPTER I—ELEMENTARY AND SECONDARY EDUCATION

PART A—FOREIGN LANGUAGES

SUBPART 1—FOREIGN LANGUAGE ASSISTANCE

§§5011 to 5016. Repealed. Pub. L. 103–382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5011, Pub. L. 100–418, title VI, §6021, Aug. 23, 1988, 102 Stat. 1476, provided that this subpart could be cited as the "Foreign Language Assistance Act of 1988".

Section 5012, Pub. L. 100–418, title VI, §6022, Aug. 23, 1988, 102 Stat. 1476, stated findings of Congress.

Section 5013, Pub. L. 100–418, title VI, §6023, Aug. 23, 1988, 102 Stat. 1477, authorized grants for model programs for commencement, improvement, and expansion of foreign language study.

Section 5014, Pub. L. 100–418, title VI, §6024, Aug. 23, 1988, 102 Stat. 1478, related to allotment of funds.

Section 5015, Pub. L. 100–418, title VI, §6025, Aug. 23, 1988, 102 Stat. 1478, defined terms used in this subpart.

Section 5016, Pub. L. 100–418, title VI, §6026, Aug. 23, 1988, 102 Stat. 1478, authorized appropriations.

For similar provisions, see section 7511 et seq. of this title.

SUBPART 2—PRESIDENTIAL AWARD FOR LANGUAGES

§§5021 to 5023. Repealed. Pub. L. 103–382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5021, Pub. L. 100–418, title VI, §6027, Aug. 23, 1988, 102 Stat. 1478, authorized Presidential Awards for Teaching Excellence in Foreign Languages.

Section 5022, Pub. L. 100–418, title VI, §6028, Aug. 23, 1988, 102 Stat. 1479, contained administrative provisions.

Section 5023, Pub. L. 100–418, title VI, §6029, Aug. 23, 1988, 102 Stat. 1479, authorized appropriations.

PART B—EDUCATIONAL PARTNERSHIPS

§§5031 to 5039. Repealed. Pub. L. 103–382, title III, §391(i), (j), Oct. 20, 1994, 108 Stat. 4023

Section 5031, Pub. L. 100–418, title VI, §6041, Aug. 23, 1988, 102 Stat. 1483, provided that this part could be cited as the "Educational Partnerships Act of 1988".

Section 5032, Pub. L. 100–418, title VI, §6042, Aug. 23, 1988, 102 Stat. 1483, stated purpose of this part.

Section 5033, Pub. L. 100–418, title VI, §6043, Aug. 23, 1988, 102 Stat. 1483, authorized grants to eligible partnerships to use public and private resources for various educational purposes.

Section 5034, Pub. L. 100–418, title VI, §6044, Aug. 23, 1988, 102 Stat. 1483, related to authorized activities by eligible partnerships receiving payments.

Section 5035, Pub. L. 100–418, title VI, §6045, Aug. 23, 1988, 102 Stat. 1484, related to applications for grants.

Section 5036, Pub. L. 100–418, title VI, §6046, Aug. 23, 1988, 102 Stat. 1485, related to approval of applications.

Section 5037, Pub. L. 100–418, title VI, §6047, Aug. 23, 1988, 102 Stat. 1485, related to computation of grant amounts.

Section 5038, Pub. L. 100–418, title VI, §6048, Aug. 23, 1988, 102 Stat. 1485, related to evaluation by Secretary of grants and dissemination of information relating to assisted activities.

Section 5039, Pub. L. 100–418, title VI, §6049, Aug. 23, 1988, 102 Stat. 1486, defined terms used in this part.

PART C—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC

SKILLS INSTRUCTION

SUBPART 1—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

§§5051 to 5057. Repealed. Pub. L. 103–382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5051, Pub. L. 100–418, title VI, §6061, Aug. 23, 1988, 102 Stat. 1491, provided that this subpart could be cited as the "School Dropout Demonstration Assistance Act of 1988".

Section 5052, Pub. L. 100–418, title VI, §6062, Aug. 23, 1988, 102 Stat. 1491, stated purpose of this subpart.

Section 5053, Pub. L. 100–418, title VI, §6063, Aug. 23, 1988, 102 Stat. 1491, authorized appropriations.

Section 5054, Pub. L. 100–418, title VI, §6064, Aug. 23, 1988, 102 Stat. 1491, related to allotment of grants to local educational agencies.

Section 5055, Pub. L. 100–418, title VI, §6065, Aug. 23, 1988, 102 Stat. 1493, related to applications for grants.

Section 5056, Pub. L. 100–418, title VI, §6066, Aug. 23, 1988, 102 Stat. 1494, related to activities for which grants could be used.

Section 5057, Pub. L. 100–418, title VI, §6067, Aug. 23, 1988, 102 Stat. 1495, related to distribution of assistance and limitation on costs.

SUBPART 2—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

§§5061 to 5066. Repealed. Pub. L. 103–382, title III, §391(i), (k), Oct. 20, 1994, 108 Stat. 4023

Section 5061, Pub. L. 100–418, title VI, §6071, Aug. 23, 1988, 102 Stat. 1496, provided that this subpart could be cited as the "Secondary Schools Basic Skills Demonstration Assistance Act of 1988".

Section 5062, Pub. L. 100–418, title VI, §6072, Aug. 23, 1988, 102 Stat. 1496, stated purpose of this subpart.

Section 5063, Pub. L. 100–418, title VI, §6073, Aug. 23, 1988, 102 Stat. 1496, authorized appropriations.

Section 5064, Pub. L. 100–418, title VI, §6074, Aug. 23, 1988, 102 Stat. 1496, authorized grants to local educational agencies.

Section 5065, Pub. L. 100–418, title VI, §6075, Aug. 23, 1988, 102 Stat. 1496, related to activities for which grants could be used.

Section 5066, Pub. L. 100–418, title VI, §6076, Aug. 23, 1988, 102 Stat. 1497, related to applications for grants.

SUBPART 3—GENERAL PROVISIONS

§§5071, 5072. Repealed. Pub. L. 103–382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5071, Pub. L. 100–418, title VI, §6081, Aug. 23, 1988, 102 Stat. 1498, contained general administrative provisions.

Section 5072, Pub. L. 100–418, title VI, §6082, Aug. 23, 1988, 102 Stat. 1499, defined terms used in this

chapter.

SUBCHAPTER II—TECHNOLOGY AND TRAINING

PART A—TRANSFER OF EDUCATION AND TRAINING SOFTWARE

§§5091 to 5097. Repealed. Pub. L. 103–382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5091, Pub. L. 100–418, title VI, §6101, Aug. 23, 1988, 102 Stat. 1500, provided that this part could be cited as the "Training Technology Transfer Act of 1988".

Section 5092, Pub. L. 100–418, title VI, §6102, Aug. 23, 1988, 102 Stat. 1500; Pub. L. 101–600, §6, Nov. 16, 1990, 104 Stat. 3046, stated findings of Congress and purposes of this part.

Section 5093, Pub. L. 100–418, title VI, §6103, Aug. 23, 1988, 102 Stat. 1500; Pub. L. 103–227, title II, §236(a)(2), Mar. 31, 1994, 108 Stat. 156, established an Office of Training Technology Transfer.

Section 5094, Pub. L. 100–418, title VI, §6104, Aug. 23, 1988, 102 Stat. 1500, related to functions of Office of Training Technology Transfer.

Section 5095, Pub. L. 100–418, title VI, §6105, Aug. 23, 1988, 102 Stat. 1503, contained administrative provisions.

Section 5096, Pub. L. 100–418, title VI, §6106, Aug. 23, 1988, 102 Stat. 1503, related to coordination with Federal agencies.

Section 5097, Pub. L. 100–418, title VI, §6107, Aug. 23, 1988, 102 Stat. 1504, defined terms used in this part.

PART B—INSTRUCTIONAL PROGRAMS IN TECHNOLOGY EDUCATION

§§5101 to 5106. Repealed. Pub. L. 103–382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5101, Pub. L. 100–418, title VI, §6111, Aug. 23, 1988, 102 Stat. 1505, stated purpose of part to assist educational agencies and institutions in developing technologically literate population through instructional programs in technology education.

Section 5102, Pub. L. 100–418, title VI, §6112, Aug. 23, 1988, 102 Stat. 1505, related to technology education demonstration program.

Section 5103, Pub. L. 100–418, title VI, §6113, Aug. 23, 1988, 102 Stat. 1507, related to applications for grants.

Section 5104, Pub. L. 100–418, title VI, §6114, Aug. 23, 1988, 102 Stat. 1507, related to national dissemination of information.

Section 5105, Pub. L. 100–418, title VI, §6115, Aug. 23, 1988, 102 Stat. 1507, authorized appropriations.

Section 5106, Pub. L. 100–418, title VI, §6116, Aug. 23, 1988, 102 Stat. 1507, defined "technology education".

PART C—REPLICATION OF TECHNICAL EDUCATION PROGRAMS

§5111. Repealed. Pub. L. 103–382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 100–418, title VI, §6121, Aug. 23, 1988, 102 Stat. 1508, related to replication models for technical education programs designed to improve the quality of education for America's technically trained workforce.

PART D—ACCESS DEMONSTRATION PROGRAMS

§§5121 to 5124. Repealed. Pub. L. 103–382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5121, Pub. L. 100–418, title VI, §6141, Aug. 23, 1988, 102 Stat. 1513, stated purpose of this part.

Section 5122, Pub. L. 100–418, title VI, §6142, Aug. 23, 1988, 102 Stat. 1513; Pub. L. 101–26, §1, May 11, 1989, 103 Stat. 54, authorized grants for development of training programs for secondary school personnel.

Section 5123, Pub. L. 100–418, title VI, §6143, Aug. 23, 1988, 102 Stat. 1513, related to applications for grants.

Section 5124, Pub. L. 100–418, title VI, §6144, Aug. 23, 1988, 102 Stat. 1514; Pub. L. 103–382, title II, §261(i)(3), title III, §391(z), Oct. 20, 1994, 108 Stat. 3929, 4026, defined terms used in this part.

CHAPTER 63—EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

Sec.

5201. Purposes.
5202. Eisenhower Exchange Fellowship Program Trust Fund.
5203. Expenditure and audit of trust fund.
5204. Authorization of appropriations.
5205. Use of income on endowment.
5206. Report to Congress.
5207. Status as executive agency.

§5201. Purposes

The purposes of this chapter are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

(Pub. L. 101–454, §2, Oct. 24, 1990, 104 Stat. 1063.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–454, Oct. 24, 1990, 104 Stat. 1063, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 101–454, §1, Oct. 24, 1990, 104 Stat. 1063, provided that: "This Act [enacting this chapter, amending sections 4901, 4902, and 4904 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as notes under sections 4901 and 4902 of Title 22] may be cited as the 'Eisenhower Exchange Fellowship Act of 1990'."

§5202. Eisenhower Exchange Fellowship Program Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this chapter referred to as the "fund"). The fund shall consist of amounts authorized to be appropriated under section 5204 of this title.

(b) Investment in interest-bearing obligations

It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interests [1] by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Sale and redemption of obligations

Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Credit to fund of interest and proceeds of sale or redemption

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 101–454, §3, Oct. 24, 1990, 104 Stat. 1063.)

[1] *So in original. Probably should be "interest".*

§5203. Expenditure and audit of trust fund

(a) Authorization of funding

For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) Access to books, records, etc., by Government Accountability Office

The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 101–454, §4, Oct. 24, 1990, 104 Stat. 1064; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading and in two places in text.

USE OF EARNED UNUSED TRUST INCOME FOR FELLOWSHIP PURPOSES

Pub. L. 104–134, title I, §101[(a)] [title IV, §407], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part that: "notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996 through 1998."

§5204. Authorization of appropriations

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $5,000,000; and

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on October 24, 1990.

(Pub. L. 101–454, §5, Oct. 24, 1990, 104 Stat. 1064.)

§5205. Use of income on endowment

(a), (b) Repealed. Pub. L. 104–134, title I, §101[(a)] [title IV, §407], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327

(c) Agricultural exchange program

For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) Participation by United States minority populations

In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representative of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

(Pub. L. 101–454, §6, Oct. 24, 1990, 104 Stat. 1065; Pub. L. 104–134, title I, §101[(a)] [title IV, §407], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134 struck out heading and text of subsec. (a). Text read as follows: "For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title shall be available only to assist United States fellows in traveling to and studying in emerging European democracies."

Subsec. (b). Pub. L. 104–134 struck out heading and text of subsec. (b). Text read as follows: "For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title shall be available to assist foreign fellows in traveling to and studying in the United States."

§5206. Report to Congress

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 5203(a) of this title, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

(Pub. L. 101–454, §7, Oct. 24, 1990, 104 Stat. 1065.)

§5207. Status as executive agency

Notwithstanding any other provision of law, on and after August 2, 2002, for purposes of section 501 of title 40 (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), the Eisenhower Exchange Fellowship Program shall be deemed an executive agency for the purposes of carrying out the provisions of section 5201 of this title, and the employees of and participants in the Eisenhower Exchange Fellowship Program shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

(Pub. L. 107–206, title I, §1203, Aug. 2, 2002, 116 Stat. 888.)

CODIFICATION

"Section 501 of title 40" substituted for "section 201(a) of the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was enacted as part of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States, and not as part of the Eisenhower Exchange Fellowship Act of 1990 which comprises this chapter.

CHAPTER 64—EXCELLENCE IN MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION

SUBCHAPTER I—FINDINGS AND OBJECTIVES

§5301. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title I, §101, Nov. 16, 1990, 104 Stat. 2882, stated findings of Congress and national objectives relating to mathematics, science, and engineering education.

SHORT TITLE

Pub. L. 101–589, §1, Nov. 16, 1990, 104 Stat. 2881, provided that Pub. L. 101–589 (enacting this chapter and sections 2994 to 2994g of this title, redesignating section 2993 of this title as section 2996 of this title,

amending sections 237, 240, 1201a, 1221e–1, 2983 to 2992, and 4512 of this title and sections 1869 and 1873 of Title 42, the Public Health and Welfare, and enacting provisions set out as notes under this section and sections 240 and 2982 of this title) could be cited as the "Excellence in Mathematics, Science and Engineering Education Act of 1990", prior to repeal by Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023.

SUBCHAPTER II—MATHEMATICS, SCIENCE AND TECHNOLOGY IMPROVEMENTS

PART A—INNOVATIVE TECHNOLOGIES

§5311. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title II, §221, Nov. 16, 1990, 104 Stat. 2891, related to expanding uses of innovative technologies for mathematics and science instruction.

PART B—SCIENCE-TECHNOLOGY CENTERS

§5321. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title II, §231, Nov. 16, 1990, 104 Stat. 2892, related to awards to science-technology centers.

PART C—GRANTS TO EDUCATIONAL AGENCIES FOR SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE EDUCATION

§5331. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title II, §241, Nov. 16, 1990, 104 Stat. 2894, related to systemic reform of mathematics and science education.

SUBCHAPTER III—HIGHER EDUCATION

PART A—GRADUATE FELLOWSHIPS AND TRAINEESHIPS

§§5341 to 5343. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section 5341, Pub. L. 101–589, title III, §301, Nov. 16, 1990, 104 Stat. 2895, stated purpose of this part to avert shortage of American scientists and engineers.

Section 5342, Pub. L. 101–589, title III, §302, Nov. 16, 1990, 104 Stat. 2895, related to graduate

fellowships.

Section 5343, Pub. L. 101–589, title III, §303, Nov. 16, 1990, 104 Stat. 2896, related to graduate traineeships.

PART B—CENTERS OF EXCELLENCE

§5351. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title III, §311, Nov. 16, 1990, 104 Stat. 2896, related to Centers of Excellence for Undergraduate Teaching.

SUBCHAPTER IV—WOMEN AND MINORITIES IN MATHEMATICS, SCIENCE AND ENGINEERING

§§5361 to 5364. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section 5361, Pub. L. 101–589, title IV, §401, Nov. 16, 1990, 104 Stat. 2897, stated purpose of this subchapter to increase participation of women and minorities in mathematics, science, and engineering.

Section 5362, Pub. L. 101–589, title IV, §402, Nov. 16, 1990, 104 Stat. 2897, related to Distinguished Visiting Professors.

Section 5363, Pub. L. 101–589, title IV, §403, Nov. 16, 1990, 104 Stat. 2897, related to faculty awards for women and minorities.

Section 5364, Pub. L. 101–589, title IV, §404, Nov. 16, 1990, 104 Stat. 2897, related to alliances for minority participation.

SUBCHAPTER V—EDUCATION COORDINATION AND DEPARTMENT OF ENERGY PROGRAMS

§§5371 to 5373. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section 5371, Pub. L. 101–589, title V, §501, Nov. 16, 1990, 104 Stat. 2898, required science education report.

Section 5372, Pub. L. 101–589, title V, §502, Nov. 16, 1990, 104 Stat. 2898, required general education reports.

Section 5373, Pub. L. 101–589, title V, §503, Nov. 16, 1990, 104 Stat. 2899, related to Department of Energy programs.

SUBCHAPTER VI—SCIENCE SCHOLARSHIPS

PART A—NATIONAL SCIENCE SCHOLARS PROGRAM

§§5381 to 5386. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section 5381, Pub. L. 101–589, title VI, §601, Nov. 16, 1990, 104 Stat. 2900; Pub. L. 102–103, title III, §314(a), Aug. 17, 1991, 105 Stat. 508; Pub. L. 102–325, title XV, §1556(a), July 23, 1992, 106 Stat. 840, stated purpose of this part to establish a National Science Scholars Program and support science, mathematics, and engineering in the United States, and authorized appropriations for awards.

Section 5382, Pub. L. 101–589, title VI, §602, Nov. 16, 1990, 104 Stat. 2900, authorized awarding of scholarships for study of science, mathematics, and engineering.

Section 5383, Pub. L. 101–589, title VI, §603, Nov. 16, 1990, 104 Stat. 2901, related to selection of scholars.

Section 5384, Pub. L. 101–589, title VI, §604, Nov. 16, 1990, 104 Stat. 2902, related to eligibility of scholars for awards.

Section 5385, Pub. L. 101–589, title VI, §605, Nov. 16, 1990, 104 Stat. 2903, related to scholarship amounts.

Section 5386, Pub. L. 101–589, title VI, §606, Nov. 16, 1990, 104 Stat. 2903, related to summer employment opportunities for scholars.

PART B—ROBERT NOYCE SCHOLARSHIPS

§5401. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VI, §611, Nov. 16, 1990, 104 Stat. 2904, established scholarship program for students in science, mathematics, and engineering programs.

PART C—NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY

§5411. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VI, §621, Nov. 16, 1990, 104 Stat. 2907; Pub. L. 102–103, title III, §314(b), Aug. 17, 1991, 105 Stat. 508; Pub. L. 102–325, title XV, §1556(b), July 23, 1992, 106 Stat. 840, established National Academy of Science, Space, and Technology.

PART D—ADDITIONAL PROVISIONS

§§5421, 5422. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section 5421, Pub. L. 101–589, title VI, §631, Nov. 16, 1990, 104 Stat. 2910, related to effect of certain controlled substance and felony convictions on eligibility.

Section 5422, Pub. L. 101–589, title VI, §632, Nov. 16, 1990, 104 Stat. 2910, required report by National Science Foundation.

SUBCHAPTER VII—GENERAL PROVISIONS AND AUTHORIZATION OF APPROPRIATIONS

PART A—AUTHORIZATION OF APPROPRIATIONS

§5431. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VII, §701, Nov. 16, 1990, 104 Stat. 2910, authorized appropriations to National Science Foundation.

PART B—DEFINITIONS

§5441. Repealed. Pub. L. 103–382, title III, §391(l), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VII, §711, Nov. 16, 1990, 104 Stat. 2911, defined terms used in this chapter.

CHAPTER 65—NATIONAL ENVIRONMENTAL EDUCATION

Sec.

5501. Findings and policy.
5502. Definitions.
5503. Office of Environmental Education.
5504. Environmental Education and Training Program.
5505. Environmental education grants.
5506. Environmental internships and fellowships.
5507. Environmental education awards.
5508. Environmental Education Advisory Council and Task Force.
5509. National Environmental Education and Training Foundation.
5510. Authorization.

§5501. Findings and policy

(a) Findings

The Congress finds that—

(1) Threats to human health and environmental quality are increasingly complex, involving a wide range of conventional and toxic contaminants in the air and water and on the land.

(2) There is growing evidence of international environmental problems, such as global warming, ocean pollution, and declines in species diversity, and that these problems pose serious threats to human health and the environment on a global scale.

(3) Environmental problems represent as significant a threat to the quality of life and the economic vitality of urban areas as they do the natural balance of rural areas.

(4) Effective response to complex environmental problems requires understanding of the natural and built environment, awareness of environmental problems and their origins (including those in urban areas), and the skills to solve these problems.

(5) Development of effective solutions to environmental problems and effective implementation of environmental programs requires a well educated and trained, professional work force.

(6) Current Federal efforts to inform and educate the public concerning the natural and built

environment and environmental problems are not adequate.

(7) Existing Federal support for development and training of professionals in environmental fields is not sufficient.

(8) The Federal Government, acting through the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to support development of curricula, special projects, and other activities, to increase understanding of the natural and built environment and to improve awareness of environmental problems.

(9) The Federal Government, acting through the coordinated efforts of its agencies and with the leadership of the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to develop programs to provide increased emphasis and financial resources for the purpose of attracting students into environmental engineering and assisting them in pursuing the programs to complete the advanced technical education required to provide effective problem solving capabilities for complex environmental issues.

(10) Federal natural resource agencies such as the United States Forest Service have a wide range of environmental expertise and a long history of cooperation with educational institutions and technology transfer that can assist in furthering the purposes of the [1] chapter.

(b) Policy

It is the policy of the United States to establish and support a program of education on the environment, for students and personnel working with students, through activities in schools, institutions of higher education, and related educational activities, and to encourage postsecondary students to pursue careers related to the environment.

(Pub. L. 101–619, §2, Nov. 16, 1990, 104 Stat. 3325.)

SHORT TITLE

Pub. L. 101–619, §1(a), Nov. 16, 1990, 104 Stat. 3325, provided that: "This Act [enacting this chapter] may be cited as the 'National Environmental Education Act'."

[1] So in original. Probably should be "this".

§5502. Definitions

For the purposes of this chapter, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the United States Environmental Protection Agency;

(3) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation;

(4) "Secretary" means the Secretary of the Department of Education;

(5) "local educational agency" means any education agency as defined in section 7801 of this title and shall include any tribal education agency;

(6) "not-for-profit" organization [1] means an organization, association, or institution described in section 501(c)(3) of title 26, which is exempt from taxation pursuant to the provisions of section 501(a) of title 26;

(7) "noncommercial education broadcasting entities" means any noncommercial educational broadcasting station (and/or its legal nonprofit affiliates) as defined and licensed by the Federal Communications Commission;

(8) "tribal education agency" means a school or community college which is controlled by an Indian tribe, band, or nation, including any Alaska Native village, which is recognized as eligible

for special programs and services provided by the United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs;

(9) "Federal natural resource management agencies" means the United States Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service;

(10) "environmental engineering" means the discipline within engineering and science concerned with the development and application of scientific and technical solutions to protecting the aquatic and atmospheric environment, including, but not limited to, all phases of water resources planning, water supply, water treatment, air pollution characterization and control, remediation of hazardous substances, environmental transport of contaminants in surface and ground water and atmosphere, and methods for assessment and control of pollution;

(11) "environmental education" and "environmental education and training" mean educational activities and training activities involving elementary, secondary, and postsecondary students, as such terms are defined in the State in which they reside, and environmental education personnel, but does not include technical training activities directed toward environmental management professionals or activities primarily directed toward the support of noneducational research and development;

(12) "Foundation" means the National Environmental Education and Training Foundation established pursuant to section 5509 of this title; and

(13) "Board of Directors" means the Board of Directors of the National Environmental Education and Training Foundation.

(Pub. L. 101–619, §3, Nov. 16, 1990, 104 Stat. 3326; Pub. L. 103–382, title III, §391(m), Oct. 20, 1994, 108 Stat. 4023; Pub. L. 107–110, title X, §1076(n), Jan. 8, 2002, 115 Stat. 2092; Pub. L. 114–95, title IX, §9215(fff), Dec. 10, 2015, 129 Stat. 2186.)

AMENDMENTS

2015—Par. (5). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

2002—Par. (5). Pub. L. 107–110 substituted "7801" for "8801".

1994—Par. (5). Pub. L. 103–382 substituted "local educational agency" for "local education agency" and reference to section 8801 of this title for reference to section 198 of the Elementary and Secondary Education Act of 1965.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

[1] *So in original. Probably should be " 'not-for-profit organization' ".*

§5503. Office of Environmental Education

(a) Establishment

The Administrator shall establish an Office of Environmental Education within the Environmental Protection Agency.

(b) Duties and functions

The Office of Environmental Education shall—

(1) develop and support programs and related efforts, in consultation and coordination with other Federal agencies, to improve understanding of the natural and built environment, and the

relationships between humans and their environment, including the global aspects of environmental problems;

(2) support development and the widest possible dissemination of model curricula, educational materials, and training programs for elementary and secondary students and other interested groups, including senior Americans;

(3) develop and disseminate, in cooperation with other Federal agencies, not-for-profit educational and environmental organizations, State agencies, and noncommercial educational broadcasting entities, environmental education publications and audio/visual and other media materials;

(4) develop and support environmental education seminars, training programs, teleconferences, and workshops for environmental education professionals, as provided for in section 5504 of this title;

(5) manage Federal grant assistance provided to local education agencies, institutions of higher education, other not-for-profit organizations, and noncommercial education broadcasting entities, under section 5505 of this title;

(6) administer the environmental internship and fellowship programs provided for in section 5506 of this title;

(7) administer the environmental awards program provided for in section 5507 of this title;

(8) provide staff support to the Advisory Council and Task Force provided for in section 5508 of this title;

(9) assess, in coordination with other Federal agencies, the demand for professional skills and training needed to respond to current and anticipated environmental problems and cooperate with appropriate institutions, organizations, and agencies to develop training programs, curricula, and continuing education programs for teachers, school administrators, and related professionals;

(10) assure the coordination of Federal statutes and programs administered by the Agency relating to environmental education, consistent with the provisions and purposes of those programs, and work to reduce duplication or inconsistencies within these programs;

(11) work with the Department of Education, the Federal Interagency Committee on Education, and with other Federal agencies, including Federal natural resource management agencies, to assure the effective coordination of programs related to environmental education, including environmental education programs relating to national parks, national forests, and wildlife refuges;

(12) provide information on environmental education and training programs to local education agencies, State education and natural resource agencies, and others; and

(13) otherwise provide for the implementation of this chapter.

(c) Director and staff

The Office of Environmental Education shall—

(1) be directed by a Director who shall be a member of the Senior Executive Service;

(2) include a headquarters staff of not less than six and not more than ten full-time equivalent employees; and

(3) be supported by one full-time equivalent employee in each Agency regional office.

(Pub. L. 101–619, §4, Nov. 16, 1990, 104 Stat. 3327.)

§5504. Environmental Education and Training Program

(a) Establishment

There is hereby established an Environmental Education and Training Program. The purpose of the program shall be to train educational professionals in the development and delivery of environmental education and training programs and studies.

(b) Functions and activities

The functions and activities of the program shall include, at a minimum—

(1) classroom training in environmental education and studies including environmental sciences

and theory, educational methods and practices, environmental career or occupational education, and topical environmental issues and problems;

(2) demonstration of the design and conduct of environmental field studies and assessments;

(3) development of environmental education programs and curriculum, including programs and curriculum to meet the needs of diverse ethnic and cultural groups;

(4) sponsorship and management of international exchanges of teachers and other educational professionals between the United States, Canada, and Mexico involved in environmental programs and issues;

(5) maintenance or support of a library of environmental education materials, information, literature, and technologies, with electronic as well as hard copy accessibility;

(6) evaluation and dissemination of environmental education materials, training methods, and related programs;

(7) sponsorship of conferences, seminars, and related forums for the advancement and development of environmental education and training curricula and materials, including international conferences, seminars, and forums;

(8) supporting effective partnerships and networks and the use of distant learning technologies; and

(9) such other activities as the Administrator determines to be consistent with the policies of this chapter.

Special emphasis should be placed on developing environmental education programs, workshops, and training tools that are portable and can be broadly disseminated.

(c) Grants

(1) The Administrator shall make a grant on an annual basis to an institution of higher education or other institution which is a not-for-profit institution (or consortia of such institutions) to operate the environmental education and training program required by this section.

(2) Any institution of higher education or other institution (or consortia of such institutions) which is a not-for-profit organization and is interested in receiving a grant under this section may submit to the Administrator an application in such form and containing such information as the Administrator may require.

(3) The Administrator shall award grants under this section on the basis of—

(A) the capability to develop environmental education and training programs;

(B) the capability to deliver training to a range of participants and in a range of settings;

(C) the expertise of the staff in a range of appropriate disciplines;

(D) the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services;

(E) the capability to make effective use of existing national environmental education resources and programs;

(F) the results of any evaluation under paragraph (5) of this subsection; and

(G) such other factors as the Administrator deems appropriate.

(4) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(5) The Administrator shall establish procedures for a careful and detailed review and evaluation of the environmental education and training program to determine whether the quality of the program being operated by the grantee warrants continued support under this section.

(d) Eligibility

(1) Individuals eligible for participation in the program are teachers, faculty, administrators and related support staff associated with local education agencies, colleges, and universities, employees of State education, environmental protection, and natural resource departments, and employees of not-for-profit organizations involved in environmental education activities and issues.

(2) Individuals shall be selected for participation in the program based on applications which shall

be in such form as the Administrator determines to be appropriate.

(3) In selecting individuals to participate in the program, the Administrator shall provide for a wide geographic representation and a mix of individuals, including minorities, working at primary, secondary, postsecondary levels, and with appropriate other agencies and departments.

(4) Individuals selected for participation in the program may be provided with a stipend to cover travel and accommodations from grant funds awarded pursuant to this section in such amounts as the Administrator determines to be appropriate.

(Pub. L. 101–619, §5, Nov. 16, 1990, 104 Stat. 3328.)

§5505. Environmental education grants

(a) Cooperative agreements and grants

The Administrator may enter into a cooperative agreement or contract, or provide financial assistance in the form of a grant, to support projects to design, demonstrate, or disseminate practices, methods, or techniques related to environmental education and training.

(b) Eligible activities

Activities eligible for grant support pursuant to this section shall include, but not be limited to, environmental education and training programs for—

(1) design, demonstration, or dissemination of environmental curricula, including development of educational tools and materials;

(2) design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;

(3) projects to understand and assess a specific environmental issue or a specific environmental problem;

(4) provision of training or related education for teachers, faculty, or related personnel in a specific geographic area or region; and

(5) design and demonstration of projects to foster international cooperation in addressing environmental issues and problems involving the United States and Canada or Mexico.

(c) Priority projects

In making grants pursuant to this section, the Administrator shall give priority to those proposed projects which will develop—

(1) a new or significantly improved environmental education practice, method, or technique;

(2) an environmental education practice, method, or technique which may have wide application;

(3) an environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report developed pursuant to section 5508(d) of this title; and

(4) an environmental education practice, method, or technique which addresses an environmental issue which, in the judgment of the Administrator, is of a high priority.

(d) Scope of program and implementing regulations

The program established by this section shall include solicitations for projects, selection of suitable projects from among those proposed, supervision of such projects, evaluation of the results of projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, techniques and processes. Within one year of November 16, 1990, the Administrator shall publish regulations to assure satisfactory implementation of each element of the program authorized by this section.

(e) Solicitation notices

Within 90 days after the date on which amounts are first appropriated for carrying out this chapter, and each year thereafter, the Administrator shall publish a solicitation for environmental education grants. The solicitation notice shall prescribe the information to be included in the proposal and other

information sufficient to permit the Administrator to assess the project.

(f) Applications

Any local education agency, college or university, State education agency or environmental agency, not-for-profit organization, or noncommercial educational broadcasting entity may submit an application to the Administrator in response to the solicitations required by subsection (e) of this section.

(g) Performance of projects

Each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant and the Administrator.

(h) Matching requirements

Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of such project. For the purposes of this section, the non-Federal share of project costs may be provided by inkind contributions and other noncash support. In cases where the Administrator determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(i) Limitations on grants

Grants under this section shall not exceed $250,000. In addition, 25 percent of all funds obligated under this section in a fiscal year shall be for grants of not more than $5,000.

(Pub. L. 101–619, §6, Nov. 16, 1990, 104 Stat. 3330.)

§5506. Environmental internships and fellowships

(a) Postsecondary students and in-service teachers

The Administrator shall, in consultation with the Office of Personnel Management and other appropriate Federal agencies, provide for internships by postsecondary level students and fellowships for in-service teachers with agencies of the Federal Government.

(b) Purpose

The purpose of internships and fellowships pursuant to this section shall be to provide college level students and in-service teachers with an opportunity to work with professional staff of Federal agencies involved in environmental issues and thereby gain an understanding and appreciation of such issues and the skills and abilities appropriate to such professions.

(c) Minimum number of internships and fellowships

The Administrator shall, to the extent practicable, support not less than 250 internships each year and not less than 50 fellowships each year.

(d) Management of programs; eligible agencies

The internship and fellowship programs shall be managed by the Office of Environmental Education. Interns and fellows may serve in appropriate agencies of the Federal Government including, but not limited to, the Environmental Protection Agency, the Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Council on Environmental Quality, Federal natural resource management agencies, the Department of Agriculture, and the National Science Foundation.

(e) Length of internships and fellowships; funding

Interns shall be hired on a temporary, full-time basis for not to exceed 6 months and shall be compensated appropriately. Fellows shall be hired on a temporary full-time basis for not to exceed 12 months and shall be compensated appropriately. Federal agencies hiring interns shall provide the funds necessary to support salaries and related costs.

(f) Eligible individuals

(1) Individuals eligible for participation in the internship program are students enrolled at accredited colleges or universities who have successfully completed not less than four courses or the equivalent in environmental sciences or studies, as determined by the Administrator.

(2) Individuals eligible for participation in the fellowship program are in-service teachers who are currently employed by a local education agency and have not less than 2 years experience in teaching environmental education, environmental sciences, or related courses.

(g) Applications

Individuals shall be selected for internships and fellowships based on applications which shall be in such form as the Administrator considers appropriate.

(h) Geographic, cultural, and minority representation

In selecting individuals for internships and fellowships, the Administrator shall provide for wide geographic, cultural, and minority representation.

(Pub. L. 101–619, §7, Nov. 16, 1990, 104 Stat. 3331.)

§5507. Environmental education awards

(a) National awards

The Administrator shall provide for a series of national awards recognizing outstanding contributions to environmental education.

(b) Required awards

In addition to such other awards as the Administrator may provide for, national environmental awards shall include—

(1) The "Theodore Roosevelt Award" to be given in recognition of an outstanding career in environmental education, teaching, or administration;

(2) The "Henry David Thoreau Award" to be given in recognition of an outstanding contribution to literature on the natural environment and environmental pollution problems;

(3) The "Rachael Carson Award" to be given in recognition of an outstanding contribution in print, film, or broadcast media to public education and information on environmental issues or problems; and

(4) The "Gifford Pinchot Award" to be given in recognition of an outstanding contribution to education and training concerning forestry and natural resource management, including multiple use and sustained yield land management.

(c) Nomination by Environmental Education Advisory Council

Recipients of education awards provided for in subsection (b) of this section shall be nominated by the Environmental Education Advisory Council provided for in section 5508 of this title.

(d) President's Environmental Youth Awards

The Administrator may provide for the "President's Environmental Youth Awards" to be given to young people in grades kindergarten through twelfth for an outstanding project to promote local environmental awareness.

(e) Cash awards for elementary and secondary education teachers and local educational agencies

(1) The Chairman of the Council on Environmental Quality, on behalf of the President, is authorized to develop and administer an awards program to recognize elementary and secondary education teachers and their local educational agencies who demonstrate excellence in advancing environmental education through innovative approaches. One teacher, and the local education agency employing such teacher, from each State, including the District of Columbia and the Commonwealth of Puerto Rico, are eligible to be selected for an award pursuant to this subsection.

(2) The Chairman is authorized to provide a cash award of up to $2,500 to each teacher selected to receive an award pursuant to this section, which shall be used to further the recipient's professional development in environmental education.

(3) The Chairman is also authorized to provide a cash award of up to $2,500 to the local education agency employing any teacher selected to receive an award pursuant to this section, which shall be used to fund environmental educational activities and programs. Such awards may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

(Pub. L. 101–619, §8, Nov. 16, 1990, 104 Stat. 3332.)

§5508. Environmental Education Advisory Council and Task Force

(a) Establishment

There is hereby established a National Environmental Education Advisory Council and a Federal Task Force on Environmental Education.

(b) Advisory Council; duties; members; terms of office; compensation; termination

(1) The Advisory Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this chapter. With respect to such matters, the Council shall be the exclusive advisory entity for the Administrator. The Council may exchange information with other Advisory Councils established by the Administrator. The Office of Environmental Education shall provide staff support to the Council.

(2) The Advisory Council shall consist of 11 members appointed by the Administrator after consultation with the Secretary. Two members shall be appointed to represent primary and secondary education (one of whom shall be a classroom teacher); two members shall be appointed to represent colleges and universities; two members shall be appointed to represent not-for-profit organizations involved in environmental education; two members shall be appointed to represent State departments of education and natural resources; two representatives shall be appointed to represent business and industry; and one representative shall be appointed to represent senior Americans. A representative of the Secretary shall serve as an ex officio member of the Advisory Council. The conflict of interest provision at section 208(a) of title 18 shall not apply to members' participation in particular matters which affect the financial interests of employers which they represent pursuant to this subsection.

(3) The Administrator shall provide that members of the Council represent the various geographic regions of the country, has minority representation, and that the professional backgrounds of the members include scientific, policy, and other appropriate disciplines.

(4) Each member of the Advisory Council shall hold office for a term of 3 years, except that—

(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) the terms of the members first taking office shall expire as follows: four shall expire 3 years after November 16, 1990, four shall expire 2 years after November 16, 1990, and three shall expire 1 year after November 16, 1990, as designated by the Administrator at the time of appointment.

(5) Members of the Advisory Council appointed under this section shall, while attending meetings of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) [1] of title 5.

(6) Section 14(a) of the Federal Advisory Committee Act relating to termination, shall not apply to the Advisory Council.

(c) Federal Task Force on Environmental Education; duties; members

(1) The Federal Task Force on Environmental Education shall advise, consult with and make recommendations to the Administrator on matters relating to implementation of this chapter and assure the coordination of such implementation activities with related activities of other Federal agencies.

(2) Membership of the Task Force shall include the—

(A) Department of Education,

(B) Department of the Interior,

(C) Department of Agriculture,

(D) the Environmental Protection Agency,

(E) National Oceanic and Atmospheric Administration,

(F) Council on Environmental Quality,

(G) Tennessee Valley Authority, and

(H) National Science Foundation.

(3) The Environmental Protection Agency shall chair the Task Force.

(4) The Administrator may ask other Federal agencies to participate in the meetings and activities of the Task Force where the Administrator finds it appropriate in carrying out the requirements of this chapter.

(d) Reports

(1) The Advisory Council shall, after providing for public review and comment, submit to the Congress, within 24 months of November 16, 1990, and biennially thereafter, a report which shall—

(A) describe and assess the extent and quality of environmental education in the Nation;

(B) provide a general description of the activities conducted pursuant to this chapter and related authorities over the previous 2-year period;

(C) summarize major obstacles to improving environmental education (including environmental education programs relating to national parks and wildlife refuges) and make recommendations for addressing such obstacles;

(D) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions; and

(E) describe and assess the extent and quality of environmental education programs available to senior Americans and make recommendations thereon; describe the various Federal agency programs to further senior environmental education; and evaluate and make recommendations as to how such educational apparatuses could best be coordinated with nonprofit senior organizations across the Nation, and environmental education institutions and organizations now in existence.

(2) The Federal Task Force on Environmental Education shall review and comment on a draft of the report to Congress.

(Pub. L. 101–619, §9, Nov. 16, 1990, 104 Stat. 3333.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (b)(5), was amended generally by Pub. L. 94–22, May 19, 1975, §4, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (b)(6), is section 14(a) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

[1] *See References in Text note below.*

§5509. National Environmental Education and Training Foundation

(a) Establishment and purposes

(1) Establishment

(A) There is hereby established the National Environmental Education and Training Foundation. The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection needs, both in this country and internationally; to facilitate the cooperation, coordination, and contribution of public and private resources to create an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, community based environmental groups, and international organizations.

(B) The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of title 26. The Foundation is not an agency or establishment of the United States.

(2) Purposes

The purposes of the Foundation are—

(A) subject to the limitation contained in the final sentence of subsection (d) of this section, to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency;

(B) to conduct such other environmental education activities as will further the development of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system;

(C) to participate with foreign entities and individuals in the conduct and coordination of activities that will further opportunities for environmental education and training to address environmental issues and problems involving the United States and Canada or Mexico.

(3) Programs

The Foundation will develop, support, and/or operate programs and projects to educate and train educational and environmental professionals, and to assist them in the development and delivery of environmental education and training programs and studies.

(b) Board of Directors

(1) Establishment and membership

(A) The Foundation shall have a governing Board of Directors (hereafter referred to in this section as "the Board"), which shall consist of 13 directors, each of whom shall be knowledgeable or experienced in the environment, education and/or training. The Board shall oversee the activities of the Foundation and shall assure that the activities of the Foundation are consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this chapter. The membership of the Board, to the extent practicable, shall represent diverse points of view relating to environmental education and training.

(B) The Administrator of the Environmental Protection Agency shall, pursuant to paragraph (2), appoint the Director of the Office of Environmental Education established pursuant to section 5502 of this title as an ex-officio member of the Board. Ex officio membership shall also be offered to other Federal agencies or departments with an interest and/or experience in environmental education and training.

(C) Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(2) Appointment and terms

(A) Members of the Board shall be appointed by the Administrator of the Environmental Protection Agency.

(B) Within 90 days of November 16, 1990, and as appropriate thereafter, the Administrator shall publish in the Federal Register an announcement of appointments of Directors of the Board. At the same time, the Administrator shall transmit a copy of such announcement to the Education and Labor Committee and the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the United States Senate. Such appointments shall become final and effective 90 days after publication in the Federal Register.

(C) The directors shall be appointed for terms of 4 years, except that the Administrator, in making the initial appointments to the Board, shall appoint 5 directors to a term of 2 years, 4 directors to a term of 3 years, and 4 directors to a term of 4 years. The Administrator shall appoint an individual to serve as a director in the event of a vacancy on the Board within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a director.

(3) Chair

The Chair shall be elected by the Board from its members for a 2-year term.

(4) Quorum

A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(5) Meetings

The Board shall meet at the call of the Chair at least twice a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with this subsection.

(6) Reimbursement of expenses

Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(7) General powers

(A) The Board may complete the organization of the Foundation by—

(i) appointing officers and employees;

(ii) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this section; and

(iii) undertaking such other acts as may be necessary to carry out the provisions of this section.

(B) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(i) Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(ii) The first officer or employee appointed by the Board shall be the Executive Director of the Foundation who—

(I) shall serve, at the direction of the Board, as the Secretary of the Board and the Foundation's chief executive officer; and

(II) shall be experienced in matters relating to environmental education and training.

(c) Rights and obligations of Foundation

(1) In general

The Foundation—

(A) shall have perpetual succession;

(B) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(C) shall have its principal offices in the District of Columbia or in the greater metropolitan area; and

(D) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The service of notice to, or service of notice upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(2) Seal

The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(3) Powers

To carry out its purposes under subsection (a) of this section, the Foundation shall have, in addition to the powers otherwise given it under this section, the usual powers of a corporation acting as a trustee, including the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(D) to sue, or to be sued, and complain or defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(E) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(F) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) Conditions on donations

(1) For the purposes of this section, a gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current future interest therein is for the benefit of the Foundation.

(2) No donation, gift, devise, bequest, property (either real or personal), voluntary services, or any other thing of value may be accepted by the Foundation if it—

(A) is contingent upon the transmission by the Foundation of materials or information prepared by the donor or a third party in such a fashion as to convey a particular point of view favorable to the economic interests of the donor or its constituents or associates; or

(B) in the judgment of the Board carries with it an explicit or implied requirement on the part of the Foundation to do a specific act or make general representations which are to the benefit of the donor and which are not consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this chapter.

(3) No materials bearing "logos", letterhead or other means of identification associated with a donor or third party may be transmitted by the Foundation, for use in environmental education and

training except as required pursuant to subsection (f) of this section.

(e) Administrative services and support

Subject to the requirements of this subsection, the Administrator may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under subsection (b)(6) of this section, not to exceed then current Federal Government per diem rates, for a period of up to 4 years from November 16, 1990, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the costs of providing such services. With respect to personnel, the Administrator may provide no more than 1 full-time employee to serve the Foundation in a policy capacity, and may provide clerical and other support staff at a level equivalent to 2 full-time equivalent employees to the Foundation, for a period not to exceed 2 years from the date of initial assignment of any personnel for this purpose.

(f) Omitted

(g) Volunteer status

The Administrator may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Environmental Protection Agency, as volunteers in the performance of the functions authorized herein, in the manner provided for under this section.

(h) Audits and petition of Attorney General for equitable relief

For purposes of section 10101 of title 36, the Foundation shall be treated as a corporation in part B of subtitle II of title 36.

(i) United States release from liability

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

(j) Amendment and repeal

The Congress expressly reserves the right to repeal or amend this section at any time.

(Pub. L. 101–619, §10, Nov. 16, 1990, 104 Stat. 3335.)

CODIFICATION

Subsec. (f) of this section, which required the Foundation, as soon as practicable after the end of each fiscal year, to transmit to Congress a report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 183 of House Document No. 103–7.

In subsec. (h), "section 10101 of title 36" substituted for "the Act entitled 'An Act for audit of accounts of private corporations established under Federal law', approved August 30, 1964 (Public Law 88–504; 36 U.S.C. 1101–1103)" and "a corporation in part B of subtitle II of title 36" substituted for "a private corporation established under Federal law" on authority of Pub. L. 105–225, §5(b), Aug. 12, 1998, 112 Stat. 1499, the first section of which enacted Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General

Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§5510. Authorization

(a) Authorization of appropriations

There is hereby authorized to be appropriated to the Environmental Protection Agency to carry out this chapter not to exceed $12,000,000 for each fiscal year 1992 and 1993, not to exceed $13,000,000 for fiscal year 1994, and not to exceed $14,000,000 for each fiscal year 1995 and 1996.

(b) Limitations

Of such sums appropriated in a fiscal year, 25 percent shall be available for the activities of the Office of Environmental Education, 25 percent shall be available for the operation of the environmental education and training program, 38 percent shall be available for environmental education grants, 10 percent shall be available for support of the National Environmental Education and Training Foundation, and 2 percent shall be available to support awards pursuant to section 5507(e) of this title.

(c) Availability of funds to National Environmental Education and Training Foundation

Funds appropriated pursuant to this section may be made available to the National Environmental Education and Training Foundation to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local governments; and

(2) provide administrative services under section 5509(d) of this title:

Provided, That the Administrator determines that such funds will be used to carry out the statutory purposes of the Foundation in a manner consistent with the goals, objectives and programs of this chapter.

(Pub. L. 101–619, §11, Nov. 16, 1990, 104 Stat. 3339.)

CHAPTER 66—MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

Sec.

5601. Findings.
5602. Definitions.
5603. Establishment of Morris K. Udall and Stewart L. Udall Foundation.
5604. Purpose of Foundation.
5605. Authority of Foundation.
5606. Establishment of Morris K. Udall and Stewart L. Udall Trust Fund.
5607. Expenditures and audit of Trust Fund.
5607a. Environmental Dispute Resolution Fund.
5607b. Use of Institute by Federal agency or other entity.
5608. Administrative provisions.
5609. Authorization of appropriations.

§5601. Findings

The Congress finds that—

(1) for three decades, Congressman Morris K. Udall has served his country with distinction and

honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land, and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance;

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources;

(5) the Foundation—

(A) since 1995, has operated exceptional scholarship, internship, and fellowship programs for areas of study related to the environment and Native American tribal policy and health care;

(B) since 1999, has provided valuable environmental conflict resolution services and leadership through the United States Institute for Environmental Conflict Resolution; and

(C) is committed to continue making a substantial contribution toward public policy in the future by—

(i) playing a significant role in developing the next generation of environmental and Native American leaders; and

(ii) working with current leaders to improve decisionmaking on—

(I) challenging environmental, energy, and related economic problems; and

(II) tribal governance and economic issues;

(6) Stewart L. Udall, as a member of Congress, Secretary of the Interior, environmental lawyer, and author, has provided distinguished national leadership in environmental and Native American policy for more than 50 years;

(7) as Secretary of the Interior from 1961 to 1969, Stewart L. Udall oversaw the creation of 4 national parks, 6 national monuments, 8 national seashores and lakeshores, 9 recreation areas, 20 historic sites, and 56 wildlife refuges; and

(8) it is fitting that the leadership and vision of Stewart L. Udall in the areas of environmental and Native American policy be jointly honored with that of Morris K. Udall through the foundation bearing the Udall name.

(Pub. L. 102–259, §3, Mar. 19, 1992, 106 Stat. 78; Pub. L. 111–90, §3, Nov. 3, 2009, 123 Stat. 2976.)

AMENDMENTS

2009—Pars. (5) to (8). Pub. L. 111–90 added pars. (5) to (8).

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–90, §1, Nov. 3, 2009, 123 Stat. 2976, provided that: "This Act [amending this section, sections 5602, 5603, 5605 to 5607, 5607b, and 5608 of this title, and provisions set out as note under this section] may be cited as the 'Morris K. Udall Scholarship and Excellence in National Environmental Policy Amendments Act of 2009'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–160, §1, Dec. 6, 2003, 117 Stat. 2013, provided that: "This Act [amending section 5609 of this title] may be cited as the 'Environmental Policy and Conflict Resolution Advancement Act of 2003'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–156, §1, Feb. 11, 1998, 112 Stat. 8, provided that: "This Act [enacting sections 5607a and 5607b of this title and amending sections 5602 to 5607, 5608, and 5609 of this title] may be cited as the 'Environmental Policy and Conflict Resolution Act of 1998'."

SHORT TITLE

Pub. L. 102–259, §1, Mar. 19, 1992, 106 Stat. 78, as amended by Pub. L. 111–90, §2, Nov. 3, 2009, 123 Stat. 2976, provided that: "This Act [enacting this chapter] may be cited as the 'Morris K. Udall and Stewart L. Udall Foundation Act'."

REPEAL OF PREVIOUS LEGISLATION

Pub. L. 102–259, §2, Mar. 19, 1992, 106 Stat. 78, provided that: "The Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, S. 1176, One Hundred Second Congress, is hereby repealed." [For details concerning purported pocket veto of S. 1176, One Hundred Second Congress, see Weekly Compilation of Presidential Documents, vol. 28 (1992), no. 12, p. 507, Mar. 19, Presidential Statement, and Cong. Rec., vol. 138, pt. 3, p. 4078.]

§5602. Definitions

For the purposes of this chapter—

(1) the term "Board" means the Board of Trustees of the Foundation established under section 5603(b) of this title;

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "environmental dispute" means a dispute or conflict relating to the environment, public lands, or natural resources;

(5) the term "Foundation" means the Morris K. Udall and Stewart L. Udall Foundation established under section 5603(a) of this title;

(6) the term "Institute" means the United States Institute for Environmental Conflict Resolution established pursuant to section 5605(a)(1)(D) of this title;

(7) the term "institution of higher education" has the same meaning given to such term by section 1001 of this title;

(8) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified); and

(9) the term "Trust Fund" means the Morris K. Udall and Stewart L. Udall Trust Fund established in section 5606 of this title.

(Pub. L. 102–259, §4, Mar. 19, 1992, 106 Stat. 78; Pub. L. 105–156, §2, Feb. 11, 1998, 112 Stat. 8; Pub. L. 105–244, title I, §102(a)(6)(I), Oct. 7, 1998, 112 Stat. 1619; Pub. L. 111–90, §4, Nov. 3, 2009, 123 Stat. 2977.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in par. (8), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

2009—Par. (1). Pub. L. 111–90, §4(1), struck out "Morris K. Udall Scholarship and Excellence in National Environmental Policy" before "Foundation".

Pars. (5), (9). Pub. L. 111–90, §4(2), (3), substituted "and Stewart L. Udall" for "Scholarship and Excellence in National Environmental Policy".

1998—Pars. (4), (5). Pub. L. 105–156, §2(1), (2), added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (9).

Par. (6). Pub. L. 105–156, §2(3), added par. (6). Former par. (6) redesignated (7).

Par. (7). Pub. L. 105–244, which directed the substitution of "section 1001" for "section 1141(a)" in par. (6), was executed by making the substitution in par. (7) to reflect the probable intent of Congress and the redesignation of par. (6) as (7) by Pub. L. 105–156, §2(1). See below.

Pub. L. 105–156, §2(1), (4), redesignated par. (6) as (7) and struck out "and" at end. Former par. (7) redesignated (8).

Par. (8). Pub. L. 105–156, §2(1), (5), redesignated par. (7) as (8) and substituted "; and" for period at end.

Par. (9). Pub. L. 105–156, §2(1), (6), redesignated par. (5) as (9) and substituted " 'Trust Fund' " for " 'fund' " and period for semicolon at end.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§5603. Establishment of Morris K. Udall and Stewart L. Udall Foundation

(a) Establishment

There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall and Stewart L. Udall Foundation.

(b) Board of Trustees

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of thirteen trustees, eleven of whom shall be voting members of the Board, as follows:

(1) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(2) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate.

(3) Five Trustees, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; or

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(5) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.[1]

(7) The chairperson of the President's Council on Environmental Quality, who shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.[1]

(c) Term of office

(1) [2] IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Trustees first taking offices—

(i) as designated by the President, one Trustee appointed pursuant to subsection (b)(2) of this section and two trustees appointed pursuant to subsection (b)(3) of this section shall each serve two years; and

(ii) as designated by the President, one Trustee appointed pursuant to subsection (b)(1) of this section and two Trustees appointed pursuant to subsection (b)(3) of this section shall each serve four years; and

(iii) as designated by the President, one Trustee appointed pursuant to subsection (b)(1) of this section, one Trustee appointed pursuant to subsection (b)(2) of this section, and one Trustee appointed pursuant to subsection (b)(3) of this section shall each serve six years;

(B) a Trustee appointed to fill a vacancy shall serve for the remainder of the term for which the Trustee's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made; and

(C) a Trustee may serve after the expiration of the Trustee's term until a successor has been chosen.

(d) Travel and subsistence pay

Trustees shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) Location of Foundation

The Foundation shall be located in Tucson, Arizona.

(f) Executive Director

(1) In general

There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this chapter as the Board shall prescribe.

(2) Compensation

The Executive Director of the Foundation shall be compensated at a rate determined by the Board in accordance with section 5383 of title 5.

(Pub. L. 102–259, §5, Mar. 19, 1992, 106 Stat. 79; Pub. L. 104–208, div. A, title I, §101(f) [title VI, §655], Sept. 30, 1996, 110 Stat. 3009–314, 3009–369; Pub. L. 105–156, §3, Feb. 11, 1998, 112 Stat. 8; Pub. L. 111–90, §5, Nov. 3, 2009, 123 Stat. 2977.)

AMENDMENTS

2009—Pub. L. 111–90, §5(1), substituted "and Stewart L. Udall" for "Scholarship and Excellence in National Environmental Policy" in section catchline.

Subsec. (a). Pub. L. 111–90, §5(2), substituted "and Stewart L. Udall" for "Scholarship and Excellence in National Environmental Policy".

Subsec. (f)(2). Pub. L. 111–90, §5(3), substituted "a rate determined by the Board in accordance with section 5383 of title 5" for "the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5".

1998—Subsec. (b). Pub. L. 105–156, §3(1), substituted "thirteen" for "twelve" in introductory provisions.

Subsec. (b)(7). Pub. L. 105–156, §3(2), added par. (7).

1996—Subsec. (c)(1)(C). Pub. L. 104–208 added subpar. (C).

[1] So in original. Probably should be capitalized.

[2] So in original. No par. (2) has been enacted.

§5604. Purpose of Foundation

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and Environmental Conflict

Resolution and Training at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy;

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy, by conducting management and leadership training of Native Americans, Alaska Natives, and others involved in tribal leadership, providing assistance and resources for policy analysis, and carrying out other appropriate activities.; [1]

(8) establish as part of the Foundation the United States Institute for Environmental Conflict Resolution to assist the Federal Government in implementing section 4331 of title 42 by providing assessment, mediation, and other related services to resolve environmental disputes involving agencies and instrumentalities of the United States; and

(9) complement the direction established by the President in Executive Order No. 12988 (61 Fed. Reg. 4729; relating to civil justice reform).

(Pub. L. 102–259, §6, Mar. 19, 1992, 106 Stat. 80; Pub. L. 105–156, §4, Feb. 11, 1998, 112 Stat. 9; Pub. L. 106–568, title VIII, §817(a), Dec. 27, 2000, 114 Stat. 2918.)

REFERENCES IN TEXT

Executive Order No. 12988, referred to in par. (9), is set out as a note under section 519 of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2000—Par. (7). Pub. L. 106–568 inserted before semicolon at end ", by conducting management and leadership training of Native Americans, Alaska Natives, and others involved in tribal leadership, providing assistance and resources for policy analysis, and carrying out other appropriate activities."

1998—Par. (4). Pub. L. 105–156, §4(1), substituted "Environmental Conflict Resolution and Training" for "an Environmental Conflict Resolution".

Pars. (8), (9). Pub. L. 105–156, §4(2)–(4), added pars. (8) and (9).

[1] So in original. The period probably should not appear.

§5605. Authority of Foundation

(a) Authority of Foundation

(1) In general

(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5604 of this title. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships, and grants awarded under this chapter.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this chapter for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(D) INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION.—

(i) IN GENERAL.—The Foundation shall—

(I) establish the United States Institute for Environmental Conflict Resolution as part of the Foundation; and

(II) identify and conduct such programs, activities, and services as the Foundation

determines appropriate to permit the Foundation to provide assessment, mediation, training, and other related services to resolve environmental disputes.

(ii) GEOGRAPHIC PROXIMITY OF CONFLICT RESOLUTION PROVISION.—In providing assessment, mediation, training, and other related services under clause (i)(II) to resolve environmental disputes, the Foundation shall consider, to the maximum extent practicable, conflict resolution providers within the geographic proximity of the conflict.

(2) Scholarships

(A) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this chapter may receive payments under this chapter only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) Fellowships

Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) Internships

Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5604 of this title; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5604 of this title.

(5) Grants

The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues;

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation; and

(E) to conduct training, research, and other activities under section 5604(7) of this title.

(6) Repository

The Foundation shall provide direct or indirect assistance from the proceeds of the Trust Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other

such public papers as may be appropriate and assure such papers' availability to the public.

(7) Coordination

The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution and Training to be located at the Center.

(b) Udall Scholars

Recipients of scholarships, fellowships, and internships under this chapter shall be known as "Udall Scholars", "Udall Fellows", and "Udall Interns", respectively.

(c) Program priorities

The Foundation shall determine the priority of the programs to be carried out under this chapter and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 5604(a)(2) [1] of this title, section 5604(a)(3) [1] of this title, and section 5604(a)(4) [1] of this title, not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 5604(a)(5) [1] of this title, section 5604(a)(6) [1] of this title, and section 5604(a)(7) [1] of this title conditioned on a 25-percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

(Pub. L. 102–259, §7, Mar. 19, 1992, 106 Stat. 81; Pub. L. 105–156, §§5, 9(b), Feb. 11, 1998, 112 Stat. 9, 12; Pub. L. 111–90, §6, Nov. 3, 2009, 123 Stat. 2977.)

REFERENCES IN TEXT

References to subsec. (a)(2) to (7) of section 5604 of this title in subsec. (c) were in the original references to subsec. (a)(2) to (7) of section 6 of Pub. L. 102–259 but probably should have been references to subsec. (a)(2) to (7) of this section, which is section 7 of Pub. L. 102–259. Section 5604 of this title does not contain subsecs., and subsec. (a)(2) to (7) of this section relates to various programs and activities to be carried out by the Foundation.

AMENDMENTS

2009—Subsec. (a)(5)(E). Pub. L. 111–90, §6(1), added subpar. (E).

Subsec. (b). Pub. L. 111–90, §6(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "Recipients of scholarships, fellowships, internships, and grants under this chapter shall be known as 'Morris K. Udall Scholars'."

1998—Subsec. (a)(1)(D). Pub. L. 105–156, §5(1), added subpar. (D).

Subsec. (a)(6). Pub. L. 105–156, §9(b), substituted "Trust Fund" for "Fund".

Subsec. (a)(7). Pub. L. 105–156, §5(2), inserted "and Training" after "Conflict Resolution".

[1] *See References in Text note below.*

§5606. Establishment of Morris K. Udall and Stewart L. Udall Trust Fund

(a) Establishment of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall and Stewart L. Udall Trust Fund" to be administered by a Foundation. The Trust Fund shall consist of amounts appropriated to it pursuant to section 5609(a) of this title and amounts credited to it under subsection (b) of this section.

(b) Investment of Trust Fund assets

(1) [1] IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the Trust Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the Trust Fund.

Investments in public debt securities shall bear interest "at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States" of comparable maturity.

(Pub. L. 102–259, §8, Mar. 19, 1992, 106 Stat. 82; Pub. L. 105–156, §9, Feb. 11, 1998, 112 Stat. 12; Pub. L. 111–90, §7, Nov. 3, 2009, 123 Stat. 2978.)

AMENDMENTS

2009—Pub. L. 111–90 substituted "and Stewart L. Udall" for "Scholarship and Excellence in National Environmental Policy" in section catchline and in subsec. (a).

1998—Subsec. (a). Pub. L. 105–156, §9(a), substituted "The Trust Fund" for "The fund" and "5609(a)" for "5609".

Subsec. (b). Pub. L. 105–156, §9(b), substituted "Trust Fund" for "Fund" in two places.

[1] *So in original. No par. (2) has been enacted.*

§5607. Expenditures and audit of Trust Fund

(a) In general

The Foundation shall pay from the interest and earnings of the Trust Fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter, including a reasonable amount for official reception and representation expenses, as determined by the Board, not to exceed $5,000 for a fiscal year.

(b) Audit by Government Accountability Office

The activities of the Foundation and the Center under this chapter may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the Government Accountability Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

(Pub. L. 102–259, §9, Mar. 19, 1992, 106 Stat. 83; Pub. L. 105–156, §9(b), Feb. 11, 1998, 112 Stat. 12; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 111–90, §8, Nov. 3, 2009, 123 Stat. 2978.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–90 inserted before period at end ", including a reasonable amount for official reception and representation expenses, as determined by the Board, not to exceed $5,000 for a fiscal year".

2004—Subsec. (b). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading and in two places in text.

1998—Subsec. (a). Pub. L. 105–156 substituted "Trust Fund" for "Fund".

§5607a. Environmental Dispute Resolution Fund

(a) Establishment

There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 5609(b) of this title and amounts paid into the Fund under section 5607b of this title.

(b) Expenditures

The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the Institute, including such amounts as are necessary for salaries,

administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary, including not to exceed $1,000 annually for official reception and representation expenses.

(c) Distinction from Trust Fund

The Fund shall be maintained separately from the Trust Fund established under section 5606 of this title.

(d) Investment of amounts

(1) In general

The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(2) Interest-bearing obligations

Investments may be made only in interest-bearing obligations of the United States.

(3) Acquisition of obligations

For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(4) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(5) Credits to Fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(Pub. L. 102–259, §10, as added Pub. L. 105–156, §6(b), Feb. 11, 1998, 112 Stat. 10; amended Pub. L. 105–277, div. A, §101(h) [title V, §517(c)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–512.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 102–259 was renumbered section 12 and is classified to section 5608 of this title.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 inserted before period at end ", including not to exceed $1,000 annually for official reception and representation expenses".

§5607b. Use of Institute by Federal agency or other entity

(a) Authorization

A Federal agency may use the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict related to the environment, public lands, or natural resources.

(b) Payment

(1) In general

A Federal agency may enter into a contract and expend funds to obtain the services of the Institute.

(2) Payment into Environmental Dispute Resolution Fund

A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental Dispute Resolution Fund established under section 5607a of this title.

(c) Notification and concurrence

(1) Notification

An agency or instrumentality of the Federal Government shall notify the chairperson of the President's Council on Environmental Quality when using the Foundation or the Institute to provide the services described in subsection (a) of this section.

(2) Notification descriptions

In a matter involving two or more agencies or instrumentalities of the Federal Government, notification under paragraph (1) shall include a written description of—

(A) the issues and parties involved;

(B) prior efforts, if any, undertaken by the agency to resolve or address the issue or issues;

(C) all Federal agencies or instrumentalities with a direct interest or involvement in the matter and a statement that all Federal agencies or instrumentalities agree to dispute resolution; and

(D) other relevant information.

(3) Concurrence

(A) In general

In a matter that involves two or more agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality), the agencies or instrumentalities of the Federal Government shall obtain the concurrence of the chairperson of the President's Council on Environmental Quality before using the Foundation or Institute to provide the services described in subsection (a) of this section.

(B) Indication of concurrence or nonconcurrence

The chairperson of the President's Council on Environmental Quality shall indicate concurrence or nonconcurrence under subparagraph (A) not later than 20 days after receiving notice under paragraph (2).

(d) Exceptions

(1) Legal issues and enforcement

(A) In general

A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) that concern purely legal issues or matters, interpretation or determination of law, or enforcement of law by one agency against another agency shall not be submitted to the Foundation or Institute.

(B) Applicability

Subparagraph (A) does not apply to a dispute or conflict concerning—

(i) agency implementation of a program or project;

(ii) a matter involving two or more agencies with parallel authority requiring facilitation and coordination of the various Government agencies; or

(iii) a nonlegal policy or decisionmaking matter that involves two or more agencies that are jointly operating a project.

(2) Other mandated mechanisms or avenues

A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) for which Congress by law has mandated another dispute resolution mechanism or avenue to address or resolve shall not be submitted to the Foundation or Institute.

(e) Non-Federal entities

(1) Non-Federal entities, including state [1] and local governments, Native American tribal governments, nongovernmental organizations and persons, as defined in section 1 of title 1, may use

the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict involving the Federal government [1] related to the environment, public lands, or natural resources.

(2) PAYMENT INTO THE ENVIRONMENTAL DISPUTE RESOLUTION FUND.—Entities utilizing services pursuant to this subsection shall reimburse the Institute for the costs of services provided. Such amounts shall be deposited into the Environmental Dispute Resolution Fund established under section 5607a of this title.

(f) Agency management or control

Use of the Foundation or Institute to provide independent and impartial assessment, mediation, or other dispute or conflict resolution under this section shall not be considered to be the establishment or use of an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 102–259, §11, as added Pub. L. 105–156, §7, Feb. 11, 1998, 112 Stat. 10; amended Pub. L. 105–277, div. A, §101(h) [title V, §517(a)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–512; Pub. L. 111–90, §9, Nov. 3, 2009, 123 Stat. 2978.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 11 of Pub. L. 102–259 was renumbered section 13 and is classified to section 5609 of this title.

AMENDMENTS

2009—Subsec. (f). Pub. L. 111–90 added subsec. (f).

1998—Pub. L. 105–277, §101(h) [title V, §517(a)(1)], inserted "or other entity" after "Federal agency" in section catchline.

Subsec. (e). Pub. L. 105–277, §101(h) [title V, §517(a)(2)], added subsec. (e).

[1] *So in original. Probably should be capitalized.*

§5608. Administrative provisions

(a) In general

In order to carry out the provisions of this chapter, the Foundation may—

(1)(A) appoint such personnel as may be necessary to carry out the provisions of this chapter, without regard to the provisions of title 5 governing appointments in the competitive service; and

(B) fix the compensation of the personnel appointed under subparagraph (A) at a rate not to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5, except that up to 4 employees (in addition to the Executive Director under section 5603(f)(2) of this title) may be paid at a rate determined by the Board in accordance with section 5383 of title 5.

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse

such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board of Trustees, be entered into without performance or other bonds, and without regard to section 6101 of title 41;

(7) to [1] rent office space in the District of Columbia or its environs; and

(8) make other necessary expenditures.

(b) The Institute

The authorities set forth above shall, with the exception of paragraph (4), apply to the Institute established pursuant to section 5607a of this title and to the activities of the Foundation under section 5604(7) of this title.

(Pub. L. 102–259, §12, formerly §10, Mar. 19, 1992, 106 Stat. 83; renumbered §12, Pub. L. 105–156, §6(a), Feb. 11, 1998, 112 Stat. 9; amended Pub. L. 105–277, div. A, §101(h) [title V, §517(b)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–512; Pub. L. 106–568, title VIII, §817(b), Dec. 27, 2000, 114 Stat. 2918; Pub. L. 111–90, §10, Nov. 3, 2009, 123 Stat. 2978.)

CODIFICATION

In subsec. (a)(6), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–90, §10(1), added par. (1) and struck out former par. (1) which read as follows: "appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5;".

Subsec. (a)(7), (8). Pub. L. 111–90, §10(2)–(4), added par. (7) and redesignated former par. (7) as (8).

2000—Subsec. (b). Pub. L. 106–568 inserted before period at end "and to the activities of the Foundation under section 5604(7) of this title".

1998—Pub. L. 105–277 designated existing provisions as subsec. (a) and added subsec. (b).

[1] So in original. The word "to" probably should not appear.

§5609. Authorization of appropriations

(a) Trust Fund

There is authorized to be appropriated to the Trust Fund $40,000,000 to carry out the provisions of this chapter.

(b) Environmental Dispute Resolution Fund

There is authorized to be appropriated to the Environmental Dispute Resolution Fund established by section 5607a of this title $4,000,000 for each of fiscal years 2004 through 2008, of which—

(1) $3,000,000 shall be used to pay operations costs (including not more than $1,000 for official reception and representation expenses); and

(2) $1,000,000 shall be used for grants or other appropriate arrangements to pay the costs of services provided in a neutral manner relating to, and to support the participation of non-Federal entities (such as State and local governments, tribal governments, nongovernmental organizations, and individuals) in, environmental conflict resolution proceedings involving Federal agencies.

(c) Training of professionals in health care and public policy

There is authorized to be appropriated to carry out section 5604(7) of this title $12,300,000 for the 5-fiscal year period beginning with the fiscal year in which this subsection is enacted.

(Pub. L. 102–259, §13, formerly §11, Mar. 19, 1992, 106 Stat. 84; renumbered §13 and amended Pub. L. 105–156, §§6(a), 8, Feb. 11, 1998, 112 Stat. 9, 12; Pub. L. 106–568, title VIII, §817(c), Dec. 27, 2000, 114 Stat. 2918; Pub. L. 108–160, §2, Dec. 6, 2003, 117 Stat. 2013.)

REFERENCES IN TEXT

This subsection, referred to in subsec. (c), was enacted by Pub. L. 106–568, which was approved Dec. 27, 2000.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–160 added subsec. (b) and struck out former subsec. (b) which read as follows:

"There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 5607a of this title—

"(1) $4,250,000 for fiscal year 1998, of which—

"(A) $3,000,000 shall be for capitalization; and

"(B) $1,250,000 shall be for operation costs; and

"(2) $1,250,000 for each of the fiscal years 1999 through 2002 for operation costs."

2000—Subsec. (c). Pub. L. 106–568 added subsec. (c).

1998—Pub. L. 105–156, §8, designated existing provisions as subsec. (a), inserted heading, substituted "There is authorized to be appropriated to the Trust Fund" for "There are authorized to be appropriated to the Fund", and added subsec. (b).

CHAPTER 67—CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION

Sec.

5701. Purpose.
5702. Christopher Columbus Fellowship Foundation.
5703. Fellowship recipients.
5704. Stipends.
5705. Christopher Columbus Fellowship Fund.
5706. Audits.
5707. Executive Secretary of Foundation.
5708. Administrative provisions.
5709. Authorization of appropriations.

§5701. Purpose

The purpose of this chapter is to establish the Christopher Columbus Fellowship Program to encourage and support research, study, and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind.

(Pub. L. 102–281, title IV, §422, May 13, 1992, 106 Stat. 142.)

SHORT TITLE

Pub. L. 102–281, title IV, §400, May 13, 1992, 106 Stat. 139, provided that: "This title [enacting this chapter and provisions set out as a note under section 5112 of Title 31, Money and Finance] may be cited as the 'Frank Annunzio Act'."

Pub. L. 102–281, title IV, §421, May 13, 1992, 106 Stat. 142, provided that: "This subtitle [subtitle B (§§421–430) of title IV of Pub. L. 102–281, enacting this chapter] may be cited as the 'Christopher Columbus Fellowship Act'."

§5702. Christopher Columbus Fellowship Foundation

(a) Establishment and purposes

There is established, as an independent establishment of the executive branch, the Christopher

Columbus Fellowship Foundation (hereinafter in this chapter referred to as the "Foundation").

(b) Membership

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members as follows:

(1) 2 members appointed by the President in consultation with the President pro tempore of the Senate.

(2) 2 members appointed by the President in consultation with the Minority Leader of the Senate.

(3) 2 members appointed by the President in consultation with the Speaker of the House of Representatives.

(4) 2 members appointed by the President in consultation with the Minority Leader of the House of Representatives.

(5) 5 members appointed by the President.

(c) Chairman and Vice Chairman of Foundation

The President shall designate a Chairman and a Vice Chairman from among the members appointed by the President.

(d) Terms of office; vacancies

Each member of the Board of Trustees appointed under subsection (b) of this section shall serve for a term of 6 years from the expiration of the term of such member's predecessor, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed—

(A) 4 shall be appointed for a term of 2 years;

(B) 5 shall be appointed for a term of 4 years; and

(C) 4 shall be appointed for a term of 6 years,

as designated by the President.

(e) Expenses; no additional compensation

Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(Pub. L. 102–281, title IV, §423, May 13, 1992, 106 Stat. 142.)

§5703. Fellowship recipients

(a) Award

The Foundation is authorized to award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind. Recipients shall be known as "Columbus Scholars".

(b) Term

Fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed 2 years.

(c) Selection

The Foundation may provide, directly or by contract, for the conduct of a nationwide competition for the selection of fellowship recipients.

(Pub. L. 102–281, title IV, §424, May 13, 1992, 106 Stat. 143.)

§5704. Stipends

Each person awarded a fellowship under this chapter shall receive a stipend as determined by the Foundation.

(Pub. L. 102–281, title IV, §425, May 13, 1992, 106 Stat. 143.)

§5705. Christopher Columbus Fellowship Fund

(a) In general

There is established in the Treasury a fund to be known as the Christopher Columbus Scholarship [1] Fund (hereafter in this chapter referred to as the "fund"), which shall consist of—

(1) amounts deposited under subsection (d) of this section;

(2) obligations obtained under subsection (c) of this section;

(3) amounts contributed to the Foundation;

(4) amounts appropriated to the Foundation, as authorized under section 5709 of this title; and

(5) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Christopher Columbus Quincentenary Coin Act.

(b) Investments

(1) Duty of Secretary to invest

The Secretary of the Treasury shall invest in full any amount appropriated or contributed to the fund.

(2) Authorized investments

Investments pursuant to paragraph (1) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) Special obligations

The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that, if such average rate is not a multiple of 1/8 of 1 percent, the rate of interest of such special obligations shall be the multiple of 1/8 of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) Sale of obligations

Any obligations acquired by the fund (except special obligations issued exclusively to the fund in accordance with subsection (b)(3) of this section) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Interest

The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(e) Availability of fund

(1) Stipends

The fund shall be available to the Foundation for payment of stipends awarded under section 5704 of this title.

(2) Expenses

The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the funds such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter.

(f) Disbursements

Disbursements from the fund shall be made on vouchers approved by the Foundation and signed by the Chairman.

(Pub. L. 102–281, title IV, §426, May 13, 1992, 106 Stat. 143; Pub. L. 111–8, div. D, title VI, §623(1), Mar. 11, 2009, 123 Stat. 678.)

REFERENCES IN TEXT

The Christopher Columbus Quincentenary Coin Act, referred to in subsec. (a)(5), is subtitle A (§§401–411) of title IV of Pub. L. 102–281, May 13, 1992, 106 Stat. 139, which is classified as a note under section 5112 of Title 31, Money and Finance.

AMENDMENTS

2009—Subsec. (a)(4), (5). Pub. L. 111–8 added par. (4) and redesignated former par. (4) as (5).

[1] *So in original. Probably should be "Fellowship".*

§5706. Audits

The activities of the Foundation under this chapter may be audited by the Comptroller General of the United States. The Comptroller General shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 102–281, title IV, §427, May 13, 1992, 106 Stat. 144.)

§5707. Executive Secretary of Foundation

(a) Duties

There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) Compensation

The Executive Secretary of the Foundation shall be compensated at an annual rate of basic pay not in excess of the amount payable for Executive Level V.

(Pub. L. 102–281, title IV, §428, May 13, 1992, 106 Stat. 144.)

REFERENCES IN TEXT

Executive Level V, referred to in subsec. (b), probably means level V of the Executive Schedule, which is set out in section 5316 of Title 5, Government Organization and Employees.

§5708. Administrative provisions

(a) The Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees (other than the Executive

Secretary) be compensated at a rate in excess of the rate of basic pay payable for GS–15 of the General Schedule;

(2) procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not in excess of the rate of basic pay payable for Executive Level V;

(3) prescribe such regulations as the Foundation may determine to be necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter,[1] and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 6101 of title 41;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31;

(8) rent office space;

(9) conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging new discoveries in all fields of endeavor for the benefit of mankind; and

(10) to make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

(Pub. L. 102–281, title IV, §429, May 13, 1992, 106 Stat. 144.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a)(1), is set out under section 5332 of Title 5, Government Organization and Employees.

Executive Level V, referred to in subsec. (a)(2), probably means level V of the Executive Schedule, which is set out in section 5316 of Title 5.

This chapter, referred to in subsec. (a)(6), was in the original "this chapter" and was translated as reading "this subtitle" meaning subtitle B (§§421–430) of title IV of Pub. L. 102–281 which enacted this chapter, to reflect the probable intent of Congress.

CODIFICATION

In subsec. (a)(6), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a)(7), "section 3324(a) and (b) of title 31" substituted for reference to section 529 of title 31, United States Code, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submitting an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 156 of House Document No. 103–7.

[1] *See References in Text note below.*

§5709. Authorization of appropriations

There are authorized to be appropriated to the Foundation, such sums as may be necessary to carry out this chapter.

(Pub. L. 102–281, title IV, §430, as added Pub. L. 111–8, div. D, title VI, §623(2), Mar. 11, 2009, 123 Stat. 678.)

CHAPTER 68—NATIONAL EDUCATION REFORM

Sec.

5801. Purpose.
5802. Definitions.

SUBCHAPTER I—NATIONAL EDUCATION GOALS

5811. Purpose.
5812. National Education Goals.

SUBCHAPTER II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

PART A—NATIONAL EDUCATION GOALS PANEL

5821 to 5827. Repealed.

PART B—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

5861 to 5864. Repealed.

PART C—AUTHORIZATION OF APPROPRIATIONS

5871. Repealed.

SUBCHAPTER III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

5881 to 5891. Repealed.
5891a. Definitions.
5891b. Educational flexibility program.
5892 to 5900. Repealed.

SUBCHAPTER IV—PARENTAL ASSISTANCE

5911 to 5918. Repealed.

SUBCHAPTER V—NATIONAL SKILL STANDARDS BOARD

5931 to 5939. Repealed.

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAM

5951. Repealed.

SUBCHAPTER VII—SAFE SCHOOLS

5961. Short title; statement of purpose.
5962. Safe schools program authorized.
5963. Eligible applicants.
5964. Applications and plans.
5965. Use of funds.
5966. National activities.
5967. Reports.
5968. Coordination of Federal assistance.

SUBCHAPTER VIII—MINORITY-FOCUSED CIVICS EDUCATION

5981. Short title.
5982. Purposes.
5983. Grants authorized; authorization of appropriations.
5984. Definitions.

5985. Applications.
SUBCHAPTER IX—EDUCATIONAL RESEARCH AND IMPROVEMENT
6001. Short title.
6002. Findings.
PART A—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT
6011. Repealed.
PART B—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD
6021. Repealed.
PART C—NATIONAL RESEARCH INSTITUTES
6031. Repealed.
PART D—NATIONAL EDUCATION DISSEMINATION SYSTEM
6041. Repealed.
PART E—NATIONAL LIBRARY OF EDUCATION
6051. Repealed.
PART F—CERTAIN MULTIYEAR GRANTS AND CONTRACTS
6052. Continuation of awards.
PART G—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS
6053 to 6053e. Repealed.
PART H—NATIONAL DIFFUSION NETWORK
6054 to 6054b. Repealed.
PART I—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA
6055 to 6055h. Repealed.
PART J—TECHNOLOGY-BASED TECHNICAL ASSISTANCE
6056, 6056a. Repealed.
SUBCHAPTER X—MISCELLANEOUS
PART A—MISCELLANEOUS PROVISIONS
6061. School prayer.
6062. Funding for Individuals with Disabilities Education Act.
6063. Study of Goals 2000 and students with disabilities.
6064. Contraceptive devices.
6065. Assessments.
6066. Public schools.
6067. Sense of Congress.
PART B—ENVIRONMENTAL TOBACCO SMOKE
6081. Short title.
6082. Definitions.
6083. Nonsmoking policy for children's services.
6084. Preemption.

§5801. Purpose

The purpose of this chapter is to provide a framework for meeting the National Education Goals established by subchapter I of this chapter by—

(1) promoting coherent, nationwide, systemic education reform;

(2) improving the quality of learning and teaching in the classroom and in the workplace;

(3) defining appropriate and coherent Federal, State, and local roles and responsibilities for education reform and lifelong learning;

(4) establishing valid and reliable mechanisms for—

(A) building a broad national consensus on American education reform;

(B) assisting in the development and certification of high-quality, internationally competitive content and student performance standards; and

(C) assisting in the development and certification of high-quality assessment measures that reflect the internationally competitive content and student performance standards;

(5) supporting new initiatives at the Federal, State, local, and school levels to provide equal educational opportunity for all students to meet high academic and occupational skill standards and to succeed in the world of employment and civic participation;

(6) providing a framework for the reauthorization of all Federal education programs by—

(A) creating a vision of excellence and equity that will guide all Federal education and related programs;

(B) providing for the establishment of high-quality, internationally competitive content and student performance standards and strategies that all students will be expected to achieve;

(C) encouraging and enabling all State educational agencies and local educational agencies to develop comprehensive improvement plans that will provide a coherent framework for the implementation of reauthorized Federal education and related programs in an integrated fashion that effectively educates all children to prepare them to participate fully as workers, parents, and citizens;

(D) providing resources to help individual schools, including those serving students with high needs, develop and implement comprehensive improvement plans; and

(E) promoting the use of technology to enable all students to achieve the National Education Goals;

(7) stimulating the development and adoption of a voluntary national system of skill standards and certification to serve as a cornerstone of the national strategy to enhance workforce skills; and

(8) assisting every elementary and secondary school that receives funds under this chapter to actively involve parents and families in supporting the academic work of their children at home and in providing parents with skills to advocate for their children at school.

(Pub. L. 103–227, §2, Mar. 31, 1994, 108 Stat. 128; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(2)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1996—Par. (4)(B) to (D). Pub. L. 104–134, §101(d) [title VII, §703(a)(2)(A)], inserted "and" at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which read as follows: "assisting in the development and certification of opportunity-to-learn standards; and".

Par. (6)(C) to (F). Pub. L. 104–134, §101(d) [title VII, §703(a)(2)(B)], redesignated subpars. (D) to (F) as (C) to (E), respectively, and struck out former subpar. (C) which read as follows: "providing for the establishment of high-quality, internationally competitive opportunity-to-learn standards that all States, local educational agencies, and schools should achieve;".

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–25, §1, Apr. 29, 1999, 113 Stat. 41, provided that: "This Act [enacting sections 5891a and 5891b of this title, amending section 1415 of this title, and enacting provisions set out as notes under sections 1415 and 5891a of this title] may be cited as the 'Education Flexibility Partnership Act of 1999'."

SHORT TITLE

Pub. L. 103–227, §1(a), Mar. 31, 1994, 108 Stat. 125, provided that: "This Act (other than titles V and IX) [enacting this chapter (other than subchapters V and IX) and sections 3351 and 3425 of this title, amending sections 1107, 1221e–1, 1232h, 2421, 3381 to 3384, 3386, and 5093 of this title, section 5315 of Title 5, Government Organization and Employees, sections 1632, 1633, and 1635 of Title 29, Labor, and section 11903a of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 5093 and 6301 of this title and section 11901 of Title 42] may be cited as the 'Goals 2000: Educate America Act'."

§5802. Definitions

(a) Subchapters I, II, III, and X

As used in subchapters I, II, III, and X of this chapter—

(1) the terms "all students" and "all children" mean students or children from a broad range of backgrounds and circumstances, including disadvantaged students and children, students or children with diverse racial, ethnic, and cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students or children with disabilities, students or children with limited-English proficiency, school-aged students or children who have dropped out of school, migratory students or children, and academically talented students and children;

(2) the term "Bureau", unless otherwise provided, means the Bureau of Indian Affairs;

(3) the terms "community", "public", and "advocacy group" include representatives of organizations advocating for the education of American Indian, Alaska Native, and Native Hawaiian children and Indian tribes;

(4) the term "content standards" means broad descriptions of the knowledge and skills students should acquire in a particular subject area;

(5) the term "Governor" means the chief executive of the State;

(6) the terms "local educational agency" and "State educational agency" have the meaning given such terms in section 8801 of this title; [1]

(7) the term "outlying areas" means Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Palau (until the effective date of the Compact of Free Association with the Government of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia;

(8) the term "performance standards" means concrete examples and explicit definitions of what students have to know and be able to do to demonstrate that such students are proficient in the skills and knowledge framed by content standards;

(9) the term "related services" has the same meaning given such term under section 1401 of this title;

(10) the term "State assessment" means measures of student performance which include at least 1 instrument of evaluation, and may include other measures of student performance, for a specific purpose and use which are intended to evaluate the progress of all students in the State toward learning the material in State content standards in 1 or more subject areas;

(11) the term "school" means a public school that is under the authority of the State educational agency or a local educational agency or, for the purpose of carrying out section 5895(b) [1] of this title, a school that is operated or funded by the Bureau;

(12) the term "Secretary", unless otherwise provided, means the Secretary of Education; and

(13) the term "State", unless otherwise provided, means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(b) Subchapters IV, V, VI, VII, VIII, and IX

For the purpose of subchapters IV, V, VI, VII, VIII, and IX of this chapter—

(1) except as provided in paragraph (3) and unless otherwise provided, the terms used in such subchapters have the same meanings given such terms in section 8801 of this title; [1]

(2) the term "Bureau", unless otherwise provided, means the Bureau of Indian Affairs; and

(3) the term "Secretary", unless otherwise provided, means the Secretary of Education.

(Pub. L. 103–227, §3, Mar. 31, 1994, 108 Stat. 129; Pub. L. 103–382, title III, §394(f)(1), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 108–446, title III, §305(e), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

Subchapters I to X, referred to in text, were in the original references to titles I to X of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 131–265. Titles I, V, VI, and VIII are classified generally to subchapters I (§5811 et seq.), V (§5931 et seq.), VI (§5951), and VIII (§5981 et seq.), respectively, of this chapter. Title II enacted subchapter II (§5821 et seq.) of this chapter and section 3425 of this title, amended section 5093 of this title and section 5315 of Title 5, Government Organization and Employees, and enacted provisions set out as a note under section 5093 of this title. Title VII enacted subchapter VII (§5961 et seq.) of this chapter and amended section 1221e–1 of this title. Titles III and IV were classified generally to subchapters III (§5881 et seq.) and IV (§5911 et seq.), respectively, of this chapter and were repealed by Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. Section 5895(b) of this title was repealed by Pub. L. 106–113. Title IX enacted subchapter IX (§6001 et seq.) of this chapter, amended sections 2422, 3155, 3412, 3419, 3462, and 4085b of this title, repealed section 1221e of this title, and enacted provisions set out as notes under sections 1221e and 3155 of this title. Title X enacted subchapter X (§6061 et seq.) of this chapter and section 3351 of this title, amended sections 1107, 1232h, 2421, 3381 to 3384, and 3386 of this title, sections 1632, 1633, and 1635 of Title 29, Labor, and section 11903a of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under section 6301 of this title and section 11901 of Title 42. For complete classification of titles I to X to the Code, see Tables.

Section 8801 of this title, referred to in subsecs. (a)(6) and (b)(1), was repealed by Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986.

For Oct. 1, 1994, as the date the Compact of Free Association with the Government of Palau takes effect, referred to in subsec. (a)(7), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

2004—Subsec. (a)(9). Pub. L. 108–446 substituted "section 1401" for "section 1401(a)(17)".

1996—Subsec. (a)(7) to (14). Pub. L. 104–134 redesignated pars. (8) to (14) as (7) to (13), respectively, and struck out former par. (7) which read as follows: "the term 'opportunity-to-learn standards' means the criteria for, and the basis of, assessing the sufficiency or quality of the resources, practices, and conditions necessary at each level of the education system (schools, local educational agencies, and States) to provide all students with an opportunity to learn the material in voluntary national content standards or State content standards;".

1994—Subsec. (a)(6). Pub. L. 103–382, §394(f)(1)(A)(i), substituted "section 8801" for "section 2891".

Subsec. (a)(10). Pub. L. 103–382, §394(f)(1)(A)(ii), substituted "section 1401(a)(17)" for "section 1401".

Subsec. (b)(1). Pub. L. 103–382, §394(f)(1)(B), substituted "section 8801" for "section 2891".

[1] *See References in Text note below.*

SUBCHAPTER I—NATIONAL EDUCATION GOALS

§5811. Purpose

The purpose of this subchapter is to establish National Education Goals.

(Pub. L. 103–227, title I, §101, Mar. 31, 1994, 108 Stat. 130.)

§5812. National Education Goals

The Congress declares that the National Education Goals are the following:

(1) School readiness

(A) By the year 2000, all children in America will start school ready to learn.

(B) The objectives for this goal are that—

(i) all children will have access to high-quality and developmentally appropriate preschool programs that help prepare children for school;

(ii) every parent in the United States will be a child's first teacher and devote time each day to helping such parent's preschool child learn, and parents will have access to the training and support parents need; and

(iii) children will receive the nutrition, physical activity experiences, and health care needed to arrive at school with healthy minds and bodies, and to maintain the mental alertness necessary to be prepared to learn, and the number of low-birthweight babies will be significantly reduced through enhanced prenatal health systems.

(2) School completion

(A) By the year 2000, the high school graduation rate will increase to at least 90 percent.

(B) The objectives for this goal are that—

(i) the Nation must dramatically reduce its school dropout rate, and 75 percent of the students who do drop out will successfully complete a high school degree or its equivalent; and

(ii) the gap in high school graduation rates between American students from minority backgrounds and their non-minority counterparts will be eliminated.

(3) Student achievement and citizenship

(A) By the year 2000, all students will leave grades 4, 8, and 12 having demonstrated competency over challenging subject matter including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our Nation's modern economy.

(B) The objectives for this goal are that—

(i) the academic performance of all students at the elementary and secondary level will increase significantly in every quartile, and the distribution of minority students in each quartile will more closely reflect the student population as a whole;

(ii) the percentage of all students who demonstrate the ability to reason, solve problems, apply knowledge, and write and communicate effectively will increase substantially;

(iii) all students will be involved in activities that promote and demonstrate good citizenship, good health, community service, and personal responsibility;

(iv) all students will have access to physical education and health education to ensure they are healthy and fit;

(v) the percentage of all students who are competent in more than one language will substantially increase; and

(vi) all students will be knowledgeable about the diverse cultural heritage of this Nation and about the world community.

(4) Teacher education and professional development

(A) By the year 2000, the Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century.

(B) The objectives for this goal are that—

(i) all teachers will have access to preservice teacher education and continuing professional development activities that will provide such teachers with the knowledge and skills needed to teach to an increasingly diverse student population with a variety of educational, social, and health needs;

(ii) all teachers will have continuing opportunities to acquire additional knowledge and skills needed to teach challenging subject matter and to use emerging new methods, forms of

assessment, and technologies;

(iii) States and school districts will create integrated strategies to attract, recruit, prepare, retrain, and support the continued professional development of teachers, administrators, and other educators, so that there is a highly talented work force of professional educators to teach challenging subject matter; and

(iv) partnerships will be established, whenever possible, among local educational agencies, institutions of higher education, parents, and local labor, business, and professional associations to provide and support programs for the professional development of educators.

(5) Mathematics and science

(A) By the year 2000, United States students will be first in the world in mathematics and science achievement.

(B) The objectives for this goal are that—

(i) mathematics and science education, including the metric system of measurement, will be strengthened throughout the system, especially in the early grades;

(ii) the number of teachers with a substantive background in mathematics and science, including the metric system of measurement, will increase by 50 percent; and

(iii) the number of United States undergraduate and graduate students, especially women and minorities, who complete degrees in mathematics, science, and engineering will increase significantly.

(6) Adult literacy and lifelong learning

(A) By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

(B) The objectives for this goal are that—

(i) every major American business will be involved in strengthening the connection between education and work;

(ii) all workers will have the opportunity to acquire the knowledge and skills, from basic to highly technical, needed to adapt to emerging new technologies, work methods, and markets through public and private educational, vocational, technical, workplace, or other programs;

(iii) the number of quality programs, including those at libraries, that are designed to serve more effectively the needs of the growing number of part-time and midcareer students will increase substantially;

(iv) the proportion of the qualified students, especially minorities, who enter college, who complete at least two years, and who complete their degree programs will increase substantially;

(v) the proportion of college graduates who demonstrate an advanced ability to think critically, communicate effectively, and solve problems will increase substantially; and

(vi) schools, in implementing comprehensive parent involvement programs, will offer more adult literacy, parent training and life-long learning opportunities to improve the ties between home and school, and enhance parents' work and home lives.

(7) Safe, disciplined, and alcohol- and drug-free schools

(A) By the year 2000, every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol and will offer a disciplined environment conducive to learning.

(B) The objectives for this goal are that—

(i) every school will implement a firm and fair policy on use, possession, and distribution of drugs and alcohol;

(ii) parents, businesses, governmental and community organizations will work together to ensure the rights of students to study in a safe and secure environment that is free of drugs and crime, and that schools provide a healthy environment and are a safe haven for all children;

(iii) every local educational agency will develop and implement a policy to ensure that all

schools are free of violence and the unauthorized presence of weapons;

(iv) every local educational agency will develop a sequential, comprehensive kindergarten through twelfth grade drug and alcohol prevention education program;

(v) drug and alcohol curriculum should be taught as an integral part of sequential, comprehensive health education;

(vi) community-based teams should be organized to provide students and teachers with needed support; and

(vii) every school should work to eliminate sexual harassment.

(8) Parental participation

(A) By the year 2000, every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children.

(B) The objectives for this Goal are that—

(i) every State will develop policies to assist local schools and local educational agencies to establish programs for increasing partnerships that respond to the varying needs of parents and the home, including parents of children who are disadvantaged or bilingual, or parents of children with disabilities;

(ii) every school will actively engage parents and families in a partnership which supports the academic work of children at home and shared educational decisionmaking at school; and

(iii) parents and families will help to ensure that schools are adequately supported and will hold schools and teachers to high standards of accountability.

(Pub. L. 103–227, title I, §102, Mar. 31, 1994, 108 Stat. 130.)

SUBCHAPTER II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

PART A—NATIONAL EDUCATION GOALS PANEL

§§5821 to 5827. Repealed. Pub. L. 107–110, title X, §1011(4)(A), Jan. 8, 2002, 115 Stat. 1986

Section 5821, Pub. L. 103–227, title II, §201, Mar. 31, 1994, 108 Stat. 133; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(4)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, set forth purpose of part.

Section 5822, Pub. L. 103–227, title II, §202, Mar. 31, 1994, 108 Stat. 134; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(5)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, established National Education Goals Panel.

Section 5823, Pub. L. 103–227, title II, §203, Mar. 31, 1994, 108 Stat. 136; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(6)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, set forth duties of Panel.

Section 5824, Pub. L. 103–227, title II, §204, Mar. 31, 1994, 108 Stat. 136; Pub. L. 103–382, title III, §361(b)(1), Oct. 20, 1994, 108 Stat. 3974; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(7)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to powers of Panel.

Section 5825, Pub. L. 103–227, title II, §205, Mar. 31, 1994, 108 Stat. 137, set forth administrative provisions.

Section 5826, Pub. L. 103–227, title II, §206, Mar. 31, 1994, 108 Stat. 138, related to appointment of Director and staff and procurement of experts and consultants.

Section 5827, Pub. L. 103–227, title II, §207, Mar. 31, 1994, 108 Stat. 138, related to assessment of

readiness of children for school.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

PART B—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

PRIOR PROVISIONS

A prior part B, consisting of sections 5841 to 5851 of this title, was repealed by Pub. L. 104–134, title I, §101(d) [title VII, §701(1)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Section 5841, Pub. L. 103–227, title II, §211, Mar. 31, 1994, 108 Stat. 139, stated purpose.

Section 5842, Pub. L. 103–227, title II, §212, Mar. 31, 1994, 108 Stat. 139, established National Education Standards and Improvement Council and provided for composition, appointment rules and qualifications, terms, date of appointment, initiation of duties, retention of appointment, vacancy, compensation, conflict of interest, travel, and officers.

Section 5843, Pub. L. 103–227, title II, §213, Mar. 31, 1994, 108 Stat. 142, related to duties of Council.

Section 5844, Pub. L. 103–227, title II, §214, Mar. 31, 1994, 108 Stat. 147, required Council to submit annual reports to President, Secretary, appropriate committees of Congress, Governor of each State, and Goals Panel regarding its work.

Section 5845, Pub. L. 103–227, title II, §215, Mar. 31, 1994, 108 Stat. 147; Pub. L. 103–382, title III, §361(b)(2), Oct. 20, 1994, 108 Stat. 3975, related to powers of Council.

Section 5846, Pub. L. 103–227, title II, §216, Mar. 31, 1994, 108 Stat. 148, related to publication in Federal Register for public comment of certain proposed procedures, standards, and criteria.

Section 5847, Pub. L. 103–227, title II, §217, Mar. 31, 1994, 108 Stat. 148, contained administrative provisions relating to Council, including provisions relating to meetings, quorum, voting, and public access.

Section 5848, Pub. L. 103–227, title II, §218, Mar. 31, 1994, 108 Stat. 149, related to Council Director and staff, and use of experts and consultants and staffs of Federal agencies.

Section 5849, Pub. L. 103–227, title II, §219, Mar. 31, 1994, 108 Stat. 149, related to opportunity-to-learn development grants.

Section 5850, Pub. L. 103–227, title II, §220, Mar. 31, 1994, 108 Stat. 150, related to assessment development and evaluation grants.

Section 5851, Pub. L. 103–227, title II, §221, Mar. 31, 1994, 108 Stat. 151, required Secretary to make grant, in amount not to exceed $500,000, to National Academy of Sciences or National Academy of Education to evaluate technical quality of work performed, and certain processes used, by Goals Panel and Council, and required recipient of grant to submit final report to Congress, Secretary, and the public regarding activities assisted under this section not later than Jan. 1, 1998.

§§5861 to 5864. Repealed. Pub. L. 103–382, title III, §361(a), Oct. 20, 1994, 108 Stat. 3974

Section 5861, Pub. L. 103–227, title II, §231, Mar. 31, 1994, 108 Stat. 151; Pub. L. 103–382, title III, §394(f)(2), Oct. 20, 1994, 108 Stat. 4027, stated purpose of this part to provide leadership in educational technology.

Section 5862, Pub. L. 103–227, title II, §232, Mar. 31, 1994, 108 Stat. 152; Pub. L. 103–382, title III, §394(f)(3), Oct. 20, 1994, 108 Stat. 4027, related to Federal leadership in use of technology in education.

Section 5863, Pub. L. 103–227, title II, §234, Mar. 31, 1994, 108 Stat. 155, related to uses of funds.

Section 5864, Pub. L. 103–227, title II, §235, Mar. 31, 1994, 108 Stat. 156, related to non-Federal share of cost of activities assisted under grants or contracts under this part.

PART C—AUTHORIZATION OF APPROPRIATIONS

§5871. Repealed. Pub. L. 107–110, title X, §1011(4)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 103–227, title II, §241, Mar. 31, 1994, 108 Stat. 156; Pub. L. 104–134, title I, §101(d) [title VII, §701(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, authorized appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SUBCHAPTER III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

§§5881 to 5891. Repealed. Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265

Section 5881, Pub. L. 103–227, title III, §301, Mar. 31, 1994, 108 Stat. 157, related to congressional findings.

Section 5882, Pub. L. 103–227, title III, §302, Mar. 31, 1994, 108 Stat. 158, stated purpose of subchapter.

Section 5883, Pub. L. 103–227, title III, §303, Mar. 31, 1994, 108 Stat. 158, related to authorization of appropriations.

Section 5884, Pub. L. 103–227, title III, §304, Mar. 31, 1994, 108 Stat. 158; Pub. L. 104–134, title I, §101(d) [title VII, §§703(a)(8), 704], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252, 1321–255; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to allotment of funds.

Section 5885, Pub. L. 103–227, title III, §305, Mar. 31, 1994, 108 Stat. 159; Pub. L. 104–134, title I, §101(d) [title VII, §705(b)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–256; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to State applications.

Section 5886, Pub. L. 103–227, title III, §306, Mar. 31, 1994, 108 Stat. 160; Pub. L. 104–134, title I, §101(d) [title VII, §§702(a), 703(a)(9), 705(a)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251, 1321–253, 1321–256; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to State improvement plans.

Section 5887, Pub. L. 103–227, title III, §307, Mar. 31, 1994, 108 Stat. 167; Pub. L. 104–134, title I, §101(d) [title VII, §705(c)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–256; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to Secretary's review of applications and payments.

Section 5888, Pub. L. 103–227, title III, §308, Mar. 31, 1994, 108 Stat. 168; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(10)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to State use of funds.

Section 5889, Pub. L. 103–227, title III, §309, Mar. 31, 1994, 108 Stat. 169; Pub. L. 103–382, title III, §361(c), Oct. 20, 1994, 108 Stat. 3975; Pub. L. 104–134, title I, §101(d) [title VII, §§702(b), 703(a)(11)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to subgrants for local reform and professional development.

Section 5890, Pub. L. 103–227, title III, §310, Mar. 31, 1994, 108 Stat. 174; Pub. L. 103–382, title III, §394(f)(4), Oct. 20, 1994, 108 Stat. 4028, related to availability of information and training.

Section 5891, Pub. L. 103–227, title III, §311, Mar. 31, 1994, 108 Stat. 174; Pub. L. 103–382, title III, §394(f)(5), Oct. 20, 1994, 108 Stat. 4028, related to waivers of statutory and regulatory requirements.

EFFECTIVE DATE OF REPEAL

Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265, provided that: "Titles III [enacting this subchapter] and IV [enacting subchapter IV of this chapter] of the Goals 2000: Educate America Act are repealed on September 30, 2000."

§5891a. Definitions

In this Act:

(1) Educational service agency; local educational agency; State educational agency; outlying area

The terms "educational service agency", "local educational agency", "State educational agency", and "outlying area" have the meanings given the terms in section 7801 of this title.

(2) Eligible school attendance area; school attendance area

The terms "eligible school attendance area" and "school attendance area" have the meanings given the terms in section 6313(a)(2) of this title.

(3) Secretary

The term "Secretary" means the Secretary of Education.

(4) State

The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

(Pub. L. 106–25, §3, Apr. 29, 1999, 113 Stat. 42; Pub. L. 107–110, title X, §1076(o), Jan. 8, 2002, 115 Stat. 2092; Pub. L. 114–95, title IX, §9207(a), Dec. 10, 2015, 129 Stat. 2141.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41, known as the Education Flexibility Partnership Act of 1999, which enacted sections 5891a and 5891b of this title, amended section 1415 of this title, and enacted provisions set out as notes under sections 1415 and 5891a of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 5801 of this title and Tables.

CODIFICATION

Section was enacted as part of the Education Flexibility Partnership Act of 1999, and not as part of the Goals 2000: Educate America Act which comprises this chapter.

AMENDMENTS

2015—Par. (1). Pub. L. 114–95 substituted "Educational service agency; local" for "Local" in heading and, in text, substituted "The terms 'educational service agency'," for "The terms" and made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

2002—Par. (1). Pub. L. 107–110 substituted "7801" for "8801".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

FINDINGS

Pub. L. 106–25, §2, Apr. 29, 1999, 113 Stat. 41, provided that: "Congress makes the following findings:

"(1) States differ substantially in demographics, in school governance, and in school finance and funding. The administrative and funding mechanisms that help schools in one State improve may not prove successful in other States.

"(2) Although the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] and other Federal education statutes afford flexibility to State educational agencies and local educational agencies in implementing Federal programs, certain requirements of Federal education statutes or regulations may impede local efforts to reform and improve education.

"(3) By granting waivers of certain statutory and regulatory requirements, the Federal Government can

remove impediments for local educational agencies in implementing educational reforms and raising the achievement levels of all children.

"(4) State educational agencies are closer to local school systems, implement statewide educational reforms with both Federal and State funds, and are responsible for maintaining accountability for local activities consistent with State standards and assessment systems. Therefore, State educational agencies are often in the best position to align waivers of Federal and State requirements with State and local initiatives.

"(5) The Education Flexibility Partnership Demonstration Act [former 20 U.S.C. 5891(e)] allows State educational agencies the flexibility to waive certain Federal requirements, along with related State requirements, but allows only 12 States to qualify for such waivers.

"(6) Expansion of waiver authority will allow for the waiver of statutory and regulatory requirements that impede implementation of State and local educational improvement plans, or that unnecessarily burden program administration, while maintaining the intent and purposes of affected programs, such as the important focus on improving mathematics and science performance under title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6601 et seq.] (Dwight D. Eisenhower Professional Development Program), and maintaining such fundamental requirements as those relating to civil rights, educational equity, and accountability.

"(7) To achieve the State goals for the education of children in the State, the focus must be on results in raising the achievement of all students, not process."

§5891b. Educational flexibility program

(a) Educational flexibility program

(1) Program authorized

(A) In general

The Secretary may carry out an educational flexibility program under which the Secretary authorizes a State educational agency that serves an eligible State to waive statutory or regulatory requirements applicable to one or more programs described in subsection (b), other than requirements described in subsection (c), for any local educational agency, educational service agency, or school within the State.

(B) Designation

Each eligible State participating in the program described in subparagraph (A) shall be known as an "Ed-Flex Partnership State".

(2) Eligible State

For the purpose of this section, the term "eligible State" means a State that—

(A) has—

(i) developed and implemented the challenging State academic standards, and aligned assessments, described in paragraphs (1) and (2) of section 1111(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(b)], and is producing the report cards required by section 1111(h) of such Act; or

(ii) if the State has adopted new challenging State academic standards under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, as a result of the amendments made to such Act [20 U.S.C. 6301 et seq.] by the Every Student Succeeds Act, made substantial progress (as determined by the Secretary) toward developing and implementing such standards and toward producing the report cards required under section 1111(h) of such Act;

(B) will hold local educational agencies, educational service agencies, and schools accountable for meeting the educational goals described in the local applications submitted under paragraph (4) and for engaging in technical assistance and, as applicable and appropriate, implementing comprehensive support and improvement activities and targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965; and

(C) waives State statutory or regulatory requirements relating to education while holding local educational agencies, educational service agencies, or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

(3) State application

(A) In general

Each State educational agency desiring to participate in the educational flexibility program under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes—

(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies, educational service agencies, or schools requesting waivers of—

(I) Federal statutory or regulatory requirements as described in paragraph (1)(A); and

(II) State statutory or regulatory requirements relating to education;

(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive;

(iii) a description of clear educational objectives the State intends to meet under the educational flexibility plan, which may include innovative methods to leverage resources to improve program efficiencies that benefit students;

(iv) a description of how the educational flexibility plan is coordinated with activities described in subsections (b), (c), and (d) of section 1111 of the Elementary and Secondary Education Act of 1965;

(v) a description of how the State educational agency will evaluate (consistent with the requirements of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]) the performance of students in the schools, educational service agencies, and local educational agencies affected by the waivers; and

(vi) a description of how the State educational agency will meet the requirements of paragraph (7).

(B) Approval and considerations

(i) In general

By not later than 90 days after the date on which a State has submitted an application described in subparagraph (A), the Secretary shall issue a written decision that explains why such application has been approved or disapproved, and the process for revising and resubmitting the application for reconsideration.

(ii) Approval

The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies, educational service agencies, and schools within the State in carrying out comprehensive educational reform, after considering—

(I) the eligibility of the State as described in paragraph (2);

(II) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);

(III) the ability of the educational flexibility plan to ensure accountability for the activities and goals described in such plan;

(IV) the degree to which the State's objectives described in subparagraph (A)(iii)—

(aa) are clear and have the ability to be assessed; and

(bb) take into account the performance of local educational agencies, educational

service agencies, or schools, and students, particularly those affected by waivers;

(V) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

(VI) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) and for monitoring and evaluating the results of such waivers.

(4) Local application

(A) In general

Each local educational agency, educational service agency, or school requesting a waiver of a Federal statutory or regulatory requirement as described in paragraph (1)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

(i) indicate each Federal program affected and each statutory or regulatory requirement that will be waived;

(ii) describe the purposes and overall expected results of waiving each such requirement, which may include innovative methods to leverage resources to improve program efficiencies that benefit students;

(iii) describe, for each school year, specific, measurable, educational goals for each local educational agency, educational service agency, or school affected by the proposed waiver, and for the students served by the local educational agency, educational service agency, or school who are affected by the waiver;

(iv) explain why the waiver will assist the local educational agency, educational service agency, or school in reaching such goals; and

(v) in the case of an application from a local educational agency or educational service agency, describe how the agency will meet the requirements of paragraph (7).

(B) Evaluation of applications

A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's educational flexibility plan described in paragraph (3)(A).

(C) Approval

A State educational agency shall not approve an application for a waiver under this paragraph unless—

(i) the local educational agency, educational service agency, or school requesting such waiver has developed a local reform plan that—

(I) is applicable to such agency or school, respectively; and

(II) may include innovative methods to leverage resources to improve program efficiencies that benefit students;

(ii) the waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) will assist the local educational agency, educational service agency, or school in reaching its educational goals, particularly goals with respect to school and student performance; and

(iii) the State educational agency is satisfied that the underlying purposes of the statutory requirements of each program for which a waiver is granted will continue to be met.

(D) Termination

The State educational agency shall annually review the performance of any local educational agency, educational service agency, or school granted a waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) in accordance with the evaluation

requirement described in paragraph (3)(A)(v), and shall terminate or temporarily suspend any waiver granted to the local educational agency, educational service agency, or school if the State educational agency determines, after notice and an opportunity for a hearing, that—

(i) there is compelling evidence of systematic waste, fraud, or abuse;

(ii) the performance of the local educational agency, educational service agency, or school with respect to meeting the accountability requirement described in paragraph (2)(C) and the goals described in subparagraph (A)(iii) has been inadequate to justify continuation of such waiver;

(iii) student achievement in the local educational agency, educational service agency, or school has decreased; or

(iv) substantial progress has not been made toward meeting the long-term goals and measurements of interim progress established by the State under section 1111(c)(4)(A)(i) of the Elementary and Secondary Education Act of 1965.

(5) Oversight and reporting

(A) Oversight

Each State educational agency participating in the educational flexibility program under this section shall annually monitor the activities of local educational agencies, educational service agencies, and schools receiving waivers under this section.

(B) State reports

(i) Annual reports

The State educational agency shall submit to the Secretary an annual report on the results of such oversight and the impact of the waivers on school and student performance.

(ii) Performance data

Not later than 2 years after the date a State is designated an Ed-Flex Partnership State, each such State shall include, as part of the State's annual report submitted under clause (i), data demonstrating the degree to which progress has been made toward meeting the State's educational objectives. The data, when applicable, shall include—

(I) information on the total number of waivers granted for Federal and State statutory and regulatory requirements under this section, including the number of waivers granted for each type of waiver;

(II) information describing the effect of the waivers on the implementation of State and local educational reforms pertaining to school and student performance;

(III) information describing the relationship of the waivers to the performance of schools and students affected by the waivers; and

(IV) an assurance from State program managers that the data reported under this section are reliable, complete, and accurate, as defined by the State, or a description of a plan for improving the reliability, completeness, and accuracy of such data as defined by the State.

(C) Secretary's reports

The Secretary shall annually—

(i) make each State report submitted under subparagraph (B) available to Congress and the public; and

(ii) submit to Congress a report that summarizes the State reports and describes the effects that the educational flexibility program under this section had on the implementation of State and local educational reforms and on the performance of students affected by the waivers.

(6) Duration of Federal waivers

(A) In general

(i) Duration

The Secretary shall approve the application of a State educational agency under paragraph (3) for a period of not more than 5 years.

(ii) Automatic extension during review

The Secretary shall automatically extend the authority of a State to continue as an Ed-Flex Partnership State until the Secretary has—

(I) completed the performance review of the State educational agency's educational flexibility plan as described in subparagraph (B); and

(II) issued a final decision on any pending request for renewal that was submitted by the State educational agency.

(iii) Extension of approval

The Secretary may extend the authority of a State to continue as an Ed-Flex Partnership State if the Secretary determines that the authority of the State educational agency to grant waivers—

(I) has been effective in enabling such State or affected local educational agencies, educational service agencies, or schools to carry out their State or local reform plans and to continue to meet the accountability requirement described in paragraph (2)(C); and

(II) has improved student performance.

(B) Performance review

(i) In general

Following the expiration of an approved educational flexibility program for a State that is designated an Ed-Flex Partnership State, the Secretary shall have not more than 180 days to complete a review of the performance of the State educational agency in granting waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) to determine if the State educational agency—

(I) has achieved, or is making substantial progress towards achieving, the objectives described in the application submitted pursuant to paragraph (3)(A)(iii) and the specific long-term goals and measurements of interim progress established under section 1111(c)(4)(A)(i) of the Elementary and Secondary Education Act of 1965; and

(II) demonstrates that local educational agencies, educational service agencies, or schools affected by the waiver authority or waivers have achieved, or are making progress toward achieving, the desired goals described in the application submitted pursuant to paragraph (4)(A)(iii).

(ii) Termination of authority

The Secretary shall terminate the authority of a State educational agency to grant waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) if the Secretary determines, after providing the State educational agency with notice and an opportunity for a hearing, that such agency's performance has been inadequate to justify continuation of such authority based on such agency's performance against the specific long-term goals and measurements of interim progress established under section 1111(c)(4)(A)(i) of the Elementary and Secondary Education Act of 1965.

(C) Renewal

(i) In general

Each State educational agency desiring to renew an approved educational flexibility program under this section shall submit a request for renewal to the Secretary not later than the date of expiration of the approved educational flexibility program.

(ii) Timing for renewal

The Secretary shall either approve or deny the request for renewal by not later than 90 days after completing the performance review of the State described in subparagraph (B).

(iii) Determination

In deciding whether to extend a request of a State educational agency for the authority to

issue waivers under this section, the Secretary shall review the progress of the State educational agency to determine if the State educational agency—

(I) has made progress toward achieving the objectives described in the State application submitted pursuant to paragraph (3)(A)(iii); and

(II) demonstrates in the request that local educational agencies, educational service agencies, or schools affected by the waiver authority or waivers have made progress toward achieving the desired goals described in the local application submitted pursuant to paragraph (4)(A)(iii).

(D) Termination

(i) In general

The Secretary shall terminate or temporarily suspend the authority of a State educational agency to grant waivers under this section if the Secretary determines that—

(I) there is compelling evidence of systematic waste, fraud or abuse; or

(II) after notice and an opportunity for a hearing, such agency's performance (including performance with respect to meeting the objectives described in paragraph (3)(A)(iii)) has been inadequate to justify continuation of such authority.

(ii) Limited compliance period

A State whose authority to grant such waivers has been terminated shall have not more than 1 additional fiscal year to come into compliance in order to seek renewal of the authority to grant waivers under this section.

(7) Public notice and comment

Each State educational agency seeking waiver authority under this section and each local educational agency, educational service agency, or school seeking a waiver under this section—

(A) shall provide the public with adequate and efficient notice of the proposed waiver authority or waiver, consisting of a description of the agency's application for the proposed waiver authority or waiver on each agency's website, including a description of any improved student performance that is expected to result from the waiver authority or waiver;

(B) shall provide the opportunity for parents, educators, school administrators, and all other interested members of the community to comment regarding the proposed waiver authority or waiver;

(C) shall provide the opportunity described in subparagraph (B) in accordance with any applicable State law specifying how the comments may be received, and how the comments may be reviewed by any member of the public; and

(D) shall submit the comments received with the application of the agency or school to the Secretary or the State educational agency, as appropriate.

(b) Included programs

The statutory or regulatory requirements referred to in subsection (a)(1)(A) are any such requirements for programs that are authorized under the following provisions and under which the Secretary provides funds to State educational agencies on the basis of a formula:

(1) The following provisions of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]:

(A) Part A of title I [20 U.S.C. 6311 et seq.] (other than section 1111).

(B) Part C of title I [20 U.S.C. 6391 et seq.].

(C) Part D of title I [20 U.S.C. 6421 et seq.].

(D) Part A of title II [20 U.S.C. 6611 et seq.].

(E) Part A of title IV [20 U.S.C. 7101 et seq.].

(2) The Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(c) Waivers not authorized

The Secretary and the State educational agency may not waive under subsection (a)(1)(A) any

statutory or regulatory requirement—

(1) relating to—

(A) maintenance of effort;

(B) comparability of services;

(C) equitable participation of students and professional staff in private schools;

(D) parental participation and involvement;

(E) distribution of funds to States or to local educational agencies;

(F) serving eligible school attendance areas in rank order in accordance with section 1113(a)(3) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6313(a)(3)];

(G) the selection of a school attendance area or school under subsections (a) and (b) of section 1113 of the Elementary and Secondary Education Act of 1965, except that a State educational agency may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I of such Act [20 U.S.C. 6311 et seq.] if the percentage of children from low-income families in the school attendance area of such school or who attend such school is not less than 10 percentage points below the lowest percentage of such children for any school attendance area or school of the local educational agency that meets the requirements of such subsections;

(H) use of Federal funds to supplement, not supplant, non-Federal funds; and

(I) applicable civil rights requirements; and

(2) unless the State educational agency can demonstrate that the underlying purposes of the statutory requirements of the program for which a waiver is granted continue to be met to the satisfaction of the Secretary.

(d) Treatment of existing Ed-Flex Partnership States

(1) In general

Any designation of a State as an Ed-Flex Partnership State that was in effect on December 10, 2015, shall be immediately extended for a period of not more than 5 years, if the Secretary makes the determination described in paragraph (2).

(2) Determination

The determination referred to in paragraph (1) is a determination that the performance of the State educational agency, in carrying out the programs for which the State has received a waiver under the educational flexibility program, justifies the extension of the designation.

(e) Publication

A notice of the Secretary's decision to authorize State educational agencies to issue waivers under this section, including a description of the rationale the Secretary used to approve applications under subsection (a)(3)(B), shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties (including educators, parents, students, and advocacy and civil rights organizations), and the public.

(Pub. L. 106–25, §4, Apr. 29, 1999, 113 Stat. 42; Pub. L. 107–110, title X, §1073, Jan. 8, 2002, 115 Stat. 2090; Pub. L. 109–270, §2(e), Aug. 12, 2006, 120 Stat. 747; Pub. L. 114–95, title IX, §9207(b), Dec. 10, 2015, 129 Stat. 2141.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a)(2)(A)(ii), (3)(A)(v), (b)(1), and (c)(1)(G), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. Parts A, C, and D of title I of the Act are classified generally to parts A (§6311 et seq.), C (§6391 et seq.), and D (§6421 et seq.), respectively, of subchapter I of chapter 70 of this title. Part A of title II of the Act is classified generally to part A (§6611 et seq.) of subchapter II of chapter 70 of this title. Part A of title IV of the Act is classified generally to part A (§7101) of subchapter IV of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Every Student Succeeds Act, referred to in subsec. (a)(2)(A)(ii), is Pub. L. 114–95, Dec. 10, 2015, 129 Stat. 1802. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 6301 of this title and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(2), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Education Flexibility Partnership Act of 1999, and not as part of the Goals 2000: Educate America Act which comprises this chapter.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to the educational flexibility program, programs included in the educational flexibility program, limitations on waivers of program requirements, treatment of existing Ed-Flex Partnership States, and publication of notice of the Secretary's decision to authorize State educational agencies to issue waivers under this section, respectively.

2006—Subsec. (b)(2). Pub. L. 109–270 substituted "Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Technical Education Act of 1998".

2002—Subsec. (b). Pub. L. 107–110 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "The statutory or regulatory requirements referred to in subsection (a)(1)(A) of this section are any such requirements for programs carried out under the following provisions:

"(1) Title I of the Elementary and Secondary Education Act of 1965 (other than subsections (a) and (c) of section 1116 of such Act).

"(2) Part B of title II of the Elementary and Secondary Education Act of 1965.

"(3) Subpart 2 of part A of title III of the Elementary and Secondary Education Act of 1965 (other than section 3136 of such Act).

"(4) Title IV of the Elementary and Secondary Education Act of 1965.

"(5) Title VI of the Elementary and Secondary Education Act of 1965.

"(6) Part C of title VII of the Elementary and Secondary Education Act of 1965.

"(7) The Carl D. Perkins Vocational and Technical Education Act of 1998."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EDUCATIONAL FLEXIBILITY PROGRAM EXTENSION

Pub. L. 109–211, §1, Mar. 24, 2006, 120 Stat. 320, provided that:

"(a) EXTENSION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Education is authorized to carry out the educational flexibility program under section 4 of the Education Flexibility Partnership Act of 1999 (20 U.S.C. 5891b), until the date of enactment of an Act that reauthorizes programs under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), for any State that was an Ed-Flex Partnership State on September 30, 2004.

"(b) DESIGNATION.—

"(1) IN GENERAL.—Any designation of a State as an Ed-Flex Partnership State that was in effect on September 30, 2004, shall be extended until the date of enactment of an Act that reauthorizes programs under part A of title I of the Elementary and Secondary Education Act of 1965, if the Secretary of Education makes the determination described in paragraph (2).

"(2) DETERMINATION.—The determination referred to in paragraph (1) is a determination that the performance of the State educational agency, in carrying out the programs for which the State has received a waiver under the educational flexibility program, justifies the extension of the designation."

ADDITIONAL STATE EDUCATIONAL AGENCIES AUTHORIZED TO WAIVE FEDERAL REQUIREMENTS

Pub. L. 104–134, title I, §101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–229; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: "That notwithstanding section 311(e) of Public Law 103–227 [20 U.S.C. 5891(e)], the Secretary is authorized to grant up to six additional State education agencies authority to waive Federal statutory or regulatory requirements for fiscal year 1996 and succeeding fiscal years".

§§5892 to 5895. Repealed. Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265

Section 5892, Pub. L. 103–227, title III, §312, Mar. 31, 1994, 108 Stat. 178; Pub. L. 104–134, title I, §101(d) [title VII, §§703(a)(12), 705(d)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253, 1321–257; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to progress reports.

Section 5893, Pub. L. 103–227, title III, §313, Mar. 31, 1994, 108 Stat. 179, related to technical and other assistance regarding school finance equity.

Section 5894, Pub. L. 103–227, title III, §314, Mar. 31, 1994, 108 Stat. 180; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(13)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to national leadership.

Section 5895, Pub. L. 103–227, title III, §315, Mar. 31, 1994, 108 Stat. 181; Pub. L. 103–382, title III, §384, Oct. 20, 1994, 108 Stat. 4018; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(14)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to assistance to outlying areas and to Secretary of the Interior.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 2000, see section 1000(a)(4) [title III, §310(i)] of Pub. L. 106–113, set out as a note under section 5881 of this title.

§5896. Repealed. Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(15)(A)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327

Section, Pub. L. 103–227, title III, §316, Mar. 31, 1994, 108 Stat. 184, provided that standards or State assessments described in State improvement plan submitted in accordance with section 5886 of this title were not to be required to be certified by Council.

§§5897 to 5900. Repealed. Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265

Section 5897, Pub. L. 103–227, title III, §317, Mar. 31, 1994, 108 Stat. 184; Pub. L. 103–382, title III, §361(d), Oct. 20, 1994, 108 Stat. 3975; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(16)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to State planning for improving student achievement through integration of technology into curriculum.

Section 5898, Pub. L. 103–227, title III, §318, Mar. 31, 1994, 108 Stat. 186, related to prohibition on Federal mandates, direction, and control.

Section 5899, Pub. L. 103–227, title III, §319, Mar. 31, 1994, 108 Stat. 186, related to State and local government control of education.

Section 5900, Pub. L. 103–227, title III, §320, as added Pub. L. 104–134, title I, §101(d) [title VII, §706], Apr. 26, 1996, 110 Stat. 1321–211, 1321–257; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to certain prohibited conditions to receiving assistance and to limitations on Government officials.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 2000, see section 1000(a)(4) [title III, §310(i)] of Pub. L. 106–113, set out as a

note under section 5881 of this title.

SUBCHAPTER IV—PARENTAL ASSISTANCE

§§5911 to 5918. Repealed. Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265

Section 5911, Pub. L. 103–227, title IV, §401, Mar. 31, 1994, 108 Stat. 187, related to parental information and resource centers.

Section 5912, Pub. L. 103–227, title IV, §402, Mar. 31, 1994, 108 Stat. 187, related to applications.

Section 5913, Pub. L. 103–227, title IV, §403, Mar. 31, 1994, 108 Stat. 189, related to uses of funds.

Section 5914, Pub. L. 103–227, title IV, §404, Mar. 31, 1994, 108 Stat. 189, related to technical assistance.

Section 5915, Pub. L. 103–227, title IV, §405, Mar. 31, 1994, 108 Stat. 189, related to definitions.

Section 5916, Pub. L. 103–227, title IV, §406, Mar. 31, 1994, 108 Stat. 190, related to reports.

Section 5917, Pub. L. 103–227, title IV, §407, Mar. 31, 1994, 108 Stat. 190, related to general provisions prohibiting required participation in any program of parent education or developmental screening or any action infringing on the right of a parent to direct the education of their children.

Section 5918, Pub. L. 103–227, title IV, §408, Mar. 31, 1994, 108 Stat. 191, related to authorization of appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 2000, see section 1000(a)(4) [title III, §310(i)] of Pub. L. 106–113, set out as a note under section 5881 of this title.

SUBCHAPTER V—NATIONAL SKILL STANDARDS BOARD

§§5931 to 5939. Repealed. Pub. L. 103–227, title V, §509(a), Mar. 31, 1994, 108 Stat. 200

Section 5931, Pub. L. 103–227, title V, §501, Mar. 31, 1994, 108 Stat. 191, set forth short title of subchapter as National Skill Standards Act of 1994.

Section 5932, Pub. L. 103–227, title V, §502, Mar. 31, 1994, 108 Stat. 191, stated purpose of subchapter.

Section 5933, Pub. L. 103–227, title V, §503, Mar. 31, 1994, 108 Stat. 192; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(17)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, established National Skill Standards Board.

Section 5934, Pub. L. 103–227, title V, §504, Mar. 31, 1994, 108 Stat. 195; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(18)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(17)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, related to functions of National Skill Standards Board.

Section 5935, Pub. L. 103–227, title V, §505, Mar. 31, 1994, 108 Stat. 199, related to deadline for identifying occupational clusters and promoting development of skill standards for the clusters.

Section 5936, Pub. L. 103–227, title V, §506, Mar. 31, 1994, 108 Stat. 199, related to reports to the President and Congress.

Section 5937, Pub. L. 103–227, title V, §507, Mar. 31, 1994, 108 Stat. 199, authorized appropriations.

Section 5938, Pub. L. 103–227, title V, §508, Mar. 31, 1994, 108 Stat. 200; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(17)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, related to definitions for subchapter.

Section 5939, Pub. L. 103–227, title V, §509, Mar. 31, 1994, 108 Stat. 200, repealed this subchapter effective Sept. 30, 1999.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 1999, see section 509(a) of Pub. L. 103–227, which was formerly classified to section 5939(a) of this title.

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAM

§5951. Repealed. Pub. L. 107–110, title X, §1011(4)(B), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 103–227, title VI, §601, Mar. 31, 1994, 108 Stat. 200; Pub. L. 105–277, div. A, §101(f) [title VIII, §301(e)], div. G, subdiv. A, title XIII, §1335(e), Oct. 21, 1998, 112 Stat. 2681–337, 2681–410, 2681–788, related to International Education Program.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SUBCHAPTER VII—SAFE SCHOOLS

§5961. Short title; statement of purpose

(a) Short title

This subchapter may be cited as the "Safe Schools Act of 1994".

(b) Statement of purpose

It is the purpose of this subchapter to help local school systems achieve Goal Six [1] of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence.

(Pub. L. 103–227, title VII, §701, Mar. 31, 1994, 108 Stat. 204.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title VII of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 204, which enacted this subchapter and amended section 1221e–1 of this title.

[1] *So in original. Probably should be "Goal Seven".*

§5962. Safe schools program authorized

(a) Authority

(1) In general

From funds appropriated pursuant to the authority of subsection (b)(1) of this section, the Secretary shall make competitive grants to eligible local educational agencies to enable such agencies to carry out projects and activities designed to achieve Goal Six [1] of the National Education Goals by helping to ensure that all schools are safe and free of violence.

(2) Grant duration and amount

Grants under this subchapter may not exceed—

(A) two fiscal years in duration; and
(B) $3,000,000.

(3) Geographic distribution

To the extent practicable, grants under this subchapter shall be awarded to eligible local educational agencies serving rural, as well as urban, areas.

(b) Authorization of appropriations and reservation

(1) Authorization

There are authorized to be appropriated $50,000,000 for fiscal year 1994 to carry out this subchapter.

(2) Reservation

The Secretary is authorized in each fiscal year to reserve not more than 10 percent of the amount appropriated pursuant to the authority of paragraph (1) to carry out national activities described in section 5966 of this title, of which 50 percent of such amount shall be available in such fiscal year to carry out the program described in section 5966(b) of this title.

(Pub. L. 103–227, title VII, §702, Mar. 31, 1994, 108 Stat. 204.)

[1] *So in original. Probably should be "Goal Seven".*

§5963. Eligible applicants

(a) In general

To be eligible to receive a grant under this subchapter, a local educational agency shall demonstrate in the application submitted pursuant to section 5964(a) of this title that such agency—

(1) serves an area in which there is a high rate of—
(A) homicides committed by persons between the ages 5 to 18, inclusive;
(B) referrals of youth to juvenile court;
(C) youth under the supervision of the courts;
(D) expulsions and suspensions of students from school;
(E) referrals of youth, for disciplinary reasons, to alternative schools; or
(F) victimization of youth by violence, crime, or other forms of abuse; and

(2) has serious school crime, violence, and discipline problems, as indicated by other appropriate data.

(b) Priority

In awarding grants under this subchapter, the Secretary shall give priority to a local educational agency that submits an application that assures a strong local commitment to the projects or activities assisted under this subchapter, such as—

(1) the formation of partnerships among the local educational agency, a community-based organization, a nonprofit organization with a demonstrated commitment to or expertise in developing education programs or providing educational services to students or the public, a local law enforcement agency, or any combination thereof; and

(2) a high level of youth participation in such projects or activities.

(Pub. L. 103–227, title VII, §703, Mar. 31, 1994, 108 Stat. 205.)

§5964. Applications and plans

(a) Application

In order to receive a grant under this subchapter, an eligible local educational agency shall submit

to the Secretary an application that includes—

(1) an assessment of the current violence and crime problems in the schools to be served by the grant and in the community to be served by the applicant;

(2) an assurance that the applicant has written policies regarding school safety, student discipline, and the appropriate handling of violent or disruptive acts;

(3) a description of the schools and communities to be served by the grant, the activities and projects to be carried out with grant funds, and how these activities and projects will help to reduce the current violence and crime problems in the schools and communities served;

(4) a description of educational materials to be developed in the first most predominate non-English language of the schools and communities to be served by the grant, if applicable;

(5) if the local educational agency receives Federal education funds, an explanation of how activities assisted under this subchapter will be coordinated with and support any systemic education improvement plan prepared with such funds;

(6) the applicant's plan to establish school-level advisory committees, which include faculty, parents, staff, and students, for each school to be served by the grant and a description of how each committee will assist in assessing that school's violence and discipline problems as well as in designing appropriate programs, policies, and practices to combat such problems;

(7) the applicant's plan for collecting baseline and future data, by individual schools, to monitor violence and discipline problems and to measure the applicant's progress in achieving the purpose of this subchapter;

(8) a description of how, in subsequent fiscal years, the grantee will integrate the violence prevention activities the grantee carries out with funds under this subchapter with activities carried out under the grantee's comprehensive plan for drug and violence prevention adopted under the Drug-Free Schools and Communities Act of 1986;

(9) a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law enforcement, judicial, health, and social service programs supported under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.], and other appropriate agencies and organizations serving the community;

(10) a description of how the grantee will inform parents about the extent of crime and violence in their children's schools and maximize the participation of parents in the grantee's violence prevention activities;

(11) an assurance that grant funds under this subchapter will be used to supplement and not supplant State and local funds that would, in the absence of funds under this subchapter, be made available by the applicant for the purposes of the grant;

(12) an assurance that the applicant will cooperate with, and provide assistance to, the Secretary in gathering statistics and other data the Secretary determines are necessary to determine the effectiveness of projects and activities assisted under this subchapter or the extent of school violence and discipline problems throughout the Nation; and

(13) such other information as the Secretary may require.

(b) Plan

In order to receive funds under this subchapter for a second year, a grantee shall submit to the Secretary a comprehensive, long-term, school safety plan for reducing and preventing school violence and discipline problems. Such plan shall contain a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations serving the community.

(Pub. L. 103–227, title VII, §704, Mar. 31, 1994, 108 Stat. 205.)

REFERENCES IN TEXT

The Drug-Free Schools and Communities Act of 1986, referred to in subsec. (a)(8), is title V of Pub. L. 89–10 as added by Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 252, which was classified generally to subchapter V (§3171 et seq.) of chapter 47 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (a)(9), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

§5965. Use of funds

(a) In general

A local educational agency shall use grant funds received under this subchapter for one or more of the following activities:

(1) Identifying and assessing school violence and discipline problems, including coordinating needs assessment activities with education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations, juvenile justice programs, and gang prevention activities.

(2) Conducting school safety reviews or violence prevention reviews of programs, policies, practices, and facilities to determine what changes are needed to reduce or prevent violence and promote safety and discipline.

(3) Planning for comprehensive, long-term strategies for addressing and preventing school violence and discipline problems through the involvement and coordination of school programs with other education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations.

(4) Training school personnel in programs of demonstrated effectiveness in addressing violence, including violence prevention, conflict resolution, anger management, peer mediation, and identification of high-risk youth.

(5) Activities which involve parents in efforts to promote school safety and prevent school violence.

(6) Community education programs, including video- and technology-based projects, informing parents, businesses, local government, the media and other appropriate entities about—

(A) the local educational agency's plan to promote school safety and reduce and prevent school violence and discipline problems; and

(B) the need for community support.

(7) Coordination of school-based activities designed to promote school safety and reduce or prevent school violence and discipline problems with related efforts of education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations and juvenile justice programs.

(8) Developing and implementing violence prevention activities and materials, including—

(A) conflict resolution and social skills development for students, teachers, aides, other school personnel, and parents;

(B) disciplinary alternatives to expulsion and suspension of students who exhibit violent or antisocial behavior;

(C) student-led activities such as peer mediation, peer counseling, and student courts; or

(D) alternative after-school programs that provide safe havens for students, which may include cultural, recreational, educational and instructional activities, and mentoring and community service programs.

(9) Educating students and parents regarding the dangers of guns and other weapons and the consequences of their use.

(10) Developing and implementing innovative curricula to prevent violence in schools and training staff how to stop disruptive or violent behavior if such behavior occurs.

(11) Supporting "safe zones of passage" for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols.

(12) Counseling programs for victims and witnesses of school violence and crime.

(13) Acquiring and installing metal detectors and hiring security personnel.

(14) Reimbursing law enforcement authorities for their personnel who participate in school violence prevention activities.

(15) Evaluating projects and activities assisted under this subchapter.

(16) The cost of administering projects or activities assisted under this subchapter.

(17) Other projects or activities that meet the purpose of this subchapter.

(b) Limitations

(1) In general

A local educational agency may use not more than—

(A) a total of 5 percent of grant funds received under this subchapter in each fiscal year for activities described in paragraphs (11), (13), and (14) of subsection (a) of this section; and

(B) 5 percent of grant funds received under this subchapter in each fiscal year for activities described in paragraph (16) of subsection (a) of this section.

(2) Special rule

A local educational agency shall only be able to use grant funds received under this subchapter for activities described in paragraphs (11), (13), and (14) of subsection (a) of this section if funding for such activities is not available from other Federal sources.

(3) Prohibition

A local educational agency may not use grant funds received under this subchapter for construction.

(Pub. L. 103–227, title VII, §705, Mar. 31, 1994, 108 Stat. 206.)

§5966. National activities

(a) National activities

(1) In general

To carry out the purpose of this subchapter, the Secretary—

(A) is authorized to use funds reserved under section 5962(b)(2) of this title to—

(i) conduct national leadership activities such as research, program development and evaluation, data collection, public awareness activities, training and technical assistance, dissemination (through appropriate research entities assisted by the Department of Education) of information on successful projects, activities, and strategies developed pursuant to this subchapter;

(ii) provide grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking; and

(iii) conduct peer review of applications under this subchapter; and

(B) shall develop a written safe schools model so that all schools can develop models that enable all students to participate regardless of any language barrier.

(2) Special rule

The Secretary may carry out the activities described in paragraph (1) directly, through interagency agreements, or through grants, contracts or cooperative agreements.

(b) National model city

The Secretary shall designate the District of Columbia as a national model city and shall provide funds made available pursuant to section 5962(b)(2) of this title in each fiscal year to a local educational agency serving the District of Columbia in an amount sufficient to enable such agency to

carry out a comprehensive program to address school and youth violence.

(Pub. L. 103–227, title VII, §706, Mar. 31, 1994, 108 Stat. 208.)

§5967. Reports

(a) Report to Secretary

Each local educational agency that receives funds under this subchapter shall submit to the Secretary a report not later than March 1, 1995, that describes progress achieved in carrying out the plan described in section 5964(b) of this title.

(b) Report to Congress

The Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report not later than October 1, 1995, which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under section 5964(a) of this title, and an evaluation of programs assisted under this subchapter.

(Pub. L. 103–227, title VII, §708, Mar. 31, 1994, 108 Stat. 209.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

§5968. Coordination of Federal assistance

The Secretary, as a member of the Coordinating Council on Juvenile Justice and Delinquency Prevention of the Department of Justice, shall coordinate the programs and activities carried out under this subchapter with the programs and activities carried out by the departments and offices represented within the Council that provide assistance under other Federal law for purposes that are determined by the Secretary to be similar to the purpose of this subchapter, in order to avoid redundancy and coordinate Federal assistance, research, and programs for youth violence prevention.

(Pub. L. 103–227, title VII, §709, Mar. 31, 1994, 108 Stat. 209.)

SUBCHAPTER VIII—MINORITY-FOCUSED CIVICS EDUCATION

§5981. Short title

This subchapter may be cited as the "Minority-Focused Civics Education Act of 1994".

(Pub. L. 103–227, title VIII, §801, Mar. 31, 1994, 108 Stat. 209.)

§5982. Purposes

It is the purpose of this subchapter—

(1) to encourage improved instruction for minorities and Native Americans in American government and civics through a national program of accredited summer teacher training and staff development seminars or institutes followed by academic year inservice training programs conducted on college and university campuses or other appropriate sites, for—

(A) social studies and other teachers responsible for American history, government, and civics classes; and

(B) other educators who work with minority and Native American youth; and

(2) through such improved instruction to improve minority and Native American student knowledge and understanding of the American system of government.

(Pub. L. 103–227, title VIII, §802, Mar. 31, 1994, 108 Stat. 209.)

§5983. Grants authorized; authorization of appropriations

(a) Grants authorized

(1) In general

The Secretary is authorized to make grants to eligible entities for the development and implementation of seminars in American government and civics for elementary and secondary school teachers and other educators who work with minority and Native American students.

(2) Award rule

In awarding grants under this subchapter, the Secretary shall ensure that there is wide geographic distribution of such grants.

(b) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal 1995, and such sums as may be necessary for each of the fiscal years 1996, 1997, and 1998, to carry out this subchapter.

(Pub. L. 103–227, title VIII, §803, Mar. 31, 1994, 108 Stat. 210.)

§5984. Definitions

For purposes of this subchapter—

(1) the term "eligible entity" means a State educational agency, an institution of higher education or a State higher education agency, or a public or private nonprofit organization, with experience in coordinating or conducting teacher training seminars in American government and civics education, or a consortium thereof; and

(2) the term "State higher education agency" means the officer or agency primarily responsible for the State supervision of higher education.

(Pub. L. 103–227, title VIII, §804, Mar. 31, 1994, 108 Stat. 210.)

§5985. Applications

(a) Application required

Each eligible entity desiring a grant under this subchapter shall submit an application to the Secretary, at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Each application submitted pursuant to subsection (a) of this section shall—

(1) define the learning objectives and course content of each seminar to be held and describe the manner in which seminar participants shall receive substantive academic instruction in the principles, institutions and processes of American government;

(2) provide assurances that educators successfully participating in each seminar will qualify for either graduate credit or professional development or advancement credit according to the criteria established by a State or local educational agency;

(3) describe the manner in which seminar participants shall receive exposure to a broad array of individuals who are actively involved in the political process, including political party representatives drawn equally from the major political parties, as well as representatives of other organizations involved in the political process;

(4) provide assurances that the seminars will be conducted on a nonpartisan basis;

(5) describe the manner in which the seminars will address the role of minorities or Native Americans in the American political process, including such topics as—

(A) the history and current political state of minorities or Native Americans;

(B) recent research on minority or Native American political socialization patterns and cognitive learning styles; and

(C) studies of political participation patterns of minorities or Native Americans;

(6) describe the pedagogical elements for teachers that will enable teachers to develop effective strategies and lesson plans for teaching minorities or Native American students at the elementary and secondary school levels;

(7) identify the eligible entities which will conduct the seminars for which assistance is sought;

(8) in the case that the eligible entity is an institution of higher education, describe the plans for collaborating with national organizations in American government and civics education;

(9) provide assurances that during the academic year educators participating in the summer seminars will provide inservice training programs based upon what such educators have learned and the curricular materials such educators have developed or acquired for their peers in their school systems with the approval and support of their school administrators; and

(10) describe the activities or services for which assistance is sought, including activities and services such as—

(A) development of seminar curricula;

(B) development and distribution of instructional materials;

(C) scholarships for participating teachers; and

(D) program assessment and evaluation.

(c) Priority

The Secretary, in approving applications for assistance under this subchapter, shall give priority to applications which demonstrate that—

(1) the applicant will serve teachers who teach in schools with a large number or concentration of economically disadvantaged students;

(2) the applicant has demonstrated national experience in conducting or coordinating accredited summer seminars in American government or civics education for elementary and secondary school teachers;

(3) the applicant will coordinate or conduct seminars on a national or multistate basis through a collaboration with an institution of higher education, State higher education agency or a public or private nonprofit organization, with experience in coordinating or conducting teacher training programs in American government and civics education;

(4) the applicant will coordinate or conduct seminars designed for more than one minority student population and for Native Americans; and

(5) the applicant will coordinate or conduct seminars that offer a combination of academic instruction in American government, exposure to the practical workings of the political system, and training in appropriate pedagogical techniques for working with minority and Native American students.

(Pub. L. 103–227, title VIII, §805, Mar. 31, 1994, 108 Stat. 210.)

SUBCHAPTER IX—EDUCATIONAL RESEARCH AND IMPROVEMENT

§6001. Short title

This subchapter may be cited as the "Educational Research, Development, Dissemination, and Improvement Act of 1994".

(Pub. L. 103–227, title IX, §901, Mar. 31, 1994, 108 Stat. 212.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, which enacted this subchapter, amended sections 2422, 3155, 3412, 3419, 3462, and 4085b of this title, repealed section 1221e of this title, and enacted provisions set out as notes under sections 1221e and 3155 of this title.

§6002. Findings

The Congress finds as follows with respect to improving education in the United States:

(1) A majority of public schools in the United States are failing to prepare students to achieve the National Education Goals. The Federal Government should support an extensive program of educational research, development, dissemination, replication and assistance to identify and support the best responses for the challenges ahead. A significant investment in attaining a deeper understanding of the processes of learning and schooling and developing new ideas holds the best hope of making a substantial difference to the lives of every student in the United States. The Office of Educational Research and Improvement within the Department of Education should be at the center of this campaign in order to coordinate such efforts.

(2) The Federal role in educational research has been closely identified with youths who are socioeconomically disadvantaged, are minorities, belong to a language minority, or have a disability. The Federal commitment to education was sufficient to serve not more than—

(A) in 1993, 1 out of every 6 low-income children in need of preschool education;

(B) in 1990, 3 out of every 5 children in need of remediation;

(C) in 1991, 1 out of every 5 children in need of bilingual education; and

(D) in 1992, 1 out of every 20 youths eligible for assistance under the Job Training Partnership Act.

(3) The failure of the Federal Government to adequately invest in educational research and development has denied the United States a sound foundation of knowledge on which to design school improvements. The educational achievement of minority children is of particular concern because at least half of the public school students in 25 of the largest cities of the United States are minority children, and demographers project that, by the year 2005, almost all urban public school students will be minority children or other children in poverty.

(4) The investment goal of the Federal research, development, and dissemination function should be at least 1 percent of the total amount of funds spent on education.

(5) Nationwide model programs and reliable interventions should be demonstrated and replicated, and for such purposes, programs should be established to conduct research and evaluations, and to disseminate information.

(6) The Office should develop a national dissemination policy that will advance the goal of placing a national treasure chest of research results, models, and materials at the disposal of the education decisionmakers of the United States.

(7) A National Educational Research Policy and Priorities Board should be established to work collaboratively with the Assistant Secretary to forge a national consensus with respect to a long-term agenda for educational research, development, dissemination, and the activities of the Office.

(8) Existing research and development entities should adopt expanded, proactive roles and new institutions should be created to promote knowledge development necessary to accelerate the application of research findings to high priority areas.

(9) Greater use should be made of existing technologies in efforts to improve the educational

system of the United States, including efforts to disseminate research findings.

(10) Minority educational researchers are inadequately represented throughout the Department of Education, but particularly in the Office. The Office therefore should assume a leadership position in the recruitment, retention, and promotion of qualified minority educational researchers.

(11) The coordination of the mission of the Office with that of other components of the Department of Education is critical. The Office should improve the coordination of the educational research, development, and dissemination function with those of other Federal agencies.

(Pub. L. 103–227, title IX, §902, Mar. 31, 1994, 108 Stat. 212.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in par. (2)(D), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, which was classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to former section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, were deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, were deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. The Workforce Investment Act of 1998 was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pursuant to section 3361(a) of Title 29, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015. For complete classification of the Job Training Partnership Act and the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

The Office of Educational Research and Improvement was established by section 3419 of this title. Section 3419 was repealed and a new section 3419 establishing the Institute of Educational Sciences was enacted by Pub. L. 107–279, title IV, §402(2), Nov. 5, 2002, 116 Stat. 1985.

PART A—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

§6011. Repealed. Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, §912, Mar. 31, 1994, 108 Stat. 213; Pub. L. 103–382, title II, §271(a)(3)(B), Oct. 20, 1994, 108 Stat. 3929, stated policy and purpose of Office of Educational Research and Improvement and set forth provisions relating to employees, publications, reports on activities, research, coordination of activities, evaluations, definitions, and appropriations.

PART B—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

§6021. Repealed. Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, §921, Mar. 31, 1994, 108 Stat. 223, established National Educational Research Policy and Priorities Board.

PART C—NATIONAL RESEARCH INSTITUTES

§6031. Repealed. Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, §931, Mar. 31, 1994, 108 Stat. 227, established the National Institute on Student Achievement, Curriculum, and Assessment, the National Institute on the Education of At-Risk Students, the National Institute on Educational Governance, Finance, Policy-Making, and Management, the National Institute on Early Childhood Development and Education, and the National Institute on Postsecondary Education, Libraries, and Lifelong Education.

PART D—NATIONAL EDUCATION DISSEMINATION SYSTEM

§6041. Repealed. Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, §941, Mar. 31, 1994, 108 Stat. 243; Pub. L. 105–277, div. A, §101(f) [title VIII, §301(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410, established Office of Reform Assistance and Dissemination.

PART E—NATIONAL LIBRARY OF EDUCATION

§6051. Repealed. Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, §951, Mar. 31, 1994, 108 Stat. 260, established within the Department of Education a National Library of Education.

PART F—CERTAIN MULTIYEAR GRANTS AND CONTRACTS

CODIFICATION

This part was, in the original, part J of title IX of Pub. L. 103–227 and has been designated part F of this subchapter for purposes of codification.

§6052. Continuation of awards

(a) In general

Notwithstanding any other provision of law, from funds appropriated under subsection (b) of this section, the Secretary—

(1) shall continue to fund any multiyear grant or contract awarded under section 3141 and parts A and C of title XIII of the Elementary and Secondary Education Act of 1965 (as such provisions were in effect on the day preceding January 8, 2002), for the duration of that multiyear award in accordance with its terms; and

(2) may extend, on a year-to-year basis, any multiyear grant or contract awarded under an authority described in paragraph (1) that expires after January 8, 2002, but before the enactment of successor authority to this subchapter.[1]

(b) Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as may be necessary to

carry out subsection (a) of this section.

(Pub. L. 103–227, title IX, §995, as added Pub. L. 107–110, title X, §1074, Jan. 8, 2002, 115 Stat. 2090.)

REFERENCES IN TEXT

Section 3141 and parts A and C of title XIII of the Elementary and Secondary Education Act of 1965 (as such provisions were in effect on the day preceding January 8, 2002), referred to in subsec. (a)(1), are section 3141 and parts A and C of title XIII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3649, 3877, 3882. Section 3141 of the Act was classified to section 6861 of this title, prior to the general amendment of title III of Pub. L. 89–10 by Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1689. Part A of title XIII of the Act was classified to part A (§8621 et seq.) of subchapter XIII of chapter 70 of this title, prior to its redesignation as part K of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, §1021(a), Jan. 8, 2002, 115 Stat. 1987, and transfer to part G (§6053 et seq.) of this subchapter. Part C of title XIII of the Act was classified to part C (§8671 et seq.) of subchapter XIII of chapter 70 of this title, prior to its redesignation as part M of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, §1023(a), Jan. 8, 2002, 115 Stat. 1987, and transfer to part I (§6055 et seq.) of this subchapter.

This subchapter, referred to in subsec. (a)(2), was in the original "this Act" and has been translated as reading "this title" to reflect the probable intent of Congress.

EFFECTIVE DATE

Section effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as a note under section 6301 of this title.

[1] *See References in Text note below.*

PART G—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

CODIFICATION

Part K of title IX of Pub. L. 103–227, which comprised this part, was designated part G of this subchapter for purposes of codification. Part K of title IX of Pub. L. 103–227 was formerly part A of title XIII of Pub. L. 89–10, which was classified to part A (§8621 et seq.) of subchapter XIII of chapter 70 of this title, prior to being redesignated as part K of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, §1021(a), Jan. 8, 2002, 115 Stat. 1987, transferred to this part, and subsequently repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

§§6053 to 6053e. Repealed. Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985

Section 6053, Pub. L. 103–227, title IX, §1001, formerly Pub. L. 89–10, title XIII, §13101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3877; renumbered Pub. L. 103–227, title IX, §1001, and amended Pub. L. 107–110, title X, §§1021(a),(b), 1025(a)(2)(A), (17)(A), (B), (19), Jan. 8, 2002, 115 Stat. 1987–1989, authorized program for establishment of comprehensive regional assistance centers.

Section 6053a, Pub. L. 103–227, title IX, §1002, formerly Pub. L. 89–10, title XIII, §13102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3878; renumbered Pub. L. 103–227, title IX, §1002, and amended Pub. L. 107–110, title X, §§1021(a),(b), 1025(a)(1), (2)(B), (6), (7), (10), (17)(C), (19), Jan. 8, 2002, 115 Stat. 1987–1989, related to requirements of centers.

Section 6053b, Pub. L. 103–227, title IX, §1003, formerly Pub. L. 89–10, title XIII, §13103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3879; renumbered Pub. L. 103–227, title IX, §1003, and amended Pub. L. 107–110, title X, §§1021(a),(b), 1025(a)(8), (10), (16), Jan. 8, 2002, 115 Stat. 1987–1989, related to maintenance of service and application requirements.

Section 6053c, Pub. L. 103–227, title IX, §1004, formerly Pub. L. 89–10, title XIII, §13104, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3880; renumbered Pub. L. 103–227, title IX, §1004, and amended Pub. L. 107–110, title X, §§1021(a),(b), 1025(a)(9), (18), Jan. 8, 2002, 115 Stat. 1987–1989, related to transition and phase in of centers.

Section 6053d, Pub. L. 103–227, title IX, §1005, formerly Pub. L. 89–10, title XIII, §13105, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3880; renumbered Pub. L. 103–227, title IX, §1005, Pub. L. 107–110, title X, §1021(a),(b), Jan. 8, 2002, 115 Stat. 1987, authorized appropriations.

Section 6053e, Pub. L. 103–227, title IX, §1006, as added Pub. L. 107–110, title X, §1021(c), Jan. 8, 2002, 115 Stat. 1987, applied section 7801 definitions to this part.

PART H—NATIONAL DIFFUSION NETWORK

CODIFICATION

Part L of title IX of Pub. L. 103–227, which comprised this part, was designated part H of this subchapter for purposes of codification. Part L of title IX of Pub. L. 103–227 was formerly part B of title XIII of Pub. L. 89–10, which was classified to part B (§8651 et seq.) of subchapter XIII of chapter 70 of this title, prior to being redesignated as part L of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, §1022(a), Jan. 8, 2002, 115 Stat. 1987, transferred to this part, and subsequently repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

§§6054 to 6054b. Repealed. Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985

Section 6054, Pub. L. 103–227, title IX, §1011, formerly Pub. L. 89–10, title XIII, §13201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3880; renumbered Pub. L. 103–227, title IX, §1011, and amended Pub. L. 107–110, title X, §§1022(a),(b), 1025(a)(2)(A), (B)–(4), (5), (6), (16), (17)(D), (20), Jan. 8, 2002, 115 Stat. 1987–1989, authorized establishment of National Diffusion Network.

Another section 1011 of Pub. L. 103–227 is classified to section 6061 of this title.

Section 6054a, Pub. L. 103–227, title IX, §1012, formerly Pub. L. 89–10, title XIII, §13202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3882; renumbered Pub. L. 103–227, title IX, §1012, Pub. L. 107–110, title X, §1022(a),(b), Jan. 8, 2002, 115 Stat. 1987, authorized appropriations.

Section 6054b, Pub. L. 103–227, title IX, §1013, as added Pub. L. 107–110, title X, §1022(c), Jan. 8, 2002, 115 Stat. 1987, applied section 7801 definitions to this part.

PART I—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

CODIFICATION

Part M of title IX of Pub. L. 103–227, which comprised this part, was designated part I of this subchapter for purposes of codification. Part M of title IX of Pub. L. 103–227 was formerly part C of title XIII of Pub. L. 89–10, which was classified to part C (§8671 et seq.) of subchapter XIII of chapter 70 of this title, prior to being redesignated as part M of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, §1023(a), Jan. 8, 2002, 115 Stat. 1987, transferred to this part, and subsequently repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

§§6055 to 6055h. Repealed. Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985

Section 6055, Pub. L. 103–227, title IX, §1021, formerly Pub. L. 89–10, title XIII, §13301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3882; renumbered Pub. L. 103–227, title IX, §1021, and amended Pub. L. 107–110, title X, §§1023(a),(b), 1025(a)(15), Jan. 8, 2002, 115 Stat. 1987, 1988, authorized grants and contracts for establishment and operation of regional mathematics and science education consortia.

Another section 1021 of Pub. L. 103–227 amended section 2421 of this title prior to the general amendment of chapter 44 of this title by Pub. L. 105–332.

Section 6055a, Pub. L. 103–227, title IX, §1022, formerly Pub. L. 89–10, title XIII, §13302, as added Pub.

L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3883; renumbered Pub. L. 103–227, title IX, §1022, and amended Pub. L. 107–110, title X, §§1023(a),(b), 1025(a)(11), (14), (21), Jan. 8, 2002, 115 Stat. 1987–1989, related to use of funds.

Another section 1022 of Pub. L. 103–227 is classified to section 6067 of this title.

Section 6055b, Pub. L. 103–227, title IX, §1023, formerly Pub. L. 89–10, title XIII, §13303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3884; renumbered Pub. L. 103–227, title IX, §1023, Pub. L. 107–110, title X, §1023(a),(b), Jan. 8, 2002, 115 Stat. 1987, related to application for grant or contract and review.

Section 6055c, Pub. L. 103–227, title IX, §1024, formerly Pub. L. 89–10, title XIII, §13304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3885; renumbered Pub. L. 103–227, title IX, §1024, Pub. L. 107–110, title X, §1023(a),(b), Jan. 8, 2002, 115 Stat. 1987, required each entity in receipt of a grant or contract to establish a regional board for oversight and establishment of program priorities.

Section 6055d, Pub. L. 103–227, title IX, §1025, formerly Pub. L. 89–10, title XIII, §13305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3885; renumbered Pub. L. 103–227, title IX, §1025, and amended Pub. L. 107–110, title X, §§1023(a),(b), 1025(a)(13), Jan. 8, 2002, 115 Stat. 1987, 1988, related to payments and Federal and non-Federal shares.

Section 6055e, Pub. L. 103–227, title IX, §1026, formerly Pub. L. 89–10, title XIII, §13306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3885; renumbered Pub. L. 103–227, title IX, §1026, and amended Pub. L. 107–110, title X, §§1023(a),(b), 1025(a)(22), Jan. 8, 2002, 115 Stat. 1987, 1989, related to evaluations and reports.

Section 6055f, Pub. L. 103–227, title IX, §1027, formerly Pub. L. 89–10, title XIII, §13307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3886; renumbered Pub. L. 103–227, title IX, §1027, and amended Pub. L. 107–110, title X, §§1023(a),(b), 1025(a)(4), (12) Jan. 8, 2002, 115 Stat. 1987, 1988, defined terms for purposes of this part.

Section 6055g, Pub. L. 103–227, title IX, §1028, formerly Pub. L. 89–10, title XIII, §13308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3886; renumbered Pub. L. 103–227, title IX, §1028, Pub. L. 107–110, title X, §1023(a),(b), Jan. 8, 2002, 115 Stat. 1987, authorized appropriations.

Section 6055h, Pub. L. 103–227, title IX, §1029, as added Pub. L. 107–110, title X, §1023(c), Jan. 8, 2002, 115 Stat. 1987, applied section 7801 definitions to this part.

PART J—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

CODIFICATION

Part N of title IX of Pub. L. 103–227, which comprised this part, was designated part J of this subchapter for purposes of codification. Part N of title IX of Pub. L. 103–227 was formerly part D of title XIII of Pub. L. 89–10, which was classified to part D (§8701 et seq.) of subchapter XIII of chapter 70 of this title, prior to being redesignated as part N of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, §1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to this part, and subsequently repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

§§6056, 6056a. Repealed. Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985

Section 6056, Pub. L. 103–227, title IX, §1031, formerly Pub. L. 89–10, title XIII, §13401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3886; renumbered Pub. L. 103–227, title IX, §1031, and amended Pub. L. 107–110, title X, §§1024(a),(b), 1025(a)(17)(E), Jan. 8, 2002, 115 Stat. 1987–1989, authorized technology-based technical assistance.

Another section 1031 of Pub. L. 103–227 is set out as a note under section 6301 of this title.

Section 6056a, Pub. L. 103–227, title IX, §1032, as added Pub. L. 107–110, title X, §1024(c), Jan. 8, 2002, 115 Stat. 1988, applied section 7801 definitions to this part.

Another section 1032 of Pub. L. 103–227 enacted section 3351 of this title and amended sections 3381 to 3384 and 3386 of this title prior to the general amendment of chapter 47 of this title by Pub. L. 103–382.

SUBCHAPTER X—MISCELLANEOUS

PART A—MISCELLANEOUS PROVISIONS

§6061. School prayer

No funds authorized to be appropriated under this chapter may be used by any State or local educational agency to adopt policies that prevent voluntary prayer and meditation in public schools.

(Pub. L. 103–227, title X, §1011, Mar. 31, 1994, 108 Stat. 265.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original this "Act", meaning Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

CODIFICATION

Another section 1011 of Pub. L. 103–227 was classified to section 6054 of this title, prior to repeal by Pub. L. 107–279.

§6062. Funding for Individuals with Disabilities Education Act

(a) Findings

The Congress finds that—

(1) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] was established with the commitment of forty percent Federal funding but currently receives only eight percent Federal funding;

(2) this funding shortfall is particularly burdensome to school districts and schools in low-income areas which serve higher than average proportions of students with disabilities and have fewer local resources to contribute; and

(3) it would cost the Federal Government approximately $10,000,000,000 each year to fully fund the Individuals with Disabilities Education Act.

(b) Sense of Congress

It is the sense of the Congress that the Federal Government should provide States and communities with adequate resources under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] as soon as reasonably possible, through the reallocation of noneducation funds within the current budget monetary constraints.

(Pub. L. 103–227, title X, §1012, Mar. 31, 1994, 108 Stat. 265.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Another section 1012 of Pub. L. 103–227 was classified to section 6054a of this title, prior to repeal by Pub. L. 107–279.

§6063. Study of Goals 2000 and students with disabilities

(a) Study required

(1) In general

Not later than 180 days after March 31, 1994, the Secretary shall make appropriate arrangements with the National Academy of Sciences or the National Academy of Education to conduct a comprehensive study of the inclusion of children with disabilities in school reform activities assisted under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(2) "Children with disabilities" defined

For purposes of this section, the term "children with disabilities" has the same meaning given such term in section 1401 of this title.

(b) Study components

The study conducted under subsection (a) of this section shall include—

(1) an evaluation of the National Education Goals and objectives, curriculum reforms, standards, and other programs and activities intended to achieve those goals;

(2) a review of the adequacy of assessments and measures used to gauge progress towards meeting National Education Goals and any national and State standards, and an examination of other methods or accommodations necessary or desirable to collect data on the educational progress of children with disabilities, and the costs of such methods and accommodations;

(3) an examination of what incentives or assistance might be provided to States to develop improvement plans that adequately address the needs of children with disabilities;

(4) the relation of the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] to other Federal laws governing or affecting the education of children with disabilities; and

(5) such other issues as the National Academy of Sciences or the National Academy of Education considers appropriate.

(c) Study panel membership

Any panel constituted in furtherance of the study to be conducted under subsection (a) of this section shall include consumer representatives.

(d) Findings and recommendations

The Secretary shall request the National Academy of Sciences or the National Academy of Education to submit an interim report of its findings and recommendations to the President and Congress not later than 12 months, and a final report not later than 24 months, from the date of the completion of procurement relating to the study.

(e) Funding

From funds appropriated to the Secretary for research related to individuals with disabilities the Secretary shall make available $600,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995, to carry out this section. Amounts made available under this subsection shall remain available until expended.

(Pub. L. 103–227, title X, §1015, Mar. 31, 1994, 108 Stat. 266.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsecs. (a)(1) and (b)(4), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to this chapter (except subchapters V (§5931 et seq.) and IX (§6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§6064. Contraceptive devices

The Department of Health and Human Services and the Department of Education shall ensure that all federally funded programs which provide for the distribution of contraceptive devices to unemancipated minors develop procedures to encourage, to the extent practical, family participation in such programs.

(Pub. L. 103–227, title X, §1018, Mar. 31, 1994, 108 Stat. 268.)

§6065. Assessments

(a) Subchapter II

No funds provided under subchapter II of this chapter shall be used to develop or undertake assessments that will be used to make decisions regarding the graduation, grade promotion, or retention of students for 5 years after March 31, 1994.

(b) Subchapter III [1]

Assessments developed with funds under subchapter III [1] of this chapter may be used for decisions regarding graduation, grade promotion, or retention of students only on the condition that students have been prepared in the content for which the students are being assessed.

(Pub. L. 103–227, title X, §1019, Mar. 31, 1994, 108 Stat. 269.)

REFERENCES IN TEXT

Subchapters II and III of this chapter, referred to in text, were in the original references to titles II and III, respectively, of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 133, 157. Title II enacted subchapter II of this chapter and section 3425 of this title, amended section 5093 of this title and section 5315 of Title 5, Government Organization and Employees, and enacted provisions set out as a note under section 5093 of this title. Title III was classified generally to subchapter III (§5881 et seq.) of this chapter and was repealed by Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265.

[1] *See References in Text note below.*

§6066. Public schools

Except as provided in section 5890 [1] of this title, nothing in this chapter shall be construed to authorize the use of funds under subchapter III [1] of this chapter to directly or indirectly benefit any school other than a public school.

(Pub. L. 103–227, title X, §1020, Mar. 31, 1994, 108 Stat. 269.)

REFERENCES IN TEXT

Section 5890 of this title, referred to in text, was repealed by Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265.

Subchapter III of this chapter, referred to in text, was in the original a reference to title III of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 157, which was classified generally to subchapter III (§5881 et seq.) of this chapter and was repealed by Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265.

[1] *See References in Text note below.*

§6067. Sense of Congress

It is the sense of the Congress that—

(1) no funds appropriated pursuant to this chapter should be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with chapter 83 of title 41;

(2) in the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this chapter, entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products;

(3) in providing financial assistance under this chapter, the head of each Federal agency should provide to each recipient of the assistance a notice describing the statement made in subsection

(a) [1] by the Congress; and

(4) if it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning to any product sold in or shipped to the United States that is not made in the United States, such person should be ineligible to receive any contract or subcontract made with funds provided pursuant to this chapter, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections existed on March 31, 1994.

(Pub. L. 103–227, title X, §1022, Mar. 31, 1994, 108 Stat. 270.)

CODIFICATION

In par. (1), "chapter 83 of title 41" substituted for "sections 2 through 4 of the Act of March 3, 1993 (41 U.S.C. 10a–10c, popularly known as the 'Buy American Act')" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Another section 1022 of Pub. L. 103–227 was classified to section 6055a of this title, prior to repeal by Pub. L. 107–279.

[1] So in original. No subsec. (a) has been enacted.

PART B—ENVIRONMENTAL TOBACCO SMOKE

CODIFICATION

This part was, in the original, part C of title X of Pub. L. 103–227 and has been designated part B of this subchapter for purposes of codification.

Similar provisions relating to environmental tobacco smoke are contained in part C (§7181 et seq.) of subchapter IV of chapter 70 of this title.

§6081. Short title

This part may be cited as the "Pro-Children Act of 1994".

(Pub. L. 103–227, title X, §1041, Mar. 31, 1994, 108 Stat. 271.)

§6082. Definitions

As used in this part:

(1) Children

The term "children" means individuals who have not attained the age of 18.

(2) Children's services

The term "children's services" means the provision on a routine or regular basis of health, day care, education, or library services—

(A) that are funded, after March 31, 1994, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.]); or

(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in 7 CFR 246.2) under section 17(b)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(6)), or

(B) that are provided in indoor facilities that are constructed, operated, or maintained with

such Federal funds, as determined by the appropriate Secretary in any enforcement action under this subchapter,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(3) Person

The term "person" means any State or local subdivision thereof, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

(4) Indoor facility

The term "indoor facility" means a building that is enclosed.

(5) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(Pub. L. 103–227, title X, §1042, Mar. 31, 1994, 108 Stat. 271.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in par. (2), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Social Security Act, referred to in par. (2)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

This subchapter, referred to in par. (2)(B), was in the original "this title", meaning title X of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 265, which enacted this subchapter and section 3351 of this title, amended sections 1107, 1232h, 2421, 3381 to 3384, and 3386 of this title, sections 1632, 1633, and 1635 of Title 29, Labor, and section 11903a of Title 42, and enacted provisions set out as notes under section 2701 of this title and section 11901 of Title 42.

§6083. Nonsmoking policy for children's services

(a) Prohibition

After March 31, 1994, no person shall permit smoking within any indoor facility owned or leased or contracted for and utilized by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) Additional prohibition

After March 31, 1994, no person shall permit smoking within any indoor facility (or portion thereof) owned or leased or contracted for by such person for the provision by such person of regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of the employees of such person who provides such services, except that this subsection shall not apply to—

(1) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(2) any private residence.

(c) Federal agencies

(1) Kindergarten, elementary, or secondary education or library services

After March 31, 1994, no Federal agency shall permit smoking within any indoor facility in the

United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) Health or day care or early childhood development services

After March 31, 1994, no Federal agency shall permit smoking within any indoor facility (or portion thereof) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children, except that this paragraph shall not apply to—

(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) any private residence.

(3) Application of provisions

The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

(d) Notice

The prohibitions in subsections (a) through (c) of this section shall be incorporated by publication of a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after March 31, 1994, whichever occurs first.

(e) Special waiver

(1) In general

On receipt of an application, the head of the Federal agency may grant a special waiver to a person described in subsection (a) of this section who employs individuals who are members of a labor organization and provide children's services pursuant to a collective bargaining agreement that—

(A) took effect before March 31, 1994; and

(B) includes provisions relating to smoking privileges that are in violation of the requirements of this section.

(2) Termination of waiver

A special waiver granted under this subsection shall terminate on the earlier of—

(A) the first expiration date (after March 31, 1994) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(B) the date that is 1 year after March 31, 1994.

(f) Civil penalties

(1) In general

Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred. For the purpose of the prohibition in subsection (c) of this section, the term "person" shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

(2) Administrative proceeding

A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued, by the Secretary only after an opportunity for a hearing in accordance with section 554

of title 5. Before making such assessment or issuing such order, or both, the Secretary shall give written notice thereof to such person by certified mail with return receipt and provide therein an opportunity to request in writing not later than 30 days after the date of receipt of such notice such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing which should be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

(3) Circumstances affecting penalty or order

In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C) such other matters as justice may require.

(4) Modification

The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or its agencies or instrumentalities owes to the person against whom the penalty is assessed.

(5) Petition for review

Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review thereof with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy thereof to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

(6) Failure to comply

If a person fails to pay an assessment of a civil penalty or comply with an order, after either or both are final under this section, or after a court under paragraph (5) has entered a final judgment in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at then currently prevailing rates from the day either or both are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

(Pub. L. 103–227, title X, §1043, Mar. 31, 1994, 108 Stat. 272.)

§6084. Preemption

Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.

(Pub. L. 103–227, title X, §1044, Mar. 31, 1994, 108 Stat. 274.)

CHAPTER 69—SCHOOL-TO-WORK OPPORTUNITIES

§§6101 to 6104. Omitted

CODIFICATION

Sections 6101 to 6104 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6101, Pub. L. 103–239, §2, May 4, 1994, 108 Stat. 569, stated findings of Congress.

Section 6102, Pub. L. 103–239, §3, May 4, 1994, 108 Stat. 570, stated purposes and Congressional intent.

Section 6103, Pub. L. 103–239, §4, May 4, 1994, 108 Stat. 572; Pub. L. 103–382, title III, §394(j)(1), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105–244, title I, §102(c)(1), Oct. 7, 1998, 112 Stat. 1622; Pub. L. 108–446, title III, §305(f), Dec. 3, 2004, 118 Stat. 2805, contained definitions.

Section 6104, Pub. L. 103–239, §5, May 4, 1994, 108 Stat. 575, provided for Federal administration of this chapter.

SHORT TITLE

Pub. L. 103–239, §1(a), May 4, 1994, 108 Stat. 568, provided that: "This Act [enacting this chapter, amending former sections 2394b and 2394c and section 4441 of this title, former section 1699 of Title 29, Labor, and former sections 11449 and 11450 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 4401 and 4441 of this title] may be cited as the 'School-to-Work Opportunities Act of 1994'."

SUBCHAPTER I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

§§6111 to 6114. Omitted

CODIFICATION

Sections 6111 to 6114 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6111, Pub. L. 103–239, title I, §101, May 4, 1994, 108 Stat. 576, related to general program requirements.

Section 6112, Pub. L. 103–239, title I, §102, May 4, 1994, 108 Stat. 576, related to school-based learning component.

Section 6113, Pub. L. 103–239, title I, §103, May 4, 1994, 108 Stat. 577, related to work-based learning component.

Section 6114, Pub. L. 103–239, title I, §104, May 4, 1994, 108 Stat. 577, related to connecting activities component.

SUBCHAPTER II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

PART A—STATE DEVELOPMENT GRANTS

§§6121 to 6127. Omitted

CODIFICATION

Sections 6121 to 6127 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6121, Pub. L. 103–239, title II, §201, May 4, 1994, 108 Stat. 578, stated purpose of this part.

Section 6122, Pub. L. 103–239, title II, §202, May 4, 1994, 108 Stat. 578, authorized grants to States and territories.

Section 6123, Pub. L. 103–239, title II, §203, May 4, 1994, 108 Stat. 579, related to application for grant.

Section 6124, Pub. L. 103–239, title II, §204, May 4, 1994, 108 Stat. 580, related to approval of application.

Section 6125, Pub. L. 103–239, title II, §205, May 4, 1994, 108 Stat. 580, related to use of amounts from grant.

Section 6126, Pub. L. 103–239, title II, §206, May 4, 1994, 108 Stat. 581, related to maintenance of effort by State.

Section 6127, Pub. L. 103–239, title II, §207, May 4, 1994, 108 Stat. 582, required reports by State.

PART B—STATE IMPLEMENTATION GRANTS

§§6141 to 6148. Omitted

CODIFICATION

Sections 6141 to 6148 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6141, Pub. L. 103–239, title II, §211, May 4, 1994, 108 Stat. 582, stated purpose of this part.

Section 6142, Pub. L. 103–239, title II, §212, May 4, 1994, 108 Stat. 582, authorized grants to States and territories.

Section 6143, Pub. L. 103–239, title II, §213, May 4, 1994, 108 Stat. 583; Pub. L. 104–193, title I, §110(v), Aug. 22, 1996, 110 Stat. 2175, related to application for grant.

Section 6144, Pub. L. 103–239, title II, §214, May 4, 1994, 108 Stat. 586, related to review of application.

Section 6145, Pub. L. 103–239, title II, §215, May 4, 1994, 108 Stat. 587, related to use of amounts from grant.

Section 6146, Pub. L. 103–239, title II, §216, May 4, 1994, 108 Stat. 591, related to allocation requirement.

Section 6147, Pub. L. 103–239, title II, §217, May 4, 1994, 108 Stat. 591, related to limitation on administrative costs.

Section 6148, Pub. L. 103–239, title II, §218, May 4, 1994, 108 Stat. 591, required reports by State.

PART C—DEVELOPMENT AND IMPLEMENTATION GRANTS FOR SCHOOL-TO-WORK PROGRAMS FOR INDIAN YOUTHS

§§6161, 6162. Omitted

CODIFICATION

Sections 6161 and 6162 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6161, Pub. L. 103–239, title II, §221, May 4, 1994, 108 Stat. 592, authorized grants.

Section 6162, Pub. L. 103–239, title II, §222, May 4, 1994, 108 Stat. 592, related to requirements for grant recipients.

SUBCHAPTER III—FEDERAL IMPLEMENTATION GRANTS TO LOCAL PARTNERSHIPS

§§6171 to 6177. Omitted

CODIFICATION

Sections 6171 to 6177 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6171, Pub. L. 103–239, title III, §301, May 4, 1994, 108 Stat. 592, stated purposes of this subchapter.

Section 6172, Pub. L. 103–239, title III, §302, May 4, 1994, 108 Stat. 592, authorized grants to local partnerships.

Section 6173, Pub. L. 103–239, title III, §303, May 4, 1994, 108 Stat. 593, related to application for grant.

Section 6174, Pub. L. 103–239, title III, §304, May 4, 1994, 108 Stat. 594, related to use of amounts from grant.

Section 6175, Pub. L. 103–239, title III, §305, May 4, 1994, 108 Stat. 594, related to conformity with approved State plan.

Section 6176, Pub. L. 103–239, title III, §306, May 4, 1994, 108 Stat. 594, required reports by local partnership.

Section 6177, Pub. L. 103–239, title III, §307, May 4, 1994, 108 Stat. 594, defined "high poverty area".

SUBCHAPTER IV—NATIONAL PROGRAMS

§§6191 to 6196. Omitted

CODIFICATION

Sections 6191 to 6196 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6191, Pub. L. 103–239, title IV, §401, May 4, 1994, 108 Stat. 594, authorized projects to further the purposes of this chapter.

Section 6192, Pub. L. 103–239, title IV, §402, May 4, 1994, 108 Stat. 594, related to performance outcomes and evaluation.

Section 6193, Pub. L. 103–239, title IV, §403, May 4, 1994, 108 Stat. 596, related to training and technical assistance.

Section 6194, Pub. L. 103–239, title IV, §404, May 4, 1994, 108 Stat. 596; Pub. L. 107–279, title IV, §404(e), Nov. 5, 2002, 116 Stat. 1986, related to Capacity Building and Information and Dissemination Network.

Section 6195, Pub. L. 103–239, title IV, §405, May 4, 1994, 108 Stat. 597, required reports to Congress.

Section 6196, Pub. L. 103–239, title IV, §406, May 4, 1994, 108 Stat. 597, related to funding.

SUBCHAPTER V—WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS

§§6211 to 6215. Omitted

CODIFICATION

Sections 6211 to 6215 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6211, Pub. L. 103–239, title V, §501, May 4, 1994, 108 Stat. 597, related to State and local partnership requests and responsibilities for waivers.

Section 6212, Pub. L. 103–239, title V, §502, May 4, 1994, 108 Stat. 598; Pub. L. 103–382, title III, §394(j)(2), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 107–110, title X, §1076(q), Jan. 8, 2002, 115 Stat. 2092, related to waiver authority of Secretary of Education.

Section 6213, Pub. L. 103–239, title V, §503, May 4, 1994, 108 Stat. 600, related to waiver authority of Secretary of Labor.

Section 6214, Pub. L. 103–239, title V, §504, May 4, 1994, 108 Stat. 601, related to combination of Federal funds for high poverty schools.

Section 6215, Pub. L. 103–239, title V, §505, May 4, 1994, 108 Stat. 602, related to combination of Federal funds by States for school-to-work activities.

SUBCHAPTER VI—GENERAL PROVISIONS

§§6231 to 6235. Omitted

CODIFICATION

Sections 6231 to 6235 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6231, Pub. L. 103–239, title VI, §601, May 4, 1994, 108 Stat. 603, related to requirements applicable to programs under this chapter.

Section 6232, Pub. L. 103–239, title VI, §602, May 4, 1994, 108 Stat. 604, related to sanctions.

Section 6233, Pub. L. 103–239, title VI, §603, May 4, 1994, 108 Stat. 604, related to State authority.

Section 6234, Pub. L. 103–239, title VI, §604, May 4, 1994, 108 Stat. 605, related to prohibition on Federal mandates, direction, and control.

Section 6235, Pub. L. 103–239, title VI, §605, May 4, 1994, 108 Stat. 605; Pub. L. 105–362, title VIII, §801(c)(6), Nov. 10, 1998, 112 Stat. 3288, authorized appropriations.

SUBCHAPTER VII—TECHNICAL PROVISIONS

§6251. Omitted

CODIFICATION

Section, Pub. L. 103–239, title VIII, §802, May 4, 1994, 108 Stat. 608, provided that the authority under this chapter terminated on Oct. 1, 2001.

CHAPTER 70—STRENGTHENING AND IMPROVEMENT OF ELEMENTARY AND SECONDARY SCHOOLS

SUBCHAPTER I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

Sec.

6301. Statement of purpose.
6302. Authorization of appropriations.
6303. School improvement.
6303a. Whole-school reform strategy.

6303b. Direct student services.
6304. State administration.

PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SUBPART 1—BASIC PROGRAM REQUIREMENTS

6311. State plans.
6312. Local educational agency plans.
6313. Eligible school attendance areas.
6314. Schoolwide programs.
6315. Targeted assistance schools.
6316, 6317. Repealed.
6318. Parent and family engagement.
6319. Repealed.
6320. Participation of children enrolled in private schools.
6321. Fiscal requirements.
6322. Coordination requirements.

SUBPART 2—ALLOCATIONS

6331. Grants for the outlying areas and the Secretary of the Interior.
6332. Allocations to States.
6333. Basic grants to local educational agencies.
6334. Concentration grants to local educational agencies.
6335. Targeted grants to local educational agencies.
6336. Adequacy of funding to local educational agencies in fiscal years after fiscal year 2001.
6337. Education finance incentive grant program.
6338. Special allocation procedures.
6339. Carryover and waiver.

PART B—STATE ASSESSMENT GRANTS

6361. Grants for State assessments and related activities.
6362. State option to conduct assessment system audit.
6363. Allotment of appropriated funds.
6364. Innovative assessment and accountability demonstration authority.

PART C—EDUCATION OF MIGRATORY CHILDREN

6391. Program purposes.
6392. Program authorized.
6393. State allocations.
6394. State applications; services.
6395. Secretarial approval; peer review.
6396. Comprehensive needs assessment and service-delivery plan; authorized activities.
6397. Bypass.
6398. Coordination of migrant education activities.
6399. Definitions.

PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

6421. Purpose and program authorization.
6422. Payments for programs under this part.

SUBPART 1—STATE AGENCY PROGRAMS

6431. Eligibility.
6432. Allocation of funds.
6433. State reallocation of funds.
6434. State plan and State agency applications.
6435. Use of funds.
6436. Institution-wide projects.

6437. Three-year programs or projects.
6438. Transition services.
6439. Technical assistance.

SUBPART 2—LOCAL AGENCY PROGRAMS

6451. Purpose.
6452. Programs operated by local educational agencies.
6453. Local educational agency applications.
6454. Uses of funds.
6455. Program requirements for correctional facilities receiving funds under this section.
6456. Accountability.

SUBPART 3—GENERAL PROVISIONS

6471. Program evaluations.
6472. Definitions.

PART E—FLEXIBILITY FOR EQUITABLE PER-PUPIL FUNDING

6491. Flexibility for equitable per-pupil funding.

PART F—GENERAL PROVISIONS

6571. Federal regulations.
6572. Agreements and records.
6573. State administration.
6574. Repealed.
6575. Prohibition against Federal mandates, direction, or control.
6576. Rule of construction on equalized spending.
6577, 6578. Repealed.

SUBCHAPTER II—PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS

6601. Purpose.
6602. Definitions.
6603. Authorization of appropriations.

PART A—SUPPORTING EFFECTIVE INSTRUCTION

6611. Formula grants to States.
6612. Subgrants to local educational agencies.
6613. Local uses of funds.
6614. Reporting.

PART B—NATIONAL ACTIVITIES

6621. Reservations.

SUBPART 1—TEACHER AND SCHOOL LEADER INCENTIVE PROGRAM

6631. Purposes; definitions.
6632. Teacher and school leader incentive fund grants.
6633. Reports.

SUBPART 2—LITERACY EDUCATION FOR ALL, RESULTS FOR THE NATION

6641. Purposes; definitions.
6642. Comprehensive literacy State development grants.
6643. Subgrants to eligible entities in support of birth through kindergarten entry literacy.
6644. Subgrants to eligible entities in support of kindergarten through grade 12 literacy.
6645. National evaluation and information dissemination.
6646. Innovative approaches to literacy.

SUBPART 3—AMERICAN HISTORY AND CIVICS EDUCATION

6661. Program authorized.
6662. Presidential and Congressional Academies for American History and Civics.
6663. National activities.

SUBPART 4—PROGRAMS OF NATIONAL SIGNIFICANCE

6671. Funding allotment.
6672. Supporting effective educator development.
6673. School leader recruitment and support.
6674. Technical assistance and national evaluation.
6675. STEM master teacher corps.

PART C—GENERAL PROVISIONS

6691. Supplement, not supplant.
6692. Rules of construction.

SUBCHAPTER III—LANGUAGE INSTRUCTION FOR ENGLISH LEARNERS AND IMMIGRANT STUDENTS

6801. Authorization of appropriations.

PART A—ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT

6811. Short title.
6812. Purposes.

SUBPART 1—GRANTS AND SUBGRANTS FOR ENGLISH LANGUAGE ACQUISITION AND LANGUAGE ENHANCEMENT

6821. Formula grants to States.
6822. Native American and Alaska Native children in school.
6823. State and specially qualified agency plans.
6824. Within-State allocations.
6825. Subgrants to eligible entities.
6826. Local plans.

SUBPART 2—ACCOUNTABILITY AND ADMINISTRATION

6841. Reporting.
6842. Repealed.
6843. Biennial reports.
6844. Coordination with related programs.
6845. Rules of construction.
6846. Legal authority under State law.
6847. Civil rights.
6848. Programs for Native Americans and Puerto Rico.
6849. Prohibition.

SUBPART 3—NATIONAL ACTIVITIES

6861. National professional development project.

SUBPART 4—DEFINITIONS

6871. Repealed.

PART B—GENERAL PROVISIONS

7011. Definitions.
7012. Repealed.
7013. National clearinghouse.
7014. Regulations.

SUBCHAPTER IV—21ST CENTURY SCHOOLS

PART A—STUDENT SUPPORT AND ACADEMIC ENRICHMENT GRANTS

7101. General provisions.
7102, 7103. Repealed.

SUBPART 1—STUDENT SUPPORT AND ACADEMIC ENRICHMENT GRANTS

7111. Purpose.
7112. Definitions.
7113. Formula grants to States.

7114. State use of funds.
7115. Allocations to local educational agencies.
7116. Local educational agency applications.
7117. Activities to support well-rounded educational opportunities.
7118. Activities to support safe and healthy students.
7119. Activities to support the effective use of technology.
7120. Supplement, not supplant.
7121. Rule of construction.
7122. Authorization of appropriations.

SUBPART 2—INTERNET SAFETY

7131. Internet safety.

SUBPART 3—GUN POSSESSION

7151. Transferred.

SUBPART 4—GENERAL PROVISIONS

7161 to 7164. Repealed.
7165. Transferred.

PART B—21ST CENTURY COMMUNITY LEARNING CENTERS

7171. Purpose; definitions.
7172. Allotments to States.
7173. State application.
7174. Local competitive subgrant program.
7175. Local activities.
7176. Authorization of appropriations.

PART C—EXPANDING OPPORTUNITY THROUGH QUALITY CHARTER SCHOOLS

7221. Purpose.
7221a. Program authorized.
7221b. Grants to support high-quality charter schools.
7221c. Facilities financing assistance.
7221d. National activities.
7221e. Federal formula allocation during first year and for successive enrollment expansions.
7221f. Solicitation of input from charter school operators.
7221g. Records transfer.
7221h. Paperwork reduction.
7221i. Definitions.
7221j. Authorization of appropriations.

PART D—MAGNET SCHOOLS ASSISTANCE

7231. Findings and purpose.
7231a. Definition.
7231b. Program authorized.
7231c. Eligibility.
7231d. Applications and requirements.
7231e. Priority.
7231f. Use of funds.
7231g. Repealed.
7231h. Limitations.
7231i. Repealed.
7231j. Authorization of appropriations; reservation.

PART E—FAMILY ENGAGEMENT IN EDUCATION PROGRAMS

7241. Purposes.
7242. Grants authorized.
7243. Applications.

7244. Uses of funds.
7245. Family engagement in Indian schools.
7246. Authorization of appropriations.

PART F—NATIONAL ACTIVITIES

7251. Authorization of appropriations; reservations.

SUBPART 1—EDUCATION INNOVATION AND RESEARCH

7261. Grants for education innovation and research.

SUBPART 2—COMMUNITY SUPPORT FOR SCHOOL SUCCESS

7271. Purposes.
7272. Definitions.
7273. Program authorized.
7274. Promise neighborhoods.
7275. Full-service community schools.

SUBPART 3—NATIONAL ACTIVITIES FOR SCHOOL SAFETY

7281. National activities for school safety.

SUBPART 4—ACADEMIC ENRICHMENT

7291. Awards for academic enrichment.
7292. Assistance for arts education.
7293. Ready to learn programming.
7294. Supporting high-ability learners and learning.

SUBCHAPTER V—FLEXIBILITY AND ACCOUNTABILITY

PART A—FUNDING TRANSFERABILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

7305. Short title.
7305a. Purpose.
7305b. Transferability of funds.

PART B—RURAL EDUCATION INITIATIVE

7341. Short title.
7341a. Purpose.

SUBPART 1—SMALL, RURAL SCHOOL ACHIEVEMENT PROGRAM

7345. Use of applicable funding.
7345a. Grant program authorized.
7345b. Repealed.

SUBPART 2—RURAL AND LOW-INCOME SCHOOL PROGRAM

7351. Program authorized.
7351a. Uses of funds.
7351b. Applications.
7351c. Report.
7351d. Choice of participation.

SUBPART 3—GENERAL PROVISIONS

7355. Annual average daily attendance determination.
7355a. Supplement, not supplant.
7355b. Rule of construction.
7355c. Authorization of appropriations.

PART C—GENERAL PROVISIONS

7371. Prohibition against Federal mandates, direction, or control.
7372. Rule of construction on equalized spending.

SUBCHAPTER VI—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

PART A—INDIAN EDUCATION

7401. Statement of policy.
7402. Purpose.

SUBPART 1—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

7421. Purpose.
7422. Grants to local educational agencies and tribes.
7423. Amount of grants.
7424. Applications.
7425. Authorized services and activities.
7426. Integration of services authorized.
7427. Student eligibility forms.
7428. Payments.
7429. State educational agency review.

SUBPART 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

7441. Improvement of educational opportunities for Indian children and youth.
7442. Professional development for teachers and education professionals.

SUBPART 3—NATIONAL ACTIVITIES

7451. National research activities.
7452. Grants to tribes for education administrative planning, development, and coordination.
7453. Native American and Alaska Native language immersion schools and programs.
7454 to 7456. Repealed or Transferred.

SUBPART 4—FEDERAL ADMINISTRATION

7471. National Advisory Council on Indian Education.
7472. Peer review.
7473. Preference for Indian applicants.
7474. Minimum grant criteria.

SUBPART 5—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

7491. Definitions.
7492. Authorizations of appropriations.

PART B—NATIVE HAWAIIAN EDUCATION

7511. Short title.
7512. Findings.
7513. Purposes.
7514. Native Hawaiian Education Council.
7515. Program authorized.
7516. Administrative provisions.
7517. Definitions.

PART C—ALASKA NATIVE EDUCATION

7541. Short title.
7542. Findings.
7543. Purposes.
7544. Program authorized.
7545. Administrative provisions.
7546. Definitions.

SUBCHAPTER VII—IMPACT AID

7701. Purpose.
7702. Payments relating to Federal acquisition of real property.
7703. Payments for eligible federally connected children.
7703a. Impact aid for children with severe disabilities.
7703b. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
7704. Policies and procedures relating to children residing on Indian lands.

7705. Application for payments under sections 7702 and 7703 of this title.
7707. Construction.
7708. Facilities.
7709. State consideration of payments in providing State aid.
7710. Federal administration.
7711. Administrative hearings and judicial review.
7712. Forgiveness of overpayments.
7713. Definitions.
7713a. School facilities for children of Government employees and other residents in Indian reservations, national parks, and national monuments.
7714. Authorization of appropriations.

SUBCHAPTER VIII—GENERAL PROVISIONS

PART A—DEFINITIONS

7801. Definitions.
7802. Applicability of subchapter.
7803. Applicability to Bureau of Indian Education operated schools.

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

7821. Consolidation of State administrative funds for elementary and secondary education programs.
7822. Single local educational agency States.
7823. Consolidation of funds for local administration.
7824. Consolidated set-aside for Department of the Interior funds.
7825. Department staff.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

7841. Purposes.
7842. Optional consolidated State plans or applications.
7843. Consolidated reporting.
7844. General applicability of State educational agency assurances.
7845. Consolidated local plans or applications.
7846. Other general assurances.

PART D—WAIVERS

7861. Waivers of statutory and regulatory requirements.

PART E—APPROVAL AND DISAPPROVAL OF STATE PLANS AND LOCAL APPLICATIONS

7871. Approval and disapproval of State plans.
7872. Approval and disapproval of local educational agency applications.

PART F—UNIFORM PROVISIONS

SUBPART 1—PRIVATE SCHOOLS

7881. Participation by private school children and teachers.
7882. Standards for by-pass.
7883. Complaint process for participation of private school children.
7884. By-pass determination process.
7885. Prohibition against funds for religious worship or instruction.
7886. Private, religious, and home schools.

SUBPART 2—OTHER PROVISIONS

7901. Maintenance of effort.
7902. Prohibition regarding State aid.
7903. Privacy of assessment results.
7904. School prayer.
7905. Equal access to public school facilities.
7906. Prohibited uses of funds.

7906a. Prohibition against Federal mandates, direction, or control.
7907. Prohibitions on Federal Government and use of Federal funds.
7908. Armed Forces recruiter access to students and student recruiting information.
7909. Prohibition on federally sponsored testing.
7910. Limitations on national testing or certification for teachers, principals, or other school leaders.
7910a. Prohibition on requiring State participation.
7911. Prohibition on nationwide database.
7912. Unsafe school choice option.
7913. Prohibition on discrimination.
7914. Civil rights.
7915. Rulemaking.
7916. Severability.
7917. Transfer of school disciplinary records.
7918. Consultation with Indian tribes and tribal organizations.
7919. Outreach and technical assistance for rural local educational agencies.
7920. Consultation with the Governor.
7921. Local governance.
7922. Rule of construction regarding travel to and from school.
7923. Limitations on school-based health centers.
7924. State control over standards.
7925. Sense of Congress on protecting student privacy.
7926. Prohibition on aiding and abetting sexual abuse.
7927. Sense of Congress on restoration of State sovereignty over public education.
7928. Privacy.
7929. Analysis and periodic review of departmental guidance.
7930. Sense of Congress.
7931. Sense of Congress on early learning and child care.
7932. Technical assistance.
7933. Preventing improper use of taxpayer funds.
7934. Accountability to taxpayers through monitoring and oversight.

SUBPART 3—TEACHER LIABILITY PROTECTION

7941. Short title.
7942. Purpose.
7943. Definitions.
7944. Applicability.
7945. Preemption and election of State nonapplicability.
7946. Limitation on liability for teachers.
7947. Allocation of responsibility for noneconomic loss.
7948. Effective date.

SUBPART 4—GUN POSSESSION

7961. Gun-free requirements.

SUBPART 5—ENVIRONMENTAL TOBACCO SMOKE

7971. Short title.
7972. Definitions.
7973. Nonsmoking policy for children's services.
7974. Preemption.

PART G—EVALUATIONS

7981. Evaluations.

SUBCHAPTER X—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

8001 to 8007. Repealed.

PART B—GIFTED AND TALENTED CHILDREN

8031 to 8037. Repealed.

PART C—PUBLIC CHARTER SCHOOLS

SUBPART 1—BASIC CHARTER SCHOOL GRANT PROGRAM

8061 to 8067. Repealed.

SUBPART 2—CREDIT ENHANCEMENT INITIATIVES TO ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

8071 to 8071j. Repealed.

PART D—ARTS IN EDUCATION

SUBPART 1—ARTS EDUCATION

8091. Repealed.

SUBPART 2—CULTURAL PARTNERSHIPS FOR AT-RISK CHILDREN AND YOUTH

8101 to 8105. Repealed.

PART E—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

8131. Repealed.

PART F—CIVIC EDUCATION

8141 to 8143. Repealed.

PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

8161. Repealed.

SUBPART 1—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL STUDENTS

8171, 8172. Repealed.

SUBPART 2—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL TEACHERS

8181, 8182. Repealed.

SUBPART 3—PROGRAMS FOR RECENT IMMIGRANTS, STUDENTS OF MIGRANT PARENTS AND OLDER AMERICANS

8191, 8192. Repealed.

SUBPART 4—GENERAL PROVISIONS

8201, 8202. Repealed.

PART H—DE LUGO TERRITORIAL EDUCATION IMPROVEMENT PROGRAM

8221 to 8224. Repealed.

PART I—21ST CENTURY COMMUNITY LEARNING CENTERS

8241 to 8247. Repealed.

PART J—URBAN AND RURAL EDUCATION ASSISTANCE

8271, 8272. Repealed.

SUBPART 1—URBAN EDUCATION DEMONSTRATION GRANTS

8281 to 8284. Repealed.

SUBPART 2—RURAL EDUCATION INITIATIVE

8291 to 8297. Repealed.

SUBPART 3—WHITE HOUSE CONFERENCES

8311, 8312. Repealed.

PART K—NATIONAL WRITING PROJECT

8331, 8332. Repealed.

PART L—PHYSICAL EDUCATION FOR PROGRESS

8351 to 8361. Repealed.

PART M—TERRITORIAL ASSISTANCE

8371. Repealed.

SUBCHAPTER XI—COORDINATED SERVICES

8401 to 8407. Repealed.

SUBCHAPTER XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT

8501 to 8513. Repealed.

SUBCHAPTER XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION

8601, 8602. Repealed.

PART A—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

8621 to
8625.
Transferred.

PART B—NATIONAL DIFFUSION NETWORK

8651,
8652.
Transferred.

PART C—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

8671 to
8678.
Transferred.

PART D—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

8701. Transferred.

SUBCHAPTER XIV—GENERAL PROVISIONS

PART A—DEFINITIONS

8801 to 8803. Repealed.

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

8821 to 8826. Repealed.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

8851 to 8857. Repealed.

PART D—WAIVERS

8881. Repealed.

PART E—UNIFORM PROVISIONS

8891 to 8904. Repealed.

PART F—GUN POSSESSION

8921 to 8923. Repealed.

PART G—EVALUATIONS

8941. Repealed.

PART H—SENSE OF CONGRESS

8961, 8962. Repealed.

CODIFICATION

The Elementary and Secondary Education Act of 1965, comprising this chapter, was originally enacted as Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and amended by Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191; Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 90–576, title III, §307, Oct. 16, 1968, 82 Stat. 1097; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–193, §1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–273, §§2(12), 3(8), 49(a)–(c), Apr. 21, 1976, 90 Stat. 375, 376, 382; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–112, Aug. 24, 1977, 91 Stat. 911, and was classified to sections 241a et seq., 242 et seq., 331 et seq., 821 et seq., and 1801 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, and amended by Pub. L. 96–46, Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 96–470, Oct. 19, 1980, 94 Stat. 2237; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–211, Dec. 8, 1983, 97 Stat. 1412; Pub. L. 98–511, Oct. 19, 1984, 98 Stat. 2366; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887, and was classified to section 2701 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, and amended by Pub. L. 100–569, Oct. 31, 1988, 102 Stat. 2862; Pub. L. 100–570, Oct. 31, 1988, 102 Stat. 2865; Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4181; Pub. L. 101–226, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–250, Mar. 6, 1990, 104 Stat. 96; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 101–589, Nov. 16, 1990, 104 Stat. 2881; Pub. L. 101–600, Nov. 16, 1990, 104 Stat. 3042; Pub. L. 101–647, Nov. 29, 1990, 104 Stat. 4789; Pub. L. 102–62, June 27, 1991, 105 Stat. 305; Pub. L. 102–73, July 25, 1991, 105 Stat. 333; Pub. L. 102–103, Aug. 17, 1991, 105 Stat. 497; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 102–359, Aug. 26, 1992, 106 Stat. 962; Pub. L. 102–545, Oct. 27, 1992, 106 Stat. 3586; Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125; Pub. L. 103–252, May 18, 1994, 108 Stat. 623, and was classified to section 2701 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518, and amended by Pub. L. 104–5, Mar. 23, 1995, 109 Stat. 72; Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 186; Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321; Pub. L. 104–140, May 2, 1996, 110 Stat. 1327; Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105; Pub. L. 104–195, Sept. 16, 1996, 110 Stat. 2379; Pub. L. 104–201, Sept. 23, 1996, 110 Stat. 2422; Pub. L. 104–208, Sept. 30, 1996, 110 Stat. 3009; Pub. L. 105–18, June 12, 1997, 111 Stat. 158; Pub. L. 105–78, Nov. 13, 1997, 111 Stat. 1467; Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936; Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581; Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681; Pub. L. 105–278, Oct. 22, 1998, 112 Stat. 2682; Pub. L. 105–332, Oct. 31, 1998, 112 Stat. 3076; Pub. L. 106–78, Oct. 22, 1999, 113 Stat. 1135; Pub. L. 106–113, Nov. 29, 1999, 113 Stat. 1501; Pub. L. 106–398, Oct. 30, 2000, 114 Stat. 1654; Pub. L. 106–400, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 106–554, Dec. 21, 2000, 114 Stat. 2763; Pub. L. 107–20, July 24, 2001, 115 Stat. 155, and is classified to section 6301 et seq. of this title. Certain titles and parts of titles of the Act are shown, herein, however, as having been added by Pub. L. 107–110 without reference to such intervening amendments because of the extensive amendments, renumbering, and reorganization of these provisions by Pub. L. 107–110.

SUBCHAPTER I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

CODIFICATION

Title I of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title I is shown, herein, as having been added by Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1439, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding this chapter.

§6301. Statement of purpose

The purpose of this subchapter is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.

(Pub. L. 89–10, title I, §1001, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1439; amended Pub. L. 114–95, title I, §1001, Dec. 10, 2015, 129 Stat. 1814.)

PRIOR PROVISIONS

A prior section 6301, Pub. L. 89–10, title I, §1001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, declared policy and stated purpose of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1001 of Pub. L. 89–10 was classified to section 2701 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Another prior section 1001 of Pub. L. 89–10 was renumbered section 9001 and was classified to section 3381 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section set forth purpose of subchapter and included provisions relating to how this purpose could be accomplished.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–95, §5, Dec. 10, 2015, 129 Stat. 1806, provided that:

"(a) IN GENERAL.—Except as otherwise provided in this Act [see Tables for classification], or an amendment made by this Act, this Act, and the amendments made by this Act, shall be effective upon the date of enactment of this Act [Dec. 10, 2015].

"(b) NONCOMPETITIVE PROGRAMS.—With respect to noncompetitive programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq) and the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) under which any funds are allotted by the Secretary of Education to recipients on the basis of a formula, the amendments made by this Act shall be effective beginning on July 1, 2016, except as otherwise provided in such amendments.

"(c) COMPETITIVE PROGRAMS.—With respect to programs that are conducted by the Secretary of Education on a competitive basis (and are not programs described in subsection (b)) under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the amendments made by this Act with respect to appropriations for use under such programs shall be effective beginning on October 1, 2016, except as otherwise provided in such amendments.

"(d) IMPACT AID.—With respect to title VII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], as amended by this Act, the amendments made by this Act shall take effect with respect to appropriations for use under such title beginning fiscal year 2017, except as otherwise provided in such amendments.

"(e) TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

"(1) EFFECTIVE DATES FOR SECTION 1111 OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Notwithstanding any other provision of this Act, or the amendments made by this Act, and subject to paragraph (2) of this subsection—

"(A) section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)), as in effect on the day before the date of enactment of this Act, shall be effective through the close of August 1, 2016;

"(B) subsections (c) and (d) of section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), as amended by this Act, shall take effect beginning with school year 2017–2018; and

"(C) section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)), as amended by this Act, and any other provision of section 1111 of such Act (20 U.S.C. 6311), as amended by this Act, which is not described in subparagraph (B) of this paragraph, shall take effect in a manner consistent with subsection (a).

"(2) SPECIAL RULE.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act (including subsection (b) and paragraph (1)), any school or local educational agency described in subparagraph (B) shall continue to implement interventions applicable to such school or local educational agency under clause (i) or (ii) of subparagraph (B) until—

"(i) the State plan for the State in which the school or agency is located under section 1111

of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), as amended by this Act, is approved under such section (20 U.S.C. 6311); or

"(ii) subsections (c) and (d) of section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), as amended by this Act, take effect in accordance with paragraph (1)(B), whichever occurs first.

"(B) CERTAIN SCHOOLS AND LOCAL EDUCATIONAL AGENCIES.—A school or local educational agency shall be subject to the requirements of subparagraph (A), if such school or local educational agency has been identified by the State in which the school or local educational agency is located—

"(i) as in need of improvement, corrective action, or restructuring under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), as in effect on the day before the date of enactment of this Act; or

"(ii) as a priority or focus school under a waiver granted by the Secretary of Education under section 9401 [now 8401] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7861), as in effect on the day before the date of enactment of this Act."

EFFECTIVE DATE

Pub. L. 107–110, §5, Jan. 8, 2002, 115 Stat. 1427, provided that:

"(a) IN GENERAL.—Except as otherwise provided in this Act [see Tables for classification], this Act, and the amendments made by this Act, shall be effective upon the date of enactment of this Act [Jan. 8, 2002].

"(b) NONCOMPETITIVE PROGRAMS.—With respect to noncompetitive programs under which any funds are allotted by the Secretary of Education to recipients on the basis of a formula, this Act, and the amendments made by this Act, shall take effect on July 1, 2002.

"(c) COMPETITIVE PROGRAMS.—With respect to programs that are conducted by the Secretary on a competitive basis, this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under those programs for fiscal year 2002.

"(d) IMPACT AID.—With respect to title VIII (Impact Aid) [probably meant title VIII (now VII) of Pub. L. 89–10, 20 U.S.C. 7701 et seq.], this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under that title for fiscal year 2002."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–95, §1, Dec. 10, 2015, 129 Stat. 1802, provided that: "This Act [see Tables for classification] may be cited as the 'Every Student Succeeds Act'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title V, §563(a), Jan. 2, 2013, 126 Stat. 1744, provided that: "This section [amending sections 7702, 7703, and 7710 of this title and enacting provisions set out as a note under section 7702 of this title] may be cited as the 'Impact Aid Improvement Act of 2012'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–110, §1, Jan. 8, 2002, 115 Stat. 1425, provided that: "This title [probably means Pub. L. 107–110, see Tables for classification] may be cited as the 'No Child Left Behind Act of 2001'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1601], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, provided that: "This title [amending sections 6302, 6311, 6361 to 6368, 6369b, 6394, 6661a, 6661i, and 8801 of this title and sections 2023 and 2026 of Title 25, Indians, and enacting provisions set out as a note under section 6361 of this title] may be cited as the 'Literacy Involves Families Together Act'."

Pub. L. 106–554, §1(a)(4) [div. B, title XVII, §1701], Dec. 21, 2000, 114 Stat. 2763, 2763A–335, provided that: "This title [enacting part F of subchapter III of this chapter, amending section 9134 of this title and section 254 of Title 47, Telecommunications, and enacting provisions set out as notes under sections 7001 and 9134 of this title and sections 254, 609, and 902 of Title 47] may be cited as the 'Children's Internet Protection Act'."

Pub. L. 106–398, §1 [[div. A], title XVIII, §1801], Oct. 30, 2000, 114 Stat. 1654, 1654A–368, provided that: "This title [amending sections 1228, 7701 to 7703, 7705, 7707, 7709 to 7713, and 7714 of this title, repealing section 7706 of this title, and enacting provisions set out as notes under sections 7701, 7703, and 7711 of this title] may be cited as the 'Impact Aid Reauthorization Act of 2000'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–278, §1, Oct. 22, 1998, 112 Stat. 2682, provided that: "This Act [enacting sections 8065a to 8065d of this title and amending sections 7331, 7351, 8061 to 8065, 8066, 8067, and 8801 of this title] may be cited as the 'Charter School Expansion Act of 1998'."

Pub. L. 105–277, div. D, title I, §121, Oct. 21, 1998, 112 Stat. 2681–756, provided that: "This subtitle [subtitle C (§§121, 122) of title I of Pub. L. 105–277, enacting section 7144 of this title] may be cited as the 'Drug-Free Schools Quality Assurance Act'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–382, §1, Oct. 20, 1994, 108 Stat. 3518, provided that: "This Act [see Tables for classification] may be cited as the 'Improving America's Schools Act of 1994'."

Pub. L. 103–227, title X, §1031, Mar. 31, 1994, 108 Stat. 270, provided that: "This part [part B (§§1031, 1032) of title X of Pub. L. 103–227, enacting section 3351 of this title and amending sections 3381 to 3384 and 3386 of this title] may be cited as the 'Gun-Free Schools Act of 1994'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–545, §1, Oct. 27, 1992, 106 Stat. 3586, provided that: "This Act [see Tables for classification] may be cited as the 'Ready to Learn Act'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–103, title I, §101, Aug. 17, 1991, 105 Stat. 497, provided that: "This title [see Tables for classification] may be cited as the 'National Dropout Prevention Act of 1991'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–600, §1, Nov. 16, 1990, 104 Stat. 3042, provided that: "This Act [see Tables for classification] may be cited as the 'School Dropout Prevention and Basic Skills Improvement Act of 1990'."

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–226, §1, Dec. 12, 1989, 103 Stat. 1928, provided that: "This Act [see Tables for classification] may be cited as the 'Drug-Free Schools and Communities Act Amendments of 1989'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–569, title II, §201, Oct. 31, 1988, 102 Stat. 2862, provided that: "This title [see Tables for classification] may be cited as the 'National Geography Studies Centers Act'."

Pub. L. 100–297, §1(a), Apr. 28, 1988, 102 Stat. 130, provided that: "This Act [see Tables for classification] may be cited as the 'Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–511, §1, Oct. 19, 1984, 98 Stat. 2366, provided that: "This Act [see Tables for classification] may be cited as the 'Education Amendments of 1984'."

Pub. L. 98–511, title IV, §401(a), Oct. 19, 1984, 98 Stat. 2389, provided that: "This title [see Tables for classification] may be cited as the 'Women's Educational Equity Amendments of 1984'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–561, §1, Nov. 1, 1978, 92 Stat. 2143, provided: "That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1978'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–112, §1, Sept. 24, 1977, 91 Stat. 911, provided: "That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1977'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–380, §1, Aug. 21, 1974, 88 Stat. 484, provided: "That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1974'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121 [see Tables for classification], is popularly known as the "Elementary and Secondary Education Amendments of 1970".

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–247, §1, Jan. 2, 1968, 81 Stat. 783, provided that: "This Act [see Tables for classification] may be cited as the 'Elementary and Secondary Education Amendments of 1967'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–750, §1, Nov. 3, 1966, 80 Stat. 1191, provided: "That this Act [see Tables for classification] may be cited as the 'Elementary and Secondary Education Amendments of 1966'."

SHORT TITLE

Section 1 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, as amended by Pub. L. 107–110, §6(1), Jan. 8, 2002, 115 Stat. 1427, provided that: "This Act [enacting this chapter] may be cited as the 'Elementary and Secondary Education Act of 1965'."

Pub. L. 89–10, title X, §10971, as added by Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, which provided that subpart 2 (§§10971–10978) of part J of title X of Pub. L. 89–10, enacting subpart 2 of part J of former subchapter X of this chapter, could be cited as the "Rural Education Achievement Program", was repealed by Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

Pub. L. 89–10, title X, §10999A, as added by Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–76, which provided that part L (§§10999A–10999L) of title X of Pub. L. 89–10, enacting part L of former subchapter X of this chapter, could be cited as the "Physical Education for Progress Act", was repealed by Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

CONTINUATION OF AWARDS

Pub. L. 107–110, title II, §202, Jan. 8, 2002, 115 Stat. 1688, provided that: "Notwithstanding any other provision of this Act [see Tables for classification] or the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], in the case of—

"(1) a person or entity that, prior to the date of enactment of this Act [Jan. 8, 2002], was awarded funds appropriated under the Department of Education Appropriations Act, 2001 [Pub. L. 106–554, §1(a)(1) [title III], see Tables for classification] for new teacher recruitment initiatives; or

"(2) a person or agency that, prior to the date of enactment of this Act [Jan. 8, 2002], was awarded a grant or contract under part K of title X of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 8331 et seq.),

the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates."

Pub. L. 107–110, title V, §502, Jan. 8, 2002, 115 Stat. 1873, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of this Act [see Tables for classification] or the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), in the case of any agency or consortium that was awarded a grant under section 5111 of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 7211) or any person or agency that was awarded a contract or grant under part B, D, or E of title X of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 8031 et seq., 8091 et seq., 8131 et seq.), prior to the date of enactment of this Act [Jan. 8, 2002], the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

"(b) SPECIAL RULE.—Notwithstanding any other provision of this Act, any person or agency that was awarded or entered into a grant, contract, or cooperative agreement under part B of title V of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 7231 et seq.), prior to the date of enactment of this Act [Jan. 8, 2002] shall continue to receive funds in accordance with the terms of such grant, contract, or agreement until the date on which the grant, contract, or agreement period terminates under such terms."

Pub. L. 107–110, title X, §1052, Jan. 8, 2002, 115 Stat. 2083, provided that: "Notwithstanding any other provision of this Act [see Tables for classification] or the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), in the case of a person or entity that was awarded a grant, relating to preparing tomorrow's teachers to use technology, that was made pursuant to section 3122 of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 6832) prior to the date of enactment of this Act [Jan. 8, 2002], the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates."

TRANSITION PROVISIONS

Pub. L. 114–95, §4, Dec. 10, 2015, 129 Stat. 1805, provided that:

"(a) FUNDING AUTHORITY.—

"(1) MULTI-YEAR AWARDS.—

"(A) PROGRAMS NO LONGER AUTHORIZED.—Except as otherwise provided in this Act

[see Tables for classification] or the amendments made by this Act, the recipient of a multiyear award under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as in effect on the day before the date of enactment of this Act [Dec. 10, 2015], under a program that is not authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by this Act, and—

"(i) that is not substantively similar to a program authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by this Act, shall continue to receive funds in accordance with the terms of such prior award, except that no additional funds for such program may be awarded after September 30, 2016; and

"(ii) that is substantively similar to a program authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by this Act, shall continue to receive funds in accordance with the terms of such prior award.

"(B) AUTHORIZED PROGRAMS.—Except as otherwise provided in this Act, or the amendments made by this Act, the recipient of a multiyear award under a program that was authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as in effect on the day before the date of enactment of this Act, and that is authorized under such Act (20 U.S.C. 6301 et seq.), as amended by this Act, shall continue to receive funds in accordance with the terms of such prior award.

"(2) PLANNING AND TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under a program described in paragraph (1)(A)(ii) or (1)(B) may use funds awarded to the recipient under such program, to carry out necessary and reasonable planning and transition activities in order to ensure the recipient's compliance with the amendments to such program made by this Act.

"(b) ORDERLY TRANSITION.—Subject to subsection (a)(1)(A)(i), the Secretary shall take such steps as are necessary to provide for the orderly transition to, and implementation of, programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et. seq.), as amended by this Act, from programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as in effect on the day before the date of enactment of this Act.

"(c) TERMINATION OF CERTAIN WAIVERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, and subject to section 5(e)(2) [set out as an Effective Date of 2015 Amendment note above], a waiver described in paragraph (2) shall be null and void and have no legal effect on or after August 1, 2016.

"(2) WAIVERS.—A waiver shall be subject to paragraph (1) if the waiver was granted by the Secretary of Education to a State or consortium of local educational agencies under the program first introduced in a letter to chief State school officers dated September 23, 2011, and authorized under section 9401 [now 8401] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7861), as in effect on the day before the date of enactment of this Act."

Pub. L. 107–110, §4, Jan. 8, 2002, 115 Stat. 1426, provided that:

"(a) MULTI-YEAR AWARDS.—Except as otherwise provided in this Act [see Tables for classification], the recipient of a multi-year award under the Elementary and Secondary Education Act of 1965 [Pub. L. 89–10, 20 U.S.C. 6301 et seq., prior to general amendment by Pub. L. 107–110], as that Act was in effect prior to the date of enactment of this Act [Jan. 8, 2002], shall continue to receive funds in accordance with the terms of that award, except that no additional funds may be awarded after September 30, 2002.

"(b) PLANNING AND TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as that Act was in effect prior to the date of enactment of this Act, may use funds available to the recipient under that predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure an orderly implementation of programs authorized by this Act, and the amendments made by this Act.

"(c) ORDERLY TRANSITION.—The Secretary shall take such steps as are necessary to provide for the orderly transition to, and implementation of, programs authorized by this Act, and by the amendments made by this Act, from programs authorized by the Elementary and Secondary Education Act of 1965, as that Act was in effect prior to the date of enactment of this Act."

Pub. L. 103–382, §3(b), Oct. 20, 1994, 108 Stat. 3519, provided that: "Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965 [Pub. L. 89–10, formerly chapter 47 (§2701 et seq.) of this title, prior to general amendment by Pub. L. 103–382, §101], as such Act was in effect on the day preceding the date of enactment of this Act [Oct. 20, 1994], may use funds available to such recipient under such predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act [see Tables for classification]."

BUDGET COMPLIANCE

Pub. L. 103–382, title V, §561, Oct. 20, 1994, 108 Stat. 4058, provided that: "Any authority or requirement to make funds available under this Act [see Tables for classification] shall be effective only to the extent provided in appropriations Acts."

Pub. L. 100–297, title VI, §6302, Apr. 28, 1988, 102 Stat. 431, provided that: "Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974 [2 U.S.C. 651]) which is provided under this Act [see Tables for classification] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts."

EX. ORD. NO. 13153. ACTIONS TO IMPROVE LOW-PERFORMING SCHOOLS

Ex. Ord. No. 13153, May 3, 2000, 65 F.R. 26475, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Elementary and Secondary Education Act of 1965 (ESEA) [20 U.S.C. 6301 et seq.], the Department of Education Appropriations Act, 2000 (as contained in Public Law 106–113) [Pub. L. 106–113, div. B, §1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A–242, see Tables for classification], and in order to take actions to improve low-performing schools, it is hereby ordered as follows:

SECTION 1. *Policy*. Since 1993, this Administration has sought to raise standards for students and to increase accountability in public education while investing more resources in elementary and secondary schools. While much has been accomplished—there has been progress in math and reading achievement, particularly for low-achieving students and students in our highest poverty schools—much more can be done, especially for low-performing schools.

SEC. 2. *Technical Assistance and Capacity Building*. (a) The Secretary of Education ("Secretary") shall work with State and local educational agencies ("LEAs") to develop and implement a comprehensive strategy for providing technical assistance and other assistance to States and LEAs to strengthen their capacity to improve the performance of schools identified as low performing. This comprehensive strategy shall include a number of steps, such as:

(1) providing States, school districts, and schools receiving funds from the school improvement fund established by Public Law 106–113, as well as other districts and schools identified for school improvement or corrective action under Title I of the ESEA [20 U.S.C. 6301 et seq.], with access to the latest research and information on best practices, including research on instruction and educator professional development, and with the opportunity to learn from exemplary schools and exemplary State and local intervention strategies and from each other, in order to improve achievement for all students in the low-performing schools;

(2) determining effective ways of providing low-performing schools with access to resources from other Department of Education programs, such as funds from the Comprehensive School Reform Demonstration Program, the Reading Excellence Act [Pub. L. 105–277, div. A, §101(f) [title VIII], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391, see Tables for classification], the Eisenhower Professional Development Program, the Class Size Reduction Program, and the 21st Century Community Learning Centers Program, and to make effective use of these funds and Title I funds;

(3) providing States and LEAs with information on effective strategies to improve the quality of the teaching force, including strategies for recruiting and retaining highly qualified teachers in high-poverty schools, and implementing research-based professional development programs aligned with challenging standards;

(4) helping States and school districts build partnerships with technical assistance providers, including, but not limited to, federally funded laboratories and centers, foundations, businesses, community-based organizations, institutions of higher education, reform model providers, and other organizations that can help local schools improve;

(5) identifying previously low-performing schools that have made significant achievement gains, and States and school districts that have been effective in improving the achievement of all students in low-performing schools, which can serve as models and resources;

(6) providing assistance and information on how to effectively involve parents in the school-improvement process, including effectively involving and informing parents at the beginning of the school year about improvement goals for their school as well as the goals for their own children, and reporting on progress made in achieving these goals;

(7) providing States and LEAs with information on effective approaches to school accountability, including the effectiveness of such strategies as school reconstitution, peer review teams, and financial rewards and incentives;

(8) providing LEAs with information and assistance on the design and implementation of approaches

to choice among public schools that create incentives for improvement throughout the local educational agency, especially in the lowest-performing schools, and that maximize the opportunity of students in low-performing schools to attend a higher-performing public school;

(9) exploring the use of well-trained tutors to raise student achievement through initiatives such as "America Reads," "America Counts," and other work-study opportunities to help low-performing schools;

(10) using a full range of strategies for disseminating information about effective practices, including interactive electronic communications;

(11) working with the Department of Interior, Bureau of Indian Affairs (BIA), to provide technical assistance to BIA-funded low-performing schools; and

(12) taking other steps that can help improve the quality of teaching and instruction in low-performing schools.

(b) The Secretary shall, to the extent permitted by law, take whatever steps the Secretary finds necessary and appropriate to redirect the resources and technical assistance capability of the Department of Education ("Department") to assist States and localities in improving low-performing schools, and to ensure that the dissemination of research to help turn around low-performing schools is a priority of the Department.

SEC. 3. *School Improvement Report*. To monitor the progress of LEAs and schools in turning around failing schools, including those receiving grants from the School Improvement Fund, the Secretary shall prepare an annual School Improvement Report, to be published in September of each year, beginning in 2000. The report shall:

(a) describe trends in the numbers of LEAs and schools identified as needing improvement and subsequent changes in the academic performance of their students;

(b) identify best practices and significant research findings that can be used to help turn around low-performing LEAs and schools; and

(c) document ongoing efforts as a result of this order and other Federal efforts to assist States and local school districts in intervening in low-performing schools, including improving teacher quality. This report shall be publicly accessible.

SEC. 4. *Compliance Monitoring System*. Consistent with the implementation of the School Improvement Fund, the Secretary shall strengthen the Department's monitoring of ESEA requirements for identifying and turning around low-performing schools, as well as any new requirements established for the School Improvement Fund by Public Law 106–113. The Secretary shall give priority to provisions that have the greatest bearing on identifying and turning around low-performing schools, including sections 1116 and 1117 of the ESEA [former 20 U.S.C. 6316, 6317], and to developing an ongoing, focused, and systematic process for monitoring these provisions. This improved compliance monitoring shall be designed to:

(a) ensure that States and LEAs comply with ESEA requirements;

(b) assist States and LEAs in implementing effective procedures and strategies that reflect the best research available, as well as the experience of successful schools, school districts, and States as they address similar objectives and challenges; and

(c) assist States, LEAs, and schools in making the most effective use of available Federal resources.

SEC. 5. *Consultation*. The Secretary shall, where appropriate, consult with executive agencies, State and local education officials, educators, community-based groups, and others in carrying out this Executive order.

SEC. 6. *Judicial Review*. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

DEFINITIONS

Pub. L. 100–297, title VI, §6301, Apr. 28, 1988, 102 Stat. 431, provided that: "Except as otherwise provided, for the purpose of this Act [see Tables for classification] the terms used in this Act have the meanings provided under section 1471 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2891]."

§6302. Authorization of appropriations

(a) Local educational agency grants

There are authorized to be appropriated to carry out the activities described in part A—

(1) $15,012,317,605 for fiscal year 2017;
(2) $15,457,459,042 for fiscal year 2018;
(3) $15,897,371,442 for fiscal year 2019; and
(4) $16,182,344,591 for fiscal year 2020.

(b) State assessments

There are authorized to be appropriated to carry out the activities described in part B, $378,000,000 for each of fiscal years 2017 through 2020.

(c) Education of migratory children

There are authorized to be appropriated to carry out the activities described in part C, $374,751,000 for each of fiscal years 2017 through 2020.

(d) Prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk

There are authorized to be appropriated to carry out the activities described in part D, $47,614,000 for each of fiscal years 2017 through 2020.

(e) Federal activities

For the purpose of carrying out evaluation activities related to subchapter I under section 7981 of this title, there are authorized to be appropriated $710,000 for each of fiscal years 2017 through 2020.

(f) Sense of Congress regarding adjustments to authorizations of appropriations provided in this chapter for future budget agreements

It is the sense of Congress that if legislation is enacted that revises the limits on discretionary spending established under section 901(c) of title 2, the levels of appropriations authorized throughout this chapter should be adjusted in a manner that is consistent with the adjustments in nonsecurity category funding provided for under the revised limits on discretionary spending.

(Pub. L. 89–10, title I, §1002, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1440; amended Pub. L. 114–95, title I, §1002, Dec. 10, 2015, 129 Stat. 1814.)

PRIOR PROVISIONS

A prior section 6302, Pub. L. 89–10, title I, §1002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3522; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1602], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1002 of Pub. L. 89–10 was renumbered section 9002 and was classified to section 3382 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (i) relating to authorization of appropriations for fiscal years 2002 through 2007.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6303. School improvement

(a) State reservations

To carry out subsection (b) and the State educational agency's statewide system of technical assistance and support for local educational agencies, each State shall reserve the greater of—

(1) 7 percent of the amount the State receives under subpart 2 of part A; or
(2) the sum of the amount the State—
(A) reserved for fiscal year 2016 under this subsection, as in effect on the day before

December 10, 2015; and

(B) received for fiscal year 2016 under subsection (g), as in effect on the day before December 10, 2015.

(b) Uses

Of the amount reserved under subsection (a) for any fiscal year, the State educational agency—

(1)(A) shall allocate not less than 95 percent of that amount to make grants to local educational agencies on a formula or competitive basis, to serve schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title; or

(B) may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams, educational service agencies, or nonprofit or for-profit external providers with expertise in using evidence-based strategies to improve student achievement, instruction, and schools; and

(2) shall use the funds not allocated to local educational agencies under paragraph (1) to carry out this section, which shall include—

(A) establishing the method, consistent with paragraph (1)(A), the State will use to allocate funds to local educational agencies under such paragraph, including ensuring—

(i) the local educational agencies receiving an allotment under such paragraph represent the geographic diversity of the State; and

(ii) that allotments are of sufficient size to enable a local educational agency to effectively implement selected strategies;

(B) monitoring and evaluating the use of funds by local educational agencies receiving an allotment under such paragraph; and

(C) as appropriate, reducing barriers and providing operational flexibility for schools in the implementation of comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title.

(c) Duration

The State educational agency shall award each subgrant under subsection (b) for a period of not more than 4 years, which may include a planning year.

(d) Rule of construction

Nothing in this section shall be construed as prohibiting a State from allocating subgrants under this section to a statewide school district, consortium of local educational agencies, or an educational service agency that serves schools implementing comprehensive support and improvement activities or targeted support and improvement activities, if such entities are legally constituted or recognized as local educational agencies in the State.

(e) Application

To receive an allotment under subsection (b)(1), a local educational agency shall submit an application to the State educational agency at such time, in such form, and including such information as the State educational agency may require. Each application shall include, at a minimum—

(1) a description of how the local educational agency will carry out its responsibilities under section 6311(d) of this title for schools receiving funds under this section, including how the local educational agency will—

(A) develop comprehensive support and improvement plans under section 6311(d)(1) of this title for schools receiving funds under this section;

(B) support schools developing or implementing targeted support and improvement plans under section 6311(d)(2) of this title, if funds received under this section are used for such purpose;

(C) monitor schools receiving funds under this section, including how the local educational agency will carry out its responsibilities under clauses (iv) and (v) of section 6311(d)(2)(B) of

this title if funds received under this section are used to support schools implementing targeted support and improvement plans;

(D) use a rigorous review process to recruit, screen, select, and evaluate any external partners with whom the local educational agency will partner;

(E) align other Federal, State, and local resources to carry out the activities supported with funds received under subsection (b)(1); and

(F) as appropriate, modify practices and policies to provide operational flexibility that enables full and effective implementation of the plans described in paragraphs (1) and (2) of section 6311(d) of this title; and

(2) an assurance that each school the local educational agency proposes to serve will receive all of the State and local funds it would have received in the absence of funds received under this section.

(f) Priority

The State educational agency, in allocating funds to local educational agencies under this section, shall give priority to local educational agencies that—

(1) serve high numbers, or a high percentage of, elementary schools and secondary schools implementing plans under paragraphs (1) and (2) of section 6311(d) of this title;

(2) demonstrate the greatest need for such funds, as determined by the State; and

(3) demonstrate the strongest commitment to using funds under this section to enable the lowest-performing schools to improve student achievement and student outcomes.

(g) Unused funds

If, after consultation with local educational agencies in the State, the State educational agency determines that the amount of funds reserved to carry out subsection (b) is greater than the amount needed to provide the assistance described in that subsection, the State educational agency shall allocate the excess amount to local educational agencies in accordance with—

(1) the relative allocations the State educational agency made to those agencies for that fiscal year under subpart 2 of part A; or

(2) section 6338(c) of this title.

(h) Special rule

Notwithstanding any other provision of this section, the amount of funds reserved by the State educational agency under subsection (a) for fiscal year 2018 and each subsequent fiscal year shall not decrease the amount of funds each local educational agency receives under subpart 2 of part A below the amount received by such local educational agency under such subpart for the preceding fiscal year.

(i) Reporting

The State shall include in the report described in section 6311(h)(1) of this title a list of all the local educational agencies and schools that received funds under this section, including the amount of funds each school received and the types of strategies implemented in each school with such funds.

(Pub. L. 89–10, title I, §1003, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1442; amended Pub. L. 114–95, title I, §1003, Dec. 10, 2015, 129 Stat. 1815.)

PRIOR PROVISIONS

A prior section 6303, Pub. L. 89–10, title I, §1003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3522, related to reservation and allocation for school improvement, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1003 of Pub. L. 89–10 was renumbered section 9003 and was classified to section 3383 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to

(g) relating to State reservations of amounts, uses of amounts, priority in allocating funds, allocation of unused funds, special rule limiting decrease of amounts received under subpart 2 of part A, reporting of list of recipient schools and percentage of students from families with incomes below poverty line, and grants program for assistance for local school improvement.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6303a. Whole-school reform strategy

Funds available for school improvement grants for fiscal year 2014 and thereafter may be used by a local educational agency to implement a whole-school reform strategy for a school using an evidence-based strategy that ensures whole-school reform is undertaken in partnership with a strategy developer offering a whole-school reform program that is based on at least a moderate level of evidence that the program will have a statistically significant effect on student outcomes, including at least one well-designed and well-implemented experimental or quasi-experimental study.

(Pub. L. 114–113, div. H, title III, Dec. 18, 2015, 129 Stat. 2627.)

CODIFICATION

Section was enacted as part of the Department of Education Appropriations Act, 2016, and also as part of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2016, and the Consolidated Appropriations Act, 2016, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:
Pub. L. 113–235, div. G, title III, Dec. 16, 2014, 128 Stat. 2493.

§6303b. Direct student services

(a) State reservation

(1) In general

(A) States

Each State educational agency, after meaningful consultation with geographically diverse local educational agencies described in subparagraph (B), may reserve not more than 3 percent of the amount the State educational agency receives under subpart 2 of part A for each fiscal year to carry out this section.

(B) Consultation

A State educational agency shall consult under subparagraph (A) with local educational agencies that include—

(i) suburban, rural, and urban local educational agencies;

(ii) local educational agencies serving a high percentage of schools identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title; and

(iii) local educational agencies serving a high percentage of schools implementing targeted support and improvement plans under section 6311(d)(2) of this title.

(2) Program administration

Of the funds reserved under paragraph (1)(A), the State educational agency may use not more than 1 percent to administer the program described in this section.

(b) Awards

(1) In general

From the amount reserved under subsection (a) by a State educational agency, the State educational agency shall award grants to geographically diverse local educational agencies described in subsection (a)(1)(B)(i).

(2) Priority

In making such awards, the State educational agency shall prioritize awards to local educational agencies serving the highest percentage of schools, as compared to other local educational agencies in the State—

(A) identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title; or

(B) implementing targeted support and improvement plans under section 6311(d)(2) of this title.

(c) Local use of funds

A local educational agency receiving an award under this section—

(1) may use not more than 1 percent of its award for outreach and communication to parents about available direct student services described in paragraph (3) in the local educational agency and State;

(2) may use not more than 2 percent of its award for administrative costs related to such direct student services;

(3) shall use the remainder of the award to pay the costs associated with one or more of the following direct student services—

(A) enrollment and participation in academic courses not otherwise available at a student's school, including—

(i) advanced courses; and

(ii) career and technical education coursework that—

(I) is aligned with the challenging State academic standards; and

(II) leads to industry-recognized credentials that meet the quality criteria established by the State under section 3153(a) of title 29;

(B) credit recovery and academic acceleration courses that lead to a regular high school diploma;

(C) activities that assist students in successfully completing postsecondary level instruction and examinations that are accepted for credit at institutions of higher education (including Advanced Placement and International Baccalaureate courses), which may include reimbursing low-income students to cover part or all of the costs of fees for such examinations;

(D) components of a personalized learning approach, which may include high-quality academic tutoring; and

(E) in the case of a local educational agency that does not reserve funds under section 6311(d)(1)(D)(v) of this title, transportation to allow a student enrolled in a school identified for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title to transfer to another public school (which may include a charter school) that has not been identified by the State under such section; and

(4) in paying the costs associated with the direct student services described in paragraph (3), shall—

(A) first, pay such costs for students who are enrolled in schools identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title;

(B) second, pay such costs for low-achieving students who are enrolled in schools implementing targeted support and improvement plans under section 6311(d)(2) of this title; and

(C) with any remaining funds, pay such costs for other low-achieving students served by the local educational agency.

(d) Application

A local educational agency desiring to receive an award under subsection (b) shall submit an application to the State educational agency at such time and in such manner as the State educational agency shall require. At a minimum, each application shall describe how the local educational agency will—

(1) provide adequate outreach to ensure parents can exercise a meaningful choice of direct student services for their child's education;

(2) ensure parents have adequate time and information to make a meaningful choice prior to enrolling their child in a direct student service;

(3) in the case of a local educational agency offering public school choice under this section, ensure sufficient availability of seats in the public schools the local educational agency will make available for public school choice options;

(4) prioritize services to students who are lowest-achieving;

(5) select providers of direct student services, which may include one or more of—

(A) the local educational agency or other local educational agencies;

(B) community colleges or other institutions of higher education;

(C) non-public entities;

(D) community-based organizations; or

(E) in the case of high-quality academic tutoring, a variety of providers of such tutoring that are selected and approved by the State and appear on the State's list of such providers required under subsection (e)(2);

(6) monitor the provision of direct student services; and

(7) publicly report the results of direct student service providers in improving relevant student outcomes in a manner that is accessible to parents.

(e) Providers and schools

A State educational agency that reserves an amount under subsection (a) shall—

(1) ensure that each local educational agency that receives an award under this section and intends to provide public school choice under subsection (c)(3)(E) can provide a sufficient number of options to provide a meaningful choice for parents;

(2) compile and maintain an updated list of State-approved high-quality academic tutoring providers that—

(A) is developed using a fair negotiation and rigorous selection and approval process;

(B) provides parents with meaningful choices;

(C) offers a range of tutoring models, including online and on campus; and

(D) includes only providers that—

(i) have a demonstrated record of success in increasing students' academic achievement;

(ii) comply with all applicable Federal, State, and local health, safety, and civil rights laws; and

(iii) provide instruction and content that is secular, neutral, and non-ideological;

(3) ensure that each local educational agency receiving an award is able to provide an adequate number of high-quality academic tutoring options to ensure parents have a meaningful choice of services;

(4) develop and implement procedures for monitoring the quality of services provided by direct student service providers; and

(5) establish and implement clear criteria describing the course of action for direct student service providers that are not successful in improving student academic outcomes, which, for a high-quality academic tutoring provider, may include a process to remove State approval under paragraph (2).

(Pub. L. 89–10, title I, §1003A, as added Pub. L. 114–95, title I, §1004, Dec. 10, 2015, 129 Stat. 1817.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6304. State administration

(a) In general

Except as provided in subsection (b) of this section, to carry out administrative duties assigned under parts A, C, and D of this subchapter, each State may reserve the greater of—

(1) 1 percent of the amounts received under such parts; or

(2) $400,000 ($50,000 in the case of each outlying area).

(b) Exception

If the sum of the amounts appropriated for parts A, C, and D of this subchapter is equal to or greater than $14,000,000,000, then the reservation described in subsection (a)(1) of this section shall not exceed 1 percent of the amount the State would receive, if $14,000,000,000 were allocated among the States for parts A, C, and D of this subchapter.

(Pub. L. 89–10, title I, §1004, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1444.)

PRIOR PROVISIONS

A prior section 1004 of Pub. L. 89–10 was renumbered section 9004 and was classified to section 3384 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SUBPART 1—BASIC PROGRAM REQUIREMENTS

§6311. State plans

(a) Filing for grants

(1) In general

For any State desiring to receive a grant under this part, the State educational agency shall file with the Secretary a plan that is—

(A) developed by the State educational agency with timely and meaningful consultation with the Governor, members of the State legislature and State board of education (if the State has a State board of education), local educational agencies (including those located in rural areas), representatives of Indian tribes located in the State, teachers, principals, other school leaders, charter school leaders (if the State has charter schools), specialized instructional support personnel, paraprofessionals, administrators, other staff, and parents; and

(B) is coordinated with other programs under this chapter, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Rehabilitation Act of 1973 (20 U.S.C. 701 et seq.),[1] the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.), the Head Start Act (42

U.S.C. 9831 et seq.), the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.),[2] the Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.), the Education [3] Technical Assistance Act of 2002 (20 U.S.C. 9601 et. seq.), the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621 et seq.), the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.), and the Adult Education and Family Literacy Act (29 U.S.C. 3271 et seq.).

(2) Limitation

Consultation required under paragraph (1)(A) shall not interfere with the timely submission of the plan required under this section.

(3) Consolidated plan

A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 7842 of this title.

(4) Peer review and Secretarial approval

(A) In general

The Secretary shall—

(i) establish a peer-review process to assist in the review of State plans;

(ii) establish multidisciplinary peer-review teams and appoint members of such teams—

(I) who are representative of—

(aa) parents, teachers, principals, other school leaders, specialized instructional support personnel, State educational agencies, local educational agencies, and the community (including the business community); and

(bb) researchers who are familiar with—

(AA) the implementation of academic standards, assessments, or accountability systems; and

(BB) how to meet the needs of disadvantaged students, children with disabilities, and English learners, the needs of low-performing schools, and other educational needs of students;

(II) that include, to the extent practicable, majority representation of individuals who, in the most recent 2 years, have had practical experience in the classroom, school administration, or State or local government (such as direct employees of a school, local educational agency, or State educational agency); and

(III) who represent a regionally diverse cross-section of States;

(iii) make available to the public, including by such means as posting to the Department's website, the list of peer reviewers who have reviewed State plans under this section;

(iv) ensure that the peer-review teams consist of varied individuals so that the same peer reviewers are not reviewing all of the State plans;

(v) approve a State plan not later than 120 days after its submission, unless the Secretary meets the requirements of clause (vi);

(vi) have the authority to disapprove a State plan only if—

(I) the Secretary—

(aa) determines how the State plan fails to meet the requirements of this section;

(bb) immediately provides to the State, in writing, notice of such determination, and the supporting information and rationale to substantiate such determination;

(cc) offers the State an opportunity to revise and resubmit its State plan, and provides the State—

(AA) technical assistance to assist the State in meeting the requirements of this section;

(BB) in writing, all peer-review comments, suggestions, recommendations, or concerns relating to its State plan; and

(CC) a hearing, unless the State declines the opportunity for such hearing; and

(II) the State—

(aa) does not revise and resubmit its State plan; or

(bb) in a case in which a State revises and resubmits its State plan after a hearing is conducted under subclause (I)(cc)(CC), or after the State has declined the opportunity for such a hearing, the Secretary determines that such revised State plan does not meet the requirements of this section.

(B) Purpose of peer review

The peer-review process shall be designed to—

(i) maximize collaboration with each State;

(ii) promote effective implementation of the challenging State academic standards through State and local innovation; and

(iii) provide transparent, timely, and objective feedback to States designed to strengthen the technical and overall quality of the State plans.

(C) Standard and nature of review

Peer reviewers shall conduct an objective review of State plans in their totality and out of respect for State and local judgments, with the goal of supporting State- and local-led innovation and providing objective feedback on the technical and overall quality of a State plan.

(D) Prohibition

Neither the Secretary nor the political appointees of the Department, may attempt to participate in, or influence, the peer-review process.

(5) Public review

All written communications, feedback, and notifications under this subsection shall be conducted in a manner that is transparent and immediately made available to the public on the Department's website, including—

(A) plans submitted or resubmitted by a State;

(B) peer-review guidance, notes, and comments and the names of the peer reviewers (once the peer reviewers have completed their work);

(C) State plan determinations by the Secretary, including approvals or disapprovals; and

(D) notices and transcripts of hearings under this section.

(6) Duration of the plan

(A) In general

Each State plan shall—

(i) remain in effect for the duration of the State's participation under this part; and

(ii) be periodically reviewed and revised as necessary by the State educational agency to reflect changes in the State's strategies and programs under this part.

(B) Additional information

(i) In general

If a State makes significant changes to its plan at any time, such as the adoption of new challenging State academic standards or new academic assessments under subsection (b), or changes to its accountability system under subsection (c), such information shall be submitted to the Secretary in the form of revisions or amendments to the State plan.

(ii) Review of revised plans

The Secretary shall review the information submitted under clause (i) and approve changes to the State plan, or disapprove such changes in accordance with paragraph (4)(A)(vi), within 90 days, without undertaking the peer-review process under such paragraph.

(iii) Special rule for standards

If a State makes changes to its challenging State academic standards, the requirements of subsection (b)(1), including the requirement that such standards need not be submitted to the Secretary pursuant to subsection (b)(1)(A), shall still apply.

(7) Failure to meet requirements

If a State fails to meet any of the requirements of this section, the Secretary may withhold funds for State administration under this part until the Secretary determines that the State has fulfilled those requirements.

(8) Public comment

Each State shall make the State plan publicly available for public comment for a period of not less than 30 days, by electronic means and in an easily accessible format, prior to submission to the Secretary for approval under this subsection. The State, in the plan it files under this subsection, shall provide an assurance that public comments were taken into account in the development of the State plan.

(b) Challenging academic standards and academic assessments

(1) Challenging State academic standards

(A) In general

Each State, in the plan it files under subsection (a), shall provide an assurance that the State has adopted challenging academic content standards and aligned academic achievement standards (referred to in this chapter as "challenging State academic standards"), which achievement standards shall include not less than 3 levels of achievement, that will be used by the State, its local educational agencies, and its schools to carry out this part. A State shall not be required to submit such challenging State academic standards to the Secretary.

(B) Same standards

Except as provided in subparagraph (E), the standards required by subparagraph (A) shall—

(i) apply to all public schools and public school students in the State; and

(ii) with respect to academic achievement standards, include the same knowledge, skills, and levels of achievement expected of all public school students in the State.

(C) Subjects

The State shall have such academic standards for mathematics, reading or language arts, and science, and may have such standards for any other subject determined by the State.

(D) Alignment

(i) In general

Each State shall demonstrate that the challenging State academic standards are aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards.

(ii) Rule of construction

Nothing in this chapter shall be construed to authorize public institutions of higher education to determine the specific challenging State academic standards required under this paragraph.

(E) Alternate academic achievement standards for students with the most significant cognitive disabilities

(i) In general

The State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards for students with the most significant cognitive disabilities, provided those standards—

(I) are aligned with the challenging State academic content standards under subparagraph (A);

(II) promote access to the general education curriculum, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(III) reflect professional judgment as to the highest possible standards achievable by such students;

(IV) are designated in the individualized education program developed under section 614(d)(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(3)) for each such student as the academic achievement standards that will be used for the student; and

(V) are aligned to ensure that a student who meets the alternate academic achievement standards is on track to pursue postsecondary education or employment, consistent with the purposes of Public Law 93–112 [29 U.S.C. 701 et seq.], as in effect on July 22, 2014.

(ii) Prohibition on any other alternate or modified academic achievement standards

A State shall not develop, or implement for use under this part, any alternate academic achievement standards for children with disabilities that are not alternate academic achievement standards that meet the requirements of clause (i).

(F) English language proficiency standards

Each State plan shall demonstrate that the State has adopted English language proficiency standards that—

(i) are derived from the 4 recognized domains of speaking, listening, reading, and writing;

(ii) address the different proficiency levels of English learners; and

(iii) are aligned with the challenging State academic standards.

(G) Prohibitions

(i) Standards review or approval

A State shall not be required to submit any standards developed under this subsection to the Secretary for review or approval.

(ii) Federal control

The Secretary shall not have the authority to mandate, direct, control, coerce, or exercise any direction or supervision over any of the challenging State academic standards adopted or implemented by a State.

(H) Existing standards

Nothing in this part shall prohibit a State from revising, consistent with this section, any standards adopted under this part before or after December 10, 2015.

(2) Academic assessments

(A) In general

Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality student academic assessments in mathematics, reading or language arts, and science. The State retains the right to implement such assessments in any other subject chosen by the State.

(B) Requirements

The assessments under subparagraph (A) shall—

(i) except as provided in subparagraph (D), be—

(I) the same academic assessments used to measure the achievement of all public elementary school and secondary school students in the State; and

(II) administered to all public elementary school and secondary school students in the State;

(ii) be aligned with the challenging State academic standards, and provide coherent and timely information about student attainment of such standards and whether the student is

performing at the student's grade level;

(iii) be used for purposes for which such assessments are valid and reliable, consistent with relevant, nationally recognized professional and technical testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information;

(iv) be of adequate technical quality for each purpose required under this chapter and consistent with the requirements of this section, the evidence of which shall be made public, including on the website of the State educational agency;

(v)(I) in the case of mathematics and reading or language arts, be administered—

(aa) in each of grades 3 through 8; and

(bb) at least once in grades 9 through 12;

(II) in the case of science, be administered not less than one time during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12; and

(III) in the case of any other subject chosen by the State, be administered at the discretion of the State;

(vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding, which may include measures of student academic growth and may be partially delivered in the form of portfolios, projects, or extended performance tasks;

(vii) provide for—

(I) the participation in such assessments of all students;

(II) the appropriate accommodations, such as interoperability with, and ability to use, assistive technology, for children with disabilities (as defined in section 602(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(3))), including students with the most significant cognitive disabilities, and students with a disability who are provided accommodations under an Act other than the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), necessary to measure the academic achievement of such children relative to the challenging State academic standards or alternate academic achievement standards described in paragraph (1)(E); and

(III) the inclusion of English learners, who shall be assessed in a valid and reliable manner and provided appropriate accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency, as determined under subparagraph (G);

(viii) at the State's discretion—

(I) be administered through a single summative assessment; or

(II) be administered through multiple statewide interim assessments during the course of the academic year that result in a single summative score that provides valid, reliable, and transparent information on student achievement or growth;

(ix) notwithstanding clause (vii)(III), provide for assessments (using tests in English) of reading or language arts of any student who has attended school in the United States (not including the Commonwealth of Puerto Rico) for 3 or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency

may make a determination to assess such student in the appropriate language other than English for a period that does not exceed 2 additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;

(x) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii), regarding achievement on such assessments that allow parents, teachers, principals, and other school leaders to understand and address the specific academic needs of students, and that are provided to parents, teachers, and school leaders, as soon as is practicable after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

(xi) enable results to be disaggregated within each State, local educational agency, and school by—

(I) each major racial and ethnic group;

(II) economically disadvantaged students as compared to students who are not economically disadvantaged;

(III) children with disabilities as compared to children without disabilities;

(IV) English proficiency status;

(V) gender; and

(VI) migrant status,

except that such disaggregation shall not be required in the case of a State, local educational agency, or a school in which the number of students in a subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

(xii) enable itemized score analyses to be produced and reported, consistent with clause (iii), to local educational agencies and schools, so that parents, teachers, principals, other school leaders, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items; and

(xiii) be developed, to the extent practicable, using the principles of universal design for learning.

(C) Exception for advanced mathematics in middle school

A State may exempt any 8th grade student from the assessment in mathematics described in subparagraph (B)(v)(I)(aa) if—

(i) such student takes the end-of-course assessment the State typically administers to meet the requirements of subparagraph (B)(v)(I)(bb) in mathematics;

(ii) such student's achievement on such end-of-course assessment is used for purposes of subsection (c)(4)(B)(i), in lieu of such student's achievement on the mathematics assessment required under subparagraph (B)(v)(I)(aa), and such student is counted as participating in the assessment for purposes of subsection (c)(4)(B)(vi); [4] and

(iii) in high school, such student takes a mathematics assessment pursuant to subparagraph (B)(v)(I)(bb) that—

(I) is any end-of-course assessment or other assessment that is more advanced than the assessment taken by such student under clause (i) of this subparagraph; and

(II) shall be used to measure such student's academic achievement for purposes of subsection (c)(4)(B)(i).

(D) Alternate assessments for students with the most significant cognitive disabilities

(i) Alternate assessments aligned with alternate academic achievement standards

A State may provide for alternate assessments aligned with the challenging State academic standards and alternate academic achievement standards described in paragraph (1)(E) for students with the most significant cognitive disabilities, if the State—

(I) consistent with clause (ii), ensures that, for each subject, the total number of students assessed in such subject using the alternate assessments does not exceed 1 percent of the total number of all students in the State who are assessed in such subject;

(II) ensures that the parents of such students are clearly informed, as part of the process for developing the individualized education program (as defined in section 614(d)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)))—

(aa) that their child's academic achievement will be measured based on such alternate standards; and

(bb) how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma;

(III) promotes, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the involvement and progress of students with the most significant cognitive disabilities in the general education curriculum;

(IV) describes in the State plan the steps the State has taken to incorporate universal design for learning, to the extent feasible, in alternate assessments;

(V) describes in the State plan that general and special education teachers, and other appropriate staff—

(aa) know how to administer the alternate assessments; and

(bb) make appropriate use of accommodations for students with disabilities on all assessments required under this paragraph;

(VI) develops, disseminates information on, and promotes the use of appropriate accommodations to increase the number of students with significant cognitive disabilities—

(aa) participating in academic instruction and assessments for the grade level in which the student is enrolled; and

(bb) who are tested based on challenging State academic standards for the grade level in which the student is enrolled; and

(VII) does not preclude a student with the most significant cognitive disabilities who takes an alternate assessment based on alternate academic achievement standards from attempting to complete the requirements for a regular high school diploma.

(ii) Special rules

(I) Responsibility under IDEA

Subject to the authority and requirements for the individualized education program team for a child with a disability under section 614(d)(1)(A)(i)(VI)(bb) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VI)(bb)), such team, consistent with the guidelines established by the State and required under section 612(a)(16)(C) of such Act (20 U.S.C. 1412(c)(16)(C)) [5] and clause (i)(II) of this subparagraph, shall determine when a child with a significant cognitive disability shall participate in an alternate assessment aligned with the alternate academic achievement standards.

(II) Prohibition on local cap

Nothing in this subparagraph shall be construed to permit the Secretary or a State educational agency to impose on any local educational agency a cap on the percentage of students administered an alternate assessment under this subparagraph, except that a local educational agency exceeding the cap applied to the State under clause (i)(I) shall submit information to the State educational agency justifying the need to exceed such cap.

(III) State support

A State shall provide appropriate oversight, as determined by the State, of any local educational agency that is required to submit information to the State under subclause (II).

(IV) Waiver authority

This subparagraph shall be subject to the waiver authority under section 7861 of this title.

(E) State authority

If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt challenging State academic standards, and academic assessments aligned with such standards, which will be applicable to all students enrolled in the State's public elementary schools and secondary schools, then the State educational agency may meet the requirements of this subsection by—

(i) adopting academic standards and academic assessments that meet the requirements of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or

(ii) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt academic content and student academic achievement standards, and academic assessments aligned with such standards, which—

(I) meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and

(II) are applicable to all students served by each such local educational agency.

(F) Language assessments

(i) In general

Each State plan shall identify the languages other than English that are present to a significant extent in the participating student population of the State and indicate the languages for which annual student academic assessments are not available and are needed.

(ii) Secretarial assistance

The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

(G) Assessments of English language proficiency

(i) In general

Each State plan shall demonstrate that local educational agencies in the State will provide for an annual assessment of English proficiency of all English learners in the schools served by the State educational agency.

(ii) Alignment

The assessments described in clause (i) shall be aligned with the State's English language proficiency standards described in paragraph (1)(F).

(H) Locally-selected assessment

(i) In general

Nothing in this paragraph shall be construed to prohibit a local educational agency from administering a locally-selected assessment in lieu of the State-designed academic assessment under subclause (I)(bb) and subclause (II)(cc) of subparagraph (B)(v), if the local educational agency selects a nationally-recognized high school academic assessment that has been approved for use by the State as described in clause (iii) or (iv) of this subparagraph.

(ii) State technical criteria

To allow for State approval of nationally-recognized high school academic assessments

that are available for local selection under clause (i), a State educational agency shall establish technical criteria to determine if any such assessment meets the requirements of clause (v).

(iii) State approval

If a State educational agency chooses to make a nationally-recognized high school assessment available for selection by a local educational agency under clause (i), which has not already been approved under this clause, such State educational agency shall—

(I) conduct a review of the assessment to determine if such assessment meets or exceeds the technical criteria established by the State educational agency under clause (ii);

(II) submit evidence in accordance with subsection (a)(4) that demonstrates such assessment meets the requirements of clause (v); and

(III) after fulfilling the requirements of subclauses (I) and (II), approve such assessment for selection and use by any local educational agency that requests to use such assessment under clause (i).

(iv) Local educational agency option

(I) Local educational agency

If a local educational agency chooses to submit a nationally-recognized high school academic assessment to the State educational agency, subject to the approval process described in subclause (I) and subclause (II) of clause (iii) to determine if such assessment fulfills the requirements of clause (v), the State educational agency may approve the use of such assessment consistent with clause (i).

(II) State educational agency

Upon such approval, the State educational agency shall approve the use of such assessment in any other local educational agency in the State that subsequently requests to use such assessment without repeating the process described in subclauses (I) and (II) of clause (iii).

(v) Requirements

To receive approval from the State educational agency under clause (iii), a locally-selected assessment shall—

(I) be aligned to the State's academic content standards under paragraph (1), address the depth and breadth of such standards, and be equivalent in its content coverage, difficulty, and quality to the State-designed assessments under this paragraph (and may be more rigorous in its content coverage and difficulty than such State-designed assessments);

(II) provide comparable, valid, and reliable data on academic achievement, as compared to the State-designed assessments, for all students and for each subgroup of students defined in subsection (c)(2), with results expressed in terms consistent with the State's academic achievement standards under paragraph (1), among all local educational agencies within the State;

(III) meet the requirements for the assessments under subparagraph (B) of this paragraph, including technical criteria, except the requirement under clause (i) of such subparagraph; and

(IV) provide unbiased, rational, and consistent differentiation between schools within the State to meet the requirements of subsection (c).

(vi) Parental notification

A local educational agency shall notify the parents of high school students served by the local educational agency—

(I) of its request to the State educational agency for approval to administer a locally-selected assessment; and

(II) upon approval, and at the beginning of each subsequent school year during which the locally selected assessment will be administered, that the local educational agency will

be administering a different assessment than the State-designed assessments under subclause (I)(bb) and subclause (II)(cc) of subparagraph (B)(v).

(I) Deferral

A State may defer the commencement, or suspend the administration, but not cease the development, of the assessments described in this paragraph, for 1 year for each year for which the amount appropriated for grants under part B is less than $369,100,000.

(J) Adaptive assessments

(i) In general

Subject to clause (ii), a State retains the right to develop and administer computer adaptive assessments as the assessments described in this paragraph, provided the computer adaptive assessments meet the requirements of this paragraph, except that—

(I) subparagraph (B)(i) shall not be interpreted to require that all students taking the computer adaptive assessment be administered the same assessment items; and

(II) such assessment—

(aa) shall measure, at a minimum, each student's academic proficiency based on the challenging State academic standards for the student's grade level and growth toward such standards; and

(bb) may measure the student's level of academic proficiency and growth using items above or below the student's grade level, including for use as part of a State's accountability system under subsection (c).

(ii) Students with the most significant cognitive disabilities and English learners

In developing and administering computer adaptive assessments—

(I) as the assessments allowed under subparagraph (D), a State shall ensure that such computer adaptive assessments—

(aa) meet the requirements of this paragraph, including subparagraph (D), except such assessments shall not be required to meet the requirements of clause (i)(II); and

(bb) assess the student's academic achievement to measure, in the subject being assessed, whether the student is performing at the student's grade level; and

(II) as the assessments required under subparagraph (G), a State shall ensure that such computer adaptive assessments—

(aa) meet the requirements of this paragraph, including subparagraph (G), except such assessment shall not be required to meet the requirements of clause (i)(II); and

(bb) assess the student's language proficiency, which may include growth towards such proficiency, in order to measure the student's acquisition of English.

(K) Rule of construction on parent rights

Nothing in this paragraph shall be construed as preempting a State or local law regarding the decision of a parent to not have the parent's child participate in the academic assessments under this paragraph.

(L) Limitation on assessment time

Subject to Federal or State requirements related to assessments, evaluations, and accommodations, each State may, at the sole discretion of such State, set a target limit on the aggregate amount of time devoted to the administration of assessments for each grade, expressed as a percentage of annual instructional hours.

(3) Exception for recently arrived English learners

(A) Assessments

With respect to recently arrived English learners who have been enrolled in a school in one of the 50 States in the United States or the District of Columbia for less than 12 months, a State may choose to—

(i) exclude—

(I) such an English learner from one administration of the reading or language arts assessment required under paragraph (2); and

(II) such an English learner's results on any of the assessments required under paragraph (2)(B)(v)(I) or (2)(G) for the first year of the English learner's enrollment in such a school for the purposes of the State-determined accountability system under subsection (c); or

(ii)(I) assess, and report the performance of, such an English learner on the reading or language arts and mathematics assessments required under paragraph (2)(B)(v)(I) in each year of the student's enrollment in such a school; and

(II) for the purposes of the State-determined accountability system—

(aa) for the first year of the student's enrollment in such a school, exclude the results on the assessments described in subclause (I);

(bb) include a measure of student growth on the assessments described in subclause (I) in the second year of the student's enrollment in such a school; and

(cc) include proficiency on the assessments described in subclause (I) in the third year of the student's enrollment in such a school, and each succeeding year of such enrollment.

(B) English learner subgroup

With respect to a student previously identified as an English learner and for not more than 4 years after the student ceases to be identified as an English learner, a State may include the results of the student's assessments under paragraph (2)(B)(v)(I) within the English learner subgroup of the subgroups of students (as defined in subsection (c)(2)(D)) for the purposes of the State-determined accountability system.

(c) Statewide accountability system

(1) In general

Each State plan shall describe a statewide accountability system that complies with the requirements of this subsection and subsection (d).

(2) Subgroup of students

In this subsection and subsection (d), the term "subgroup of students" means—

(A) economically disadvantaged students;

(B) students from major racial and ethnic groups;

(C) children with disabilities; and

(D) English learners.

(3) Minimum number of students

Each State shall describe—

(A) with respect to any provisions under this part that require disaggregation of information by each subgroup of students—

(i) the minimum number of students that the State determines are necessary to be included to carry out such requirements and how that number is statistically sound, which shall be the same State-determined number for all students and for each subgroup of students in the State;

(ii) how such minimum number of students was determined by the State, including how the State collaborated with teachers, principals, other school leaders, parents, and other stakeholders when determining such minimum number; and

(iii) how the State ensures that such minimum number is sufficient to not reveal any personally identifiable information.

(4) Description of system

The statewide accountability system described in paragraph (1) shall be based on the challenging State academic standards for reading or language arts and mathematics described in subsection (b)(1) to improve student academic achievement and school success. In designing such system to meet the requirements of this part, the State shall carry out the following:

(A) Establishment of long-term goals

Establish ambitious State-designed long-term goals, which shall include measurements of interim progress toward meeting such goals—

(i) for all students and separately for each subgroup of students in the State—

(I) for, at a minimum, improved—

(aa) academic achievement, as measured by proficiency on the annual assessments required under subsection (b)(2)(B)(v)(I); and

(bb) high school graduation rates, including—

(AA) the four-year adjusted cohort graduation rate; and

(BB) at the State's discretion, the extended-year adjusted cohort graduation rate, except that the State shall set a more rigorous long-term goal for such graduation rate, as compared to the long-term goal set for the four-year adjusted cohort graduation rate;

(II) for which the term set by the State for such goals is the same multi-year length of time for all students and for each subgroup of students in the State; and

(III) that, for subgroups of students who are behind on the measures described in items (aa) and (bb) of subclause (I), take into account the improvement necessary on such measures to make significant progress in closing statewide proficiency and graduation rate gaps; and

(ii) for English learners, for increases in the percentage of such students making progress in achieving English language proficiency, as defined by the State and measured by the assessments described in subsection (b)(2)(G), within a State-determined timeline.

(B) Indicators

Except for the indicator described in clause (iv), annually measure, for all students and separately for each subgroup of students, the following indicators:

(i) For all public schools in the State, based on the long-term goals established under subparagraph (A), academic achievement—

(I) as measured by proficiency on the annual assessments required under subsection (b)(2)(B)(v)(I); and

(II) at the State's discretion, for each public high school in the State, student growth, as measured by such annual assessments.

(ii) For public elementary schools and secondary schools that are not high schools in the State—

(I) a measure of student growth, if determined appropriate by the State; or

(II) another valid and reliable statewide academic indicator that allows for meaningful differentiation in school performance.

(iii) For public high schools in the State, and based on State-designed long term goals established under subparagraph (A)—

(I) the four-year adjusted cohort graduation rate; and

(II) at the State's discretion, the extended-year adjusted cohort graduation rate.

(iv) For public schools in the State, progress in achieving English language proficiency, as defined by the State and measured by the assessments described in subsection (b)(2)(G), within a State-determined timeline for all English learners—

(I) in each of the grades 3 through 8; and

(II) in the grade for which such English learners are otherwise assessed under subsection (b)(2)(B)(v)(I) during the grade 9 through grade 12 period, with such progress being measured against the results of the assessments described in subsection (b)(2)(G) taken in

the previous grade.

(v)(I) For all public schools in the State, not less than one indicator of school quality or student success that—

(aa) allows for meaningful differentiation in school performance;

(bb) is valid, reliable, comparable, and statewide (with the same indicator or indicators used for each grade span, as such term is determined by the State); and

(cc) may include one or more of the measures described in subclause (II).

(II) For purposes of subclause (I), the State may include measures of—

(III) [6] student engagement;

(IV) [6] educator engagement;

(V) [6] student access to and completion of advanced coursework;

(VI) [6] postsecondary readiness;

(VII) [6] school climate and safety; and

(VIII) [6] any other indicator the State chooses that meets the requirements of this clause.

(C) Annual meaningful differentiation

Establish a system of meaningfully differentiating, on an annual basis, all public schools in the State, which shall—

(i) be based on all indicators in the State's accountability system under subparagraph (B), for all students and for each of [7] subgroup of students, consistent with the requirements of such subparagraph;

(ii) with respect to the indicators described in clauses (i) through (iv) of subparagraph (B) afford—

(I) substantial weight to each such indicator; and

(II) in the aggregate, much greater weight than is afforded to the indicator or indicators utilized by the State and described in subparagraph (B)(v), in the aggregate; and

(iii) include differentiation of any such school in which any subgroup of students is consistently underperforming, as determined by the State, based on all indicators under subparagraph (B) and the system established under this subparagraph.

(D) Identification of schools

Based on the system of meaningful differentiation described in subparagraph (C), establish a State-determined methodology to identify—

(i) beginning with school year 2017–2018, and at least once every three school years thereafter, one statewide category of schools for comprehensive support and improvement, as described in subsection (d)(1), which shall include—

(I) not less than the lowest-performing 5 percent of all schools receiving funds under this part in the State;

(II) all public high schools in the State failing to graduate one third or more of their students; and

(III) public schools in the State described under subsection (d)(3)(A)(i)(II); and

(ii) at the discretion of the State, additional statewide categories of schools.

(E) Annual measurement of achievement

(i) Annually measure the achievement of not less than 95 percent of all students, and 95 percent of all students in each subgroup of students, who are enrolled in public schools on the assessments described under subsection (b)(2)(v)(I).

(ii) For the purpose of measuring, calculating, and reporting on the indicator described in subparagraph (B)(i), include in the denominator the greater of—

(I) 95 percent of all such students, or 95 percent of all such students in the subgroup, as the case may be; or

(II) the number of students participating in the assessments.

(iii) Provide a clear and understandable explanation of how the State will factor the requirement of clause (i) of this subparagraph into the statewide accountability system.

(F) Partial attendance

(i) In the case of a student who has not attended the same school within a local educational agency for at least half of a school year, the performance of such student on the indicators described in clauses (i), (ii), (iv), and (v) of subparagraph (B)—

(I) may not be used in the system of meaningful differentiation of all public schools as described in subparagraph (C) for such school year; and

(II) shall be used for the purpose of reporting on the State and local educational agency report cards under subsection (h) for such school year.

(ii) In the case of a high school student who has not attended the same school within a local educational agency for at least half of a school year and has exited high school without a regular high school diploma and without transferring to another high school that grants a regular high school diploma during such school year, the local educational agency shall, in order to calculate the graduation rate pursuant to subparagraph (B)(iii), assign such student to the high school—

(I) at which such student was enrolled for the greatest proportion of school days while enrolled in grades 9 through 12; or

(II) in which the student was most recently enrolled.

(5) Accountability for charter schools

The accountability provisions under this chapter shall be overseen for charter schools in accordance with State charter school law.

(d) School support and improvement activities

(1) Comprehensive support and improvement

(A) In general

Each State educational agency receiving funds under this part shall notify each local educational agency in the State of any school served by the local educational agency that is identified for comprehensive support and improvement under subsection (c)(4)(D)(i).

(B) Local educational agency action

Upon receiving such information from the State, the local educational agency shall, for each school identified by the State and in partnership with stakeholders (including principals and other school leaders, teachers, and parents), locally develop and implement a comprehensive support and improvement plan for the school to improve student outcomes, that—

(i) is informed by all indicators described in subsection (c)(4)(B), including student performance against State-determined long-term goals;

(ii) includes evidence-based interventions;

(iii) is based on a school-level needs assessment;

(iv) identifies resource inequities, which may include a review of local educational agency and school-level budgeting, to be addressed through implementation of such comprehensive support and improvement plan;

(v) is approved by the school, local educational agency, and State educational agency; and

(vi) upon approval and implementation, is monitored and periodically reviewed by the State educational agency.

(C) State educational agency discretion

With respect to any high school in the State identified under subsection (c)(4)(D)(i)(II), the

State educational agency may—

(i) permit differentiated improvement activities that utilize evidence-based interventions in the case of such a school that predominantly serves students—

(I) returning to education after having exited secondary school without a regular high school diploma; or

(II) who, based on their grade or age, are significantly off track to accumulate sufficient academic credits to meet high school graduation requirements, as established by the State; and

(ii) in the case of such a school that has a total enrollment of less than 100 students, permit the local educational agency to forego implementation of improvement activities required under this paragraph.

(D) Public school choice

(i) In general

A local educational agency may provide all students enrolled in a school identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i) with the option to transfer to another public school served by the local educational agency, unless such an option is prohibited by State law.

(ii) Priority

In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest-achieving children from low-income families, as determined by the local educational agency for the purposes of allocating funds to schools under section 6313(a)(3) of this title.

(iii) Treatment

A student who uses the option to transfer to another public school shall be enrolled in classes and other activities in the public school to which the student transfers in the same manner as all other students at the public school.

(iv) Special rule

A local educational agency shall permit a student who transfers to another public school under this paragraph to remain in that school until the student has completed the highest grade in that school.

(v) Funding for transportation

A local educational agency may spend an amount equal to not more than 5 percent of its allocation under subpart 2 of this part to pay for the provision of transportation for students who transfer under this paragraph to the public schools to which the students transfer.

(2) Targeted support and improvement

(A) In general

Each State educational agency receiving funds under this part shall, using the meaningful differentiation of schools described in subsection (c)(4)(C)—

(i) notify each local educational agency in the State of any school served by the local educational agency in which any subgroup of students is consistently underperforming, as described in subsection (c)(4)(C)(iii); and

(ii) ensure such local educational agency provides notification to such school with respect to which subgroup or subgroups of students in such school are consistently underperforming as described in subsection (c)(4)(C)(iii).

(B) Targeted support and improvement plan

Each school receiving a notification described in this paragraph, in partnership with stakeholders (including principals and other school leaders, teachers and parents), shall develop

and implement a school-level targeted support and improvement plan to improve student outcomes based on the indicators in the statewide accountability system established under subsection (c)(4), for each subgroup of students that was the subject of notification that—

(i) is informed by all indicators described in subsection (c)(4)(B), including student performance against long-term goals;

(ii) includes evidence-based interventions;

(iii) is approved by the local educational agency prior to implementation of such plan;

(iv) is monitored, upon submission and implementation, by the local educational agency; and

(v) results in additional action following unsuccessful implementation of such plan after a number of years determined by the local educational agency.

(C) Additional targeted support

A plan described in subparagraph (B) that is developed and implemented in any school receiving a notification under this paragraph from the local educational agency in which any subgroup of students, on its own, would lead to identification under subsection (c)(4)(D)(i)(I) using the State's methodology under subsection (c)(4)(D) shall also identify resource inequities (which may include a review of local educational agency and school level budgeting), to be addressed through implementation of such plan.

(D) Special rule

The State educational agency, based on the State's differentiation of schools under subsection (c)(4)(C) for school year 2017–2018, shall notify local educational agencies of any schools served by the local educational agency in which any subgroup of students, on its own, would lead to identification under subsection (c)(4)(D)(i)(I) using the State's methodology under subsection (c)(4)(D), after which notification of such schools under this paragraph shall result from differentiation of schools pursuant to subsection (c)(4)(C)(iii).

(3) Continued support for school and local educational agency improvement

To ensure continued progress to improve student academic achievement and school success in the State, the State educational agency—

(A) shall—

(i) establish statewide exit criteria for—

(I) schools identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i), which, if not satisfied within a State-determined number of years (not to exceed four years), shall result in more rigorous State-determined action, such as the implementation of interventions (which may include addressing school-level operations); and

(II) schools described in paragraph (2)(C), which, if not satisfied within a State-determined number of years, shall, in the case of such schools receiving assistance under this part, result in identification of the school by the State for comprehensive support and improvement under subsection (c)(4)(D)(i)(III);

(ii) periodically review resource allocation to support school improvement in each local educational agency in the State serving—

(I) a significant number of schools identified for comprehensive support and improvement under subsection (c)(4)(D)(i); and

(II) a significant number of schools implementing targeted support and improvement plans under paragraph (2); and

(iii) provide technical assistance to each local educational agency in the State serving a significant number of—

(I) schools implementing comprehensive support and improvement plans under paragraph (1); or

(II) schools implementing targeted support and improvement plans under paragraph (2); and

(B) may—

(i) take action to initiate additional improvement in any local educational agency with—

(I) a significant number of schools that are consistently identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i) and not meeting exit criteria established by the State under subparagraph (A)(i)(I); or

(II) a significant number of schools implementing targeted support and improvement plans under paragraph (2); and

(ii) consistent with State law, establish alternative evidence-based State determined strategies that can be used by local educational agencies to assist a school identified for comprehensive support and improvement under subsection (c)(4)(D)(i).

(4) Rule of construction for collective bargaining

Nothing in this subsection shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to school or local educational agency employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employers and their employees.

(e) Prohibition

(1) In general

Nothing in this chapter shall be construed to authorize or permit the Secretary—

(A) when promulgating any rule or regulation, to promulgate any rule or regulation on the development or implementation of the statewide accountability system established under this section that would—

(i) add new requirements that are inconsistent with or outside the scope of this part;

(ii) add new criteria that are inconsistent with or outside the scope of this part; or

(iii) be in excess of statutory authority granted to the Secretary;

(B) as a condition of approval of the State plan, or revisions or amendments to, the State plan, or approval of a waiver request submitted under section 7861 of this title, to—

(i) require a State to add any requirements that are inconsistent with or outside the scope of this part;

(ii) require a State to add or delete one or more specific elements of the challenging State academic standards; or

(iii) prescribe—

(I) numeric long-term goals or measurements of interim progress that States establish for all students, for any subgroups of students, and for English learners with respect to English language proficiency, under this part, including—

(aa) the length of terms set by States in designing such goals; or

(bb) the progress expected from any subgroups of students in meeting such goals;

(II) specific academic assessments or assessment items that States or local educational agencies use to meet the requirements of subsection (b)(2) or otherwise use to measure student academic achievement or student growth under this part;

(III) indicators that States use within the State accountability system under this section, including any requirement to measure student growth, or, if a State chooses to measure student growth, the specific metrics used to measure such growth under this part;

(IV) the weight of any measure or indicator used to identify or meaningfully differentiate schools, under this part;

(V) the specific methodology used by States to meaningfully differentiate or identify

schools under this part;

(VI) any specific school support and improvement strategies or activities that State or local educational agencies establish and implement to intervene in, support, and improve schools and improve student outcomes under this part;

(VII) exit criteria established by States under subsection (d)(3)(A)(i);

(VIII) provided that the State meets the requirements in subsection (c)(3), a minimum number of students established by a State under such subsection;

(IX) any aspect or parameter of a teacher, principal, or other school leader evaluation system within a State or local educational agency;

(X) indicators or specific measures of teacher, principal, or other school leader effectiveness or quality; or

(XI) the way in which the State factors the requirement under subsection (c)(4)(E)(i) into the statewide accountability system under this section; or

(C) to issue new non-regulatory guidance that—

(i) in seeking to provide explanation of requirements under this section for State or local educational agencies, either in response to requests for information or in anticipation of such requests, provides a strictly limited or exhaustive list to illustrate successful implementation of provisions under this section; or

(ii) purports to be legally binding; or

(D) to require data collection under this part beyond data derived from existing Federal, State, and local reporting requirements.

(2) Defining terms

In carrying out this part, the Secretary shall not, through regulation or as a condition of approval of the State plan or revisions or amendments to the State plan, promulgate a definition of any term used in this part, or otherwise prescribe any specification for any such term, that is inconsistent with or outside the scope of this part or is in violation of paragraph (1).

(f) Existing State law

Nothing in this section shall be construed to alter any State law or regulation granting parents authority over schools that repeatedly failed to make adequate yearly progress under this part, as in effect on the day before December 10, 2015.

(g) Other plan provisions

(1) Descriptions

Each State plan shall describe—

(A) how the State will provide assistance to local educational agencies and individual elementary schools choosing to use funds under this part to support early childhood education programs;

(B) how low-income and minority children enrolled in schools assisted under this part are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers, and the measures the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such description (except that nothing in this subparagraph shall be construed as requiring a State to develop or implement a teacher, principal, or other school leader evaluation system);

(C) how the State educational agency will support local educational agencies receiving assistance under this part to improve school conditions for student learning, including through reducing—

(i) incidences of bullying and harassment;

(ii) the overuse of discipline practices that remove students from the classroom; and

(iii) the use of aversive behavioral interventions that compromise student health and safety;

(D) how the State will support local educational agencies receiving assistance under this part in meeting the needs of students at all levels of schooling (particularly students in the middle grades and high school), including how the State will work with such local educational agencies to provide effective transitions of students to middle grades and high school to decrease the risk of students dropping out;

(E) the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that—

(i) any such child enrolls or remains in such child's school of origin, unless a determination is made that it is not in such child's best interest to attend the school of origin, which decision shall be based on all factors relating to the child's best interest, including consideration of the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;

(ii) when a determination is made that it is not in such child's best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment;

(iii) the enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records; and

(iv) the State educational agency will designate an employee to serve as a point of contact for child welfare agencies and to oversee implementation of the State agency responsibilities required under this subparagraph, and such point of contact shall not be the State's Coordinator for Education of Homeless Children and Youths under section 722(d)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(d)(3));

(F) how the State educational agency will provide support to local educational agencies in the identification, enrollment, attendance, and school stability of homeless children and youths; and

(G) such other factors the State educational agency determines appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging State academic standards.

(2) Assurances

Each State plan shall contain assurances that—

(A) the State will make public any methods or criteria the State is using to measure teacher, principal, or other school leader effectiveness for the purpose of meeting the requirements described in paragraph (1)(B);

(B) the State educational agency will notify local educational agencies, Indian tribes and tribal organizations, schools, teachers, parents, and the public of the challenging State academic standards, academic assessments, and State accountability system, developed under this section;

(C) the State educational agency will assist each local educational agency and school affected by the State plan to meet the requirements of this part;

(D) the State will participate in the biennial State academic assessments in reading and mathematics in grades 4 and 8 of the National Assessment of Educational Progress carried out under section 303(b)(3) of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622(b)(3)) if the Secretary pays the costs of administering such assessments;

(E) the State educational agency will modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources to improve educational opportunities and reduce unnecessary fiscal and accounting requirements;

(F) the State educational agency will support the collection and dissemination to local educational agencies and schools of effective parent and family engagement strategies, including those included in the parent and family engagement policy under section 6318 of this title;

(G) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under

this part;

(H) the State educational agency will ensure that local educational agencies, in developing and implementing programs under this part, will, to the extent feasible, work in consultation with outside intermediary organizations (such as educational service agencies), or individuals, that have practical expertise in the development or use of evidence-based strategies and programs to improve teaching, learning, and schools;

(I) the State educational agency has appropriate procedures and safeguards in place to ensure the validity of the assessment process;

(J) the State educational agency will ensure that all teachers and paraprofessionals working in a program supported with funds under this part meet applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification;

(K) the State educational agency will coordinate activities funded under this part with other Federal activities as appropriate;

(L) the State educational agency has involved the committee of practitioners established under section 6573(b) of this title in developing the plan and monitoring its implementation;

(M) the State has professional standards for paraprofessionals working in a program supported with funds under this part, including qualifications that were in place on the day before December 10, 2015; and

(N) the State educational agency will provide the information described in clauses (ii), (iii), and (vii) of subsection (h)(1)(C) to the public in an easily accessible and user-friendly manner that can be cross-tabulated by, at a minimum, each major racial and ethnic group, gender, English proficiency status, and children with or without disabilities, which—

(i) may be accomplished by including such information on the annual State report card described subsection (h)(1)(C); and

(ii) shall be presented in a manner that—

(I) is first anonymized and does not reveal personally identifiable information about an individual student;

(II) does not include a number of students in any subgroup of students that is insufficient to yield statistically reliable information or that would reveal personally identifiable information about an individual student; and

(III) is consistent with the requirements of section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974").

(3) Rules of construction

Nothing in paragraph (2)(N) shall be construed to—

(A) require groups of students obtained by any entity that cross-tabulates the information provided under such paragraph to be considered subgroups of students, as defined in subsection (c)(2), for the purposes of the State accountability system under subsection (c); or

(B) require or prohibit States or local educational agencies from publicly reporting data in a cross-tabulated manner, in order to meet the requirements of paragraph (2)(N).

(4) Technical assistance

Upon request by a State educational agency, the Secretary shall provide technical assistance to such agency to—

(A) meet the requirements of paragraph (2)(N); or

(B) in the case of a State educational agency choosing, at its sole discretion, to disaggregate data described in clauses (ii) and (iii)(II) of subsection (h)(1)(C) for Asian and Native Hawaiian or Pacific Islander students using the same race response categories as the decennial census of the population, assist such State educational agency in such disaggregation and in using such data to improve academic outcomes for such students.

(h) Reports

(1) Annual State report card

(A) In general

A State that receives assistance under this part shall prepare and disseminate widely to the public an annual State report card for the State as a whole that meets the requirements of this paragraph.

(B) Implementation

The State report card required under this paragraph shall be—

(i) concise;

(ii) presented in an understandable and uniform format that is developed in consultation with parents and, to the extent practicable, in a language that parents can understand; and

(iii) widely accessible to the public, which shall include making available on a single webpage of the State educational agency's website, the State report card, all local educational agency report cards for each local educational agency in the State required under paragraph (2), and the annual report to the Secretary under paragraph (5).

(C) Minimum requirements

Each State report card required under this subsection shall include the following information:

(i) A clear and concise description of the State's accountability system under subsection (c), including—

(I) the minimum number of students that the State determines are necessary to be included in each of the subgroups of students, as defined in subsection (c)(2), for use in the accountability system;

(II) the long-term goals and measurements of interim progress for all students and for each of the subgroups of students, as defined in subsection (c)(2);

(III) the indicators described in subsection (c)(4)(B) used to meaningfully differentiate all public schools in the State;

(IV) the State's system for meaningfully differentiating all public schools in the State, including—

(aa) the specific weight of the indicators described in subsection (c)(4)(B) in such differentiation;

(bb) the methodology by which the State differentiates all such schools;

(cc) the methodology by which the State differentiates a school as consistently underperforming for any subgroup of students described in section (c)(4)(C)(iii), including the time period used by the State to determine consistent underperformance; and

(dd) the methodology by which the State identifies a school for comprehensive support and improvement as required under subsection (c)(4)(D)(i);

(V) the number and names of all public schools in the State identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i) or implementing targeted support and improvement plans under subsection (d)(2); and

(VI) the exit criteria established by the State as required under clause (i) of subsection (d)(3)(A), including the length of years established under clause (i)(II) of such subsection.

(ii) For all students and disaggregated by each subgroup of students described in subsection (b)(2)(B)(xi), homeless status, status as a child in foster care, and status as a student with a parent who is a member of the Armed Forces (as defined in section 101(a)(4) of title 10) on active duty (as defined in section 101(d)(5)[8] of such title), information on student achievement on the academic assessments described in subsection (b)(2) at each level of achievement, as determined by the State under subsection (b)(1).

(iii) For all students and disaggregated by each of the subgroups of students, as defined in subsection (c)(2), and for purposes of subclause (II) of this clause, homeless status and status as a child in foster care—

(I) information on the performance on the other academic indicator under subsection

(c)(4)(B)(ii) for public elementary schools and secondary schools that are not high schools, used by the State in the State accountability system; and

(II) high school graduation rates, including four-year adjusted cohort graduation rates and, at the State's discretion, extended-year adjusted cohort graduation rates.

(iv) Information on the number and percentage of English learners achieving English language proficiency.

(v) For all students and disaggregated by each of the subgroups of students, as defined in subsection (c)(2), information on the performance on the other indicator or indicators of school quality or student success under subsection (c)(4)(B)(v) used by the State in the State accountability system.

(vi) Information on the progress of all students and each subgroup of students, as defined in subsection (c)(2), toward meeting the State-designed long term goals under subsection (c)(4)(A), including the progress of all students and each such subgroup of students against the State measurements of interim progress established under such subsection.

(vii) For all students and disaggregated by each subgroup of students described in subsection (b)(2)(B)(xi), the percentage of students assessed and not assessed.

(viii) Information submitted by the State educational agency and each local educational agency in the State, in accordance with data collection conducted pursuant to section 3413(c)(1) of this title, on—

(I) measures of school quality, climate, and safety, including rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism (including both excused and unexcused absences), incidences of violence, including bullying and harassment; and

(II) the number and percentage of students enrolled in—

(aa) preschool programs; and

(bb) accelerated coursework to earn postsecondary credit while still in high school, such as Advanced Placement and International Baccalaureate courses and examinations, and dual or concurrent enrollment programs.

(ix) The professional qualifications of teachers in the State, including information (that shall be presented in the aggregate and disaggregated by high-poverty compared to low-poverty schools) on the number and percentage of—

(I) inexperienced teachers, principals, and other school leaders;

(II) teachers teaching with emergency or provisional credentials; and

(III) teachers who are not teaching in the subject or field for which the teacher is certified or licensed.

(x) The per-pupil expenditures of Federal, State, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures of Federal, State, and local funds, disaggregated by source of funds, for each local educational agency and each school in the State for the preceding fiscal year.

(xi) The number and percentages of students with the most significant cognitive disabilities who take an alternate assessment under subsection (b)(2)(D), by grade and subject.

(xii) Results on the State academic assessments in reading and mathematics in grades 4 and 8 of the National Assessment of Educational Progress carried out under section 303(b)(3) of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622(b)(3)), compared to the national average of such results.

(xiii) Where available, for each high school in the State, and beginning with the report card prepared under this paragraph for 2017, the cohort rate (in the aggregate, and disaggregated for each subgroup of students defined in subsection (c)(2)), at which students who graduate from the high school enroll, for the first academic year that begins after the students' graduation—

(I) in programs of public postsecondary education in the State; and

(II) if data are available and to the extent practicable, in programs of private postsecondary education in the State or programs of postsecondary education outside the State.

(xiv) Any additional information that the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and secondary schools, which may include the number and percentage of students attaining career and technical proficiencies (as defined by section 113(b) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2323(b)) and reported by States only in a manner consistent with section 113(c) of such Act (20 U.S.C. 2323(c)).

(D) Rules of construction

Nothing in subparagraph (C)(viii) shall be construed as requiring—

(i) reporting of any data that are not collected in accordance with section 3413(c)(1) of this title; or

(ii) disaggregation of any data other than as required under subsection (b)(2)(B)(xi).

(2) Annual local educational agency report cards

(A) Preparation and dissemination

A local educational agency that receives assistance under this part shall prepare and disseminate an annual local educational agency report card that includes information on such agency as a whole and each school served by the agency.

(B) Implementation

Each local educational agency report card shall be—

(i) concise;

(ii) presented in an understandable and uniform format, and to the extent practicable, in a language that parents can understand; and

(iii) accessible to the public, which shall include—

(I) placing such report card on the website of the local educational agency; and

(II) in any case in which a local educational agency does not operate a website, providing the information to the public in another manner determined by the local educational agency.

(C) Minimum requirements

The State educational agency shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(C), disaggregated in the same manner as required under such paragraph, except for clause (xii) of such paragraph, as applied to the local educational agency and each school served by the local educational agency, including—

(i) in the case of a local educational agency, information that shows how students served by the local educational agency achieved on the academic assessments described in subsection (b)(2) compared to students in the State as a whole;

(ii) in the case of a school, information that shows how the school's students' achievement on the academic assessments described in subsection (b)(2) compared to students served by the local educational agency and the State as a whole; and

(iii) any other information that the local educational agency determines is appropriate and will best provide parents, students, and other members of the public with information regarding the progress of each public school served by the local educational agency, whether or not such information is included in the annual State report card.

(D) Additional information

In the case of a local educational agency that issues a report card for all students, the local

educational agency may include the information under this section as part of such report.

(3) Preexisting report cards

A State educational agency or local educational agency may use public report cards on the performance of students, schools, local educational agencies, or the State, that were in effect prior to December 10, 2015, for the purpose of this subsection, so long as any such report card is modified, as may be needed, to contain the information required by this subsection, and protects the privacy of individual students.

(4) Cost reduction

Each State educational agency and local educational agency receiving assistance under this part shall, wherever possible, take steps to reduce data collection costs and duplication of effort by obtaining the information required under this subsection through existing data collection efforts.

(5) Annual State report to the Secretary

Each State educational agency receiving assistance under this part shall report annually to the Secretary, and make widely available within the State—

(A) information on the achievement of students on the academic assessments required by subsection (b)(2), including the disaggregated results for the subgroups of students as defined in subsection (c)(2);

(B) information on the acquisition of English proficiency by English learners;

(C) the number and names of each public school in the State—

(i) identified for comprehensive support and improvement under subsection (c)(4)(D)(i); and

(ii) implementing targeted support and improvement plans under subsection (d)(2); and

(D) information on the professional qualifications of teachers in the State, including information on the number and the percentage of the following teachers:

(i) Inexperienced teachers.

(ii) Teachers teaching with emergency or provisional credentials.

(iii) Teachers who are not teaching in the subject or field for which the teacher is certified or licensed.

(6) Report to Congress

The Secretary shall transmit annually to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that provides national and State-level data on the information collected under paragraph (5). Such report shall be submitted through electronic means only.

(i) Privacy

(1) In general

Information collected or disseminated under this section (including any information collected for or included in the reports described in subsection (h)) shall be collected and disseminated in a manner that protects the privacy of individuals consistent with section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974") and this chapter.

(2) Sufficiency

The reports described in subsection (h) shall only include data that are sufficient to yield statistically reliable information.

(3) Disaggregation

Disaggregation under this section shall not be required if such disaggregation will reveal personally identifiable information about any student, teacher, principal, or other school leader, or will provide data that are insufficient to yield statistically reliable information.

(j) Voluntary partnerships

A State retains the right to enter into a voluntary partnership with another State to develop and implement the challenging State academic standards and assessments required under this section, except that the Secretary shall not attempt to influence, incentivize, or coerce State—

(1) adoption of the Common Core State Standards developed under the Common Core State Standards Initiative or any other academic standards common to a significant number of States, or assessments tied to such standards; or

(2) participation in such partnerships.

(k) Special rule with respect to Bureau-funded schools

In determining the assessments to be used by each school operated or funded by the Bureau of Indian Education receiving funds under this part, the following shall apply until the requirements of section 7824(c) of this title have been met:

(1) Each such school that is accredited by the State in which it is operating shall use the assessments and other academic indicators the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment and academic indicators as approved by the Secretary of the Interior.

(2) Each such school that is accredited by a regional accrediting organization (in consultation with and with the approval of the Secretary of the Interior, and consistent with assessments and academic indicators adopted by other schools in the same State or region) shall adopt an appropriate assessment and other academic indicators that meet the requirements of this section.

(3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment and other academic indicators developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment and academic indicators meet the requirements of this section.

(l) Construction

Nothing in this part shall be construed to prescribe the use of the academic assessments described in this part for student promotion or graduation purposes.

(Pub. L. 89–10, title I, §1111, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1444; amended Pub. L. 107–279, title IV, §404(d)(1), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 108–446, title III, §305(g)(1), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 109–270, §2(f)(1), Aug. 12, 2006, 120 Stat. 747; Pub. L. 114–95, title I, §1005, Dec. 10, 2015, 129 Stat. 1820.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(1)(B) and (b)(1)(E)(i)(II), (2)(B)(vii)(II), (D)(i)(III), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(1)(B), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(1)(B), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (a)(1)(B), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of this title, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Head Start Act, referred to in subsec. (a)(1)(B), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (a)(1)(B), is subchapter C (§658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V,

§5082(2), Nov. 5, 1990, 104 Stat. 1388–236, which is classified generally to subchapter II–B (§9857 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 9857(a) of Title 42 and Tables.

The Education Sciences Reform Act of 2002, referred to in subsec. (a)(1)(B), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, which is classified generally to subchapter I (§9501 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The Educational Technical Assistance Act of 2002, referred to in subsec. (a)(1)(B), is title II of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1975, which is classified generally to subchapter II (§9601 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The National Assessment of Educational Progress Authorization Act, referred to in subsec. (a)(1)(B), is title III of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1982, which is classified generally to subchapter III (§9621 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1)(B), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, which is classified principally to chapter 119 (§11301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (a)(1)(B), is title II of Pub. L. 113–128, July 22, 2014, 128 Stat. 1608, which is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

Public Law 93–112, referred to in subsec. (b)(1)(E)(i)(V), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, known as the Rehabilitation Act of 1973, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. July 22, 2014, refers to the date of enactment of title IV (§401 et seq.) of Pub. L. 113–128, 128 Stat. 1631, which amended numerous sections in the Act. For complete classification of Pub. L. 93–112 to the Code, see Short Title note set out under section 701 of Title 29 and Tables. For complete classification of title IV of Pub. L. 113–128 to the Code, see Tables.

The Social Security Act, referred to in subsec. (g)(1)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts B and E of title IV of the Act are classified generally to parts B (§620 et seq.) and E (§670 et seq.), respectively, of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6311, Pub. L. 89–10, title I, §1111, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3523; amended Pub. L. 104–134, title I, §101(d) [title VII, §703(b)(1)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1603], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, related to State plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1111 of Pub. L. 89–10 was classified to section 2768 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to State plan to adopt challenging academic standards to be applied to all schools and children in the State and penalties for failure to meet deadlines enacted in 1994 and 2001.

2006—Subsec. (a)(1). Pub. L. 109–270 substituted "Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Technical Education Act of 1998".

2004—Subsec. (b)(2)(I)(ii). Pub. L. 108–446 substituted "section 612(a)(16)(A)" for "section 612(a)(17)(A)".

2002—Subsec. (c)(2). Pub. L. 107–279 substituted "section 9622(b)(2) of this title" for "section 9010(b)(2) of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, with separate effective dates for subsecs. (b)(2), (c), and (d) and with special rules for implementation of interventions at certain schools and local educational agencies, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be "(29 U.S.C. 701 et seq.),".*

[2] *So in original. Probably should be "9857 et seq.),".*

[3] *So in original. Probably should be "Educational".*

[4] *So in original. No subsec. (c)(4)(B)(vi) has been enacted.*

[5] *So in original. Probably should be "(20 U.S.C. 1412(a)(16)(C))".*

[6] *So in original. Designations (III) to (VIII) probably should be (aa) to (ff), respectively.*

[7] *So in original. The word "of" probably should not appear.*

[8] *So in original. Probably should be "101(d)(1)".*

§6312. Local educational agency plans

(a) Plans required

(1) Subgrants

A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that—

(A) is developed with timely and meaningful consultation with teachers, principals, other school leaders, paraprofessionals, specialized instructional support personnel, charter school leaders (in a local educational agency that has charter schools), administrators (including administrators of programs described in other parts of this subchapter), other appropriate school personnel, and with parents of children in schools served under this part; and

(B) as appropriate, is coordinated with other programs under this chapter, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Rehabilitation Act of 1973 (20 U.S.C. 701 et seq.),[1] the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.), the Adult Education and Family Literacy Act (29 U.S.C. 3271 et seq.), and other Acts as appropriate.

(2) Consolidated application

The plan may be submitted as part of a consolidated application under section 7845 of this title.

(3) State approval

(A) In general

Each local educational agency plan shall be filed according to a schedule established by the State educational agency.

(B) Approval

The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan—

(i) provides that schools served under this part substantially help children served under this part meet the challenging State academic standards; and

(ii) meets the requirements of this section.

(4) Duration

Each local educational agency plan shall be submitted for the first year for which this part is in effect following December 10, 2015, and shall remain in effect for the duration of the agency's participation under this part.

(5) Review

Each local educational agency shall periodically review and, as necessary, revise its plan.

(6) Rule of construction

Consultation required under paragraph (1)(A) shall not interfere with the timely submission of the plan required under this section.

(b) Plan provisions

To ensure that all children receive a high-quality education, and to close the achievement gap between children meeting the challenging State academic standards and those children who are not meeting such standards, each local educational agency plan shall describe—

(1) how the local educational agency will monitor students' progress in meeting the challenging State academic standards by—

(A) developing and implementing a well-rounded program of instruction to meet the academic needs of all students;

(B) identifying students who may be at risk for academic failure;

(C) providing additional educational assistance to individual students the local educational agency or school determines need help in meeting the challenging State academic standards; and

(D) identifying and implementing instructional and other strategies intended to strengthen academic programs and improve school conditions for student learning;

(2) how the local educational agency will identify and address, as required under State plans as described in section 6311(g)(1)(B) of this title, any disparities that result in low-income students and minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers;

(3) how the local educational agency will carry out its responsibilities under paragraphs (1) and (2) of section 6311(d) of this title;

(4) the poverty criteria that will be used to select school attendance areas under section 6313 of this title;

(5) in general, the nature of the programs to be conducted by such agency's schools under sections 6314 and 6315 of this title and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, and for neglected and delinquent children in community day school programs;

(6) the services the local educational agency will provide homeless children and youths, including services provided with funds reserved under section 6313(c)(3)(A) of this title, to support the enrollment, attendance, and success of homeless children and youths, in coordination with the services the local educational agency is providing under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.);

(7) the strategy the local educational agency will use to implement effective parent and family engagement under section 6318 of this title;

(8) if applicable, how the local educational agency will support, coordinate, and integrate services provided under this part with early childhood education programs at the local educational agency or individual school level, including plans for the transition of participants in such programs to local elementary school programs;

(9) how teachers and school leaders, in consultation with parents, administrators, paraprofessionals, and specialized instructional support personnel, in schools operating a targeted assistance school program under section 6315 of this title, will identify the eligible children most in need of services under this part;

(10) how the local educational agency will implement strategies to facilitate effective transitions

for students from middle grades to high school and from high school to postsecondary education including, if applicable—

(A) through coordination with institutions of higher education, employers, and other local partners; and

(B) through increased student access to early college high school or dual or concurrent enrollment opportunities, or career counseling to identify student interests and skills;

(11) how the local educational agency will support efforts to reduce the overuse of discipline practices that remove students from the classroom, which may include identifying and supporting schools with high rates of discipline, disaggregated by each of the subgroups of students, as defined in section 6311(c)(2) of this title;

(12) if determined appropriate by the local educational agency, how such agency will support programs that coordinate and integrate—

(A) academic and career and technical education content through coordinated instructional strategies, that may incorporate experiential learning opportunities and promote skills attainment important to in-demand occupations or industries in the State; and

(B) work-based learning opportunities that provide students in-depth interaction with industry professionals and, if appropriate, academic credit; and

(13) any other information on how the local educational agency proposes to use funds to meet the purposes of this part, and that the local educational agency determines appropriate to provide, which may include how the local educational agency will—

(A) assist schools in identifying and serving gifted and talented students; and

(B) assist schools in developing effective school library programs to provide students an opportunity to develop digital literacy skills and improve academic achievement.

(c) Assurances

Each local educational agency plan shall provide assurances that the local educational agency will—

(1) ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;

(2) provide services to eligible children attending private elementary schools and secondary schools in accordance with section 6320 of this title, and timely and meaningful consultation with private school officials regarding such services;

(3) participate, if selected, in the National Assessment of Educational Progress in reading and mathematics in grades 4 and 8 carried out under section 9622(b)(3) of this title;

(4) coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as services for English learners, children with disabilities, migratory children, American Indian, Alaska Native, and Native Hawaiian children, and homeless children and youths, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

(5) collaborate with the State or local child welfare agency to—

(A) designate a point of contact if the corresponding child welfare agency notifies the local educational agency, in writing, that the agency has designated an employee to serve as a point of contact for the local educational agency; and

(B) by not later than 1 year after December 10, 2015, develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care, which procedures shall—

(i) ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with section 675(4)(A) of title 42; and

(ii) ensure that, if there are additional costs incurred in providing transportation to maintain

children in foster care in their schools of origin, the local educational agency will provide transportation to the school of origin if—

(I) the local child welfare agency agrees to reimburse the local educational agency for the cost of such transportation;

(II) the local educational agency agrees to pay for the cost of such transportation; or

(III) the local educational agency and the local child welfare agency agree to share the cost of such transportation; and [2]

(6) ensure that all teachers and paraprofessionals working in a program supported with funds under this part meet applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification; and

(7) in the case of a local educational agency that chooses to use funds under this part to provide early childhood education services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)).

(d) Special rule

For local educational agencies using funds under this part for the purposes described in subsection (c)(7), the Secretary shall—

(1) consult with the Secretary of Health and Human Services and establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subsection; and

(2) disseminate to local educational agencies the education performance standards in effect under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)), and such agencies affected by such subsection (c)(7) shall plan to comply with such subsection (taking into consideration existing State and local laws, and local teacher contracts), including by pursuing the availability of other Federal, State, and local funding sources to assist with such compliance.

(e) Parents right-to-know

(1) Information for parents

(A) In general

At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the agency will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including at a minimum, the following:

(i) Whether the student's teacher—

(I) has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction;

(II) is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived; and

(III) is teaching in the field of discipline of the certification of the teacher.

(ii) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

(B) Additional information

In addition to the information that parents may request under subparagraph (A), a school that receives funds under this part shall provide to each individual parent of a child who is a student in such school, with respect to such student—

(i) information on the level of achievement and academic growth of the student, if applicable and available, on each of the State academic assessments required under this part; and

(ii) timely notice that the student has been assigned, or has been taught for 4 or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned.

(2) Testing transparency

(A) In general

At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the local educational agency will provide the parents on request (and in a timely manner), information regarding any State or local educational agency policy regarding student participation in any assessments mandated by section 6311(b)(2) of this title and by the State or local educational agency, which shall include a policy, procedure, or parental right to opt the child out of such assessment, where applicable.

(B) Additional information

Subject to subparagraph (C), each local educational agency that receives funds under this part shall make widely available through public means (including by posting in a clear and easily accessible manner on the local educational agency's website and, where practicable, on the website of each school served by the local educational agency) for each grade served by the local educational agency, information on each assessment required by the State to comply with section 6311 of this title, other assessments required by the State, and where such information is available and feasible to report, assessments required districtwide by the local educational agency, including—

(i) the subject matter assessed;

(ii) the purpose for which the assessment is designed and used;

(iii) the source of the requirement for the assessment; and

(iv) where such information is available—

(I) the amount of time students will spend taking the assessment, and the schedule for the assessment; and

(II) the time and format for disseminating results.

(C) Local educational agency that does not operate a website

In the case of a local educational agency that does not operate a website, such local educational agency shall determine how to make the information described in subparagraph (A) widely available, such as through distribution of that information to the media, through public agencies, or directly to parents.

(3) Language instruction

(A) Notice

Each local educational agency using funds under this part or subchapter III to provide a language instruction educational program as determined under subchapter III shall, not later than 30 days after the beginning of the school year, inform parents of an English learner identified for participation or participating in such a program, of—

(i) the reasons for the identification of their child as an English learner and in need of placement in a language instruction educational program;

(ii) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

(iii) the methods of instruction used in the program in which their child is, or will be, participating and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;

(iv) how the program in which their child is, or will be, participating will meet the educational strengths and needs of their child;

(v) how such program will specifically help their child learn English and meet

age-appropriate academic achievement standards for grade promotion and graduation;

(vi) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for English learners, and the expected rate of graduation from high school (including four-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates for such program) if funds under this part are used for children in high schools;

(vii) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child, as described in section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)); and

(viii) information pertaining to parental rights that includes written guidance—

(I) detailing the right that parents have to have their child immediately removed from such program upon their request;

(II) detailing the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

(III) assisting parents in selecting among various programs and methods of instruction, if more than 1 program or method is offered by the eligible entity.

(B) Special rule applicable during the school year

For those children who have not been identified as English learners prior to the beginning of the school year but are identified as English learners during such school year, the local educational agency shall notify the children's parents during the first 2 weeks of the child being placed in a language instruction educational program consistent with subparagraph (A).

(C) Parental participation

(i) In general

Each local educational agency receiving funds under this part shall implement an effective means of outreach to parents of English learners to inform the parents regarding how the parents can—

(I) be involved in the education of their children; and

(II) be active participants in assisting their children to—

(aa) attain English proficiency;

(bb) achieve at high levels within a well-rounded education; and

(cc) meet the challenging State academic standards expected of all students.

(ii) Regular meetings

Implementing an effective means of outreach to parents under clause (i) shall include holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this part or subchapter III.

(D) Basis for admission or exclusion

A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

(4) Notice and format

The notice and information provided to parents under this subsection shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(Pub. L. 89–10, title I, §1112, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1462; amended Pub. L. 107–279, title IV, §404(d)(2), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 109–270, §2(f)(2), Aug. 12, 2006, 120 Stat. 747; Pub. L. 110–134, §29(a), Dec. 12, 2007, 121 Stat. 1448; Pub. L. 114–95, title I, §1006, Dec. 10, 2015, 129 Stat. 1852.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(1)(B), is title VI of Pub. L.

91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(1)(B), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(1)(B), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (a)(1)(B), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of this title, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Head Start Act, referred to in subsec. (a)(1)(B), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsecs. (a)(1)(B) and (b)(6), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, which is classified principally to chapter 119 (§11301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (a)(1)(B), is title II of Pub. L. 113–128, July 22, 2014, 128 Stat. 1608, which is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 6312, Pub. L. 89–10, title I, §1112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3529, related to local educational agency plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to local educational agency plan to help low-achieving children meet challenging academic achievement standards.

2007—Subsec. (c)(1)(G). Pub. L. 110–134, §29(a)(1), substituted "education performance standards in effect under section 9836a(a)(1)(B) of title 42" for "performance standards established under section 9836a(a) of title 42".

Subsec. (c)(2)(B). Pub. L. 110–134, §29(a)(2), substituted "education performance standards in effect under section 9836a(a)(1)(B) of title 42" for "Head Start performance standards as in effect under section 9836a(a) of title 42".

2006—Subsec. (a)(1). Pub. L. 109–270 substituted "Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Technical Education Act of 1998".

2002—Subsec. (b)(1)(F). Pub. L. 107–279 substituted "section 9622(b)(2) of this title" for "section 9010(b)(2) of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] So in original. Probably should be "(29 U.S.C. 701 et seq.),".

[2] So in original. The word "and" probably should not appear.

§6313. Eligible school attendance areas

(a) Determination

(1) In general

A local educational agency shall use funds received under this part only in eligible school attendance areas.

(2) Eligible school attendance areas

For the purposes of this part—

(A) the term "school attendance area" means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

(B) the term "eligible school attendance area" means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families served by the local educational agency as a whole.

(3) Ranking order

(A) Ranking

Except as provided in subparagraph (B), if funds allocated in accordance with subsection (c) are insufficient to serve all eligible school attendance areas, a local educational agency shall—

(i) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

(ii) serve such eligible school attendance areas in rank order.

(B) Exception

A local educational agency may lower the threshold in subparagraph (A)(i) to 50 percent for high schools served by such agency.

(4) Remaining funds

If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

(5) Measures

(A) In general

Except as provided in subparagraph (B), a local educational agency shall use the same measure of poverty, which measure shall be the number of children aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or the number of children eligible to receive medical assistance under the Medicaid Program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

(i) to identify eligible school attendance areas;

(ii) to determine the ranking of each area; and

(iii) to determine allocations under subsection (c).

(B) Secondary schools

For measuring the number of students in low-income families in secondary schools, the local educational agency shall use the same measure of poverty, which shall be—

(i) the measure described under subparagraph (A); or

(ii) subject to meeting the conditions of subparagraph (C), an accurate estimate of the number of students in low-income families in a secondary school that is calculated by applying the average percentage of students in low-income families of the elementary school attendance areas as calculated under subparagraph (A) that feed into the secondary school to the number of students enrolled in such school.

(C) Measure of poverty

The local educational agency shall have the option to use the measure of poverty described in subparagraph (B)(ii) after—

(i) conducting outreach to secondary schools within such agency to inform such schools of the option to use such measure; and

(ii) a majority of such schools have approved the use of such measure.

(6) Exception

This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

(7) Waiver for desegregation plans

The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c) of this section, and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered, court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if—

(A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and

(B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

(b) Local educational agency discretion

(1) In general

Notwithstanding subsection (a)(2) of this section, a local educational agency may—

(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency;

(C) designate and serve a school attendance area or school that is not eligible under this section, but that was eligible and that was served in the preceding fiscal year, but only for 1 additional fiscal year; and

(D) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

(i) the school meets the comparability requirements of section 6321(c) of this title;

(ii) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 6314 or 6315 of this title; and

(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

(2) Special rule

Notwithstanding paragraph (1)(D), the number of children attending private elementary schools and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

(c) Allocations

(1) In general

A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsections (a) and (b) of this section, in rank order, on the basis of the total number of children from low-income families in each area or school.

(2) Special rule

(A) In general

Except as provided in subparagraph (B), the per-pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per-pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 6312 of this title, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

(B) Exception

A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 6314 or 6315 of this title.

(3) Reservation of funds

(A) In general

A local educational agency shall reserve such funds as are necessary under this part, determined in accordance with subparagraphs (B) and (C), to provide services comparable to those provided to children in schools funded under this part to serve—

(i) homeless children and youths, including providing educationally related support services to children in shelters and other locations where children may live;

(ii) children in local institutions for neglected children; and

(iii) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day programs.

(B) Method of determination

The share of funds determined under subparagraph (A) shall be determined—

(i) based on the total allocation received by the local educational agency; and

(ii) prior to any allowable expenditures or transfers by the local educational agency.

(C) Homeless children and youths

Funds reserved under subparagraph (A)(i) may be—

(i) determined based on a needs assessment of homeless children and youths in the local educational agency, taking into consideration the number and needs of homeless children and youths in the local educational agency, and which needs assessment may be the same needs assessment as conducted under section 11433(b)(1) of title 42; and

(ii) used to provide homeless children and youths with services not ordinarily provided to other students under this part, including providing—

(I) funding for the liaison designated pursuant to section 11432(g)(1)(J)(ii) of title 42; and

(II) transportation pursuant to section 11432(g)(1)(J)(iii) of such title.

(4) Financial incentives and rewards reservation

A local educational agency may reserve such funds as are necessary from those funds received by the local educational agency under subchapter II of this chapter, and not more than 5 percent of those funds received by the local educational agency under subpart 2 of this part, to provide

financial incentives and rewards to teachers who serve in schools eligible under this section and identified for comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title for the purpose of attracting and retaining qualified and effective teachers.

(5) Early childhood education

A local educational agency may reserve funds made available to carry out this section to provide early childhood education programs for eligible children.

(Pub. L. 89–10, title I, §1113, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1469; amended Pub. L. 114–95, title I, §1007, Dec. 10, 2015, 129 Stat. 1859.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (a)(5)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (a)(5)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6313, Pub. L. 89–10, title I, §1113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3532; amended Pub. L. 104–193, title I, §110(j)(1), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 106–78, title VII, §752(b)(10), Oct. 22, 1999, 113 Stat. 1169, related to eligible school attendance areas, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114–95, §1007(1)(A), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "If funds allocated in accordance with subsection (c) of this section are insufficient to serve all eligible school attendance areas, a local educational agency shall—

"(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order."

Subsec. (a)(5). Pub. L. 114–95, §1007(1)(B), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act, the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

"(A) to identify eligible school attendance areas;

"(B) to determine the ranking of each area; and

"(C) to determine allocations under subsection (c) of this section."

Subsec. (b)(1)(D)(i). Pub. L. 114–95, §1007(2), made technical amendment to reference in original act which appears in text as reference to section 6321(c) of this title.

Subsec. (c)(3). Pub. L. 114–95, §1007(3)(A), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

"(A) homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live;

"(B) children in local institutions for neglected children; and

"(C) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs."

Subsec. (c)(4). Pub. L. 114–95, §1007(3)(B), substituted "comprehensive support and improvement

activities or targeted support and improvement activities under section 6311(d)" for "school improvement, corrective action, and restructuring under section 6316(b)".

Subsec. (c)(5). Pub. L. 114–95, §1007(3)(C), added par. (5).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6314. Schoolwide programs

(a) In general

(1) Use of funds for schoolwide programs

(A) Eligibility

A local educational agency may consolidate and use funds under this part, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families.

(B) Exception

A school that serves an eligible school attendance area in which less than 40 percent of the children are from low-income families, or a school for which less than 40 percent of the children enrolled in the school are from such families, may operate a schoolwide program under this section if the school receives a waiver from the State educational agency to do so, after taking into account how a schoolwide program will best serve the needs of the students in the school served under this part in improving academic achievement and other factors.

(2) Identification of students not required

(A) In general

No school participating in a schoolwide program shall be required to identify—

(i) particular children under this part as eligible to participate in a schoolwide program; or

(ii) individual services as supplementary.

(B) Supplemental funds

In accordance with the method of determination described in section 6321(b)(2) of this title, a school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and English learners.

(3) Exemption from statutory and regulatory requirements

(A) Exemption

Except as provided in paragraph (2), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), except as provided in section 613(a)(2)(D) of such Act (20 U.S.C. 1413(a)(2)(D))), or any discretionary grant program administered by the Secretary, to support schoolwide programs if the intent and purposes of such other programs are met.

(B) Requirements

A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, student and parental participation and

involvement, services to private school children, comparability of services, maintenance of effort, uses of Federal funds to supplement, not supplant non-Federal funds (in accordance with the method of determination described in section 6321(b)(2) of this title), or the distribution of funds to State educational agencies or local educational agencies that apply to the receipt of funds from such programs.

(C) Records

A school that chooses to consolidate and use funds from different Federal programs under this section shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the Federal programs that were consolidated to support the schoolwide program.

(b) Schoolwide program plan

An eligible school operating a schoolwide program shall develop a comprehensive plan (or amend a plan for such a program that was in existence on the day before December 10, 2015) that—

(1) is developed during a 1-year period, unless—

(A) the local educational agency determines, in consultation with the school, that less time is needed to develop and implement the schoolwide program; or

(B) the school is operating a schoolwide program on the day before December 10, 2015, in which case such school may continue to operate such program, but shall develop amendments to its existing plan during the first year of assistance after that date to reflect the provisions of this section;

(2) is developed with the involvement of parents and other members of the community to be served and individuals who will carry out such plan, including teachers, principals, other school leaders, paraprofessionals present in the school, administrators (including administrators of programs described in other parts of this subchapter), the local educational agency, to the extent feasible, tribes and tribal organizations present in the community, and, if appropriate, specialized instructional support personnel, technical assistance providers, school staff, if the plan relates to a secondary school, students, and other individuals determined by the school;

(3) remains in effect for the duration of the school's participation under this part, except that the plan and its implementation shall be regularly monitored and revised as necessary based on student needs to ensure that all students are provided opportunities to meet the challenging State academic standards;

(4) is available to the local educational agency, parents, and the public, and the information contained in such plan shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

(5) if appropriate and applicable, is developed in coordination and integration with other Federal, State, and local services, resources, and programs, such as programs supported under this chapter, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education programs, career and technical education programs, and schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title;

(6) is based on a comprehensive needs assessment of the entire school that takes into account information on the academic achievement of children in relation to the challenging State academic standards, particularly the needs of those children who are failing, or are at-risk of failing, to meet the challenging State academic standards and any other factors as determined by the local educational agency; and

(7) includes a description of—

(A) the strategies that the school will be implementing to address school needs, including a description of how such strategies will—

(i) provide opportunities for all children, including each of the subgroups of students (as

defined in section 6311(c)(2) of this title) to meet the challenging State academic standards;

(ii) use methods and instructional strategies that strengthen the academic program in the school, increase the amount and quality of learning time, and help provide an enriched and accelerated curriculum, which may include programs, activities, and courses necessary to provide a well-rounded education; and

(iii) address the needs of all children in the school, but particularly the needs of those at risk of not meeting the challenging State academic standards, through activities which may include—

(I) counseling, school-based mental health programs, specialized instructional support services, mentoring services, and other strategies to improve students' skills outside the academic subject areas;

(II) preparation for and awareness of opportunities for postsecondary education and the workforce, which may include career and technical education programs and broadening secondary school students' access to coursework to earn postsecondary credit while still in high school (such as Advanced Placement, International Baccalaureate, dual or concurrent enrollment, or early college high schools);

(III) implementation of a schoolwide tiered model to prevent and address problem behavior, and early intervening services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(IV) professional development and other activities for teachers, paraprofessionals, and other school personnel to improve instruction and use of data from academic assessments, and to recruit and retain effective teachers, particularly in high-need subjects; and

(V) strategies for assisting preschool children in the transition from early childhood education programs to local elementary school programs; and

(B) if programs are consolidated, the specific State educational agency and local educational agency programs and other Federal programs that will be consolidated in the schoolwide program.

(c) Preschool programs

A school that operates a schoolwide program under this section may use funds available under this part to establish or enhance preschool programs for children who are under 6 years of age.

(d) Delivery of services

The services of a schoolwide program under this section may be delivered by nonprofit or for-profit external providers with expertise in using evidence-based or other effective strategies to improve student achievement.

(e) Use of funds for dual or concurrent enrollment programs

(1) In general

A secondary school operating a schoolwide program under this section may use funds received under this part to operate dual or concurrent enrollment programs that address the needs of low-achieving secondary school students and those at risk of not meeting the challenging State academic standards.

(2) Flexibility of funds

A secondary school using funds received under this part for a dual or concurrent enrollment program described in paragraph (1) may use such funds for any of the costs associated with such program, including the costs of—

(A) training for teachers, and joint professional development for teachers in collaboration with career and technical educators and educators from institutions of higher education, where appropriate, for the purpose of integrating rigorous academics in such program;

(B) tuition and fees, books, required instructional materials for such program, and innovative delivery methods; and

(C) transportation to and from such program.

(3) Rule of construction

Nothing in this subsection shall be construed to impose on any State any requirement or rule regarding dual or concurrent enrollment programs that is inconsistent with State law.

(Pub. L. 89–10, title I, §1114, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1471; amended Pub. L. 109–270, §2(f)(3), Aug. 12, 2006, 120 Stat. 747; Pub. L. 114–95, title I, §1008, Dec. 10, 2015, 129 Stat. 1862.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(3)(A) and (b)(7)(A)(iii)(III), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 6314, Pub. L. 89–10, title I, §1114, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3534; amended Pub. L. 105–332, §3(c)(1), Oct. 31, 1998, 112 Stat. 3125, related to schoolwide programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1008(1), added subsec. (a) and struck out former subsec. (a) which consisted of pars. (1) to (4) relating to general use of funds for schoolwide programs, nonidentification of students, exemption from statutory and regulatory requirements, and professional development.

Subsec. (b). Pub. L. 114–95, §1008(2), added subsec. (b) and struck out former subsec. (b) which consisted of pars. (1) and (2) relating to components of a schoolwide program and development of plan.

Subsecs. (c) to (e). Pub. L. 114–95, §1008(3), added subsecs. (c) to (e) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "A school that is eligible for a schoolwide program under this section may use funds made available under this part to establish or enhance prekindergarten programs for children below the age of 6, such as Even Start programs or Early Reading First programs."

2006—Subsec. (b)(2)(B)(v). Pub. L. 109–270 substituted "the Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Technical Education Act of 1998".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6315. Targeted assistance schools

(a) In general

In all schools selected to receive funds under section 6313(c) of this title that are ineligible for a schoolwide program under section 6314 of this title, have not received a waiver under section 6314(a)(1)(B) of this title to operate such a schoolwide program, or choose not to operate such a schoolwide program, a local educational agency serving such school may use funds received under this part only for programs that provide services to eligible children under subsection (c) identified as having the greatest need for special assistance.

(b) Targeted assistance school program

To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the challenging State academic standards, each targeted assistance program under this section shall—

(1) determine which students will be served;

(2) serve participating students identified as eligible children under subsection (c), including by—

(A) using resources under this part to help eligible children meet the challenging State academic standards, which may include programs, activities, and academic courses necessary to

provide a well-rounded education;

(B) using methods and instructional strategies to strengthen the academic program of the school through activities, which may include—

(i) expanded learning time, before- and after-school programs, and summer programs and opportunities; and

(ii) a schoolwide tiered model to prevent and address behavior problems, and early intervening services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(C) coordinating with and supporting the regular education program, which may include services to assist preschool children in the transition from early childhood education programs such as Head Start, the literacy program under subpart 2 of part B of subchapter II, or State-run preschool programs to elementary school programs;

(D) providing professional development with resources provided under this part, and, to the extent practicable, from other sources, to teachers, principals, other school leaders, paraprofessionals, and, if appropriate, specialized instructional support personnel, and other school personnel who work with eligible children in programs under this section or in the regular education program;

(E) implementing strategies to increase the involvement of parents of eligible children in accordance with section 6318 of this title; and [1]

(F) if appropriate and applicable, coordinating and integrating Federal, State, and local services and programs, such as programs supported under this chapter, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education programs, career and technical education programs, and comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title; and

(G) provide [2] to the local educational agency assurances that the school will—

(i) help provide an accelerated, high-quality curriculum;

(ii) minimize the removal of children from the regular classroom during regular school hours for instruction provided under this part; and

(iii) on an ongoing basis, review the progress of eligible children and revise the targeted assistance program under this section, if necessary, to provide additional assistance to enable such children to meet the challenging State academic standards.

(c) Eligible children

(1) Eligible population

(A) In general

The eligible population for services under this section is—

(i) children not older than age 21 who are entitled to a free public education through grade 12; and

(ii) children who are not yet at a grade level at which the local educational agency provides a free public education.

(B) Eligible children from eligible population

From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the challenging State academic standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade 2 shall be selected solely on the basis of criteria, including objective criteria, established by the local educational agency and supplemented by the school.

(2) Children included

(A) In general

Children who are economically disadvantaged, children with disabilities, migrant children or English learners, are eligible for services under this part on the same basis as other children selected to receive services under this part.

(B) Head Start and preschool children

A child who, at any time in the 2 years preceding the year for which the determination is made, participated in a Head Start program, the literacy program under subpart 2 of part B of subchapter II, or in preschool services under this subchapter, is eligible for services under this part.

(C) Migrant children

A child who, at any time in the 2 years preceding the year for which the determination is made, received services under part C of this subchapter is eligible for services under this part.

(D) Neglected or delinquent children

A child in a local institution for neglected or delinquent children and youth or attending a community day program for such children is eligible for services under this part.

(E) Homeless children

A child who is homeless and attending any school served by the local educational agency is eligible for services under this part.

(3) Special rule

Funds received under this part may not be used to provide services that are otherwise required by law to be made available to children described in paragraph (2) but may be used to coordinate or supplement such services.

(d) Integration of professional development

To promote the integration of staff supported with funds under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

(1) participate in general professional development and school planning activities; and

(2) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

(e) Special rules

(1) Simultaneous service

Nothing in this section shall be construed to prohibit a school from serving students under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(2) Comprehensive services

If—

(A) health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers; and

(B) funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

(i) the provision of basic medical equipment, such as eyeglasses and hearing aids;

(ii) compensation of a coordinator;

(iii) family support and engagement services;

(iv) integrated student supports; and

(v) professional development necessary to assist teachers, specialized instructional support

personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

(f) Use of funds for dual or concurrent enrollment programs

A secondary school operating a targeted assistance program under this section may use funds received under this part to provide dual or concurrent enrollment program services described under section 6314(e) of this title to eligible children under subsection (c)(1)(B) who are identified as having the greatest need for special assistance.

(g) Prohibition

Nothing in this section shall be construed to authorize the Secretary or any other officer or employee of the Federal Government to require a local educational agency or school to submit the results of a comprehensive needs assessment or plan under section 6314(b) of this title, or a program described in subsection (b), for review or approval by the Secretary.

(h) Delivery of services

The services of a targeted assistance program under this section may be delivered by nonprofit or for-profit external providers with expertise in using evidence-based or other effective strategies to improve student achievement.

(Pub. L. 89–10, title I, §1115, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1475; amended Pub. L. 114–95, title I, §1009, Dec. 10, 2015, 129 Stat. 1865.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(B)(ii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 6315, Pub. L. 89–10, title I, §1115, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3539, related to targeted assistance schools, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1009(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "In all schools selected to receive funds under section 6313(c) of this title that are ineligible for a schoolwide program under section 6314 of this title, or that choose not to operate such a schoolwide program, a local educational agency serving such school may use funds received under this part only for programs that provide services to eligible children under subsection (b) of this section identified as having the greatest need for special assistance."

Subsec. (b). Pub. L. 114–95, §1009(3), added subsec. (b) and struck out former subsec. (b). Prior to amendment, subsec. (b) consisted of pars. (1) and (2) relating to general components of a targeted assistance school program and coordination of resources and review and revision of program.

Pub. L. 114–95, §1009(2), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 114–95, §1009(2), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1)(B). Pub. L. 114–95, §1009(4)(A), substituted "the challenging State academic standards" for "the State's challenging student academic achievement standards" and "criteria, including objective criteria, established by the local educational agency and supplemented by the school" for "such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures".

Subsec. (c)(2)(A). Pub. L. 114–95, §1009(4)(B)(i), substituted "English learners" for "limited English proficient children".

Subsec. (c)(2)(B). Pub. L. 114–95, §1009(4)(B)(ii), in heading, substituted "Head Start and preschool children" for "Head Start, Even Start, or Early Reading First children" and, in text, substituted "Head Start program, the literacy program under subpart 2 of part B of subchapter II," for "Head Start, Even Start, or Early Reading First program,".

Subsec. (c)(2)(C). Pub. L. 114–95, §1009(4)(B)(iii), substituted "Migrant children" for "Part C children" in heading.

Subsec. (e)(2)(B)(iii) to (v). Pub. L. 114–95, §1009(5)(A), added cls. (iii) and (iv), redesignated former cl. (iii) as (v), and, in cl. (v), substituted "specialized instructional support" for "pupil services".

Subsec. (e)(3). Pub. L. 114–95, §1009(5)(B), struck out par. (3). Text read as follows: "Each school receiving funds under this part for any fiscal year shall devote sufficient resources to carry out effectively the professional development activities described in subparagraph (F) of subsection (c)(1) of this section in accordance with section 6319 of this title for such fiscal year, and a school may enter into a consortium with another school to carry out such activities."

Subsecs. (f) to (h). Pub. L. 114–95, §1009(6), added subsecs. (f) to (h).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] So in original. The word "and" probably should not appear.

[2] So in original. Probably should be "providing".

§§6316, 6317. Repealed. Pub. L. 114–95, title I, §1000(1), Dec. 10, 2015, 129 Stat. 1814

Section 6316, Pub. L. 89–10, title I, §1116, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1478, related to academic assessment and local educational agency and school improvement.

A prior section 6316, Pub. L. 89–10, title I, §1115A, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3542, related to school choice, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6317, Pub. L. 89–10, title I, §1117, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1498; amended Pub. L. 107–279, title IV, §404(d)(3), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 108–446, title II, §201(b)(3), Dec. 3, 2004, 118 Stat. 2802, related to school support and recognition.

A prior section 6317, Pub. L. 89–10, title I, §1116, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3542; amended Pub. L. 104–134, title I, §101(d) [title VII, §703(b)(2)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to assessment and local educational agency and school improvement, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6318. Parent and family engagement

(a) Local educational agency policy

(1) In general

A local educational agency may receive funds under this part only if such agency conducts outreach to all parents and family members and implements programs, activities, and procedures for the involvement of parents and family members in programs assisted under this part consistent with this section. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children.

(2) Written policy

Each local educational agency that receives funds under this part shall develop jointly with, agree on with, and distribute to, parents and family members of participating children a written parent and family engagement policy. The policy shall be incorporated into the local educational agency's plan developed under section 6312 of this title, establish the agency's expectations and objectives for meaningful parent and family involvement, and describe how the agency will—

(A) involve parents and family members in jointly developing the local educational agency plan under section 6312 of this title, and the development of support and improvement plans under paragraphs (1) and (2) of section 6311(d) of this title.

(B) provide the coordination, technical assistance, and other support necessary to assist and build the capacity of all participating schools within the local educational agency in planning and implementing effective parent and family involvement activities to improve student academic achievement and school performance, which may include meaningful consultation with employers, business leaders, and philanthropic organizations, or individuals with expertise in effectively engaging parents and family members in education;

(C) coordinate and integrate parent and family engagement strategies under this part with parent and family engagement strategies, to the extent feasible and appropriate, with other relevant Federal, State, and local laws and programs;

(D) conduct, with the meaningful involvement of parents and family members, an annual evaluation of the content and effectiveness of the parent and family engagement policy in improving the academic quality of all schools served under this part, including identifying—

(i) barriers to greater participation by parents in activities authorized by this section (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background);

(ii) the needs of parents and family members to assist with the learning of their children, including engaging with school personnel and teachers; and

(iii) strategies to support successful school and family interactions;

(E) use the findings of such evaluation in subparagraph (D) to design evidence-based strategies for more effective parental involvement, and to revise, if necessary, the parent and family engagement policies described in this section; and

(F) involve parents in the activities of the schools served under this part, which may include establishing a parent advisory board comprised of a sufficient number and representative group of parents or family members served by the local educational agency to adequately represent the needs of the population served by such agency for the purposes of developing, revising, and reviewing the parent and family engagement policy.

(3) Reservation

(A) In general

Each local educational agency shall reserve at least 1 percent of its allocation under subpart 2 to assist schools to carry out the activities described in this section, except that this subparagraph shall not apply if 1 percent of such agency's allocation under subpart 2 for the fiscal year for which the determination is made is $5,000 or less. Nothing in this subparagraph shall be construed to limit local educational agencies from reserving more than 1 percent of its allocation under subpart 2 to assist schools to carry out activities described in this section.

(B) Parent and family member input

Parents and family members of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

(C) Distribution of funds

Not less than 90 percent of the funds reserved under subparagraph (A) shall be distributed to schools served under this part, with priority given to high-need schools.

(D) Use of funds

Funds reserved under subparagraph (A) by a local educational agency shall be used to carry out activities and strategies consistent with the local educational agency's parent and family engagement policy, including not less than 1 of the following:

(i) Supporting schools and nonprofit organizations in providing professional development for local educational agency and school personnel regarding parent and family engagement strategies, which may be provided jointly to teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, early childhood educators, and parents and family members.

(ii) Supporting programs that reach parents and family members at home, in the community, and at school.

(iii) Disseminating information on best practices focused on parent and family engagement, especially best practices for increasing the engagement of economically disadvantaged parents and family members.

(iv) Collaborating, or providing subgrants to schools to enable such schools to collaborate, with community-based or other organizations or employers with a record of success in improving and increasing parent and family engagement.

(v) Engaging in any other activities and strategies that the local educational agency determines are appropriate and consistent with such agency's parent and family engagement policy.

(b) School parent and family engagement policy

(1) In general

Each school served under this part shall jointly develop with, and distribute to, parents and family members of participating children a written parent and family engagement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f) of this section. Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.

(2) Special rule

If the school has a parent and family engagement policy that applies to all parents and family members, such school may amend that policy, if necessary, to meet the requirements of this subsection.

(3) Amendment

If the local educational agency involved has a school district-level parent and family engagement policy that applies to all parents and family members in all schools served by the local educational agency, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

(4) Parental comments

If the plan under section 6312 of this title is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

(c) Policy involvement

Each school served under this part shall—

(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain the requirements of this part, and the right of the parents to be involved;

(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the planning, review, and improvement of the school parent and family engagement policy and the joint development of the schoolwide program

plan under section 6314(b) of this title, except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

(4) provide parents of participating children—

(A) timely information about programs under this part;

(B) a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the achievement levels of the challenging State academic standards; and

(C) if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible; and

(5) if the schoolwide program plan under section 6314(b) of this title is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

(d) Shared responsibilities for high student academic achievement

As a component of the school-level parent and family engagement policy developed under subsection (b) of this section, each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the challenging State academic standards, and the ways in which each parent will be responsible for supporting their children's learning; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

(B) frequent reports to parents on their children's progress;

(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities; and

(D) ensuring regular two-way, meaningful communication between family members and school staff, and, to the extent practicable, in a language that family members can understand.

(e) Building capacity for involvement

To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted under this part—

(1) shall provide assistance to parents of children served by the school or local educational agency, as appropriate, in understanding such topics as the challenging State academic standards, State and local academic assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the achievement of their children;

(2) shall provide materials and training to help parents to work with their children to improve their children's achievement, such as literacy training and using technology (including education about the harms of copyright piracy), as appropriate, to foster parental involvement;

(3) shall educate teachers, specialized instructional support personnel, principals, and other school leaders, and other staff, with the assistance of parents, in the value and utility of

contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school;

(4) shall, to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with other Federal, State, and local programs, including public preschool programs, and conduct other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children;

(5) shall ensure that information related to school and parent programs, meetings, and other activities is sent to the parents of participating children in a format and, to the extent practicable, in a language the parents can understand;

(6) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training;

(7) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such training;

(8) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

(9) may train parents to enhance the involvement of other parents;

(10) may arrange school meetings at a variety of times, or conduct in-home conferences between teachers or other educators, who work directly with participating children, with parents who are unable to attend such conferences at school, in order to maximize parental involvement and participation;

(11) may adopt and implement model approaches to improving parental involvement;

(12) may establish a districtwide parent advisory council to provide advice on all matters related to parental involvement in programs supported under this section;

(13) may develop appropriate roles for community-based organizations and businesses in parent involvement activities; and

(14) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

(f) Accessibility

In carrying out the parent and family engagement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide opportunities for the informed participation of parents and family members (including parents and family members who have limited English proficiency, parents and family members with disabilities, and parents and family members of migratory children), including providing information and school reports required under section 6311 of this title in a format and, to the extent practicable, in a language such parents understand.

(g) Family engagement in education programs

In a State operating a program under part E of subchapter IV, each local educational agency or school that receives assistance under this part shall inform parents and organizations of the existence of the program.

(h) Review

The State educational agency shall review the local educational agency's parent and family engagement policies and practices to determine if the policies and practices meet the requirements of this section.

(Pub. L. 89–10, title I, §1116, formerly §1118, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1501; renumbered §1116 and amended Pub. L. 114–95, title I, §§1000(2), 1010, Dec. 10, 2015, 129 Stat. 1814, 1868.)

PRIOR PROVISIONS

A prior section 6318, Pub. L. 89–10, title I, §1117, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994,

108 Stat. 3548, related to State assistance for school support and improvement, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1116 of Pub. L. 89–10 was classified to section 6316 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1116 of Pub. L. 89–10 was classified to section 6317 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §1010(1), substituted "Parent and family engagement" for "Parental involvement" in section catchline.

Subsec. (a)(1). Pub. L. 114–95, §1010(2)(A), inserted "conducts outreach to all parents and family members and" after "only if such agency" and "and family members" after "and procedures for the involvement of parents".

Subsec. (a)(2). Pub. L. 114–95, §1010(2)(B)(ii), added subpars. (A) to (F) and struck out former subpars. (A) to (F) which related to description of how the agency would involve parents in development of plan, provide support in implementing parent involvement activities, build capacity for strong parental involvement, integrate parental involvement strategies under this part with strategies under other programs, conduct an annual evaluation of effectiveness of parental involvement policy, and involve parents in the activities of schools served under this part.

Pub. L. 114–95, §1010(2)(B)(i), in introductory provisions, substituted "parents and family members" for "parents", "written parent and family engagement policy" for "written parent involvement policy", and "expectations and objectives for meaningful parent and family involvement" for "expectations for parent involvement".

Subsec. (a)(3)(A). Pub. L. 114–95, §1010(2)(C)(i), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "Each local educational agency shall reserve not less than 1 percent of such agency's allocation under subpart 2 of this part to carry out this section, including promoting family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under subpart 2 of this part for the fiscal year for which the determination is made is $5,000 or less."

Subsec. (a)(3)(B). Pub. L. 114–95, §1010(2)(C)(ii), substituted "Parent and family member input" for "Parental input" in heading and "Parents and family members of children" for "Parents of children" in text.

Subsec. (a)(3)(C). Pub. L. 114–95, §1010(2)(C)(iii), substituted "90 percent" for "95 percent" and inserted ", with priority given to high-need schools" after "schools served under this part".

Subsec. (a)(3)(D). Pub. L. 114–95, §1010(2)(C)(iv), added subpar. (D).

Subsec. (b). Pub. L. 114–95, §1010(3)(A), substituted "parent and family engagement policy" for "parental involvement policy" in heading.

Subsec. (b)(1). Pub. L. 114–95, §1010(3)(B), substituted "parents and family members of participating children" for "parents of participating children" and "written parent and family engagement policy" for "written parental involvement policy".

Subsec. (b)(2). Pub. L. 114–95, §1010(3)(C), substituted "parent and family engagement policy" for "parental involvement policy" and "parents and family members" for "parents".

Subsec. (b)(3). Pub. L. 114–95, §1010(3)(D), substituted "parent and family engagement policy that applies to all parents and family members in all schools served by the local educational agency" for "parental involvement policy that applies to all parents".

Subsec. (c)(3). Pub. L. 114–95, §1010(4)(A), substituted "parent and family engagement policy" for "parental involvement policy" and "6314(b)" for "6314(b)(2)".

Subsec. (c)(4)(B). Pub. L. 114–95, §1010(4)(B), substituted "the achievement levels of the challenging State academic standards" for "the proficiency levels students are expected to meet".

Subsec. (c)(5). Pub. L. 114–95, §1010(4)(C), substituted "6314(b)" for "6314(b)(2)".

Subsec. (d). Pub. L. 114–95, §1010(5)(A), substituted "parent and family engagement policy" for "parental involvement policy" in introductory provisions.

Subsec. (d)(1). Pub. L. 114–95, §1010(5)(B), substituted "the challenging State academic standards" for "the State's student academic achievement standards" and struck out ", such as monitoring attendance, homework completion, and television watching" after "children's learning".

Subsec. (d)(2)(D). Pub. L. 114–95, §1010(5)(C), added subpar. (D).

Subsec. (e)(1). Pub. L. 114–95, §1010(6)(A), substituted "the challenging State academic standards" for "the State's academic content standards and State student academic achievement standards".

Subsec. (e)(2). Pub. L. 114–95, §1010(6)(B), inserted "(including education about the harms of copyright piracy)" after "technology".

Subsec. (e)(3). Pub. L. 114–95, §1010(6)(C), substituted "specialized instructional support personnel, principals, and other school leaders" for "pupil services personnel, principals".

Subsec. (e)(4). Pub. L. 114–95, §1010(6)(D), substituted "other Federal, State, and local programs, including public preschool programs," for "Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool and other programs,".

Subsec. (f). Pub. L. 114–95, §1010(7), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: "In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency, parents with disabilities, and parents of migratory children, including providing information and school reports required under section 6311 of this title in a format and, to the extent practicable, in a language such parents understand."

Subsec. (g). Pub. L. 114–95, §1010(8), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: "In a State where a parental information and resource center is established to provide training, information, and support to parents and individuals who work with local parents, local educational agencies, and schools receiving assistance under this part, each local educational agency or school that receives assistance under this part and is located in the State shall assist parents and parental organizations by informing such parents and organizations of the existence and purpose of such centers."

Subsec. (h). Pub. L. 114–95, §1010(9), substituted "parent and family engagement policies" for "parental involvement policies".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6319. Repealed. Pub. L. 114–95, title I, §1000(1), Dec. 10, 2015, 129 Stat. 1814

Section, Pub. L. 89–10, title I, §1119, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1505, related to qualifications for teachers and paraprofessionals.

A prior section 6319, Pub. L. 89–10, title I, §1118, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3550, related to parental involvement, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6320. Participation of children enrolled in private schools

(a) General requirement

(1) In general

To the extent consistent with the number of eligible children identified under section 6315(c) of this title in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall—

(A) after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis and individually or in combination, as requested by the officials to best meet the needs of such children, special educational services, instructional services (including evaluations to determine the progress being made in meeting such students' academic needs), counseling, mentoring, one-on-one tutoring, or other benefits under this part (such as dual or concurrent enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs; and

(B) ensure that teachers and families of the children participate, on an equitable basis, in

services and activities developed pursuant to section 6318 of this title.

(2) Secular, neutral, nonideological

Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

(3) Equity

(A) In general

Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.

(B) Ombudsman

To help ensure such equity for such private school children, teachers, and other educational personnel, the State educational agency involved shall designate an ombudsman to monitor and enforce the requirements of this part.

(4) Expenditures

(A) Determination

(i) In general

Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.

(ii) Proportional share

The proportional share of funds shall be determined based on the total amount of funds received by the local educational agency under this part prior to any allowable expenditures or transfers by the local educational agency.

(B) Obligation of funds

Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the agency.

(C) Notice of allocation

Each State educational agency shall provide notice in a timely manner to the appropriate private school officials in the State of the allocation of funds for educational services and other benefits under this part that the local educational agencies have determined are available for eligible private school children.

(D) Term of determination

The local educational agency may determine the equitable share under subparagraph (A) each year or every 2 years.

(5) Provision of services

The local educational agency, or, in a case described in subsection (b)(6)(C), the State educational agency involved, may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.

(b) Consultation

(1) In general

To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part. Such agency and private school officials shall both have the goal of reaching

agreement on how to provide equitable and effective programs for eligible private school children, the results of which agreement shall be transmitted to the ombudsman designated under subsection (a)(3)(B). Such process shall include consultation on issues such as—

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how, where, and by whom the services will be provided;

(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;

(E) the size and scope of the equitable services to be provided to the eligible private school children, the proportion of funds that is allocated under subsection (a)(4)(A) of this section for such services, and how that proportion of funds is determined;

(F) the method or sources of data that are used under subsection (c) of this section and section 6313(c)(1) of this title to determine the number of children from low-income families in participating school attendance areas who attend private schools;

(G) how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers;

(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor;

(I) whether the agency shall provide services directly or through a separate government agency, consortium, entity, or third-party contractor;

(J) whether to provide equitable services to eligible private school children—

(i) by creating a pool or pools of funds with all of the funds allocated under subsection (a)(4)(A) based on all the children from low-income families in a participating school attendance area who attend private schools; or

(ii) in the agency's participating school attendance area who attend private schools with the proportion of funds allocated under subsection (a)(4)(A) based on the number of children from low-income families who attend private schools;

(K) when, including the approximate time of day, services will be provided; and

(L) whether to consolidate and use funds provided under subsection (a)(4) in coordination with eligible funds available for services to private school children under applicable programs, as defined in section 7881(b)(1) of this title [1] to provide services to eligible private school children participating in programs.

(2) Disagreement

If a local educational agency disagrees with the views of private school officials with respect to an issue described in paragraph (1), the local educational agency shall provide in writing to such private school officials the reasons why the local educational agency disagrees.

(3) Timing

Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.

(4) Discussion

Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

(5) Documentation

Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials of each participating private

school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.

(6) Compliance

(A) In general

A private school official shall have the right to file a complaint with the State educational agency asserting that the local educational agency did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school official, or did not make a decision that treats the private school students equitably as required by this section.

(B) Procedure

If the private school official wishes to file a complaint, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

(C) State educational agencies

A State educational agency shall provide services under this section directly or through contracts with public or private agencies, organizations, or institutions, if the appropriate private school officials have—

(i) requested that the State educational agency provide such services directly; and

(ii) demonstrated that the local educational agency involved has not met the requirements of this section in accordance with the procedures for making such a request, as prescribed by the State educational agency.

(c) Allocation for equitable service to private school students

(1) Calculation

A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by—

(A) using the same measure of low income used to count public school children;

(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or

(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

(2) Complaint process

Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 7883 of this title.

(d) Public control of funds

(1) In general

The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such

funds, materials, equipment, and property.

(2) Provision of services

(A) Provider

The provision of services under this section shall be provided—

(i) by employees of a public agency; or

(ii) through contract by such public agency with an individual, association, agency, or organization.

(B) Requirement

In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

(e) Standards for a bypass

If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling, to provide for such participation, as required by this section, the Secretary shall—

(1) waive the requirements of this section for such local educational agency;

(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 7883 and 7884 of this title; and

(3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.

(Pub. L. 89–10, title I, §1117, formerly §1120, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1508; renumbered §1117 and amended Pub. L. 114–95, title I, §§1000(3), 1011, Dec. 10, 2015, 129 Stat. 1814, 1871.)

PRIOR PROVISIONS

A prior section 6320, Pub. L. 89–10, title I, §1119, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3555, related to professional development, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1117 of Pub. L. 89–10 was classified to section 6317 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1117 of Pub. L. 89–10 was classified to section 6318 of this title prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §1011(1)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "To the extent consistent with the number of eligible children identified under section 6315(b) of this title in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to sections 6318 and 6319 of this title."

Subsec. (a)(3). Pub. L. 114–95, §1011(1)(B), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner."

Subsec. (a)(4). Pub. L. 114–95, §1011(1)(C), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years."

Subsec. (a)(5). Pub. L. 114–95, §1011(1)(D), inserted ", or, in a case described in subsection (b)(6)(C), the State educational agency involved," after "local educational agency".

Subsec. (b)(1). Pub. L. 114–95, §1011(2)(A)(i), in introductory provisions, substituted "part. Such agency and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, the results of which agreement shall be transmitted to the ombudsman designated under subsection (a)(3)(B). Such process shall include consultation on issues such as—" for "part, on issues such as—".

Subsec. (b)(1)(E). Pub. L. 114–95, §1011(2)(A)(ii), struck out "and" before "the proportion of funds", substituted "(a)(4)(A)" for "(a)(4)", and inserted ", and how that proportion of funds is determined" before semicolon at end.

Subsec. (b)(1)(I) to (L). Pub. L. 114–95, §1011(2)(A)(iii)–(v), added subpars. (I) to (L).

Subsec. (b)(2) to (4). Pub. L. 114–95, §1011(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 114–95, §1011(2)(B), (D), redesignated par. (4) as (5), inserted "meaningful" before "consultation" in first sentence, inserted second sentence, and substituted "such consultation has, or attempts at such consultation have, taken place" for "such consultation has taken place" in last sentence. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 114–95, §1011(2)(B), redesignated par. (5) as (6).

Subsec. (b)(6)(A). Pub. L. 114–95, §1011(2)(E)(i), substituted "right to file a complaint with" for "right to complain to", inserted "asserting" after "State educational agency", struck out "or" before "did not give due consideration", and inserted ", or did not make a decision that treats the private school students equitably as required by this section" before period at end.

Subsec. (b)(6)(B). Pub. L. 114–95, §1011(2)(E)(ii), substituted "wishes to file a complaint," for "wishes to complain,".

Subsec. (b)(6)(C). Pub. L. 114–95, §1011(2)(E)(iii), added subpar. (C).

Subsec. (c)(2). Pub. L. 114–95, §1011(3), made technical amendment to reference in original act which appears in text as reference to section 7883 of this title.

Subsec. (e)(2). Pub. L. 114–95, §1011(4), made technical amendment to reference in original act which appears in text as reference to sections 7883 and 7884 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. A comma probably should appear.*

§6321. Fiscal requirements

(a) Maintenance of effort

A local educational agency may receive funds under this part for any fiscal year only if the State educational agency involved finds that the local educational agency has maintained the agency's fiscal effort in accordance with section 7901 of this title.

(b) Federal funds to supplement, not supplant, non-Federal funds

(1) In general

A State educational agency or local educational agency shall use Federal funds received under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from State and local sources for the education of students participating in programs assisted under this part, and not to supplant such funds.

(2) Compliance

To demonstrate compliance with paragraph (1), a local educational agency shall demonstrate that the methodology used to allocate State and local funds to each school receiving assistance under this part ensures that such school receives all of the State and local funds it would otherwise

receive if it were not receiving assistance under this part.

(3) Special rule

No local educational agency shall be required to—

(A) identify that an individual cost or service supported under this part is supplemental; or

(B) provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

(4) Prohibition

Nothing in this section shall be construed to authorize or permit the Secretary to prescribe the specific methodology a local educational agency uses to allocate State and local funds to each school receiving assistance under this part.

(5) Timeline

A local educational agency—

(A) shall meet the compliance requirement under paragraph (2) not later than 2 years after December 10, 2015; and

(B) may demonstrate compliance with the requirement under paragraph (1) before the end of such 2-year period using the method such local educational agency used on the day before December 10, 2015.

(c) Comparability of services

(1) In general

(A) Comparable services

Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

(B) Substantially comparable services

If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

(C) Basis

A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

(2) Written assurance

(A) Equivalence

A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

(i) a local educational agency-wide salary schedule;

(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

(B) Determinations

For the purpose of this subsection, in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

(C) Exclusions

A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

(3) Procedures and records

Each local educational agency assisted under this part shall—

(A) develop procedures for compliance with this subsection; and

(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

(4) Inapplicability

This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

(5) Compliance

For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

(A) language instruction educational programs; and

(B) the excess costs of providing services to children with disabilities as determined by the local educational agency.

(d) Exclusion of funds

For the purpose of complying with subsections (b) and (c) of this section, a State educational agency or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.

(Pub. L. 89–10, title I, §1118, formerly §1120A, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1511; renumbered §1118 and amended Pub. L. 114–95, title I, §§1000(4), 1012, Dec. 10, 2015, 129 Stat. 1814, 1874.)

PRIOR PROVISIONS

A prior section 6321, Pub. L. 89–10, title I, §1120, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3557, related to participation of children enrolled in private schools, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1118 of Pub. L. 89–10 was renumbered section 1116 and is classified to section 6318 of this title.

Another prior section 1118 of Pub. L. 89–10 was classified to section 6319 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1012(1), made technical amendment to reference in original act which appears in text as reference to section 7901 of this title.

Subsec. (b). Pub. L. 114–95, §1012(2), added subsec. (b) and struck out former subsec. (b) which consisted of pars. (1) and (2) relating to general use of funds only to supplement and not to supplant non-Federal funds and special rule that no local educational agency be required to provide services through a particular instructional method or in a particular instructional setting.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6322. Coordination requirements

(a) In general

Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) of this section with Head Start agencies and, if feasible, other entities

carrying out early childhood development programs. Each local educational agency shall develop agreements with such Head Start agencies and other entities to carry out such activities.

(b) Activities

The activities referred to in subsection (a) of this section are activities that increase coordination between the local educational agency and a Head Start agency and, if feasible, other entities carrying out early childhood education programs serving children who will attend the schools of the local educational agency, including—

(1) developing and implementing a systematic procedure for receiving records regarding such children, transferred with parental consent from a Head Start program or, where applicable, another early childhood education program;

(2) establishing channels of communication between school staff and their counterparts (including teachers, social workers, and health staff) in such Head Start agencies or other entities carrying out early childhood education programs, as appropriate, to facilitate coordination of programs;

(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood education programs, to discuss the developmental and other needs of individual children;

(4) organizing and participating in joint transition-related training of school staff, Head Start program staff, and, where appropriate, other early childhood education program staff; and

(5) linking the educational services provided by such local educational agency with the services provided by local Head Start agencies.

(c) Coordination of regulations

The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act [42 U.S.C. 9831 et seq.].

(Pub. L. 89–10, title I, §1119, formerly §1120B, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1512; renumbered §1119 and amended Pub. L. 114–95, title I, §§1000(5), 1013, Dec. 10, 2015, 129 Stat. 1814, 1875.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (c), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6322, Pub. L. 89–10, title I, §1120A, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3559; amended Pub. L. 104–134, title I, §101(b) [title II, §2754], Apr. 26, 1996, 110 Stat. 1321–77, 1321–150; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to fiscal requirements, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6321 of this title.

A prior section 1119 of Pub. L. 89–10 was classified to section 6319 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1119 of Pub. L. 89–10 was classified to section 6320 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 6323, Pub. L. 89–10, title I, §1120B, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3560, related to coordination requirements, prior to its omission in the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1013(1), struck out "such as the Early Reading First program" after "early childhood development programs" and inserted at end "Each local educational agency shall develop agreements with such Head Start agencies and other entities to carry out such activities."

Subsec. (b). Pub. L. 114–95, §1013(2)(A), substituted "early childhood education programs" for "early childhood development programs, such as the Early Reading First program," in introductory provisions.

Subsec. (b)(1). Pub. L. 114–95, §1013(2)(B), substituted "early childhood education program" for "early childhood development program such as the Early Reading First program".

Subsec. (b)(2), (3). Pub. L. 114–95, §1013(2)(C), (D), substituted "early childhood education programs" for "early childhood development programs such as the Early Reading First program".

Subsec. (b)(4). Pub. L. 114–95, §1013(2)(E), struck out "Early Reading First program staff," after "Head Start program staff," and substituted "early childhood education program staff" for "early childhood development program staff".

Subsec. (b)(5). Pub. L. 114–95, §1013(2)(F), struck out "and entities carrying out Early Reading First programs" after "Head Start agencies".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 2—ALLOCATIONS

§6331. Grants for the outlying areas and the Secretary of the Interior

(a) Reservation of funds

Subject to subsection (e), from the amount appropriated for payments to States for any fiscal year under section 6302(a) of this title, the Secretary shall—

(1) reserve 0.4 percent to provide assistance to the outlying areas in accordance with subsection (b); and

(2) reserve 0.7 percent to provide assistance to the Secretary of the Interior in accordance with subsection (d).

(b) Assistance to outlying areas

(1) Funds reserved

From the amount made available for any fiscal year under subsection (a)(1), the Secretary shall—

(A) first reserve $1,000,000 for the Republic of Palau, until Palau enters into an agreement for extension of United States educational assistance under the Compact of Free Association, and subject to such terms and conditions as the Secretary may establish, except that Public Law 95–134, permitting the consolidation of grants, shall not apply; and

(B) use the remaining funds to award grants to the outlying areas in accordance with paragraphs (2) through (5).

(2) Amount of grants

The Secretary shall allocate the amount available under paragraph (1)(B) to the outlying areas in proportion to their relative numbers of children, aged 5 to 17, inclusive, from families below the poverty level, on the basis of the most recent satisfactory data available from the Department of Commerce.

(3) Hold-harmless amounts

For each fiscal year, the amount made available to each outlying area under this subsection shall be—

(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted under paragraph (2) is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the outlying area;

(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

(4) Ratable reductions

If the amount made available under paragraph (1)(B) for any fiscal year is insufficient to pay the full amounts that the outlying areas are eligible to receive under paragraphs (2) and (3) for that fiscal year, the Secretary shall ratably reduce those amounts.

(5) Uses

Grant funds awarded under paragraph (1)(A) may be used only—

(A) for programs described in this chapter, including teacher training, curriculum development, instructional materials, or general school improvement and reform; and

(B) to provide direct educational services that assist all students with meeting the challenging State academic standards.

(c) Definitions

For the purpose of this section, the term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(d) Allotment to the Secretary of the Interior

(1) In general

The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be used, in accordance with such criteria as the Secretary may establish, to meet the unique educational needs of—

(A) Indian children on reservations served by elementary schools and secondary schools for Indian children operated or supported by the Department of the Interior; and

(B) out-of-State Indian children in elementary schools and secondary schools in local educational agencies under special contracts with the Department of the Interior.

(2) Payments

From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, on such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

(A) 40 percent of the average per-pupil expenditure in the State in which the agency is located; or

(B) 48 percent of such expenditure in the United States.

(e) Limitation on applicability

If, by reason of the application of subsection (a) for any fiscal year, the total amount available for allocation to all States under this part would be less than the amount allocated to all States for fiscal year 2016 under this part, the Secretary shall provide assistance to the outlying areas and the Secretary of the Interior in accordance with this section, as in effect on the day before December 10, 2015.

(Pub. L. 89–10, title I, §1121, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1513; amended Pub. L. 114–95, title I, §1014, Dec. 10, 2015, 129 Stat. 1876.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (b)(1)(A), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 6331, Pub. L. 89–10, title I, §1121, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3561, related to grants for outlying areas and the Secretary of the Interior, prior to the general

amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to reservation of one percent of funds for assistance to outlying areas and the Secretary of the Interior, grants to outlying areas, definitions, and allotment to Secretary of the Interior to meet special educational needs of Indian children.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6332. Allocations to States

(a) Allocation formula

Of the amount appropriated under section 6302(a) of this title to carry out this part for each of fiscal years 2017–2020 (referred to in this subsection as the current fiscal year)—

(1) an amount equal to the amount made available to carry out section 6333 of this title for fiscal year 2001 shall be allocated in accordance with section 6333 of this title;

(2) an amount equal to the amount made available to carry out section 6334 of this title for fiscal year 2001 shall be allocated in accordance with section 6334 of this title; and

(3) an amount equal to 100 percent of the amount, if any, by which the total amount made available under this subsection for the current fiscal year for which the determination is made exceeds the total amount available to carry out sections 6333 and 6334 of this title for fiscal year 2001 shall be used to carry out sections 6335 and 6337 of this title and such amount shall be divided equally between sections 6335 and 6337 of this title.

(b) Adjustments where necessitated by appropriations

(1) In general

If the sums available under this subpart for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 6333, 6334, and 6335 of this title for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

(2) Additional funds

If additional funds become available for making payments under sections 6333, 6334, and 6335 of this title for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

(c) Hold-harmless amounts

(1) Amounts for sections 6333, 6334, and 6335

For each fiscal year, the amount made available to each local educational agency under each of sections 6333, 6334, and 6335 of this title shall be—

(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 6333 of this title is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

(2) Payments

If sufficient funds are appropriated, the amounts described in paragraph (1) shall be paid to all

local educational agencies that received grants under section 6334 of this title for the preceding fiscal year, regardless of whether the local educational agency meets the minimum eligibility criteria for that fiscal year described in section 6334(a)(1)(A) of this title except that a local educational agency that does not meet such minimum eligibility criteria for 4 consecutive years shall no longer be eligible to receive a hold harmless amount referred to in paragraph (1).

(3) Applicability

Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

(4) Population data

For any fiscal year for which the Secretary calculates grants on the basis of population data for counties, the Secretary shall apply the hold-harmless percentages in paragraphs (1) and (2) to counties and, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this subsection for every local educational agency within that county, the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold-harmless amounts specified in this subsection.

(d) Ratable reductions

(1) In general

If the sums made available under this subpart for any fiscal year are insufficient to pay the full amounts that local educational agencies in all States are eligible to receive under subsection (c) of this section for such year, the Secretary shall ratably reduce such amounts for such year.

(2) Additional funds

If additional funds become available for making payments under subsection (c) of this section for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts were reduced.

(e) Definition

For the purpose of this section and sections 6333, 6334, 6335, and 6337 of this title, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title I, §1122, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1515; amended Pub. L. 114–95, title I, §1015, Dec. 10, 2015, 129 Stat. 1878.)

PRIOR PROVISIONS

A prior section 6332, Pub. L. 89–10, title I, §1122, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3562, related to allocations to States, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1015(1), substituted "2017–2020" for "2002–2007" in introductory provisions.

Subsec. (a)(3). Pub. L. 114–95, §1015(2), added par. (3) and struck out former par. (3) which read as follows: "an amount equal to 100 percent of the amount, if any, by which the amount made available to carry out sections 6333, 6334, and 6335 of this title for the current fiscal year for which the determination is made exceeds the amount available to carry out sections 6333 and 6334 of this title for fiscal year 2001 shall be allocated in accordance with section 6335 of this title."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6333. Basic grants to local educational agencies

(a) Amount of grants

(1) Grants for local educational agencies and Puerto Rico

Except as provided in paragraph (4) and in section 6338 of this title, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying—

(A) the number of children counted under subsection (c) of this section; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Calculation of grants

(A) Allocations to local educational agencies

The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) of this section for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case—

(i) the two Secretaries shall publicly disclose the reasons for their determination in detail; and

(ii) paragraph (3) shall apply.

(B) Allocations to large and small local educational agencies

(i) For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section for each local educational agency.

(ii) The amount of a grant under this section for each large local educational agency shall be the amount determined under clause (i).

(iii) For small local educational agencies, the State educational agency may either—

(I) distribute grants under this section in amounts determined by the Secretary under clause (i); or

(II) use an alternative method approved by the Secretary to distribute the portion of the State's total grants under this section that is based on those small agencies.

(iv) An alternative method under clause (iii)(II) shall be based on population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's small local educational agencies that meet the eligibility criteria of subsection (b) of this section.

(v) If a small local educational agency is dissatisfied with the determination of its grant by the State educational agency under clause (iii)(II), it may appeal that determination to the Secretary, who shall respond not later than 45 days after receipt of such appeal.

(vi) As used in this subparagraph—

(I) the term "large local educational agency" means a local educational agency serving an area with a total population of 20,000 or more; and

(II) the term "small local educational agency" means a local educational agency serving an area with a total population of less than 20,000.

(3) Allocations to counties

(A) Calculation

For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) of this section for counties, and State educational agencies shall suballocate county amounts to local

educational agencies, in accordance with regulations issued by the Secretary.

(B) Direct allocations

In any State in which a large number of local educational agencies overlap county boundaries, or for which the State believes it has data that would better target funds than allocating them by county, the State educational agency may apply to the Secretary for authority to make the allocations under this subpart for a particular fiscal year directly to local educational agencies without regard to counties.

(C) Allocations to local educational agencies

If the Secretary approves the State educational agency's application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that such allocations shall be made—

(i) using precisely the same factors for determining a grant as are used under this subpart; or

(ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

(D) Appeal

The State educational agency shall provide the Secretary an assurance that it will establish a procedure through which a local educational agency that is dissatisfied with its determinations under subparagraph (B) may appeal directly to the Secretary for a final determination.

(4) Puerto Rico

(A) In general

For each fiscal year, the grant that the Commonwealth of Puerto Rico shall be eligible to receive under this section shall be the amount determined by multiplying the number of children counted under subsection (c) of this section for the Commonwealth of Puerto Rico by the product of—

(i) subject to subparagraph (B), the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(ii) 32 percent of the average per-pupil expenditure in the United States.

(B) Minimum percentage

The percentage in subparagraph (A)(i) shall not be less than—

(i) for fiscal year 2002, 77.5 percent;

(ii) for fiscal year 2003, 80.0 percent;

(iii) for fiscal year 2004, 82.5 percent;

(iv) for fiscal year 2005, 85.0 percent;

(v) for fiscal year 2006, 92.5 percent; and

(vi) for fiscal year 2007 and succeeding fiscal years, 100.0 percent.

(C) Limitation

If the application of subparagraph (B) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, the percentage in subparagraph (A) shall be the greater of—

(i) the percentage in subparagraph (A)(i);

(ii) the percentage specified in subparagraph (B) for the preceding fiscal year; or

(iii) the percentage used for the preceding fiscal year.

(b) Minimum number of children to qualify

A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) of this section for that agency is both—

(1) 10 or more; and

(2) more than 2 percent of the total school-age population in the agency's jurisdiction.

(c) Children to be counted

(1) Categories of children

The number of children to be counted for purposes of this section is the aggregate of—

(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

(B) the number of children (determined under paragraph (4) for either the preceding year as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D of this subchapter for the purposes of a grant to a State agency, or being supported in foster homes with public funds; and

(C) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (4).

(2) Determination of number of children

For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains two or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

(3) Population updates

(A) In general

In fiscal year 2002 and each subsequent fiscal year, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that the use of the updated population data would be inappropriate or unreliable. If appropriate and reliable data are not available annually, the Secretary shall use data which are updated every 2 years.

(B) Inappropriate or unreliable data

If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in subparagraph (A) are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall publicly disclose their reasons.

(C) Criteria of poverty

In determining the families that are below the poverty level, the Secretary shall use the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

(4) Other children to be counted

(A) For the purpose of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]; and in making such determinations, the Secretary shall use the criteria of

poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of four in such form as those criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

(B) The Secretary shall determine the number of such children and the number of children aged 5 through 17 living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination.

(C) Except for the data on children living in institutions for neglected or delinquent children, the Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

(D) For the purpose of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(5) Estimate

When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (1)(A)) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

(d) State minimum

Notwithstanding section 6332 of this title, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

(1) 0.25 percent of the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or

(2) the average of—

(A) the amount calculated in paragraph (1), above; and

(B) the number of children in such State counted under subsection (c) of this section in the fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

(Pub. L. 89–10, title I, §1124, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1516.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(4)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6333, Pub. L. 89–10, title I, §1124, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3564; amended Pub. L. 104–193, title I, §110(j)(2), Aug. 22, 1996, 110 Stat. 2172, related to basic grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§6334. Concentration grants to local educational agencies

(a) Eligibility for and amount of grants

(1) In general

(A) Except as otherwise provided in this paragraph, each local educational agency which is eligible for a grant under section 6333 of this title for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children counted under section 6333(c) of this title in the agency exceeds either—

(i) 6,500; or

(ii) 15 percent of the total number of children aged 5 through 17 in the agency.

(B) Notwithstanding section 6332 of this title, no State shall receive less than the lesser of—

(i) 0.25 percent of the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or

(ii) the average of—

(I) the amount calculated under clause (i); and

(II) the greater of—

(aa) $340,000; or

(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

(2) Determination

For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year, the Secretary shall determine the product of—

(A) the number of children counted under section 6333(c) of this title for that fiscal year; and

(B) the amount in section 6333(a)(1)(B) of this title for each State except the Commonwealth of Puerto Rico, and the amount in section 6333(a)(4) of this title for the Commonwealth of Puerto Rico.

(3) Amount

The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

(4) Local allocations

(A) Grant amounts under this section shall be determined in accordance with section 6333(a)(2), (3), and (4) of this title.

(B) For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, a State may reserve not more than 2 percent of its allocation under this section to make grants to local educational agencies that meet the criteria of paragraph (1)(A)(i) or (ii) and are in ineligible counties that do not meet these criteria.

(b) Small States

In any State for which on January 8, 2002, the number of children counted under section 6333(c) of this title is less than 0.25 percent of the number of those children counted for all States, the State educational agency shall allocate funds under this section among the local educational agencies in the State either—

(1) in accordance with paragraphs (2) and (4) of subsection (a) of this section; or

(2) based on their respective concentrations and numbers of children counted under section 6333(c) of this title, except that only those local educational agencies with concentrations or numbers of children counted under section 6333(c) of this title that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

(Pub. L. 89–10, title I, §1124A, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1521.)

PRIOR PROVISIONS

A prior section 6334, Pub. L. 89–10, title I, §1124A, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3569, related to concentration grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§6335. Targeted grants to local educational agencies

(a) Eligibility of local educational agencies

(1) In general

A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

(A) the number of children in the local educational agency counted under section 6333(c) of this title, before application of the weighted child count described in subsection (c) of this section, is at least 10; and

(B) if the number of children counted for grants under section 6333(c) of this title, before application of the weighted child count described in subsection (c) of this section, is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

(2) Special rule

For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(b) Grants for local educational agencies, the District of Columbia, and the Commonwealth of Puerto Rico

(1) In general

The amount of the grant that a local educational agency in a State (other than the Commonwealth of Puerto Rico) is eligible to receive under this section for any fiscal year shall be the product of—

(A) the weighted child count determined under subsection (c) of this section; and

(B) the amount determined under section 6333(a)(1)(B) of this title.

(2) Puerto Rico

For each fiscal year, the amount of the grant the Commonwealth of Puerto Rico is eligible to receive under this section shall be equal to the number of children counted under subsection (c) of this section for the Commonwealth of Puerto Rico, multiplied by the amount determined in section 6333(a)(4) of this title for the Commonwealth of Puerto Rico.

(c) Weighted child count

(1) Weights for allocations to counties

(A) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under subparagraphs (B) and (C).

(B) By percentage of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

(iii) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

(iv) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

(v) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

(C) By number of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(iii) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

(iv) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

(v) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

(D) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 6333(c) of this title multiplied by 1.82.

(2) Weights for allocations to local educational agencies

(A) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under subparagraphs (B) and (C).

(B) By percentage of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;

(iii) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;

(iv) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25; and

(v) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

(C) By number of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

(iii) the number of such children between 2,263 and 7,851, inclusive, in such population,

multiplied by 2.0;

(iv) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and

(v) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

(D) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 6333(c) of this title multiplied by 1.82.

(d) Calculation of grant amounts

Grant amounts under this section shall be calculated in the same manner as grant amounts are calculated under section 6333(a)(2) and (3) of this title.

(e) State minimum

Notwithstanding any other provision of this section or section 6332 of this title, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

(1) 0.35 percent of the total amount available to carry out this section; or

(2) the average of—

(A) 0.35 percent of the total amount available to carry out this section; and

(B) 150 percent of the national average grant under this section per child described in section 6333(c) of this title, without application of a weighting factor, multiplied by the State's total number of children described in section 6333(c) of this title, without application of a weighting factor.

(Pub. L. 89–10, title I, §1125, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1522.)

PRIOR PROVISIONS

A prior section 6335, Pub. L. 89–10, title I, §1125, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3571, related to targeted grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§6336. Adequacy of funding to local educational agencies in fiscal years after fiscal year 2001

Pursuant to section 6332 of this title, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under this part shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for targeted grants to local educational agencies under section 6335 of this title in the applicable fiscal year meets the requirements of section 6332(a) of this title.

(Pub. L. 89–10, title I, §1125AA, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1525; amended Pub. L. 114–95, title I, §1016, Dec. 10, 2015, 129 Stat. 1878.)

PRIOR PROVISIONS

A prior section 6336, Pub. L. 89–10, title I, §1125A, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3575, related to education finance incentive program, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, in section catchline, struck out "of targeted grants" after "Adequacy of funding" and, in text, struck out subsec. (a), which set forth Congressional findings, and struck out subsec. (b) designation and heading before "Pursuant".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive

programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6337. Education finance incentive grant program

(a) Grants

From funds made available under section 6332(a) of this title the Secretary is authorized to make grants to States, from allotments under subsection (b) of this section, to carry out the programs and activities of this part.

(b) Distribution based upon fiscal effort and equity

(1) In general

(A) In general

Except as provided in subparagraph (B), funds made available for any fiscal year to carry out this section shall be allotted to each State based upon the number of children counted under section 6333(c) of this title in such State multiplied by the product of—

(i) the amount in section 6333(a)(1)(B) of this title for all States other than the Commonwealth of Puerto Rico, except that the amount determined under that subparagraph shall not be less that 34 percent or more than 46 percent of the average per pupil expenditure in the United States, and the amount in section 6333(a)(4) of this title for the Commonwealth of Puerto Rico, except that the amount in section 6333(a)(4)(A)(ii) of this title shall be 34 percent of the average per pupil expenditure in the United States; multiplied by

(ii) such State's effort factor described in paragraph (2); multiplied by

(iii) 1.30 minus such State's equity factor described in paragraph (3).

(B) State minimum

Notwithstanding any other provision of this section or section 6332 of this title, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

(i) 0.35 percent of the total amount reserved under section 6332(a) of this title to carry out this section; or

(ii) the average of—

(I) 0.35 percent of the total amount available to carry out this section; and

(II) 150 percent of the national average grant under this section per child described in section 6333(c) of this title, without application of a weighting factor, multiplied by the State's total number of children described in section 6333(c) of this title, without application of a weighting factor.

(2) Effort factor

(A) In general

Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than 0.95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the 3-year average per-pupil expenditure in the State multiplied by the 3-year average per capita income in the United States and the denominator of which is the product of the 3-year average per capita income in such State multiplied by the 3-year average per-pupil expenditure in the United States.

(B) Commonwealth of Puerto Rico

The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

(3) Equity factor

(A) Determination

(i) In general

Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

(ii) Computation

(I) In general

For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), and (IV).

(II) Variation

In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils served by the local educational agency.

(III) Number of pupils

In determining the number of pupils under this paragraph served by each local educational agency and in each State, the Secretary shall multiply the number of children counted under section 6333(c) of this title by a factor of 1.4.

(IV) Enrollment requirement

In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

(B) Special rule

The equity factor for a State that meets the disparity standard described in section 222.162 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding January 8, 2002) or a State with only one local educational agency shall be not greater than 0.10.

(c) Use of funds; eligibility of local educational agencies

All funds awarded to each State under this section shall be allocated to local educational agencies under the following provisions. Within local educational agencies, funds allocated under this section shall be distributed to schools on a basis consistent with section 6313 of this title, and may only be used to carry out activities under this part. A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

(1) the number of children in the local educational agency counted under section 6333(c) of this title, before application of the weighted child count described in paragraph (3),[1] is at least 10; and

(2) if the number of children counted for grants under section 6333(c) of this title, before application of the weighted child count described in paragraph (3), [1] is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(d) Allocation of funds to eligible local educational agencies

Funds received by States under this section shall be allocated within States to eligible local educational agencies on the basis of weighted child counts calculated in accordance with paragraph (1), (2), or (3), as appropriate for each State.

(1) States with an equity factor less than .10

In States with an equity factor less than .10, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding

(I) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;

(IV) the number of such children who constitute more than 30.16 percent, but not more

than 38.24 percent, of such population, multiplied by 3.25; and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

(2) States with an equity factor greater than or equal to .10 and less than .20

In States with an equity factor greater than or equal to .10 and less than .20, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.5;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 3.0;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 4.5; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 6.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.25;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 3.375; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 4.5.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.5;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 3.0;

(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 4.5; and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 6.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.25;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 3.375; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 4.5.

(3) States with an equity factor greater than or equal to .20

In States with an equity factor greater than or equal to .20, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 2.0;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 4.0;

(IV) the number of such children who constitute more than 24.20 percent, but not more

than 29.20 percent, of such population, multiplied by 6.0; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 8.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 2.0;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 3.0;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 4.5; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 6.0.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 2.0;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 4.0;

(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 6.0; and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 8.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 2.0;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 3.0;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 4.5; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 6.0.

(e) Maintenance of effort

(1) In general

A State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that the State's fiscal effort per student or the aggregate expenditures of the State with respect to the provision of free public education by the State for the preceding fiscal year was not less than 90 percent of the fiscal effort or aggregate expenditures for the second preceding fiscal year, subject to the requirements of paragraph (2).

(2) Reduction in case of failure to meet

(A) In general

The Secretary shall reduce the amount of the allotment of funds under this section for any fiscal year in the exact proportion by which a State fails to meet the requirement of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), if such State has also failed to meet such requirement (as determined using the measure most favorable to the State) for 1 or more of the 5 immediately preceding fiscal years.

(B) Special rule

No such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) Waiver

The Secretary may waive the requirements of this subsection if the Secretary determines that a waiver would be equitable due to—

(A) exceptional or uncontrollable circumstances, such as a natural disaster or a change in the organizational structure of the State; or

(B) a precipitous decline in the financial resources of the State.

(f) Adjustments where necessitated by appropriations

(1) In general

If the sums available under this section for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive to carry out this section for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to paragraphs (2) and (3).

(2) Additional funds

If additional funds become available for making payments under this section for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

(3) Hold-harmless amounts

For each fiscal year, if sufficient funds are available, the amount made available to each local educational agency under this section shall be—

(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 6333 of this title is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

(4) Applicability

Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

(Pub. L. 89–10, title I, §1125A, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1525;

amended Pub. L. 114–95, title I, §1017, Dec. 10, 2015, 129 Stat. 1878.)

PRIOR PROVISIONS

A prior section 6337, Pub. L. 89–10, title I, §1126, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3577, related to special allocation procedures, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6338 of this title.

A prior section 1125A of Pub. L. 89–10 was classified to section 6336 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1017(1), substituted "funds made available under section 6332(a) of this title" for "funds appropriated under subsection (f) of this section".

Subsec. (b)(1)(A). Pub. L. 114–95, §1017(2)(A), substituted "funds made available for any fiscal year to carry out this section" for "funds appropriated pursuant to subsection (f) of this section" in introductory provisions.

Subsec. (b)(1)(B)(i). Pub. L. 114–95, §1017(2)(B), substituted "the total amount reserved under section 6332(a) of this title to carry out this section" for "total appropriations".

Subsec. (c). Pub. L. 114–95, §1017(3), redesignated pars. (A) and (B) as (1) and (2), respectively.

Subsec. (d)(1)(A)(ii). Pub. L. 114–95, §1017(4), struck out opening quotation marks before "(i)" in introductory provisions.

Subsec. (e). Pub. L. 114–95, §1017(5), added subsec. (e) and struck out former subsec. (e) which related to general rule for full allotment of funds, reduction of funds in any fiscal year where State fails to meet requirements, and equitable waiver of requirements for 1 fiscal year only.

Subsec. (f). Pub. L. 114–95, §1017(6), (7), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: "There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years."

Subsec. (f)(1). Pub. L. 114–95, §1017(8)(A), substituted "to carry out this section" for "under this section".

Subsec. (f)(3). Pub. L. 114–95, §1017(8)(B), substituted "shall be—" for "shall be" in introductory provisions.

Subsec. (g). Pub. L. 114–95, §1017(7), redesignated subsec. (g) as (f).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] So in original. This subsec. does not contain a par. (3).

§6338. Special allocation procedures

(a) Allocations for neglected children

(1) In general

If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in section 6333(c)(1)(B) of this title, the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 6333, 6334, 6335, and 6337 of this title that is attributable to such children.

(2) Special rule

If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

(b) Allocations among local educational agencies

The State educational agency may allocate the amounts of grants under sections 6333, 6334, 6335,

and 6337 of this title among the affected local educational agencies—

(1) if two or more local educational agencies serve, in whole or in part, the same geographical area;

(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

(3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

(c) Reallocation

If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 6333, 6334, 6335, and 6337 of this title is more than such local educational agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

(Pub. L. 89–10, title I, §1126, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1534.)

PRIOR PROVISIONS

A prior section 6338, Pub. L. 89–10, title I, §1127, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3577, related to carryover and waiver, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1126 of Pub. L. 89–10 was classified to section 6337 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§6339. Carryover and waiver

(a) Limitation on carryover

Notwithstanding section 1225(b) of this title or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

(b) Waiver

A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) of this section if—

(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

(2) supplemental appropriations for this subpart become available.

(c) Exclusion

The percentage limitation under subsection (a) of this section shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.

(Pub. L. 89–10, title I, §1127, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1534.)

PRIOR PROVISIONS

A prior section 1127 of Pub. L. 89–10 was classified to section 6338 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

PART B—STATE ASSESSMENT GRANTS

CODIFICATION

Part B of title I of the Elementary and Secondary Education Act of 1965, comprising this part, was originally enacted in the general amendment of title I of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1535, and amended by Pub. L. 108–7, Feb. 20, 2003, 117 Stat.

11; Pub. L. 110–154, Dec. 21, 2007, 121 Stat. 1826; Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Part B is shown herein, however, as having been added by Pub. L. 114–95, title I, §1201, Dec. 10, 2015, 129 Stat. 1879, without reference to those intervening amendments because of the extensive revision of part B by Pub. L. 114–95. See Codification note preceding section 6301 of this title.

§6361. Grants for State assessments and related activities

(a) Grants authorized

From amounts made available in accordance with section 6363 of this title, the Secretary shall make grants to State educational agencies to enable the States to carry out 1 or more of the following:

(1) To pay the costs of the development of the State assessments and standards adopted under section 6311(b) of this title, which may include the costs of working in voluntary partnerships with other States, at the sole discretion of each such State.

(2) If a State has developed the assessments adopted under section 6311(b) of this title, to administer those assessments or to carry out other assessment activities described in this part, such as the following:

(A) Ensuring the provision of appropriate accommodations available to English learners and children with disabilities to improve the rates of inclusion in regular assessments of such children, including professional development activities to improve the implementation of such accommodations in instructional practice.

(B) Developing challenging State academic standards and aligned assessments in academic subjects for which standards and assessments are not required under section 6311(b) of this title.

(C) Developing or improving assessments for English learners, including assessments of English language proficiency as required under section 6311(b)(2)(G) of this title and academic assessments in languages other than English to meet the State's obligations under section 6311(b)(2)(F) of this title.

(D) Ensuring the continued validity and reliability of State assessments.

(E) Refining State assessments to ensure their continued alignment with the challenging State academic standards and to improve the alignment of curricula and instructional materials.

(F) Developing or improving balanced assessment systems that include summative, interim, and formative assessments, including supporting local educational agencies in developing or improving such assessments.

(G) At the discretion of the State, refining science assessments required under section 6311(b)(2) of this title in order to integrate engineering design skills and practices into such assessments.

(H) Developing or improving models to measure and assess student progress or student growth on State assessments under section 6311(b)(2) of this title and other assessments not required under section 6311(b)(2) of this title.

(I) Developing or improving assessments for children with disabilities, including alternate assessments aligned to alternate academic achievement standards for students with the most significant cognitive disabilities described in section 6311(b)(2)(D) of this title, and using the principles of universal design for learning.

(J) Allowing for collaboration with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments beyond the requirements for such assessments described in section 6311(b)(2) of this title.

(K) Measuring student academic achievement using multiple measures of student academic achievement from multiple sources.

(L) Evaluating student academic achievement through the development of comprehensive academic assessment instruments (such as performance and technology-based academic

assessments, computer adaptive assessments, projects, or extended performance task assessments) that emphasize the mastery of standards and aligned competencies in a competency-based education model.

(M) Designing the report cards and reports under section 6311(h) of this title in an easily accessible, user friendly-manner that cross-tabulates student information by any category the State determines appropriate, as long as such cross-tabulation—

(i) does not reveal personally identifiable information about an individual student; and

(ii) is derived from existing State and local reporting requirements.

(b) Rule of construction

Nothing in subsection (a)(2)(M) shall be construed as authorizing, requiring, or allowing any additional reporting requirements, data elements, or information to be reported to the Secretary unless such reporting, data, or information is explicitly authorized under this chapter.

(c) Annual report

Each State educational agency receiving a grant under this section shall submit an annual report to the Secretary describing the State's activities under the grant and the result of such activities.

(Pub. L. 89–10, title I, §1201, as added Pub. L. 114–95, title I, §1201, Dec. 10, 2015, 129 Stat. 1879.)

PRIOR PROVISIONS

A prior section 6361, Pub. L. 89–10, title I, §1201, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1535, stated purpose of former subpart 1 of this part, prior to the general amendment of this part by Pub. L. 114–95.

Another prior section 6361, Pub. L. 89–10, title I, §1201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3578; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, stated purpose of Even Start family literacy program, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1201 of Pub. L. 89–10 was classified to section 2781 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6362. State option to conduct assessment system audit

(a) In general

From the amount reserved under section 6363(a)(3) of this title for a fiscal year, the Secretary shall make grants to States to enable the States to—

(1) in the case of a grant awarded under this section to a State for the first time—

(A) audit State assessment systems and ensure that local educational agencies audit local assessments under subsection (e)(1);

(B) execute the State plan under subsection (e)(3)(D); and

(C) award subgrants under subsection (f); and

(2) in the case of a grant awarded under this section to a State that has previously received a grant under this section—

(A) execute the State plan under subsection (e)(3)(D); and

(B) award subgrants under subsection (f).

(b) Minimum amount

Each State that receives a grant under this section shall receive an annual grant amount of not less than $1,500,000.

(c) Reallocation

If a State chooses not to apply for a grant under this section, the Secretary shall reallocate such grant amount to other States in accordance with the formula described in section 6363(a)(4)(B) of this title.

(d) Application

A State desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall require. The application shall include a description of—

(1) in the case of a State that is receiving a grant under this section for the first time—

(A) the audit the State will carry out under subsection (e)(1); and

(B) the stakeholder feedback the State will seek in designing such audit;

(2) in the case of a State that is not receiving a grant under this section for the first time, the plan described in subsection (e)(3)(D); and

(3) how the State will award subgrants to local educational agencies under subsection (f).

(e) Audits of State assessment systems and local assessments

(1) Audit requirements

Not later than 1 year after the date a State receives an initial grant under this section, the State shall—

(A) conduct a State assessment system audit as described in paragraph (3);

(B) ensure that each local educational agency receiving funds under this section—

(i) conducts an audit of local assessments administered by the local educational agency as described in paragraph (4); and

(ii) submits the results of such audit to the State; and

(C) report the results of each State and local educational agency audit conducted under subparagraphs (A) and (B), in a format that is widely accessible and publicly available.

(2) Resources for local educational agencies

In carrying out paragraph (1)(B), each State shall provide local educational agencies with resources, such as guidelines and protocols, to assist in conducting and reporting audit results.

(3) State assessment system description

Each State assessment system audit conducted under paragraph (1)(A) shall include—

(A) the schedule for the administration of all State assessments;

(B) for each State assessment—

(i) the purpose for which the assessment was designed and the purpose for which the assessment is used; and

(ii) the legal authority for the administration of the assessment;

(C) feedback on such system from stakeholders, which shall include information such as—

(i) how teachers, principals, other school leaders, and administrators use assessment data to improve and differentiate instruction;

(ii) the timing of release of assessment data;

(iii) the extent to which assessment data is presented in an accessible and understandable format for all stakeholders;

(iv) the opportunities, resources, and training teachers, principals, other school leaders, and administrators are given to review assessment results and make effective use of assessment data;

(v) the distribution of technological resources and personnel necessary to administer assessments;

(vi) the amount of time teachers spend on assessment preparation and administration;

(vii) the assessments that administrators, teachers, principals, other school leaders, parents, and students, if appropriate, do and do not find useful; and

(viii) other information as appropriate; and

(D) a plan, based on the information gathered as a result of the activities described in subparagraphs (A), (B), and (C), to improve and streamline the State assessment system, including activities such as—

(i) eliminating any unnecessary assessments, which may include paying the cost associated with terminating procurement contracts;

(ii) supporting the dissemination of best practices from local educational agencies or other States that have successfully improved assessment quality and efficiency to improve teaching and learning; and

(iii) supporting local educational agencies or consortia of local educational agencies to carry out efforts to streamline local assessment systems and implement a regular process of review and evaluation of assessment use in local educational agencies.

(4) Local assessment description

An audit of local assessments conducted in accordance with paragraph (1)(B)(i) shall include the same information described in paragraph (3) that is required of a State audit, except that such information shall be included as applicable to the local educational agency and the local assessments.

(f) Subgrants to local educational agencies

(1) In general

Each State shall reserve not less than 20 percent of the grant funds awarded to the State under this section to make subgrants to local educational agencies in the State or consortia of such local educational agencies, based on demonstrated need in the agency's or consortium's application, to enable such agencies or consortia to improve assessment quality and use, and alignment, including, if applicable, alignment to the challenging State academic standards.

(2) Local educational agency application

Each local educational agency, or consortium of local educational agencies, seeking a subgrant under this subsection shall submit an application to the State at such time, in such manner, and containing such other information as determined necessary by the State. The application shall include a description of the agency's or consortium's needs relating to the improvement of assessment quality, use, and alignment.

(3) Use of funds

A subgrant awarded under this subsection to a local educational agency or consortium of such agencies may be used to—

(A) conduct an audit of local assessments under subsection (e)(1)(B)(i);

(B) carry out the plan described in subsection (e)(3)(D) as it pertains to such agency or consortium;

(C) improve assessment delivery systems and schedules, including by increasing access to technology and assessment proctors, where appropriate;

(D) hire instructional coaches, or promote teachers who may receive increased compensation to serve as instructional coaches, to support teachers in the development of classroom-based assessments, interpreting assessment data, and designing instruction;

(E) provide for appropriate accommodations to maximize inclusion of children with disabilities and English learners participating in assessments; and

(F) improve the capacity of teachers, principals, and other school leaders to disseminate assessment data in an accessible and understandable format for parents and families, including for children with disabilities and English learners.

(g) Definitions

In this section:

(1) Local assessment

The term "local assessment" means an academic assessment selected and carried out by a local educational agency that is separate from an assessment required under section 6311(b)(2) of this title.

(2) State

The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title I, §1202, as added Pub. L. 114–95, title I, §1201, Dec. 10, 2015, 129 Stat. 1881.)

PRIOR PROVISIONS

A prior section 6362, Pub. L. 89–10, title I, §1202, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1535; amended Pub. L. 108–7, div. G, title III, §305, Feb. 20, 2003, 117 Stat. 333, authorized formula grants to State educational agencies, prior to the general amendment of this part by Pub. L. 114–95.

Another prior section 6362, Pub. L. 89–10, title I, §1202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3578; amended Pub. L. 105–220, title II, §251(b)(2)(A), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 105–277, div. A, §101(f) [title VIII, §§201, 202], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407, 2681–408; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §§1604(c)–(e), 1606(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–329, 2763A–330, 2763A–334, authorized Even Start program, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1202 of Pub. L. 89–10 was classified to section 2782 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6363. Allotment of appropriated funds

(a) Amounts equal to or less than trigger amount

From amounts made available for each fiscal year under subsection [1] 6302(b) of this title that are equal to or less than the amount described in section 6311(b)(2)(I) of this title, the Secretary shall—

(1) reserve one-half of 1 percent for the Bureau of Indian Education;

(2) reserve one-half of 1 percent for the outlying areas;

(3) reserve not more than 20 percent to carry out section 6362 of this title; and

(4) from the remainder, carry out section 6361 of this title by allocating to each State an amount equal to—

(A) $3,000,000, except for a fiscal year for which the amounts available are insufficient to allocate such amount to each State, the Secretary shall ratably reduce such amount for each State; and

(B) with respect to any amounts remaining after the allocation under subparagraph (A), an amount that bears the same relationship to such total remaining amounts as the number of students aged 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(b) Amounts above trigger amount

For any fiscal year for which the amount made available for a fiscal year under subsection [1] 6302(b) of this title exceeds the amount described in section 6311(b)(2)(I) of this title, the Secretary shall make such excess amount available as follows:

(1) Competitive grants

(A) In general

The Secretary shall first use such funds to award grants, on a competitive basis, to State educational agencies or consortia of State educational agencies that have submitted applications described in subparagraph (B) to enable such States to carry out the activities described in subparagraphs (C), (H), (I), (J), (K), and (L) of section 6361(a)(2) of this title.

(B) Applications

A State, or a consortium of States, that desires a competitive grant under subparagraph (A) shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall demonstrate that the requirements of this section will be met for the uses of funds described under subparagraph (A).

(C) Amount of competitive grants

In determining the amount of a grant under subparagraph (A), the Secretary shall ensure that a State or consortium's grant, as the case may be, shall include an amount that bears the same relationship to the total funds available to carry out this subsection for the fiscal year as the number of students aged 5 through 17 in the State, or, in the case of a consortium, in each State that comprises the consortium, (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(2) Allotments

Any amounts remaining after the Secretary awards funds under paragraph (1) shall be allotted to each State, or consortium of States, that did not receive a grant under such paragraph, in an amount that bears the same relationship to the remaining amounts as the number of students aged 5 through 17 in the State, or, in the case of a consortium, in the States of the consortium, (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(c) State defined

In this part, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) Prohibition

In making funds available to States under this part, the Secretary shall comply with the prohibitions described in section 7909 of this title.

(Pub. L. 89–10, title I, §1203, as added Pub. L. 114–95, title I, §1201, Dec. 10, 2015, 129 Stat. 1884.)

PRIOR PROVISIONS

A prior section 6363, Pub. L. 89–10, title I, §1203, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1543; amended Pub. L. 110–154, §1(c)(3), Dec. 21, 2007, 121 Stat. 1828; Pub. L. 113–128, title V, §512(i)(1), July 22, 2014, 128 Stat. 1708, related to applications for State formula grants, prior to the general amendment of this part by Pub. L. 114–95.

Another prior section 6363, Pub. L. 89–10, title I, §1203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3579; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §204(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(f), (g)], Dec. 21, 2000, 114 Stat. 2763, 2763A–330, related to State Even Start programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1203 of Pub. L. 89–10 was classified to section 2783 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

[1] *So in original. Probably should be "section".*

§6364. Innovative assessment and accountability demonstration authority

(a) Innovative assessment system defined

The term "innovative assessment system" means a system of assessments that may include—

(1) competency-based assessments, instructionally embedded assessments, interim assessments, cumulative year-end assessments, or performance-based assessments that combine into an annual summative determination for a student, which may be administered through computer adaptive assessments; and

(2) assessments that validate when students are ready to demonstrate mastery or proficiency and allow for differentiated student support based on individual learning needs.

(b) Demonstration authority

(1) In general

The Secretary may provide a State educational agency, or a consortium of State educational agencies, in accordance with paragraph (3), with the authority to establish an innovative assessment system (referred to in this section as "demonstration authority").

(2) Demonstration period

In accordance with the requirements described in subsection (e), each State educational agency, or consortium of State educational agencies, that submits an application under this section shall propose in its application the period of time over which the State educational agency or consortium desires to exercise the demonstration authority, except that such period shall not exceed 5 years.

(3) Initial demonstration authority and expansion

During the first 3 years that the Secretary provides State educational agencies and consortia with demonstration authority (referred to in this section as the "initial demonstration period") the Secretary shall provide such demonstration authority to—

(A) a total number of not more than 7 participating State educational agencies, including those participating in consortia, that have applications approved under subsection (e); and

(B) consortia that include not more than 4 State educational agencies.

(c) Progress report

(1) In general

Not later than 180 days after the end of the initial demonstration period, and prior to providing additional State educational agencies with demonstration authority, the Director of the Institute of Education Sciences, in consultation with the Secretary, shall publish a report detailing the initial progress of innovative assessment systems carried out through demonstration authority under this section.

(2) Criteria

The progress report under paragraph (1) shall be based on the annual information submitted by participating States described in subsection (e)(2)(B)(ix) and examine the extent to which—

(A) with respect to each innovative assessment system—

(i) the State educational agency has solicited feedback from teachers, principals, other school leaders, and parents about their satisfaction with the innovative assessment system;

(ii) teachers, principals, and other school leaders have demonstrated a commitment and capacity to implement or continue to implement the innovative assessment system; and

(iii) substantial evidence exists demonstrating that the innovative assessment system has been developed in accordance with the requirements of subsection (e); and

(B) each State with demonstration authority has demonstrated that—

(i) the same innovative assessment system was used to measure the achievement of all students that participated in the innovative assessment system; and

(ii) of the total number of all students, and the total number of each of the subgroups of students defined in section 6311(c)(2) of this title, eligible to participate in the innovative assessment system in a given year, the State assessed in that year an equal or greater percentage of such eligible students, as measured under section 6311(c)(4)(E) of this title, as were assessed in the State in such year using the assessment system under section 6311(b)(2) of this title.

(3) Use of report

Upon completion of the progress report, the Secretary shall provide a response to the findings of the progress report, including a description of how the findings of the report will be used—

(A) to support State educational agencies with demonstration authority through technical assistance; and

(B) to inform the peer-review process described in subsection (f) for advising the Secretary on the awarding of the demonstration authority to the additional State educational agencies described in subsection (d).

(4) Publicly available

The Secretary shall make the progress report under this subsection and the response described in paragraph (3) publicly available on the website of the Department.

(5) Prohibition

The Secretary shall not require States that have demonstration authority to submit any information for the purposes of the progress report that is in addition to the information the State is already required to provide under subsection (e)(2)(B)(x).

(d) Expansion of the demonstration authority

Upon completion and publication of the report described in subsection (c), the Secretary may grant demonstration authority to additional State educational agencies or consortia that submit an application under subsection (e). Such State educational agencies or consortia of State educational agencies shall be subject to all of the same terms, conditions, and requirements of this section.

(e) Application

(1) In general

A State educational agency, or consortium of State educational agencies, that desires to participate in the program of demonstration authority under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(2) Contents

Such application shall include a description of the innovative assessment system, the experience the applicant has in implementing any components of the innovative assessment system, and the timeline over which the State or consortium proposes to exercise the demonstration authority. In addition, the application shall include each of the following:

(A) A demonstration that the innovative assessment system will—

(i) meet all the requirements of section 6311(b)(2)(B) of this title, except the requirements of clauses (i) and (v) of such section;

(ii) be aligned to the challenging State academic standards and address the depth and breadth of such standards;

(iii) express student results or student competencies in terms consistent with the State's aligned academic achievement standards under section 6311(b)(1) of this title;

(iv) generate results that are valid and reliable, and comparable, for all students and for each subgroup of students described in section 6311(b)(2)(B)(xi) of this title, as compared to the results for such students on the State assessments under section 6311(b)(2) of this title;

(v) be developed in collaboration with—

(I) stakeholders representing the interests of children with disabilities, English learners, and other vulnerable children;

(II) teachers, principals, and other school leaders;

(III) local educational agencies;

(IV) parents; and

(V) civil rights organizations in the State;

(vi) be accessible to all students, such as by incorporating the principles of universal design for learning;

(vii) provide teachers, principals, other school leaders, students, and parents with timely data, disaggregated by each subgroup of students described in section 6311(b)(2)(B)(xi) of this title, to inform and improve instructional practice and student supports;

(viii) identify which students are not making progress toward the challenging State academic standards so that teachers can provide instructional support and targeted interventions to all students;

(ix) annually measure the progress of not less than the same percentage of all students and students in each of the subgroups of students, as defined in section 6311(c)(2) of this title, who are enrolled in schools that are participating in the innovative assessment system and are required to take such assessments, as measured under section 6311(c)(4)(E) of this title, as were assessed by schools administering the assessment under section 6311(b)(2) of this title;

(x) generate an annual, summative achievement determination, based on the aligned State academic achievement standards under section 6311(b)(1) of this title and based on annual data, for each individual student; and

(xi) allow the State educational agency to validly and reliably aggregate data from the innovative assessment system for purposes of—

(I) accountability, consistent with the requirements of section 6311(c) of this title; and

(II) reporting, consistent with the requirements of section 6311(h) of this title.

(B) A description of how the State educational agency will—

(i) continue use of the statewide academic assessments required under section 6311(b)(2) of this title if such assessments will be used for accountability purposes for the duration of the demonstration authority period;

(ii) identify the distinct purposes for each assessment that is part of the innovative assessment system;

(iii) provide support and training to local educational agency and school staff to implement the innovative assessment system described in this subsection;

(iv) inform parents of students in participating local educational agencies about the innovative assessment system at the beginning of each school year during which the innovative assessment system will be implemented;

(v) engage and support teachers in developing and scoring assessments that are part of the innovative assessment system, including through the use of high-quality professional development, standardized and calibrated scoring rubrics, and other strategies, consistent with relevant nationally recognized professional and technical standards, to ensure inter-rater reliability and comparability;

(vi) acclimate students to the innovative assessment system;

(vii) ensure that students with the most significant cognitive disabilities may be assessed with alternate assessments consistent with section 6311(b)(2)(D) of this title;

(viii) if the State is proposing to administer the innovative assessment system initially in a subset of local educational agencies, scale up the innovative assessment system to administer such system statewide, or with additional local educational agencies, in the State's proposed demonstration authority period;

(ix) gather data, solicit regular feedback from teachers, principals, other school leaders, and parents, and assess the results of each year of the program of demonstration authority

under this section, and respond by making needed changes to the innovative assessment system; and

(x) report data from the innovative assessment system annually to the Secretary, including—

(I) demographics of participating local educational agencies, if such system is not statewide, and additional local educational agencies if added to the system during the course of the State's demonstration authority period or 2-year extension, except that such data shall not reveal any personally identifiable information, including a description of how the inclusion of additional local educational agencies contributes to progress toward achieving high-quality and consistent implementation across demographically diverse local educational agencies throughout the demonstration authority period;

(II) the performance of all participating students, and for each subgroup of students defined in section 6311(c)(2) of this title, on the innovative assessment, consistent with the requirements in section 6311(h) of this title, except that such data shall not reveal any personally identifiable information;

(III) feedback from teachers, principals, other school leaders, and parents about their satisfaction with the innovative assessment system; and

(IV) if such system is not statewide, a description of the State's progress in scaling up the innovative assessment system to additional local educational agencies during the State's demonstration authority period, as described in clause (viii).

(C) A description of the State educational agency's plan to—

(i) ensure that all students and each of the subgroups of students defined in section 6311(c)(2) of this title participating in the innovative assessment system receive the instructional support needed to meet State aligned academic achievement standards;

(ii) ensure that each local educational agency has the technological infrastructure to implement the innovative assessment system; and

(iii) hold all schools in the local educational agencies participating in the program of demonstration authority accountable for meeting the State's expectations for student achievement.

(D) If the innovative assessment system will initially be administered in a subset of local educational agencies—

(i) a description of the local educational agencies within the State educational agency that will participate, including what criteria the State has for approving any additional local educational agencies to participate during the demonstration authority period;

(ii) assurances from such local educational agencies that such agencies will comply with the requirements of this subsection;

(iii) a description of how the State will—

(I) ensure that the inclusion of additional local educational agencies contributes to progress toward achieving high-quality and consistent implementation across demographically diverse local educational agencies during the demonstration authority period; and

(II) ensure that the participating local educational agencies, as a group, will be demographically similar to the State as a whole by the end of the State's demonstration authority period; and

(iv) a description of the State educational agency's plan to hold all students and each of the subgroups of students, as defined in section 6311(c)(2) of this title, to the same high standard as other students in the State.

(f) Peer review

The Secretary shall—

(1) implement a peer-review process to inform—

(A) the awarding of demonstration authority under this section and the approval to operate an innovative assessment system for the purposes of subsections (b)(2) and (c) of section 6311 of this title, as described in subsection (h); and

(B) determinations about whether an innovative assessment system—

(i) is comparable to the State assessments under section 6311(b)(2)(B)(v) of this title, valid, reliable, of high technical quality, and consistent with relevant, nationally recognized professional and technical standards; and

(ii) provides an unbiased, rational, and consistent determination of progress toward the goals described under section 6311(c)(4)(A)(i) of this title for all students;

(2) ensure that the peer-review team consists of practitioners and experts who are knowledgeable about the innovative assessment system being proposed for all participating students, including—

(A) individuals with past experience developing systems of assessment innovation that support all students, including English learners, children with disabilities, and disadvantaged students; and

(B) individuals with experience implementing innovative assessment and accountability systems;

(3) make publicly available the applications submitted under subsection (c) [1] and the peer-review comments and recommendations regarding such applications;

(4) make a determination and inform the State regarding approval or disapproval of the application under subsection (c) [1] not later than 90 days after receipt of the complete application;

(5) if the Secretary disapproves an application under paragraph (4), offer the State an opportunity to—

(A) revise and resubmit such application within 60 days of the disapproval determination; and

(B) submit additional evidence that the State's application meets the requirements of subsection (c); [1] and

(6) make a determination regarding application approval or disapproval of a resubmitted application under paragraph (5) not later than 45 days after receipt of the resubmitted application.

(g) Extension

The Secretary may extend an authorization of demonstration authority under this section for an additional 2 years if the State educational agency demonstrates with evidence that the State educational agency's innovative assessment system is continuing to meet the requirements of subsection (c), including by demonstrating a plan for, and the capacity to, transition to statewide use of the innovative assessment system by the end of the 2-year extension period.

(h) Use of innovative assessment system

A State may, during the State's approved demonstration authority period or 2-year extension, include results from the innovative assessment systems developed under this section in accountability determinations for each student in the participating local educational agencies instead of, or in addition to, results from the assessment system under section 6311(b)(2) of this title if the State demonstrates that the State has met the requirements under subsection (c). The State shall continue to meet all other requirements of section 6311(c) of this title.

(i) Withdrawal of authority

The Secretary shall withdraw the authorization for demonstration authority provided to a State educational agency under this section and such State shall return to use of the statewide assessment system under section 6311(b)(2) of this title for all local educational agencies in the State if, at any

time during a State's approved demonstration authority period or 2-year extension, the State educational agency cannot present to the Secretary evidence that the innovative assessment system developed under this section—

(1) meets the requirements under subsection (c);

(2) includes all students attending schools participating in the innovative assessment system in a State that has demonstration authority, including each of the subgroups of students, as defined under section 6311(c)(2) of this title;

(3) provides an unbiased, rational, and consistent determination of progress toward the goals described under section 6311(c)(4)(A)(i) of this title for all students, which are comparable to measures of academic achievement under section 6311(c)(4)(B)(i) of this title across the State in which the local educational agencies are located;

(4) presents a high-quality plan to transition to full statewide use of the innovative assessment system by the end of the State's approved demonstration authority period or 2-year extension, if the innovative assessment system will initially be administered in a subset of local educational agencies; and

(5) demonstrates comparability to the statewide assessments under section 6311(b)(2) of this title in content coverage, difficulty, and quality.

(j) Transition

(1) In general

(A) Operation of innovative assessment system

If, after a State's approved demonstration authority period or 2-year extension, the State educational agency has met all the requirements of this section, including having scaled the innovative assessment system up to statewide use, and demonstrated that such system is of high quality, as described in subparagraph (B), the State shall be permitted to operate the innovative assessment system approved under the program of demonstration authority under this section for the purposes of subsections (b)(2) and (c) of section 6311 of this title.

(B) High quality

Such system shall be considered of high quality if the Secretary, through the peer-review process described in section 6311(a)(4) of this title, determines that—

(i) the innovative assessment system meets all of the requirements of this section;

(ii) the State has examined the effects of the system on other measures of student success, including indicators in the accountability system under section 6311(c)(4)(B) of this title;

(iii) the innovative assessment system provides coherent and timely information about student achievement based on the challenging State academic standards, including objective measurement of academic achievement, knowledge, and skills that are valid, reliable, and consistent with relevant, nationally-recognized professional and technical standards;

(iv) the State has solicited feedback from teachers, principals, other school leaders, and parents about their satisfaction with the innovative assessment system; and

(v) the State has demonstrated that the same innovative assessment system was used to measure—

(I) the achievement of all students that participated in such innovative assessment system; and

(II) not less than the percentage of such students overall and in each of the subgroups of students, as defined in section 6311(c)(2) of this title, as measured under section 6311(c)(4)(E) of this title, as were assessed under the assessment required by section 6311(b)(2) of this title.

(2) Baseline

For the purposes of the evaluation described in paragraph (1), the baseline year shall be considered the first year that each local educational agency in the State used the innovative assessment system.

(3) Waiver authority

A State may request, and the Secretary shall review such request and may grant, a delay of the withdrawal of authority under subsection (i) for the purpose of providing the State with the time necessary to implement the innovative assessment system statewide, if, at the conclusion of the State's approved demonstration authority period and 2-year extension—

(A) the State has met all of the requirements of this section, except transition to full statewide use of the innovative assessment system; and

(B) the State continues to comply with the other requirements of this section, and demonstrates a high-quality plan for transition to statewide use of the innovative assessment system in a reasonable period of time.

(k) Available funds

A State may use funds available under section 6361 of this title to carry out this section.

(l) Consortium

A consortium of States may apply to participate in the program of demonstration authority under this section, and the Secretary may provide each State member of such consortium with such authority if each such State member meets all of the requirements of this section. Such consortium shall be subject to the limitation described in subsection (b)(3)(B) during the initial 3 years of the demonstration authority.

(m) Dissemination of best practices

(1) In general

Following the publication of the progress report described in subsection (c), the Director of the Institute of Education Sciences, in consultation with the Secretary, shall collect and disseminate the best practices on the development and implementation of innovative assessment systems that meet the requirements of this section, including best practices regarding the development of—

(A) summative assessments that—

(i) meet the requirements of section 6311(b)(2)(B) of this title;

(ii) are comparable with statewide assessments under section 6311(b)(2) of this title; and

(iii) include assessment tasks that determine proficiency or mastery of State-approved competencies aligned to challenging State academic standards;

(B) effective supports for local educational agencies and school staff to implement innovative assessment systems;

(C) effective engagement and support of teachers in developing and scoring assessments and the use of high-quality professional development;

(D) effective supports for all students, particularly each of the subgroups of students, as defined in section 6311(c)(2) of this title, participating in the innovative assessment system; and

(E) standardized and calibrated scoring rubrics, and other strategies, to ensure inter-rater reliability and comparability of determinations of mastery or proficiency across local educational agencies and the State.

(2) Publication

The Secretary shall make the information described in paragraph (1) available on the website of the Department and shall publish an update to the information not less often than once every 3 years.

(Pub. L. 89–10, title I, §1204, as added Pub. L. 114–95, title I, §1201, Dec. 10, 2015, 129 Stat. 1885.)

PRIOR PROVISIONS

A prior section 6364, Pub. L. 89–10, title I, §1204, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1546, related to award of targeted assistance grants, prior to the general amendment of this part by Pub. L. 114–95.

Another prior section 6364, Pub. L. 89–10, title I, §1204, as added Pub. L. 103–382, title I, §101, Oct. 20,

1994, 108 Stat. 3580; amended Pub. L. 104–134, title I, §101(b) [title II, §2755(a)], Apr. 26, 1996, 110 Stat. 1321–77, 1321–151; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–113, div. B, §1000(a)(4) [title III, §306(a)], Nov. 29, 1999, 113 Stat. 1535, 1501A–260; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(h)], Dec. 21, 2000, 114 Stat. 2763, 2763A–330, related to uses of funds in carrying out an Even Start program, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6365 to 6368 were omitted in the general amendment of this part by Pub. L. 114–95.

Section 6365, Pub. L. 89–10, title I, §1205, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1548, related to external evaluation of former subpart 1 of this part.

Another prior section 6365, Pub. L. 89–10, title I, §1205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3580; amended Pub. L. 104–134, title I, §101(b) [title II, §2755(b)], Apr. 26, 1996, 110 Stat. 1321–77, 1321–151; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–220, title II, §251(b)(2)(B), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(18)(A), (f)(13)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(i)], Dec. 21, 2000, 114 Stat. 2763, 2763A–331, related to Even Start program elements, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6366, Pub. L. 89–10, title I, §1206, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1548, related to activities of Secretary of Education.

Another prior section 6366, Pub. L. 89–10, title I, §1206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3581; amended Pub. L. 105–220, title II, §251(b)(2)(C), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(j)], Dec. 21, 2000, 114 Stat. 2763, 2763A–332, related to eligible participants in an Even Start program, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6367, Pub. L. 89–10, title I, §1207, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1549; amended Pub. L. 110–154, §1(c)(3), Dec. 21, 2007, 121 Stat. 1828, related to dissemination of information.

Another prior section 6367, Pub. L. 89–10, title I, §1207, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3582; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(k)], Dec. 21, 2000, 114 Stat. 2763, 2763A–332, related to applications for Even Start subgrants, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6368, Pub. L. 89–10, title I, §1208, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1549, defined terms in former subpart 1 of this part.

Another prior section 6368, Pub. L. 89–10, title I, §1208, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3583; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §204(c)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409; Pub. L. 106–113, div. B, §1000(a)(4) [title III, §306(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–260; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(l)], Dec. 21, 2000, 114 Stat. 2763, 2763A–332, related to award of Even Start subgrants, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6369, 6369a, 6369b, and 6370 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6369, Pub. L. 89–10, title I, §1209, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3584; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §203], Oct. 21, 1998, 112 Stat. 2681–337, 2681–408, related to evaluation of Even Start programs.

Section 6369a, Pub. L. 89–10, title I, §1210, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §204(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409, related to indicators of Even Start program quality.

Section 6369b, Pub. L. 89–10, title I, §1211, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §205], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(m)], Dec. 21, 2000, 114 Stat. 2763, 2763A–333, authorized research.

Section 6370, Pub. L. 89–10, title I, §1212, formerly §1210, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3584; renumbered §1212, Pub. L. 105–277, div. A, §101(f) [title VIII, §204(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409, related to construction of provisions.

Prior sections 6371 to 6376, 6381 to 6381k, and 6383 were omitted in the general amendment of this part by Pub. L. 114–95.

Section 6371, Pub. L. 89–10, title I, §1221, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1552, set forth purposes and definitions for former subpart 2 of this part.

Section 6372, Pub. L. 89–10, title I, §1222, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1553, authorized local Early Reading First grants.

Section 6373, Pub. L. 89–10, title I, §1223, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1554, related to Federal administration of activities.

Section 6374, Pub. L. 89–10, title I, §1224, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat.

1554, related to dissemination of information regarding assisted projects.

Section 6375, Pub. L. 89–10, title I, §1225, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1554, related to annual reporting requirements.

Section 6376, Pub. L. 89–10, title I, §1226, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1555, related to evaluation of effectiveness of former subpart 2 of this part.

Section 6381, Pub. L. 89–10, title I, §1231, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1555, stated purpose of former subpart 3 of this part.

Section 6381a, Pub. L. 89–10, title I, §1232, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1556, authorized reservation of funds for migrant programs, outlying areas, and Indian tribes.

Section 6381b, Pub. L. 89–10, title I, §1233, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1558, related to use of funds for State educational agency level activities and local programs.

Section 6381c, Pub. L. 89–10, title I, §1234, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1559, related to use of funds by recipients of funds.

Section 6381d, Pub. L. 89–10, title I, §1235, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1560; amended Pub. L. 113–128, title V, §512(i)(2), July 22, 2014, 128 Stat. 1708, set forth elements of each program assisted.

Section 6381e, Pub. L. 89–10, title I, §1236, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1562, related to eligibility for participation in an Even Start program.

Section 6381f, Pub. L. 89–10, title I, §1237, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1563, related to application for subgrant under former subpart 3 of this part.

Section 6381g, Pub. L. 89–10, title I, §1238, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1564, related to award of subgrants.

Section 6381h, Pub. L. 89–10, title I, §1239, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1566, related to evaluation of programs.

Section 6381i, Pub. L. 89–10, title I, §1240, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1566, related to development of indicators of program quality.

Section 6381j, Pub. L. 89–10, title I, §1241, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1566, related to research into components of successful family literacy services.

Section 6381k, Pub. L. 89–10, title I, §1242, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1567, related to construction of provisions.

Section 6383, Pub. L. 89–10, title I, §1251, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1567, related to improvement of literacy through school libraries.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

[1] *So in original. Probably should refer to subsection (e).*

PART C—EDUCATION OF MIGRATORY CHILDREN

§6391. Program purposes

The purposes of this part are as follows:

(1) To assist States in supporting high-quality and comprehensive educational programs and services during the school year and, as applicable, during summer or intersession periods, that address the unique educational needs of migratory children.

(2) To ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and challenging State academic standards.

(3) To ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic standards that all children are expected to meet.

(4) To help migratory children overcome educational disruption, cultural and language barriers,

social isolation, various health-related problems, and other factors that inhibit the ability of such children to succeed in school.

(5) To help migratory children benefit from State and local systemic reforms.

(Pub. L. 89–10, title I, §1301, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1571; amended Pub. L. 114–95, title I, §1301(a), Dec. 10, 2015, 129 Stat. 1893.)

PRIOR PROVISIONS

A prior section 6391, Pub. L. 89–10, title I, §1301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3585, related to program purpose, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to purposes of this part to assist States: (1) to support high-quality and comprehensive educational programs for migratory children; (2) to ensure that migratory children who move among the States are not penalized in any manner by disparities among the States; (3) to ensure that migratory children are provided with appropriate educational services; (4) to ensure that migratory children receive full and appropriate opportunities to meet challenging State standards; (5) to design programs to help migratory children overcome educational disruption and other factors that inhibit their ability to do well in school; and (6) to ensure that migratory children benefit from State and local systemic reforms.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6392. Program authorized

In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

(Pub. L. 89–10, title I, §1302, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6392, Pub. L. 89–10, title I, §1302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3585, authorized migratory children education program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§6393. State allocations

(a) State allocations

Except as provided in subsection (c), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to the product of—

(1) the sum of—

(A) the average number of identified eligible migratory children aged 3 through 21 residing in the State, based on data for the preceding 3 years; and

(B) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during the previous year; multiplied by

(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(b) Hold harmless

Notwithstanding subsection (a), for each of fiscal years 2017 through 2019, no State shall receive less than 90 percent of the State's allocation under this section for the preceding fiscal year.

(c) Allocation to Puerto Rico

(1) In general

For each fiscal year, the grant that the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number of children who would be counted under subsection (a)(1) if such subsection applied to the Commonwealth of Puerto Rico by the product of—

(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States, subject to paragraphs (2) and (3); and

(B) 32 percent of the average per-pupil expenditure in the United States.

(2) Minimum percentage

The percentage described in paragraph (1)(A) shall not be less than 85 percent.

(3) Limitation

If the application of paragraph (2) for any fiscal year would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of the percentage in paragraph (1)(A) for such fiscal year or the percentage used for the preceding fiscal year.

(d) Ratable reductions; reallocations

(1) In general

(A) Ratable reductions

If, after the Secretary reserves funds under section 6398(c) of this title, the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

(B) Reallocation

If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purposes of this part.

(2) Special rule

(A) Further reductions

The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 6394 of this title.

(B) Reallocation

The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

(e) Consortium arrangements

(1) In general

In the case of a State that receives a grant of $1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more

effective and efficient manner.

(2) Proposals

Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

(3) Approval

The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

(A) reduce administrative costs or program function costs for State programs; and

(B) make more funds available for direct services to add substantially to the academic achievement of children to be served under this part.

(f) Determining numbers of eligible children

In order to determine the identified number of migratory children residing in each State for purposes of this section, the Secretary shall—

(1) use the most recent information that most accurately reflects the actual number of migratory children;

(2) develop and implement a procedure for monitoring the accuracy of such information;

(3) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

(4) adjust the number of migratory children who reside in each State to take into account—

(A) the unique needs of those children participating in effective special programs provided under this part that operate during the summer and intersession periods; and

(B) the additional costs of operating such programs; and

(5) conduct an analysis of the options for adjusting the formula so as to better direct services to migratory children, including the most at-risk migratory children.

(g) Nonparticipating States

In the case of a State desiring to receive an allocation under this part for a fiscal year that did not receive an allocation for the previous fiscal year or that has been participating for less than 3 consecutive years, the Secretary shall calculate the State's number of identified migratory children aged 3 through 21 for purposes of subsection (a)(1)(A) by using the most recent data available that identifies the migratory children residing in the State until data is available to calculate the 3-year average number of such children in accordance with such subsection.

(Pub. L. 89–10, title I, §1303, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1571; amended Pub. L. 114–95, title I, §1301(b), Dec. 10, 2015, 129 Stat. 1894.)

PRIOR PROVISIONS

A prior section 6393, Pub. L. 89–10, title I, §1303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3585, related to State allocations, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsecs. (a), (b). Pub. L. 114–95, §1301(b)(2), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to State allocations for fiscal year 2002 and subsequent years and allocation to Puerto Rico for each fiscal year.

Subsec. (c). Pub. L. 114–95, §1301(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 114–95, §1301(b)(1), (3), redesignated subsec. (c) as (d), in par. (1) inserted subpar. headings after subpar. (A) and (B) designations, in par. (1), subpar. (B), substituted "purposes" for "purpose", and in par. (2) inserted subpar. headings after subpar. (A) and (B) designations. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 114–95, §1301(b)(1), (4), redesignated subsec. (d) as (e) and in par. (3)(B) substituted "the academic achievement of children" for "the welfare or educational attainment of children". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 114–95, §1301(b)(1), (5)(A), redesignated subsec. (e) as (f) and in introductory

provisions substituted "identified number" for "estimated number".

Subsec. (f)(1). Pub. L. 114–95, §1301(b)(5)(B), added par. (1) and struck out former par. (1) which read as follows: "use such information as the Secretary finds most accurately reflects the actual number of migratory children;".

Subsec. (f)(2), (3). Pub. L. 114–95, §1301(b)(5)(C), (D), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (f)(4). Pub. L. 114–95, §1301(b)(5)(C), (E), redesignated par. (3) as (4), in introductory provisions struck out "full-time equivalent" before "number", and in subpar. (A) substituted "unique needs" for "special needs" and "effective special programs provided under this part" for "special programs provided under this part". Former par. (4) redesignated (5).

Subsec. (f)(5). Pub. L. 114–95, §1301(b)(5)(C), (F), redesignated par. (4) as (5) and substituted "migratory children, including the most at-risk migratory children" for "the child whose education has been interrupted".

Subsec. (g). Pub. L. 114–95, §1301(b)(6), added subsec. (g).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6394. State applications; services

(a) Application required

Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) Program information

Each such application shall include—

(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the unique educational needs of migratory children, including preschool migratory children and migratory children who have dropped out of school, are identified and addressed through—

(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(B) joint planning among local, State, and Federal educational programs serving migratory children, including language instruction educational programs under part A of subchapter III of this chapter;

(C) the integration of services available under this part with services provided by those other programs; and

(D) measurable program objectives and outcomes;

(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State academic standards that all children are expected to meet;

(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the requirements of subsection (d) of this section, and the availability of funds from other Federal, State, and local programs; and

(6) a description of how the State will encourage programs and projects assisted under this part to offer family literacy services if the program or project serves a substantial number of migratory children whose parents do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

(c) Assurances

Each such application shall also include assurances that—

(1) funds received under this part will be used only—

(A) for programs and projects, including the acquisition of equipment, in accordance with section 6396 of this title; and

(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

(2) such programs and projects will be carried out in a manner consistent with the objectives of section 6314 of this title, subsections (b) and (d) of section 6315 of this title, subsections (b) and (c) of section 6321 of this title, and part F;

(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parents of migratory children, including parent advisory councils, for programs not less than 1 school year in duration, and that all such programs and projects are carried out—

(A) in a manner that provides for the same parental involvement as is required for programs and projects under section 6318 of this title, unless extraordinary circumstances make such provision impractical; and

(B) in a format and language understandable to the parents;

(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children and migratory children who have dropped out of school;

(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A of this subchapter;

(6) such programs and projects will provide for outreach activities for migratory children and their families to inform such children and families of other education, health, nutrition, and social services to help connect them to such services;

(7) to the extent feasible, such programs and projects will provide for—

(A) advocacy and other outreach activities for migratory children and their families, including helping such children and families gain access to other education, health, nutrition, and social services;

(B) professional development programs, including mentoring, for teachers and other program personnel;

(C) family literacy programs;

(D) the integration of information technology into educational and related programs; and

(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

(8) the State will assist the Secretary in determining the number of migratory children under section 6393(a)(1) of this title.

(d) Priority for services

In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who have made a qualifying move within the previous 1-year period and who—

(1) are failing, or most at risk of failing, to meet the challenging State academic standards; or

(2) have dropped out of school.

(e) Continuation of services

Notwithstanding any other provision of this part—

(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

(2) a child who is no longer a migratory child may continue to receive services for 1 additional school year, but only if comparable services are not available through other programs; and

(3) students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

(Pub. L. 89–10, title I, §1304, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1574; amended Pub. L. 114–95, title I, §1301(c), Dec. 10, 2015, 129 Stat. 1896.)

PRIOR PROVISIONS

A prior section 6394, Pub. L. 89–10, title I, §1304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3587; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1605], Dec. 21, 2000, 114 Stat. 2763, 2763A–334, related to State applications and services, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114–95, §1301(c)(1)(A)(i), in introductory provisions substituted "unique educational needs" for "special educational needs" and inserted "and migratory children who have dropped out of school" after "preschool migratory children".

Subsec. (b)(1)(B). Pub. L. 114–95, §1301(c)(1)(A)(ii), substituted "migratory children" for "migrant children" and "part A of subchapter III" for "part A or B of subchapter III".

Subsec. (b)(1)(D). Pub. L. 114–95, §1301(c)(1)(A)(iii), added subpar. (D) and struck out former subpar. (D) which read as follows: "measurable program goals and outcomes;".

Subsec. (b)(2). Pub. L. 114–95, §1301(c)(1)(B), substituted "challenging State academic standards" for "challenging State academic content standards and challenging State student academic achievement standards".

Subsec. (b)(3). Pub. L. 114–95, §1301(c)(1)(C), struck out ", consistent with procedures the Secretary may require," after "including how".

Subsec. (b)(5). Pub. L. 114–95, §1301(c)(1)(D), inserted "and" after semicolon at end.

Subsec. (b)(6), (7). Pub. L. 114–95, §1301(c)(1)(E)–(G), redesignated par. (7) as (6), substituted "migratory children whose parents do not have a high school diploma" for "migratory children who have parents who do not have a high school diploma", and struck out former par. (6) which read as follows: "such budgetary and other information as the Secretary may require; and".

Subsec. (c). Pub. L. 114–95, §1301(c)(2)(A), struck out ", satisfactory to the Secretary," after "assurances" in introductory provisions.

Subsec. (c)(2). Pub. L. 114–95, §1301(c)(2)(B), made technical amendment to reference in original act which appears in text as reference to subsections (b) and (c) of section 6321 of this title and substituted "part F" for "part I".

Subsec. (c)(3). Pub. L. 114–95, §1301(c)(2)(C)(i), in introductory provisions substituted "parents of migratory children, including parent advisory councils," for "parent advisory councils" and "not less than 1 school year in duration" for "of 1 school year in duration".

Subsec. (c)(3)(A). Pub. L. 114–95, §1301(c)(2)(C)(ii), made technical amendment to reference in original act which appears in text as reference to section 6318 of this title.

Subsec. (c)(4). Pub. L. 114–95, §1301(c)(2)(D), inserted "and migratory children who have dropped out of school" after "preschool migratory children".

Subsec. (c)(6) to (8). Pub. L. 114–95, §1301(c)(2)(E)–(G), added pars. (6) and (7), redesignated former par. (7) as (8), in par. (8) substituted "section 6393(a)(1) of this title" for "paragraphs (1)(A) and (2)(B)(i) of section 6393(a) of this title, through such procedures as the Secretary may require", and struck out former par. (6) which related to assurances that, to the extent feasible, programs would provide for advocacy and outreach activities, professional development programs, family literacy programs, the integration of information technology into programs, and programs to facilitate the transition to postsecondary education or employment.

Subsec. (d). Pub. L. 114–95, §1301(c)(3), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the

State's challenging State academic content standards and challenging State student academic achievement standards, and whose education has been interrupted during the regular school year."

Subsec. (e)(3). Pub. L. 114–95, §1301(c)(4), substituted "students" for "secondary school students".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6395. Secretarial approval; peer review

The Secretary shall approve each State application that meets the requirements of this part, and may review any such application with the assistance and advice of State officials and other officials with relevant expertise.

(Pub. L. 89–10, title I, §1305, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1576; amended Pub. L. 114–95, title I, §1301(d), Dec. 10, 2015, 129 Stat. 1897.)

PRIOR PROVISIONS

A prior section 6395, Pub. L. 89–10, title I, §1305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3588, related to Secretarial approval and peer review, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating to Secretarial approval and peer review, respectively.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6396. Comprehensive needs assessment and service-delivery plan; authorized activities

(a) Comprehensive plan

(1) In general

Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the unique educational needs of migratory children in accordance with a comprehensive State plan that—

(A) is integrated with other programs under this chapter or other Acts, as appropriate;

(B) may be submitted as a part of a consolidated application under section 7842 of this title, if—

(i) the unique needs of migratory children are specifically addressed in the comprehensive State plan;

(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

(iii) the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this part;

(C) provides that migratory children will have an opportunity to meet the same challenging State academic standards that all children are expected to meet;

(D) specifies measurable program goals and outcomes;

(E) encompasses the full range of services that are available for migratory children from

appropriate local, State, and Federal educational programs;

(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A of this subchapter, early childhood programs, and language instruction educational programs under part A of subchapter III of this chapter; and

(G) provides for the integration of services available under this part with services provided by such other programs.

(2) Duration of the plan

Each such comprehensive State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(b) Authorized activities

(1) Flexibility

In implementing the comprehensive plan described in subsection (a) of this section, each State educational agency, where applicable through its local educational agencies, retains the flexibility to determine the activities to be provided with funds made available under this part, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

(2) Unaddressed needs

Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A of this subchapter may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

(3) Construction

Nothing in this part shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

(4) Special rule

Notwithstanding section 6314 of this title, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1), and shall meet the unique educational needs of migratory children before using funds under this part for schoolwide programs under section 6314 of this title.

(Pub. L. 89–10, title I, §1306, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1576; amended Pub. L. 114–95, title I, §1301(e), Dec. 10, 2015, 129 Stat. 1897.)

PRIOR PROVISIONS

A prior section 6396, Pub. L. 89–10, title I, §1306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3589, related to comprehensive needs assessments and service-delivery plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §1301(e)(1)(A), substituted "unique" for "special" in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 114–95, §1301(e)(1)(B)(i), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7842 of this title.

Subsec. (a)(1)(B)(i). Pub. L. 114–95, §1301(e)(1)(B)(ii), substituted "unique" for "special".

Subsec. (a)(1)(C). Pub. L. 114–95, §1301(e)(1)(C), substituted "challenging State academic standards" for "challenging State academic content standards and challenging State student academic achievement standards".

Subsec. (a)(1)(F). Pub. L. 114–95, §1301(e)(1)(D), substituted "part A of subchapter III" for "part A or B of

subchapter III".

Subsec. (b)(1). Pub. L. 114–95, §1301(e)(2)(A), substituted "retains the flexibility to" for "shall have the flexibility to".

Subsec. (b)(4). Pub. L. 114–95, §1301(e)(2)(B), substituted "unique educational needs" for "special educational needs".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6397. Bypass

The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private agency to carry out the purpose of this part in such State if the Secretary determines that—

(1) the State is unable or unwilling to conduct educational programs for migratory children;

(2) such arrangements would result in more efficient and economic administration of such programs; or

(3) such arrangements would add substantially to the educational achievement of such children.

(Pub. L. 89–10, title I, §1307, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1578; amended Pub. L. 114–95, title I, §1301(f), Dec. 10, 2015, 129 Stat. 1898.)

PRIOR PROVISIONS

A prior section 6397, Pub. L. 89–10, title I, §1307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3590, related to bypass of State, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §1301(f)(1), struck out "nonprofit" before "agency" in introductory provisions.

Par. (3). Pub. L. 114–95, §1301(f)(2), substituted "educational achievement" for "welfare or educational attainment".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6398. Coordination of migrant education activities

(a) Improvement of coordination

(1) In general

The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private entities to improve the interstate and intrastate coordination among such agencies' educational programs, including through the establishment or improvement of programs for credit accrual and exchange, available to migratory children.

(2) Duration

Grants under this subsection may be awarded for not more than 5 years.

(b) Student records

(1) Assistance

The Secretary shall assist States in the electronic transfer of student records and in determining

the number of migratory children in each State.

(2) Information system

(A) In general

The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students eligible under this part. The Secretary shall ensure that such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, December 10, 2015. Such information may include—

(i) immunization records and other health information;

(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments under section 6311(b)(2) of this title;

(iii) other academic information essential to ensuring that migratory children achieve to the challenging State academic standards; and

(iv) eligibility for services under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(B) Consultation

The Secretary shall maintain ongoing consultation with the States, local educational agencies, and other migratory student service providers on—

(i) the effectiveness of the system described in subparagraph (A); and

(ii) the ongoing improvement of such system.

(C) Notice and comment

After consulting with the States under subparagraph (A), the Secretary shall publish a notice in the Federal Register seeking public comment on any new proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information.

(3) No cost for certain transfers

A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

(c) Availability of funds

For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than $10,000,000 of the amount appropriated to carry out this part for such year.

(d) Incentive grants

From the amounts made available to carry out this section for any fiscal year, the Secretary may reserve not more than $3,000,000 to award grants of not more than $250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.

(e) Data collection

The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

(Pub. L. 89–10, title I, §1308, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1578; amended Pub. L. 114–95, title I, §1301(g), Dec. 10, 2015, 129 Stat. 1898.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(A)(iv), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of

this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 6398, Pub. L. 89–10, title I, §1308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3590, related to coordination of migrant education activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §1301(g)(1), struck out "nonprofit" before "entities", inserted "through" after "including", and substituted "children" for "students".

Subsec. (b)(1). Pub. L. 114–95, §1301(g)(2)(A), struck out "developing effective methods for" before "the electronic transfer".

Subsec. (b)(2)(A). Pub. L. 114–95, §1301(g)(2)(B)(i)(I), added introductory provisions and struck out former introductory provisions which read as follows: "The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, January 8, 2002, and shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. Such elements may include—".

Subsec. (b)(2)(A)(ii). Pub. L. 114–95, §1301(g)(2)(B)(i)(II), substituted "assessments under section 6311(b)(2)" for "assessments required under section 6311(b)".

Subsec. (b)(2)(A)(iii). Pub. L. 114–95, §1301(g)(2)(B)(i)(III), substituted "the challenging State academic standards" for "high standards".

Subsec. (b)(2)(B), (C). Pub. L. 114–95, §1301(g)(2)(B)(ii)–(iv), added subpar. (B), redesignated former subpar. (B) as (C), and in subpar. (C) substituted "any new proposed data elements" for "the proposed data elements" and struck out at end "Such publication shall occur not later than 120 days after January 8, 2002."

Subsec. (b)(4). Pub. L. 114–95, §1301(g)(2)(C), struck out par. (4) which related to report to Congress not later than Apr. 30, 2003, on the Secretary's findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6399. Definitions

As used in this part:

(1) Local operating agency

The term "local operating agency" means—

(A) a local educational agency to which a State educational agency makes a subgrant under this part;

(B) a public or private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly.

(2) Migratory agricultural worker

The term "migratory agricultural worker" means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such individual may be considered a migratory agricultural worker if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal agricultural employment.

(3) Migratory child

The term "migratory child" means a child or youth who made a qualifying move in the preceding 36 months—

(A) as a migratory agricultural worker or a migratory fisher; or

(B) with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

(4) Migratory fisher

The term "migratory fisher" means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did not engage in such new employment soon after the move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal fishing employment.

(5) Qualifying move

The term "qualifying move" means a move due to economic necessity—

(A) from one residence to another residence; and

(B) from one school district to another school district, except—

(i) in the case of a State that is comprised of a single school district, wherein a qualifying move is from one administrative area to another within such district; or

(ii) in the case of a school district of more than 15,000 square miles, wherein a qualifying move is a distance of 20 miles or more to a temporary residence.

(Pub. L. 89–10, title I, §1309, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1579; amended Pub. L. 114–95, title I, §1301(h), Dec. 10, 2015, 129 Stat. 1899.)

PRIOR PROVISIONS

A prior section 6399, Pub. L. 89–10, title I, §1309, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3591, defined terms for this part, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Par. (1)(B). Pub. L. 114–95, §1301(h)(1), struck out "nonprofit" before "private agency".

Pars. (2) to (5). Pub. L. 114–95, §1301(h)(2), added pars. (2) to (5) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "The term 'migratory child' means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

"(A) has moved from one school district to another;

"(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

"(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

§6421. Purpose and program authorization

(a) Purpose

It is the purpose of this part—

(1) to improve educational services for children and youth in local, tribal, and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State academic standards that all children in the State are expected to meet;

(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education and the involvement of their families and communities.

(b) Program authorized

In order to carry out the purpose of this part and from amounts appropriated under section 6302(d) of this title, the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected, delinquent, or at-risk children and youth.

(Pub. L. 89–10, title I, §1401, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1580; amended Pub. L. 114–95, title I, §1401(1), Dec. 10, 2015, 129 Stat. 1900.)

PRIOR PROVISIONS

A prior section 6421, Pub. L. 89–10, title I, §1401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3591, set out findings and purpose and authorized program, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1401 of Pub. L. 89–10 was classified to section 2821 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §1401(1)(A), inserted ", tribal," after "youth in local" and substituted "challenging State academic standards" for "challenging State academic content standards and challenging State student academic achievement standards".

Subsec. (a)(3). Pub. L. 114–95, §1401(1)(B), inserted "and the involvement of their families and communities" after "to ensure their continued education".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6422. Payments for programs under this part

(a) Agency subgrants

Based on the allocation amount computed under section 6432 of this title, the Secretary shall allocate to each State educational agency an amount necessary to make subgrants to State agencies under subpart 1 of this part.

(b) Local subgrants

Each State shall retain, for the purpose of carrying out subpart 2 of this part, funds generated throughout the State under part A of this subchapter based on children and youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

(Pub. L. 89–10, title I, §1402, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1580.)

PRIOR PROVISIONS

A prior section 6422, Pub. L. 89–10, title I, §1402, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3592, related to payments for programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1402 of Pub. L. 89–10 was classified to section 2822 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 1—STATE AGENCY PROGRAMS

§6431. Eligibility

A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children and youth—

(1) in institutions for neglected or delinquent children and youth;

(2) attending community day programs for neglected or delinquent children and youth; or

(3) in adult correctional institutions.

(Pub. L. 89–10, title I, §1411, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1581.)

PRIOR PROVISIONS

A prior section 6431, Pub. L. 89–10, title I, §1411, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3592, related to eligibility, prior to the general amendment of this subchapter by Pub. L. 107–110.

§6432. Allocation of funds

(a) Subgrants to State agencies

(1) In general

Each State agency described in section 6431 of this title (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this subpart, for each fiscal year, in an amount equal to the product of—

(A) the number of neglected or delinquent children and youth described in section 6431 of this title who—

(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

(ii) are enrolled for at least 20 hours per week—

(I) in education programs in institutions for neglected or delinquent children and youth; or

(II) in community day programs for neglected or delinquent children and youth; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Special rule

The number of neglected or delinquent children and youth determined under paragraph (1) shall—

(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

(b) Subgrants to State agencies in Puerto Rico

(1) In general

For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this subpart shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) of this section for the Commonwealth of Puerto Rico by the product of—

(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(B) 32 percent of the average per-pupil expenditure in the United States.

(2) Minimum percentage

The percentage in paragraph (1)(A) shall not be less than 85 percent.

(3) Limitation

If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of—

(A) the percentage in paragraph (1)(A) for such fiscal year; or

(B) the percentage used for the preceding fiscal year.

(c) Ratable reductions in case of insufficient appropriations

If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) of this section is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

(Pub. L. 89–10, title I, §1412, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1581; amended Pub. L. 114–95, title I, §1401(2), Dec. 10, 2015, 129 Stat. 1900.)

PRIOR PROVISIONS

A prior section 6432, Pub. L. 89–10, title I, §1412, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3592, related to allocation of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114–95 added par. (2) and struck out former par. (2) which related to minimum percentage for fiscal year 2002, fiscal year 2003, fiscal year 2004, and fiscal year 2005 and succeeding fiscal years.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6433. State reallocation of funds

If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this subpart for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

(Pub. L. 89–10, title I, §1413, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1582.)

PRIOR PROVISIONS

A prior section 6433, Pub. L. 89–10, title I, §1413, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3593, related to State reallocation of funds, prior to the general amendment of this subchapter by

§6434. State plan and State agency applications

(a) State plan

(1) In general

Each State educational agency that desires to receive a grant under this subpart shall submit, for approval by the Secretary, a plan—

(A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;

(B) for assisting in the transition of children and youth between correctional facilities and locally operated programs; and

(C) that is integrated with other programs under this chapter or other Acts, as appropriate.

(2) Contents

Each such State plan shall—

(A) describe the program objectives and outcomes established by the State that will be used to assess the effectiveness of the program in improving the academic, career, and technical skills of children in the program;

(B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State;

(C) describe how the State will place a priority for such children to attain a regular high school diploma, to the extent feasible;

(D) contain an assurance that the State educational agency will—

(i) ensure that programs assisted under this subpart will be carried out in accordance with the State plan described in this subsection; and

(ii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

(E) provide assurances that the State educational agency has established—

(i) procedures to ensure the timely re-enrollment of each student who has been placed in the juvenile justice system in secondary school or in a re-entry program that best meets the needs of the student, including the transfer of credits that such student earns during placement; and

(ii) opportunities for such students to participate in credit-bearing coursework while in secondary school, postsecondary education, or career and technical education programming.

(3) Duration of the plan

Each such State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(b) Secretarial approval and peer review

(1) Secretarial approval

The Secretary shall approve each State plan that meets the requirements of this subpart.

(2) Peer review

The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

(c) State agency applications

Any State agency that desires to receive funds to carry out a program under this subpart shall

submit an application to the State educational agency that—

(1) describes the procedures to be used, consistent with the State plan under section 6311 of this title, to assess the educational needs of the children to be served under this subpart and, to the extent practicable, provide for such assessment upon entry into a correctional facility;

(2) provide an assurance that in making services available to children and youth in adult correctional institutions, priority will be given to such children and youth who are likely to complete incarceration within a 2-year period;

(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

(4) describes how the program will meet the goals and objectives of the State plan;

(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 6436 of this title are of high quality;

(6) describes how the State agency will use the results of the most recent evaluation under section 7981 of this title to plan and improve the program;

(7) includes data showing that the State agency has maintained the fiscal effort required of a local educational agency, in accordance with section 7901 of this title;

(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], career and technical education programs, State and local dropout prevention programs, and special education programs;

(9) describes how the State agency will encourage correctional facilities receiving funds under this subpart to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to and after their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program in order to facilitate the transition of such children and youth between the correctional facility and the local educational agency or alternative education program;

(10) describes how appropriate professional development will be provided to teachers and other staff;

(11) designates an individual in each affected correctional facility or institution for neglected or delinquent children and youth to be responsible for issues relating to the transition of such children and youth between such facility or institution and locally operated programs;

(12) describes how the State agency will endeavor to coordinate with businesses for training and mentoring for participating children and youth;

(13) provides an assurance that the State agency will assist in locating alternative programs through which students can continue their education if the students are not returning to school after leaving the correctional facility or institution for neglected or delinquent children and youth;

(14) provides assurances that the State agency will work with parents to secure parents' assistance in improving the educational achievement of their children and youth, and preventing their children's and youth's further involvement in delinquent activities;

(15) provides an assurance that the State agency will work with children and youth with disabilities in order to meet an existing individualized education program and an assurance that the agency will notify the child's or youth's local school if the child or youth—

(A) is identified as in need of special education services while the child or youth is in the correctional facility or institution for neglected or delinquent children and youth; and

(B) intends to return to the local school;

(16) provides an assurance that the State agency will work with children and youth who dropped out of school before entering the correctional facility or institution for neglected or delinquent children and youth to encourage the children and youth to reenter school and attain a regular high school diploma once the term of the incarceration is completed or provide the child or youth with the skills necessary to gain employment, continue the education of the child or youth,

or attain a regular high school diploma or its recognized equivalent if the child or youth does not intend to return to school;

(17) provides an assurance that certified or licensed teachers and other qualified staff are trained to work with children and youth with disabilities and other students with special needs taking into consideration the unique needs of such students;

(18) describes any additional services to be provided to children and youth, such as career counseling, distance learning, and assistance in securing student loans and grants;

(19) provides an assurance that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or other comparable programs, if applicable; and

(20) describes how the State agency will, to the extent feasible—

(A) note when a youth has come into contact with both the child welfare and juvenile justice systems; and

(B) deliver services and interventions designed to keep such youth in school that are evidence-based (to the extent a State determines that such evidence is reasonably available).

(Pub. L. 89–10, title I, §1414, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1582; amended Pub. L. 114–95, title I, §1401(3), Dec. 10, 2015, 129 Stat. 1900.)

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (c)(8), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (c)(19), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6434, Pub. L. 89–10, title I, §1414, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3593; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(18)(B), (f)(13)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431, related to State plan and State agency applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(1)(B). Pub. L. 114–95, §1401(3)(A)(i), substituted "between correctional facilities and locally operated programs" for "from correctional facilities to locally operated programs".

Subsec. (a)(2)(A). Pub. L. 114–95, §1401(3)(A)(ii)(I), substituted "the program objectives and outcomes established by the State" for "the program goals, objectives, and performance measures established by the State" and "career" for "vocational".

Subsec. (a)(2)(B). Pub. L. 114–95, §1401(3)(A)(ii)(II), struck out "and" after semicolon at end.

Subsec. (a)(2)(C), (D). Pub. L. 114–95, §1401(3)(A)(ii)(III)–(V), added subpar. (C), redesignated former subpar. (C) as (D), and in subpar. (D) in cl. (i) inserted "and" after semicolon at end, redesignated cl. (iii) as (ii), and struck out former cls. (ii) and (iv) which related to assurance that the agency would carry out the evaluation requirements of section 6471 of this title and provide such other information as the Secretary might reasonably require.

Subsec. (a)(2)(E). Pub. L. 114–95, §1401(3)(A)(ii)(VI), added subpar. (E).

Subsec. (c)(1). Pub. L. 114–95, §1401(3)(B)(i), inserted "and, to the extent practicable, provide for such assessment upon entry into a correctional facility" after "to be served under this subpart".

Subsec. (c)(6). Pub. L. 114–95, §1401(3)(B)(ii), substituted "will use" for "will carry out the evaluation requirements of section 7941 of this title and how", inserted "under section 7981 of this title" after "most recent evaluation", and struck out "will be used" before "to plan and improve the program".

Subsec. (c)(7). Pub. L. 114–95, §1401(3)(B)(iii), made technical amendment to reference in original act which appears in text as reference to section 7901 of this title.

Subsec. (c)(8). Pub. L. 114–95, §1401(3)(B)(iv), substituted "the Workforce Innovation and Opportunity Act" for "Public Law 105–220" and "career" for "vocational".

Subsec. (c)(9). Pub. L. 114–95, §1401(3)(B)(v), inserted "and after" after "prior to" and "in order to

facilitate the transition of such children and youth between the correctional facility and the local educational agency or alternative education program" before semicolon at end.

Subsec. (c)(11). Pub. L. 114–95, §1401(3)(B)(vi), substituted "transition of such children and youth between such facility or institution and locally operated programs" for "transition of children and youth from such facility or institution to locally operated programs".

Subsec. (c)(16). Pub. L. 114–95, §1401(3)(B)(vii), inserted "and attain a regular high school diploma" after "reenter school" and substituted "or attain a regular high school diploma" for "or achieve a secondary school diploma".

Subsec. (c)(17). Pub. L. 114–95, §1401(3)(B)(viii), inserted "certified or licensed" before "teachers".

Subsec. (c)(20). Pub. L. 114–95, §1401(3)(B)(ix)–(xi), added par. (20).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6435. Use of funds

(a) Uses

(1) In general

A State agency shall use funds received under this subpart only for programs and projects that—

(A) are consistent with the State plan under section 6434(a) of this title; and

(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, career and technical education, further education, or employment.

(2) Programs and projects

Such programs and projects—

(A) may include—

(i) the acquisition of equipment;

(ii) pay-for-success initiatives; or

(iii) providing targeted services for youth who have come in contact with both the child welfare system and juvenile justice system;

(B) shall be designed to support educational services that—

(i) except for institution-wide projects under section 6436 of this title, are provided to children and youth identified by the State agency as failing, or most at-risk of failing, to meet the challenging State academic standards;

(ii) respond to the educational needs of such children and youth, including by supplementing and improving the quality of the educational services provided to such children and youth by the State agency; and

(iii) afford such children and youth an opportunity to meet challenging State academic standards; and

(C) shall be carried out in a manner consistent with section 6321 of this title and part F (as applied to programs and projects under this part).

(b) Supplement, not supplant

A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 6321 of this title (as applied to this part) without regard to the subject areas in which instruction is given during those hours.

(Pub. L. 89–10, title I, §1415, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1585;

amended Pub. L. 114–95, title I, §1401(4), Dec. 10, 2015, 129 Stat. 1902.)

PRIOR PROVISIONS

A prior section 6435, Pub. L. 89–10, title I, §1415, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3596, related to use of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(1)(B). Pub. L. 114–95, §1401(4)(A)(i), substituted "career and technical education" for "vocational or technical training".

Subsec. (a)(2)(A). Pub. L. 114–95, §1401(4)(A)(ii)(I), added subpar. (A) and struck out former subpar (A) which read as follows: "may include the acquisition of equipment;".

Subsec. (a)(2)(B)(i). Pub. L. 114–95, §1401(4)(A)(ii)(II)(aa), substituted "the challenging State academic standards" for "the State's challenging academic content standards and student academic achievement standards".

Subsec. (a)(2)(B)(ii). Pub. L. 114–95, §1401(4)(A)(ii)(II)(bb), substituted "respond to the educational needs of such children and youth, including by supplementing and improving the quality" for "supplement and improve the quality".

Subsec. (a)(2)(B)(iii). Pub. L. 114–95, §1401(4)(A)(ii)(II)(cc), substituted "challenging State academic standards" for "challenging State academic achievement standards" and inserted "and" after semicolon at end.

Subsec. (a)(2)(C). Pub. L. 114–95, §1401(4)(A)(ii)(III), made technical amendment to reference in original act which appears in text as reference to section 6321 of this title and substituted "part F" for "part I" and period for "; and" at end.

Subsec. (a)(2)(D). Pub. L. 114–95, §1401(4)(A)(ii)(IV), struck out subpar. (D) which read as follows: "may include the costs of meeting the evaluation requirements of section 7941 of this title."

Subsec. (b). Pub. L. 114–95, §1401(4)(B), made technical amendment to reference in original act which appears in text as reference to section 6321 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6436. Institution-wide projects

A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community-day program for such children and youth may use funds received under this subpart to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

(1) provides for a comprehensive assessment of the educational needs of all children and youth in the institution or program serving juveniles;

(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period;

(3) describes the steps the State agency has taken, or will take, to provide all children and youth under age 21 with the opportunity to meet challenging State academic standards in order to improve the likelihood that the children and youth will attain a regular high school diploma or its recognized equivalent, or find employment after leaving the institution;

(4) describes the instructional program, specialized instructional support services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for the children and youth described in paragraph (1), and how relevant and appropriate academic records and plans regarding the continuation of educational services for such children or youth are shared jointly between the State agency operating the institution or program and local educational agency in order to facilitate the transition of such children and youth between the local educational agency and the State agency;

(5) specifically describes how such funds will be used;

(6) describes the measures and procedures that will be used to assess and improve student achievement;

(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and youth, and with personnel from the State educational agency; and

(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

(Pub. L. 89–10, title I, §1416, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1585; amended Pub. L. 114–95, title I, §1401(5), Dec. 10, 2015, 129 Stat. 1902.)

PRIOR PROVISIONS

A prior section 6436, Pub. L. 89–10, title I, §1416, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3596, related to institution-wide projects, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Par. (3). Pub. L. 114–95, §1401(5)(A), substituted "challenging State academic standards" for "challenging State academic content standards and student academic achievement standards" and "will attain a regular high school diploma" for "will complete secondary school, attain a secondary diploma".

Par. (4). Pub. L. 114–95, §1401(5)(B), substituted "specialized instructional support services" for "pupil services" and inserted ", and how relevant and appropriate academic records and plans regarding the continuation of educational services for such children or youth are shared jointly between the State agency operating the institution or program and local educational agency in order to facilitate the transition of such children and youth between the local educational agency and the State agency" before semicolon at end.

Par. (6). Pub. L. 114–95, §1401(5)(C), substituted "assess and improve student achievement" for "assess student progress".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6437. Three-year programs or projects

If a State agency operates a program or project under this subpart in which individual children or youth are likely to participate for more than 1 year, the State educational agency may approve the State agency's application for a subgrant under this subpart for a period of not more than 3 years.

(Pub. L. 89–10, title I, §1417, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1586.)

PRIOR PROVISIONS

A prior section 6437, Pub. L. 89–10, title I, §1417, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3597, related to three-year programs and projects, prior to the general amendment of this subchapter by Pub. L. 107–110.

§6438. Transition services

(a) Transition services

Each State agency shall reserve not less than 15 percent and not more than 30 percent of the amount such agency receives under this subpart for any fiscal year to support—

(1) projects that facilitate the transition of children and youth between State-operated institutions, or institutions in the State operated by the Secretary of the Interior, and schools served by local educational agencies or schools operated or funded by the Bureau of Indian Education; or

(2) the successful reentry of youth offenders, who are age 20 or younger and have received a regular high school diploma or its recognized equivalent, into postsecondary education, or career and technical training programs, through strategies designed to expose the youth to, and prepare the youth for, postsecondary education, or career and technical training programs, such as—

(A) preplacement programs that allow adjudicated or incarcerated youth to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

(B) worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment; and

(C) essential support services to ensure the success of the youth, such as—

(i) personal, career and technical, and academic, counseling;

(ii) placement services designed to place the youth in a university, college, or junior college program;

(iii) information concerning, and assistance in obtaining, available student financial aid;

(iv) counseling services; and

(v) job placement services.

(b) Conduct of projects

A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

(c) Rule of construction

Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) of this section from serving neglected and delinquent children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title I, §1418, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1586; amended Pub. L. 114–95, title I, §1401(6), Dec. 10, 2015, 129 Stat. 1903.)

PRIOR PROVISIONS

A prior section 6438, Pub. L. 89–10, title I, §1418, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3597, related to transition services, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §1401(6)(A), added par. (1) and struck out former par. (1) which read as follows: "projects that facilitate the transition of children and youth from State-operated institutions to schools served by local educational agencies; or".

Subsec. (a)(2). Pub. L. 114–95, §1401(6)(B), substituted "regular high school diploma" for "secondary school diploma" in introductory provisions and substituted "career" for "vocational" wherever appearing.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6439. Technical assistance

The Secretary may reserve not more than 2.5 percent of the amount made available to carry out this subpart for a fiscal year to provide technical assistance to and support the capacity building of State agency programs assisted under this subpart.

(Pub. L. 89–10, title I, §1419, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1587; amended Pub. L. 114–95, title I, §1401(7), Dec. 10, 2015, 129 Stat. 1903.)

AMENDMENTS

2015—Pub. L. 114–95, in section catchline, substituted "Technical assistance" for "Evaluation; technical assistance; annual model program" and, in text, substituted "for a fiscal year" for "for a fiscal year—", struck out par. (2) designation before "to provide", and struck out par. (1) which read as follows: "to develop a uniform model to evaluate the effectiveness of programs assisted under this subpart; and".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 2—LOCAL AGENCY PROGRAMS

§6451. Purpose

The purpose of this subpart is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities—

(1) to carry out high quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;

(2) to provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and

(3) to operate programs in local schools, including schools operated or funded by the Bureau of Indian Education, for children and youth returning from correctional facilities, and programs which may serve at-risk children and youth.

(Pub. L. 89–10, title I, §1421, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1587; amended Pub. L. 114–95, title I, §1401(8), Dec. 10, 2015, 129 Stat. 1903.)

PRIOR PROVISIONS

A prior section 6451, Pub. L. 89–10, title I, §1421, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3597, related to purpose of subpart, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Par. (3). Pub. L. 114–95 inserted ", including schools operated or funded by the Bureau of Indian Education," after "local schools".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6452. Programs operated by local educational agencies

(a) Local subgrants

With funds made available under section 6422(b) of this title, the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of children and youth residing in locally operated (including county operated) correctional facilities for children and youth (including facilities involved in community day programs).

(b) Special rule

A local educational agency that serves a school operated by a correctional facility is not required to operate a program of support for children and youth returning from such school to a school that is

not operated by a correctional agency but served by such local educational agency, if more than 30 percent of the children and youth attending the school operated by the correctional facility will reside outside the boundaries served by the local educational agency after leaving such facility.

(c) Notification

A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this subpart.

(d) Transitional and academic services

Transitional and supportive programs operated in local educational agencies under this subpart shall be designed primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at-risk of dropping out of school shall not have a negative impact on meeting such transitional and academic needs of the students returning from correctional facilities.

(Pub. L. 89–10, title I, §1422, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1587; amended Pub. L. 114–95, title I, §1401(9), Dec. 10, 2015, 129 Stat. 1903.)

PRIOR PROVISIONS

A prior section 6452, Pub. L. 89–10, title I, §1422, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3598, related to programs operated by local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (d). Pub. L. 114–95 substituted "impact on meeting such transitional" for "impact on meeting the transitional".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6453. Local educational agency applications

Each local educational agency desiring assistance under this subpart shall submit an application to the State educational agency that contains such information as the State educational agency may require. Each such application shall include—

(1) a description of the program to be assisted;

(2) a description of formal agreements, regarding the program to be assisted, between—

(A) the local educational agency; and

(B) correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system, including such facilities operated by the Secretary of the Interior and Indian tribes;

(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend;

(4) a description of the program operated by participating schools to facilitate the successful transition of children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;

(5) a description of the characteristics (including learning difficulties, substance abuse problems, and other special needs) of the children and youth who will be returning from

correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational programs to meet the unique educational needs of such children and youth;

(6) as appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities, at-risk children or youth, and other participating children or youth, including prenatal health care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

(7) as appropriate, a description of any partnerships with institutions of higher education or local businesses to facilitate postsecondary and workforce success for children and youth returning from correctional facilities, such as through participation in credit-bearing coursework while in secondary school, enrollment in postsecondary education, participation in career and technical education programming, and mentoring services for participating students;

(8) as appropriate, a description of how the program will involve parents and family members in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] and career and technical education programs serving at-risk children and youth;

(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] and other comparable programs, if applicable;

(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of children and youth returning from correctional facilities;

(12) a description of the efforts participating schools will make to ensure correctional facilities working with children and youth are aware of a child's or youth's existing individualized education program; and

(13) as appropriate, a description of the steps participating schools will take to find alternative placements for children and youth interested in continuing their education but unable to participate in a traditional public school program.

(Pub. L. 89–10, title I, §1423, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1588; amended Pub. L. 113–128, title V, §512(i)(3), July 22, 2014, 128 Stat. 1708; Pub. L. 114–95, title I, §1401(10), Dec. 10, 2015, 129 Stat. 1903.)

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in par. (9), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (10), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6453, Pub. L. 89–10, title I, §1423, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3598; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(18)(C), (f)(13)(C)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431, related to local educational agency applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Par. (2)(B). Pub. L. 114–95, §1401(10)(A), inserted ", including such facilities operated by the Secretary of the Interior and Indian tribes" after "juvenile justice system".

Par. (4). Pub. L. 114–95, §1401(10)(B), added par. (4) and struck out former par. (4) which read as follows: "a description of the program operated by participating schools for children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;".

Par. (7). Pub. L. 114–95, §1401(10)(C), inserted "institutions of higher education or" before "local businesses" and substituted "facilitate postsecondary and workforce success for children and youth returning from correctional facilities, such as through participation in credit-bearing coursework while in secondary school, enrollment in postsecondary education, participation in career and technical education programming" for "develop training, curriculum-based youth entrepreneurship education".

Par. (8). Pub. L. 114–95, §1401(10)(D), inserted "and family members" after "parents".

Par. (9). Pub. L. 114–95, §1401(10)(E), substituted "career" for "vocational".

Par. (13). Pub. L. 114–95, §1401(10)(F), substituted "traditional" for "regular".

2014—Par. (9). Pub. L. 113–128 substituted "a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Innovation and Opportunity Act" for "a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of Public Law 105–220".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§6454. Uses of funds

(a) In general

Funds provided to local educational agencies under this subpart may be used, as appropriate, for—

(1) programs that serve children and youth returning to local schools from correctional facilities, to assist in the transition of such children and youth to the school environment and help them remain in school in order to complete their education;

(2) dropout prevention programs which serve at-risk children and youth;

(3) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care, drug and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education;

(4) special programs to meet the unique academic needs of participating children and youth, including career and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education;

(5) programs providing mentoring and peer mediation;

(6) programs for at-risk Indian children and youth, including such children and youth in correctional facilities in the area served by the local educational agency that are operated by the Secretary of the Interior or Indian tribes; and

(7) pay for success initiatives.

(b) Contracts and grants

A local educational agency may use a subgrant received under this subpart to carry out the activities described under paragraphs (1) through (7) of subsection (a) directly or through subgrants, contracts, or cooperative agreements.

(Pub. L. 89–10, title I, §1424, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1589; amended Pub. L. 114–95, title I, §1401(11), Dec. 10, 2015, 129 Stat. 1904.)

PRIOR PROVISIONS

A prior section 6454, Pub. L. 89–10, title I, §1424, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3599, related to uses of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §1401(11)(A), designated existing provisions as subsec. (a) and inserted subsec. heading.

Subsec. (a)(2). Pub. L. 114–95, §1401(11)(B), struck out ", including pregnant and parenting teens, children and youth who have come in contact with the juvenile justice system, children and youth at least 1 year behind their expected grade level, migrant youth, immigrant youth, students with limited English proficiency, and gang members" after "at-risk children and youth".

Subsec. (a)(4). Pub. L. 114–95, §1401(11)(C)(i), substituted "career" for "vocational".

Subsec. (a)(6), (7). Pub. L. 114–95, §1401(11)(C)(ii)–(E), added pars. (6) and (7).

Subsec. (b). Pub. L. 114–95, §1401(11)(F), added subsec. (b).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6455. Program requirements for correctional facilities receiving funds under this section

Each correctional facility entering into an agreement with a local educational agency under section 6453(2) of this title to provide services to children and youth under this subpart shall—

(1) where feasible, ensure that educational programs in the correctional facility are coordinated with the student's home school, particularly with respect to a student with an individualized education program under part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.];

(2) if the child or youth is identified as in need of special education services while in the correctional facility, notify the local school of the child or youth of such need;

(3) where feasible, provide transition assistance to help the child or youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

(4) provide support programs that encourage children and youth who have dropped out of school to reenter school and attain a regular high school diploma once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment or seek a regular high school diploma or its recognized equivalent;

(5) work to ensure that the correctional facility is staffed with teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;

(6) ensure that educational programs in the correctional facility are related to assisting students to meet the challenging State academic standards;

(7) to the extent possible, use technology to assist in coordinating educational programs between the correctional facility and the community school;

(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

(9) coordinate funds received under this subpart with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], and career and technical education funds;

(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] and other comparable

programs, if applicable;

(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth;

(12) upon the child's or youth's entry into the correctional facility, work with the child's or youth's family members and the local educational agency that most recently provided services to the child or youth (if applicable) to ensure that the relevant and appropriate academic records and plans regarding the continuation of educational services for such child or youth are shared jointly between the correctional facility and local educational agency in order to facilitate the transition of such children and youth between the local educational agency and the correctional facility; and

(13) consult with the local educational agency for a period jointly determined necessary by the correctional facility and local educational agency upon discharge from that facility, to coordinate educational services so as to minimize disruption to the child's or youth's achievement.

(Pub. L. 89–10, title I, §1425, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1589; amended Pub. L. 113–128, title V, §512(i)(4), July 22, 2014, 128 Stat. 1708; Pub. L. 114–95, title I, §1401(12), Dec. 10, 2015, 129 Stat. 1904.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (1), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in par. (9), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subtitle I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (10), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6455, Pub. L. 89–10, title I, §1425, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3599; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(18)(D), (f)(13)(D)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431, related to program requirements for correctional facilities receiving funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Par. (4). Pub. L. 114–95, §1401(12)(A), inserted "and attain a regular high school diploma" after "reenter school" and substituted "seek a regular high school diploma" for "seek a secondary school diploma".

Par. (6). Pub. L. 114–95, §1401(12)(B), substituted "the challenging State academic standards" for "high academic achievement standards".

Par. (9). Pub. L. 114–95, §1401(12)(C), substituted "career" for "vocational".

Pars. (12), (13). Pub. L. 114–95, §1401(12)(D)–(F), added pars. (12) and (13).

2014—Par. (9). Pub. L. 113–128 substituted "coordinate funds received under this subpart with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of the Workforce Innovation and Opportunity Act," for "coordinate funds received under this subpart with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of Public Law 105–220,".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of

§6456. Accountability

The State educational agency may—

(1) reduce or terminate funding for projects under this subpart if a local educational agency does not show progress in the number of children and youth attaining a regular high school diploma or its recognized equivalent; and

(2) require correctional facilities or institutions for neglected or delinquent children and youth to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of children and youth returning to school, attaining a regular high school diploma or its recognized equivalent, or attaining employment after such children and youth are released.

(Pub. L. 89–10, title I, §1426, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1590; amended Pub. L. 114–95, title I, §1401(13), Dec. 10, 2015, 129 Stat. 1905.)

PRIOR PROVISIONS

A prior section 6456, Pub. L. 89–10, title I, §1426, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3600, related to accountability, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Par. (1). Pub. L. 114–95, §1401(13)(A), substituted "the number of children and youth attaining a regular high school diploma or its recognized equivalent" for "reducing dropout rates for male students and for female students over a 3-year period".

Par. (2). Pub. L. 114–95, §1401(13)(B), substituted "attaining a regular high school diploma" for "obtaining a secondary school diploma" and "attaining employment" for "obtaining employment".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 3—GENERAL PROVISIONS

§6471. Program evaluations

(a) Scope of evaluation

Each State agency or local educational agency that conducts a program under subpart 1 or 2 of this part shall evaluate the program, disaggregating data on participation by gender, race, ethnicity, and age while protecting individual student privacy,,[1] not less than once every 3 years, to determine the program's impact on the ability of participants—

(1) to maintain and improve educational achievement and to graduate from high school in the number of years established by the State under either the four-year adjusted cohort graduation rate or the extended-year adjusted cohort graduation rate, if applicable;

(2) to accrue school credits that meet State requirements for grade promotion and high school graduation;

(3) to make the transition to a regular program or other education program operated by a local educational agency or school operated or funded by the Bureau of Indian Education;

(4) to complete high school (or high school equivalency requirements) and obtain employment after leaving the correctional facility or institution for neglected or delinquent children and youth;

and

(5) as appropriate, to participate in postsecondary education and job training programs.

(b) Exception

The disaggregation required under subsection (a) of this section shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

(c) Evaluation measures

In conducting each evaluation under subsection (a) of this section, a State agency or local educational agency shall use multiple and appropriate measures of student progress.

(d) Evaluation results

Each State agency and local educational agency shall—

(1) submit evaluation results to the State educational agency and the Secretary; and

(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

(Pub. L. 89–10, title I, §1431, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1591; amended Pub. L. 114–95, title I, §1401(14), Dec. 10, 2015, 129 Stat. 1905.)

PRIOR PROVISIONS

A prior section 6471, Pub. L. 89–10, title I, §1431, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3600, related to program evaluations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1431 of Pub. L. 89–10 was classified to section 2831 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1401(14)(A), (B), inserted "while protecting individual student privacy," after "age" in introductory provisions and substituted "high school" for "secondary school" wherever appearing.

Subsec. (a)(1). Pub. L. 114–95, §1401(14)(C), inserted "and to graduate from high school in the number of years established by the State under either the four-year adjusted cohort graduation rate or the extended-year adjusted cohort graduation rate, if applicable" after "educational achievement".

Subsec. (a)(3). Pub. L. 114–95, §1401(14)(D), inserted "or school operated or funded by the Bureau of Indian Education" after "local educational agency".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original.*

§6472. Definitions

In this part:

(1) Adult correctional institution

The term "adult correctional institution" means a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.

(2) At-risk

The term "at-risk", when used with respect to a child, youth, or student, means a school aged individual who is at-risk of academic failure, dependency adjudication, or delinquency adjudication, has a drug or alcohol problem, is pregnant or is a parent, has come into contact with

the juvenile justice system or child welfare system in the past, is at least 1 year behind the expected grade level for the age of the individual, is an English learner, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.

(3) Community day program

The term "community day program" means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

(4) Institution for neglected or delinquent children and youth

The term "institution for neglected or delinquent children and youth" means—

(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or

(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

(Pub. L. 89–10, title I, §1432, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1591; amended Pub. L. 114–95, title I, §1401(15), Dec. 10, 2015, 129 Stat. 1905.)

PRIOR PROVISIONS

A prior section 6472, Pub. L. 89–10, title I, §1432, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3601, defined terms for this part, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1432 of Pub. L. 89–10 was classified to section 2832 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Par. (2). Pub. L. 114–95 inserted "dependency adjudication, or delinquency adjudication," after "failure,", inserted "or child welfare system" after "juvenile justice system", and substituted "is an English learner" for "has limited English proficiency".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART E—FLEXIBILITY FOR EQUITABLE PER-PUPIL FUNDING

PRIOR PROVISIONS

A prior part E, consisting of sections 6491 to 6494, related to national assessment of subchapter I, prior to repeal by Pub. L. 114–95, title I, §1501(a)(1), Dec. 10, 2015, 129 Stat. 1905.

§6491. Flexibility for equitable per-pupil funding

(a) Purpose

The purpose of the program under this section is to provide local educational agencies with flexibility to consolidate eligible Federal funds and State and local education funding in order to create a single school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students.

(b) Authority

(1) In general

The Secretary is authorized to enter into local flexibility demonstration agreements—

(A) for not more than 3 years with local educational agencies that are selected under subsection (c) and submit proposed agreements that meet the requirements of subsection (d); and

(B) under which such agencies may consolidate and use funds in accordance with subsection (d) in order to develop and implement a school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students.

(2) Flexibility

Except as described in subsection (d)(1)(I), the Secretary is authorized to waive, for local educational agencies entering into agreements under this section, any provision of this chapter that would otherwise prevent such agency from using eligible Federal funds as part of such agreement.

(c) Selection of local educational agencies

(1) In general

The Secretary may enter into local flexibility demonstration agreements with not more than 50 local educational agencies with an approved application under subsection (d).

(2) Selection

Each local educational agency shall be selected based on such agency—

(A) submitting a proposed local flexibility demonstration agreement under subsection (d);

(B) demonstrating that the agreement meets the requirements of such subsection; and

(C) agreeing to meet the continued demonstration requirements under subsection (e).

(3) Expansion

Beginning with the 2019–2020 academic year, the Secretary may extend funding flexibility authorized under this section to any local educational agency that submits and has approved an application under subsection (d), as long as a significant majority of the demonstration agreements with local educational agencies described in paragraph (1) meet the requirements of subsection (d)(2) and subsection (e)(1) as of the end of the 2018–2019 academic year.

(d) Required terms of local flexibility demonstration agreement

(1) Application

Each local educational agency that desires to participate in the program under this section shall submit, at such time and in such form as the Secretary may prescribe, an application to enter into a local flexibility demonstration agreement with the Secretary in order to develop and implement a school funding system based on weighted per-pupil allocations that meets the requirements of this section. The application shall include—

(A) a description of the school funding system based on weighted per-pupil allocations, including—

(i) the weights used to allocate funds within such system;

(ii) the local educational agency's legal authority to use State and local education funds consistent with this section;

(iii) how such system will meet the requirements of paragraph (2); and

(iv) how such system will support the academic achievement of students, including low-income students, the lowest-achieving students, English learners, and children with disabilities;

(B) a list of funding sources, including eligible Federal funds, the local educational agency will include in such system;

(C) a description of the amount and percentage of total local educational agency funding, including State and local education funds and eligible Federal funds, that will be allocated through such system;

(D) the per-pupil expenditures (which shall include actual personnel expenditures, including

staff salary differentials for years of employment, and actual nonpersonnel expenditures) of State and local education funds for each school served by the agency for the preceding fiscal year;

(E) the per-pupil amount of eligible Federal funds each school served by the agency received in the preceding fiscal year, disaggregated by the programs supported by the eligible Federal funds;

(F) a description of how such system will ensure that any eligible Federal funds allocated through the system will meet the purposes of each Federal program supported by such funds, including serving students from low-income families, English learners, migratory children, and children who are neglected, delinquent, or at risk, as applicable;

(G) an assurance that the local educational agency developed and will implement the local flexibility demonstration agreement in consultation with teachers, principals, other school leaders (including charter school leaders in a local educational agency that has charter schools), administrators of Federal programs impacted by the agreement, parents, community leaders, and other relevant stakeholders;

(H) an assurance that the local educational agency will use fiscal control and sound accounting procedures that ensure proper disbursement of, and accounting for, eligible Federal funds consolidated and used under such system;

(I) an assurance that the local educational agency will continue to meet the requirements of sections 6320, 6321, and 7881 of this title; and

(J) an assurance that the local educational agency will meet the requirements of all applicable Federal civil rights laws in carrying out the agreement and in consolidating and using funds under the agreement.

(2) Requirements of the system

(A) In general

A local educational agency's school funding system based on weighted per-pupil allocations shall—

(i) except as allowed under clause (iv), allocate a significant portion of funds, including State and local education funds and eligible Federal funds, to the school level based on the number of students in a school and a formula developed by the agency under this section that determines per-pupil weighted amounts;

(ii) use weights or allocation amounts that allocate substantially more funding to English learners, students from low-income families, and students with any other characteristics associated with educational disadvantage chosen by the local educational agency, than to other students;

(iii) ensure that each high-poverty school receives, in the first year of the demonstration agreement—

(I) more per-pupil funding, including from Federal, State, and local sources, for low-income students than such funding received for low-income students in the year prior to entering into a demonstration agreement under this section; and

(II) at least as much per-pupil funding, including from Federal, State, and local sources, for English learners as such funding received for English learners in the year prior to entering into a demonstration agreement under this section;

(iv) be used to allocate to schools a significant percentage, which shall be a percentage agreed upon during the application process, of all the local educational agency's State and local education funds and eligible Federal funds; and

(v) include all school-level actual personnel expenditures for instructional staff (including staff salary differentials for years of employment) and actual nonpersonnel expenditures in the calculation of the local educational agency's State and local education funds and eligible Federal funds to be allocated under clause (i).

(B) Percentage

In establishing the percentage described in subparagraph (A)(iv) for the system, the local educational agency shall demonstrate that the percentage—

(i) under such subparagraph is sufficient to carry out the purposes of the demonstration agreement under this section and to meet each of the requirements of this subsection; and

(ii) of State and local education funds and eligible Federal funds that are not allocated through the local educational agency's school funding system based on weighted per-pupil allocations, does not undermine or conflict with the requirements of the demonstration agreement under this section.

(C) Expenditures

After allocating funds through the system, the local educational agency shall charge schools for the per-pupil expenditures of State and local education funds and eligible Federal funds, including actual personnel expenditures (including staff salary differentials for years of employment) for instructional staff and actual nonpersonnel expenditures.

(e) Continued demonstration

Each local educational agency with an approved application under subsection (d) shall annually—

(1) demonstrate to the Secretary that, as compared to the previous year, no high-poverty school served by the agency received—

(A) less per-pupil funding, including from Federal, State, and local sources, for low-income students; or

(B) less per-pupil funding, including from Federal, State, and local sources, for English learners;

(2) make public and report to the Secretary the per-pupil expenditures (including actual personnel expenditures that include staff salary differentials for years of employment, and actual non-personnel expenditures) of State and local education funds and eligible Federal funds for each school served by the agency, disaggregated by each quartile of students attending the school based on student level of poverty and by each major racial or ethnic group in the school, for the preceding fiscal year;

(3) make public the total number of students enrolled in each school served by the agency and the number of students enrolled in each such school disaggregated by each of the subgroups of students, as defined in section 6311(c)(2) of this title; and

(4) notwithstanding paragraph (1), (2), or (3), ensure that any information to be reported or made public under this subsection is only reported or made public if such information does not reveal personally identifiable information.

(f) Limitations on administrative expenditures

Each local educational agency that has entered into a local flexibility demonstration agreement with the Secretary under this section may use, for administrative purposes, an amount of eligible Federal funds that is not more than the percentage of funds allowed for such purposes under any of the following:

(1) This subchapter.
(2) Subchapter II.
(3) Subchapter III.
(4) Part A of subchapter IV.
(5) Part B of subchapter V.

(g) Peer review

The Secretary may establish a peer-review process to assist in the review of a proposed local flexibility demonstration agreement.

(h) Noncompliance

The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide supporting evidence as provided for in subsection (i)), terminate a local

flexibility demonstration agreement under this section if there is evidence that the local educational agency has failed to comply with the terms of the agreement and the requirements under subsections (d) and (e).

(i) Evidence

If a local educational agency believes that the Secretary's determination under subsection (h) is in error for statistical or other substantive reasons, the local educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final determination.

(j) Program evaluation

From the amount reserved for evaluation activities under section 7981 of this title, the Secretary, acting through the Director of the Institute of Education Sciences, shall, in consultation with the relevant program office at the Department, evaluate—

(1) the implementation of the local flexibility demonstration agreements under this section; and

(2) the impact of such agreements on improving the equitable distribution of State and local funding and increasing student achievement.

(k) Renewal of local flexibility demonstration agreement

The Secretary may renew for additional 3-year terms a local flexibility demonstration agreement under this section if—

(1) the local educational agency has met the requirements under subsections (d)(2) and (e) and agrees to, and has a high likelihood of, continuing to meet such requirements; and

(2) the Secretary determines that renewing the local flexibility demonstration agreement is in the interest of students served under this subchapter and subchapter III.

(l) Definitions

In this section:

(1) Eligible Federal funds

The term "eligible Federal funds" means funds received by a local educational agency under—

(A) this subchapter;

(B) subchapter II;

(C) subchapter III;

(D) part A of subchapter IV; and

(E) part B of subchapter V.

(2) High-poverty school

The term "high-poverty school" means a school that is in the highest 2 quartiles of schools served by a local educational agency, based on the percentage of enrolled students from low-income families.

(Pub. L. 89–10, title I, §1501, as added Pub. L. 114–95, title I, §1501(b), Dec. 10, 2015, 129 Stat. 1906.)

PRIOR PROVISIONS

Prior sections 6491 to 6494, 6511 to 6518, 6531 to 6537, 6551 to 6553, 6555, and 6561 to 6561i were repealed by Pub. L. 114–95, §5, title I, §1501(a)(1), Dec. 10, 2015, 129 Stat. 1806, 1905, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6491, Pub. L. 89–10, title I, §1501, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1592; amended Pub. L. 107–279, title IV, §404(d)(4), Nov. 5, 2002, 116 Stat. 1986, related to evaluations. See section 7981 of this title.

Another prior section 6491, Pub. L. 89–10, title I, §1501, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3601; amended Pub. L. 104–134, title I, §101(d) [title VII, §703(b)(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–18, title VI, §60002, June 12, 1997, 111 Stat. 214, related to evaluations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1501 of Pub. L. 89–10 was classified to section 2911 of this title, prior to the general

amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 6492, Pub. L. 89–10, title I, §1502, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1597, related to demonstrations of innovative practices.

Another prior section 6492, Pub. L. 89–10, title I, §1502, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3604, related to demonstrations of innovative practices, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1502 of Pub. L. 89–10 was classified to section 2912 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 6493, Pub. L. 89–10, title I, §1503, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1597, related to assessment evaluation.

Another prior section 6493, Pub. L. 89–10, title I, §1503, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3605, related to innovative elementary school transition projects, prior to repeal by Pub. L. 105–277, div. A, §101(f) [title VIII, §301(c)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

Section 6494, Pub. L. 89–10, title I, §1504, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1598, related to Close Up fellowship program.

Section 6511, Pub. L. 89–10, title I, §1601, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1601, stated purpose of former part F of this subchapter.

Another prior section 6511, Pub. L. 89–10, title I, §1601, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3609, related to Federal regulations, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6571 of this title.

Section 6512, Pub. L. 89–10, title I, §1602, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1601, related to program authorization.

Another prior section 6512, Pub. L. 89–10, title I, §1602, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3610, related to coordination of Federal, State, and local administration, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6513, Pub. L. 89–10, title I, §1603, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1602, related to application by State educational agency.

Another prior section 6513, Pub. L. 89–10, title I, §1603, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3611, related to State administration, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6573 of this title.

Section 6514, Pub. L. 89–10, title I, §1604, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1603, related to use of funds by State educational agency.

Another prior section 6514, Pub. L. 89–10, title I, §1604, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3612, related to construction of provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6576 of this title.

Section 6515, Pub. L. 89–10, title I, §1605, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1604, related to application by local educational agency.

Section 6516, Pub. L. 89–10, title I, §1606, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1604, related to use of funds by local educational agency.

Section 6517, Pub. L. 89–10, title I, §1607, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1605, related to evaluation of programs and reports.

Section 6518, Pub. L. 89–10, title I, §1608, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1605, related to quality initiatives.

Section 6531, Pub. L. 89–10, title I, §1701, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1606, provided that former part G of this subchapter could be cited as the "Access to High Standards Act".

Section 6532, Pub. L. 89–10, title I, §1702, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1606, stated purposes of former part G of this subchapter.

Section 6533, Pub. L. 89–10, title I, §1703, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1606, set forth funding distribution rule.

Section 6534, Pub. L. 89–10, title I, §1704, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1606, related to reimbursement of advanced placement test fees.

Section 6535, Pub. L. 89–10, title I, §1705, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1608, related to grants to expand access to advanced placement incentive programs.

Section 6536, Pub. L. 89–10, title I, §1706, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1609, related to use of grants to supplement, not supplant other non-Federal funds.

Section 6537, Pub. L. 89–10, title I, §1707, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1609; amended Pub. L. 108–11, title II, §2503, Apr. 16, 2003, 117 Stat. 599, defined terms in former part G of this subchapter.

Section 6551, Pub. L. 89–10, title I, §1801, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1610, provided that former part H of this subchapter could be cited as the "Dropout Prevention Act".

Section 6552, Pub. L. 89–10, title I, §1802, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1610, stated purposes of former part H of this subchapter.

Section 6553, Pub. L. 89–10, title I, §1803, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1610, authorized appropriations.

Section 6555, Pub. L. 89–10, title I, §1811, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1610, authorized national activities relating to dropout prevention.

Section 6561, Pub. L. 89–10, title I, §1821, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1612, defined terms in subpart 2 of former part H of this subchapter.

Section 6561a, Pub. L. 89–10, title I, §1822, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1612, authorized grants for school dropout prevention and reentry programs.

Section 6561b, Pub. L. 89–10, title I, §1823, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1614, related to applications for grants.

Section 6561c, Pub. L. 89–10, title I, §1824, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1615, related to reservation of funds for administrative costs and State activities.

Section 6561d, Pub. L. 89–10, title I, §1825, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1615, related to strategies and capacity building.

Section 6561e, Pub. L. 89–10, title I, §1826, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to selection of local educational agencies for subgrants.

Section 6561f, Pub. L. 89–10, title I, §1827, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to use of funds by community-based organizations.

Section 6561g, Pub. L. 89–10, title I, §1828, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to technical assistance to secondary schools.

Section 6561h, Pub. L. 89–10, title I, §1829, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to calculation of annual school dropout rate.

Section 6561i, Pub. L. 89–10, title I, §1830, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to reporting and accountability.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART F—GENERAL PROVISIONS

CODIFICATION

Pub. L. 114–95, title I, §1501(a)(2), Dec. 10, 2015, 129 Stat. 1905, redesignated part I (§6571 et seq.) of this subchapter as part F of this subchapter.

PRIOR PROVISIONS

A prior part F, consisting of sections 6511 to 6518, related to comprehensive school reform, prior to repeal by Pub. L. 114–95, title I, §1501(a)(1), Dec. 10, 2015, 129 Stat. 1905.

A prior part G, consisting of sections 6531 to 6537, related to advanced placement programs, prior to repeal by Pub. L. 114–95, title I, §1501(a)(1), Dec. 10, 2015, 129 Stat. 1905.

A prior part H, consisting of sections 6551 to 6553, 6555, and 6561 to 6561i, related to school dropout prevention, prior to repeal by Pub. L. 114–95, title I, §1501(a)(1), Dec. 10, 2015, 129 Stat. 1905.

A prior part I, consisting of sections 6571 to 6578, was redesignated part F of this subchapter, by Pub. L. 114–95, title I, §1501(a)(2), Dec. 10, 2015, 129 Stat. 1905.

§6571. Federal regulations

(a) In general

The Secretary may issue, in accordance with subsections (b) through (d) and subject to section 6311(e) of this title, such regulations as are necessary to reasonably ensure that there is compliance

with this subchapter.

(b) Negotiated rulemaking process

(1) In general

Before publishing in the Federal Register proposed regulations to carry out this subchapter, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, principals, other school leaders (including charter school leaders), paraprofessionals, and members of local school boards and other organizations involved with the implementation and operation of programs under this subchapter.

(2) Meetings and electronic exchange

Such advice and recommendations may be obtained through such mechanisms as regional meetings and electronic exchanges of information. Such regional meetings and electronic exchanges of information shall be public and notice of such meetings and exchanges shall be provided to interested stakeholders.

(3) Proposed regulations

After obtaining such advice and recommendations, and before publishing proposed regulations, the Secretary shall—

(A) establish a negotiated rulemaking process on, at a minimum, standards, assessments under section 6311(b)(2) of this title, and the requirement under section 6321 of this title that funds under part A be used to supplement, and not supplant, State and local funds;

(B) select individuals to participate in such process from among individuals or groups that provided advice and recommendations, including representation from all geographic regions of the United States, in such numbers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials; and

(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days before the first meeting under such process.

(4) Process

Such process—

(A) shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.); and

(B) shall, unless otherwise provided as described in subsection (c), follow the provisions of subchapter III of chapter 5 of title V [1] (commonly known as the "Negotiated Rulemaking Act of 1990").

(c) Alternative process for certain exceptions

If consensus, as defined in section 562 of title 5, on any proposed regulation is not reached by the individuals selected under subsection (b)(3)(B) for the negotiated rulemaking process, or if the Secretary determines that a negotiated rulemaking process is unnecessary, the Secretary may propose a regulation in the following manner:

(1) Notice to Congress

Not less than 15 business days prior to issuing a notice of proposed rulemaking in the Federal Register, the Secretary shall provide to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and the Workforce of the House of Representatives, and other relevant congressional committees, notice of the Secretary's intent to issue a notice of proposed rulemaking that shall include—

(A) a copy of the proposed regulation;

(B) the need to issue the regulation;

(C) the anticipated burden, including the time, cost, and paperwork burden, the regulation will impose on State educational agencies, local educational agencies, schools, and other entities that may be impacted by the regulation;

(D) the anticipated benefits to State educational agencies, local educational agencies, schools,

and other entities that may be impacted by the regulation; and

(E) any regulations that will be repealed when the new regulation is issued.

(2) Comment period for Congress

The Secretary shall—

(A) before issuing any notice of proposed rulemaking under this subsection, provide Congress with a comment period of 15 business days to make comments on the proposed regulation, beginning on the date that the Secretary provides the notice of intent to the appropriate committees of Congress under paragraph (1); and

(B) include and seek to address all comments submitted by Congress in the public rulemaking record for the regulation published in the Federal Register.

(3) Comment and review period; emergency situations

The comment and review period for any proposed regulation shall be not less than 60 days unless an emergency requires a shorter period, in which case the Secretary shall—

(A) designate the proposed regulation as an emergency with an explanation of the emergency in the notice to Congress under paragraph (1);

(B) publish the length of the comment and review period in such notice and in the Federal Register; and

(C) conduct immediately thereafter regional meetings to review such proposed regulation before issuing any final regulation.

(d) Limitation

Regulations to carry out this subchapter may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

(e) Rule of construction

Nothing in this section affects the applicability of subchapter II of chapter 5, and chapter 7, of title 5 (commonly known as the "Administrative Procedure Act") or chapter 8 of title 5 (commonly known as the "Congressional Review Act").

(Pub. L. 89–10, title I, §1601, formerly §1901, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1617; renumbered §1601 and amended Pub. L. 114–95, title I, §§1501(a)(4), 1601(a), Dec. 10, 2015, 129 Stat. 1906, 1910.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(4)(A), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1601 of Pub. L. 89–10 was classified to section 6511 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1601 of Pub. L. 89–10 was classified to section 6511 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1601(a)(1), inserted ", in accordance with subsections (b) through (d) and subject to section 6311(e) of this title," after "may issue".

Subsec. (b)(1). Pub. L. 114–95, §1601(a)(2)(A), inserted "principals, other school leaders (including charter school leaders)," after "teachers,".

Subsec. (b)(2). Pub. L. 114–95, §1601(a)(2)(B), inserted at end "Such regional meetings and electronic exchanges of information shall be public and notice of such meetings and exchanges shall be provided to interested stakeholders."

Subsec. (b)(3)(A). Pub. L. 114–95, §1601(a)(2)(C), substituted "standards, assessments under section 6311(b)(2) of this title, and the requirement under section 6321 of this title that funds under part A be used to supplement, and not supplant, State and local funds" for "standards and assessments".

Subsec. (b)(4). Pub. L. 114–95, §1601(a)(2)(D), added par. (4) and struck out former par. (4). Prior to

amendment, text read as follows: "Such process—

"(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than 1 year after January 8, 2002; and

"(B) shall not be subject to the Federal Advisory Committee Act, but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.)."

Subsec. (b)(5). Pub. L. 114–95, §1601(a)(2)(E), struck out par. (5). Text read as follows: "In an emergency situation in which regulations to carry out this subchapter must be issued within a very limited time to assist State educational agencies and local educational agencies with the operation of a program under this subchapter, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and before issuing final regulations, conduct regional meetings to review such proposed regulations."

Subsecs. (c), (d). Pub. L. 114–95, §1601(a)(3)–(5), added subsec. (c), redesignated former subsec. (c) as (d), and in subsec. (d) substituted "this subchapter" for "this part".

Subsec. (e). Pub. L. 114–95, §1601(a)(6), added subsec. (e).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] So in original. Probably should be "5".

§6572. Agreements and records

(a) Agreements

In any case in which a negotiated rulemaking process is established under section 6571(b) of this title, all published proposed regulations shall conform to agreements that result from the rulemaking described in section 6571 of this title unless the Secretary reopens the negotiated rulemaking process.

(b) Records

The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

(Pub. L. 89–10, title I, §1602, formerly §1902, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1618; renumbered §1602 and amended Pub. L. 114–95, title I, §§1501(a)(4), 1601(b), Dec. 10, 2015, 129 Stat. 1906, 1912.)

PRIOR PROVISIONS

A prior section 1602 of Pub. L. 89–10 was classified to section 6512 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1602 of Pub. L. 89–10 was classified to section 6512 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1601(b), amended subsec. (a) generally. Prior to amendment, text read as follows: "All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 6571 of this title unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from, and not adhere to, such agreements."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6573. State administration

(a) Rulemaking

(1) In general

Each State that receives funds under this subchapter shall—

(A) ensure that any State rules, regulations, and policies relating to this subchapter conform to the purposes of this subchapter and provide any such proposed rules, regulations, and policies to the committee of practitioners created under subsection (b) of this section for review and comment;

(B) minimize such rules, regulations, and policies to which the State's local educational agencies and schools are subject;

(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs;

(D) identify any such rule, regulation, or policy as a State-imposed requirement; and

(E)(i) identify any duplicative or contrasting requirements between the State and Federal rules or regulations; and

(ii) eliminate the State rules and regulations that are duplicative of Federal requirements.

(2) Support and facilitation

State rules, regulations, and policies under this subchapter shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State academic standards.

(b) Committee of practitioners

(1) In general

Each State educational agency that receives funds under this subchapter shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this subchapter.

(2) Membership

Each such committee shall include—

(A) as a majority of its members, representatives from local educational agencies;

(B) administrators, including the administrators of programs described in other parts of this subchapter;

(C) teachers from traditional public schools and charter schools (if there are charter schools in the State) and career and technical educators;

(D) principals and other school leaders;

(E) parents;

(F) members of local school boards;

(G) representatives of private school children;

(H) specialized instructional support personnel and paraprofessionals;

(I) representatives of authorized public chartering agencies (if there are charter schools in the State); and

(J) charter school leaders (if there are charter schools in the State).

(3) Duties

The duties of such committee shall include a review, before publication, of any proposed or final State rule or regulation pursuant to this subchapter. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this subchapter, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation before issuance in final form.

(Pub. L. 89–10, title I, §1603, formerly §1903, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1618; renumbered §1603 and amended Pub. L. 114–95, title I, §§1501(a)(4), 1601(c), Dec.

10, 2015, 129 Stat. 1906, 1912.)

PRIOR PROVISIONS

A prior section 1603 of Pub. L. 89–10 was classified to section 6513 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1603 of Pub. L. 89–10 was classified to section 6513 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(1)(E). Pub. L. 114–95, §1601(c)(1)(A), added subpar. (E).

Subsec. (a)(2). Pub. L. 114–95, §1601(c)(1)(B), substituted "the challenging State academic standards" for "the challenging State student academic achievement standards".

Subsec. (b)(2)(C) to (J). Pub. L. 114–95, §1601(c)(2), added subpars. (C) to (J) and struck out former subpars. (C) to (G) which read as follows:

"(C) teachers, including vocational educators;

"(D) parents;

"(E) members of local school boards;

"(F) representatives of private school children; and

"(G) pupil services personnel."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6574. Repealed. Pub. L. 113–188, title IX, §901(a), Nov. 26, 2014, 128 Stat. 2020

Section, Pub. L. 89–10, title I, §1904, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619, related to annual local educational agency spending audits and reports.

§6575. Prohibition against Federal mandates, direction, or control

Nothing in this subchapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

(Pub. L. 89–10, title I, §1604, formerly §1905, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619; renumbered §1604, Pub. L. 114–95, title I, §1501(a)(5), Dec. 10, 2015, 129 Stat. 1906.)

PRIOR PROVISIONS

A prior section 1604 of Pub. L. 89–10 was classified to section 6514 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1604 of Pub. L. 89–10 was classified to section 6514 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§6576. Rule of construction on equalized spending

Nothing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(Pub. L. 89–10, title I, §1605, formerly §1906, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619; renumbered §1605, Pub. L. 114–95, title I, §1501(a)(5), Dec. 10, 2015, 129 Stat. 1906.)

PRIOR PROVISIONS

A prior section 1605 of Pub. L. 89–10 was classified to section 6515 of this title, prior to repeal by Pub. L. 114–95.

§§6577, 6578. Repealed. Pub. L. 114–95, title I, §1501(a)(3), Dec. 10, 2015, 129 Stat. 1906

Section 6577, Pub. L. 89–10, title I, §1907, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619, related to State report on dropout data.

Section 6578, Pub. L. 89–10, title I, §1908, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1620, related to issuance of regulations not later than 6 months after Jan. 8, 2002.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBCHAPTER II—PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS

PRIOR PROVISIONS

A prior title II of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and subsequently revised, restated, and amended by other public laws. Title II as extensively revised by Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1620, related to preparing, training, and recruiting high quality teachers and principals, and was set out in this subchapter as having been added by Pub. L. 107–110. Except as provided below, title II of the Act was repealed by Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1913.

Subpart 5 of part C of prior title II of the Act, comprising subpart 5 (§6731 et seq.) of prior part C of this subchapter, was redesignated subpart 3 (§8551 et seq.) of part F of title VIII of the Act and transferred to subpart 3 (§7941 et seq.) of part F of subchapter VIII of this chapter by Pub. L. 114–95, title II, §2001(a)(3)(A)–(C), title VIII, §8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.

Subpart 4 of part D of prior title II of the Act, comprising subpart 4 (§6777) of prior part D of this subchapter, was redesignated subpart 2 (§4121) of part A of title IV of the Act and transferred to subpart 2 (§7131) of part A of subchapter IV of this chapter by Pub. L. 114–95, title II, §2001(a)(4)(A)–(C), title IV, §4001(a)(5)(C), Dec. 10, 2015, 129 Stat. 1913, 1966.

§6601. Purpose

The purpose of this subchapter is to provide grants to State educational agencies and subgrants to local educational agencies to—

(1) increase student achievement consistent with the challenging State academic standards;

(2) improve the quality and effectiveness of teachers, principals, and other school leaders;

(3) increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools; and

(4) provide low-income and minority students greater access to effective teachers, principals, and other school leaders.

(Pub. L. 89–10, title II, §2001, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1914.)

PRIOR PROVISIONS

A prior section 6601, Pub. L. 89–10, title II, §2101, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1620, set forth purpose of part A of former subchapter II of this chapter, prior to repeal by Pub. L.

114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 6601, Pub. L. 89–10, title II, §2001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3612, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2001 of Pub. L. 89–10 was classified to section 2981 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6602. Definitions

In this subchapter:

(1) School leader residency program

The term "school leader residency program" means a school-based principal or other school leader preparation program in which a prospective principal or other school leader—

(A) for 1 academic year, engages in sustained and rigorous clinical learning with substantial leadership responsibilities and an opportunity to practice and be evaluated in an authentic school setting; and

(B) during that academic year—

(i) participates in evidence-based coursework, to the extent the State (in consultation with local educational agencies in the State) determines that such evidence is reasonably available, that is integrated with the clinical residency experience; and

(ii) receives ongoing support from a mentor principal or other school leader, who is effective.

(2) State

The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) State authorizer

The term "State authorizer" means an entity designated by the Governor of a State to recognize teacher, principal, or other school leader preparation academies within the State that—

(A) enters into an agreement with a teacher, principal, or other school leader preparation academy that specifies the goals expected of the academy, as described in paragraph (4)(A)(i);

(B) may be a nonprofit organization, State educational agency, or other public entity, or consortium of such entities (including a consortium of States); and

(C) does not reauthorize a teacher, principal, or other school leader preparation academy if the academy fails to produce the minimum number or percentage of effective teachers or principals or other school leaders, respectively (as determined by the State), identified in the academy's authorizing agreement.

(4) Teacher, principal, or other school leader preparation academy

The term "teacher, principal, or other school leader preparation academy" means a public or other nonprofit entity, which may be an institution of higher education or an organization affiliated with an institution of higher education, that establishes an academy that will prepare teachers, principals, or other school leaders to serve in high-needs schools, and that—

(A) enters into an agreement with a State authorizer that specifies the goals expected of the academy, including—

(i) a requirement that prospective teachers, principals, or other school leaders who are enrolled in the academy receive a significant part of their training through clinical preparation that partners the prospective candidate with an effective teacher, principal, or other school

leader, as determined by the State, respectively, with a demonstrated record of increasing student academic achievement, including for the subgroups of students defined in section 6311(c)(2) of this title, while also receiving concurrent instruction from the academy in the content area (or areas) in which the prospective teacher, principal, or other school leader will become certified or licensed that links to the clinical preparation experience;

(ii) the number of effective teachers, principals, or other school leaders, respectively, who will demonstrate success in increasing student academic achievement that the academy will prepare; and

(iii) a requirement that the academy will award a certificate of completion (or degree, if the academy is, or is affiliated with, an institution of higher education) to a teacher only after the teacher demonstrates that the teacher is an effective teacher, as determined by the State, with a demonstrated record of increasing student academic achievement either as a student teacher or teacher-of-record on an alternative certificate, license, or credential;

(iv) a requirement that the academy will award a certificate of completion (or degree, if the academy is, or is affiliated with, an institution of higher education) to a principal or other school leader only after the principal or other school leader demonstrates a record of success in improving student performance; and

(v) timelines for producing cohorts of graduates and conferring certificates of completion (or degrees, if the academy is, or is affiliated with, an institution of higher education) from the academy;

(B) does not have unnecessary restrictions on the methods the academy will use to train prospective teacher, principal, or other school leader candidates, including—

(i) obligating (or prohibiting) the academy's faculty to hold advanced degrees or conduct academic research;

(ii) restrictions related to the academy's physical infrastructure;

(iii) restrictions related to the number of course credits required as part of the program of study;

(iv) restrictions related to the undergraduate coursework completed by teachers teaching or working on alternative certificates, licenses, or credentials, as long as such teachers have successfully passed all relevant State-approved content area examinations; or

(v) restrictions related to obtaining accreditation from an accrediting body for purposes of becoming an academy;

(C) limits admission to its program to prospective teacher, principal, or other school leader candidates who demonstrate strong potential to improve student academic achievement, based on a rigorous selection process that reviews a candidate's prior academic achievement or record of professional accomplishment; and

(D) results in a certificate of completion or degree that the State may, after reviewing the academy's results in producing effective teachers, or principals, or other school leaders, respectively (as determined by the State) recognize as at least the equivalent of a master's degree in education for the purposes of hiring, retention, compensation, and promotion in the State.

(5) Teacher residency program

The term "teacher residency program" means a school-based teacher preparation program in which a prospective teacher—

(A) for not less than 1 academic year, teaches alongside an effective teacher, as determined by the State or local educational agency, who is the teacher of record for the classroom;

(B) receives concurrent instruction during the year described in subparagraph (A)—

(i) through courses that may be taught by local educational agency personnel or by faculty of the teacher preparation program; and

(ii) in the teaching of the content area in which the teacher will become certified or licensed; and

(C) acquires effective teaching skills, as demonstrated through completion of a residency program, or other measure determined by the State, which may include a teacher performance assessment.

(Pub. L. 89–10, title II, §2002, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1914.)

PRIOR PROVISIONS

A prior section 6602, Pub. L. 89–10, title II, §2102, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1620, defined terms in part A of former subchapter II of this chapter, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 6602, Pub. L. 89–10, title II, §2002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3613, set forth purposes of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2002 of Pub. L. 89–10 was classified to section 2982 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6603. Authorization of appropriations

(a) Grants to States and local educational agencies

For the purpose of carrying out part A, there are authorized to be appropriated $2,295,830,000 for each of fiscal years 2017 through 2020.

(b) National activities

For the purpose of carrying out part B, there are authorized to be appropriated—

(1) $468,880,575 for each of fiscal years 2017 and 2018;

(2) $469,168,000 for fiscal year 2019; and

(3) $489,168,000 for fiscal year 2020.

(Pub. L. 89–10, title II, §2003, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1916.)

PRIOR PROVISIONS

A prior section 6603, Pub. L. 89–10, title II, §2103, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1621, related to authorizations of appropriations, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 6603, Pub. L. 89–10, title II, §2003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3614; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §101(b)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406, authorized appropriations and related to allocations of appropriations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2003 of Pub. L. 89–10 was classified to section 2983 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART A—SUPPORTING EFFECTIVE INSTRUCTION

§6611. Formula grants to States

(a) Reservation of funds

From the total amount appropriated under section 6603(a) of this title for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this subchapter; and

(2) one-half of 1 percent for the Secretary of the Interior for programs under this part in schools operated or funded by the Bureau of Indian Education.

(b) State allotments

(1) Hold harmless

(A) Fiscal years 2017 through 2022

For each of fiscal years 2017 through 2022, subject to paragraph (2) and subparagraph (C), from the funds appropriated under section 6603(a) of this title for a fiscal year that remain after the Secretary makes the reservations under subsection (a), the Secretary shall allot to each State an amount equal to the total amount that such State received for fiscal year 2001 under—

(i) section 2202(b) of this Act (as in effect on the day before January 8, 2002); and

(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

(B) Ratable reduction

If the funds described in subparagraph (A) are insufficient to pay the full amounts that all States are eligible to receive under subparagraph (A) for any fiscal year, the Secretary shall ratably reduce those amounts for the fiscal year.

(C) Percentage reduction

For each of fiscal years 2017 through 2022, the amount in subparagraph (A) shall be reduced by a percentage equal to the product of 14.29 percent and the number of years between the fiscal year for which the determination is being made and fiscal year 2016.

(2) Allotment of additional funds

(A) In general

Subject to subparagraph (B), for any fiscal year for which the funds appropriated under section 6603(a) of this title and not reserved under subsection (a) exceed the total amount required to make allotments under paragraph (1), the Secretary shall allot to each State the sum of—

(i) for fiscal year 2017—

(I) an amount that bears the same relationship to 35 percent of the excess amount as the number of individuals aged 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

(II) an amount that bears the same relationship to 65 percent of the excess amount as the number of individuals aged 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined;

(ii) for fiscal year 2018—

(I) an amount that bears the same relationship to 30 percent of the excess amount as the number of individuals aged 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

(II) an amount that bears the same relationship to 70 percent of the excess amount as the number of individuals aged 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined;

(iii) for fiscal year 2019—

(I) an amount that bears the same relationship to 25 percent of the excess amount as the number of individuals aged 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

(II) an amount that bears the same relationship to 75 percent of the excess amount as the number of individuals aged 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

(iv) for fiscal year 2020—

(I) an amount that bears the same relationship to 20 percent of the excess amount as the number of individuals aged 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

(II) an amount that bears the same relationship to 80 percent of the excess amount as the number of individuals aged 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

(B) Exception

No State receiving an allotment under subparagraph (A) may receive less than one-half of 1 percent of the total excess amount allotted under such subparagraph for a fiscal year.

(3) Fiscal year 2021 and succeeding fiscal years

For fiscal year 2021 and each of the succeeding fiscal years—

(A) the Secretary shall allot funds appropriated under section 6603(a) of this title and not reserved under subsection (a) to each State in accordance with paragraph (2)(A)(iv); and

(B) the amount appropriated but not reserved shall be treated as the excess amount.

(4) Reallotment

If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot the amount of the allotment to the remaining States in accordance with this subsection.

(c) State uses of funds

(1) In general

Except as provided under paragraph (3), each State that receives an allotment under subsection (b) for a fiscal year shall reserve not less than 95 percent of such allotment to make subgrants to local educational agencies for such fiscal year, as described in section 6612 of this title.

(2) State administration

A State educational agency may use not more than 1 percent of the amount allotted to such State under subsection (b) for the administrative costs of carrying out such State educational agency's responsibilities under this part.

(3) Principals or other school leaders

Notwithstanding paragraph (1) and in addition to funds otherwise available for activities under paragraph (4), a State educational agency may reserve not more than 3 percent of the amount reserved for subgrants to local educational agencies under paragraph (1) for one or more of the activities for principals or other school leaders that are described in paragraph (4).

(4) State activities

(A) In general

The State educational agency for a State that receives an allotment under subsection (b) may use funds not reserved under paragraph (1) to carry out 1 or more of the activities described in subparagraph (B), which may be implemented in conjunction with a State agency of higher education (if such agencies are separate) and carried out through a grant or contract with a for-profit or nonprofit entity, including an institution of higher education.

(B) Types of State activities

The activities described in this subparagraph are the following:

(i) Reforming teacher, principal, or other school leader certification, recertification, licensing, or tenure systems or preparation program standards and approval processes to ensure that—

(I) teachers have the necessary subject-matter knowledge and teaching skills, as demonstrated through measures determined by the State, which may include teacher performance assessments, in the academic subjects that the teachers teach to help students meet challenging State academic standards;

(II) principals or other school leaders have the instructional leadership skills to help teachers teach and to help students meet such challenging State academic standards; and

(III) teacher certification or licensing requirements are aligned with such challenging State academic standards.

(ii) Developing, improving, or providing assistance to local educational agencies to support the design and implementation of teacher, principal, or other school leader evaluation and support systems that are based in part on evidence of student academic achievement, which may include student growth, and shall include multiple measures of educator performance and provide clear, timely, and useful feedback to teachers, principals, or other school leaders, such as by—

(I) developing and disseminating high-quality evaluation tools, such as classroom observation rubrics, and methods, including training and auditing, for ensuring inter-rater reliability of evaluation results;

(II) developing and providing training to principals, other school leaders, coaches, mentors, and evaluators on how to accurately differentiate performance, provide useful and timely feedback, and use evaluation results to inform decisionmaking about professional development, improvement strategies, and personnel decisions; and

(III) developing a system for auditing the quality of evaluation and support systems.

(iii) Improving equitable access to effective teachers.

(iv) Carrying out programs that establish, expand, or improve alternative routes for State certification of teachers (especially for teachers of children with disabilities, English learners, science, technology, engineering, mathematics, or other areas where the State experiences a shortage of educators), principals, or other school leaders, for—

(I) individuals with a baccalaureate or master's degree, or other advanced degree;

(II) mid-career professionals from other occupations;

(III) paraprofessionals;

(IV) former military personnel; and

(V) recent graduates of institutions of higher education with records of academic

distinction who demonstrate the potential to become effective teachers, principals, or other school leaders.

(v) Developing, improving, and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining teachers, principals, or other school leaders who are effective in improving student academic achievement, including effective teachers from underrepresented minority groups and teachers with disabilities, such as through—

(I) opportunities for effective teachers to lead evidence-based (to the extent the State determines that such evidence is reasonably available) professional development for the peers of such effective teachers; and

(II) providing training and support for teacher leaders and principals or other school leaders who are recruited as part of instructional leadership teams.

(vi) Fulfilling the State educational agency's responsibilities concerning proper and efficient administration and monitoring of the programs carried out under this part, including provision of technical assistance to local educational agencies.

(vii) Developing, or assisting local educational agencies in developing—

(I) career opportunities and advancement initiatives that promote professional growth and emphasize multiple career paths, such as instructional coaching and mentoring (including hybrid roles that allow instructional coaching and mentoring while remaining in the classroom), school leadership, and involvement with school improvement and support;

(II) strategies that provide differential pay, or other incentives, to recruit and retain teachers in high-need academic subjects and teachers, principals, or other school leaders, in low-income schools and school districts, which may include performance-based pay systems; and

(III) new teacher, principal, or other school leader induction and mentoring programs that are, to the extent the State determines that such evidence is reasonably available, evidence-based, and designed to—

(aa) improve classroom instruction and student learning and achievement, including through improving school leadership programs; and

(bb) increase the retention of effective teachers, principals, or other school leaders.

(viii) Providing assistance to local educational agencies for the development and implementation of high-quality professional development programs for principals that enable the principals to be effective and prepare all students to meet the challenging State academic standards.

(ix) Supporting efforts to train teachers, principals, or other school leaders to effectively integrate technology into curricula and instruction, which may include training to assist teachers in implementing blended learning (as defined in section 7112(1) of this title) projects.

(x) Providing training, technical assistance, and capacity-building to local educational agencies that receive a subgrant under this part.

(xi) Reforming or improving teacher, principal, or other school leader preparation programs, such as through establishing teacher residency programs and school leader residency programs.

(xii) Establishing or expanding teacher, principal, or other school leader preparation academies, with an amount of the funds described in subparagraph (A) that is not more than 2 percent of the State's allotment, if—

(I) allowable under State law;

(II) the State enables candidates attending a teacher, principal, or other school leader preparation academy to be eligible for State financial aid to the same extent as participants in other State-approved teacher or principal preparation programs, including alternative

certification, licensure, or credential programs; and

(III) the State enables teachers, principals, or other school leaders who are teaching or working while on alternative certificates, licenses, or credentials to teach or work in the State while enrolled in a teacher, principal, or other school leader preparation academy.

(xiii) Supporting the instructional services provided by effective school library programs.

(xiv) Developing, or assisting local educational agencies in developing, strategies that provide teachers, principals, or other school leaders with the skills, credentials, or certifications needed to educate all students in postsecondary education coursework through early college high school or dual or concurrent enrollment programs.

(xv) Providing training for all school personnel, including teachers, principals, other school leaders, specialized instructional support personnel, and paraprofessionals, regarding how to prevent and recognize child sexual abuse.

(xvi) Supporting opportunities for principals, other school leaders, teachers, paraprofessionals, early childhood education program directors, and other early childhood education program providers to participate in joint efforts to address the transition to elementary school, including issues related to school readiness.

(xvii) Developing and providing professional development and other comprehensive systems of support for teachers, principals, or other school leaders to promote high-quality instruction and instructional leadership in science, technology, engineering, and mathematics subjects, including computer science.

(xviii) Supporting the professional development and improving the instructional strategies of teachers, principals, or other school leaders to integrate career and technical education content into academic instructional practices, which may include training on best practices to understand State and regional workforce needs and transitions to postsecondary education and the workforce.

(xix) Enabling States, as a consortium, to voluntarily develop a process that allows teachers who are licensed or certified in a participating State to teach in other participating States without completing additional licensure or certification requirements, except that nothing in this clause shall be construed to allow the Secretary to exercise any direction, supervision, or control over State teacher licensing or certification requirements.

(xx) Supporting and developing efforts to train teachers on the appropriate use of student data to ensure that individual student privacy is protected as required by section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974") and in accordance with State student privacy laws and local educational agency student privacy and technology use policies.

(xxi) Supporting other activities identified by the State that are, to the extent the State determines that such evidence is reasonably available, evidence-based and that meet the purpose of this subchapter.

(d) State application

(1) In general

In order to receive an allotment under this section for any fiscal year, a State shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(2) Contents

Each application described under paragraph (1) shall include the following:

(A) A description of how the State educational agency will use funds received under this subchapter for State-level activities described in subsection (c).

(B) A description of the State's system of certification and licensing of teachers, principals, or other school leaders.

(C) A description of how activities under this part are aligned with challenging State academic standards.

(D) A description of how the activities carried out with funds under this part are expected to improve student achievement.

(E) If a State educational agency plans to use funds under this part to improve equitable access to effective teachers, consistent with section 6311(g)(1)(B) of this title, a description of how such funds will be used for such purpose.

(F) If applicable, a description of how the State educational agency will work with local educational agencies in the State to develop or implement State or local teacher, principal, or other school leader evaluation and support systems that meet the requirements of subsection (c)(4)(B)(ii).

(G) An assurance that the State educational agency will monitor the implementation of activities under this part and provide technical assistance to local educational agencies in carrying out such activities.

(H) An assurance that the State educational agency will work in consultation with the entity responsible for teacher, principal, or other school leader professional standards, certification, and licensing for the State, and encourage collaboration between educator preparation programs, the State, and local educational agencies to promote the readiness of new educators entering the profession.

(I) An assurance that the State educational agency will comply with section 7881 of this title (regarding participation by private school children and teachers).

(J) A description of how the State educational agency will improve the skills of teachers, principals, or other school leaders in order to enable them to identify students with specific learning needs, particularly children with disabilities, English learners, students who are gifted and talented, and students with low literacy levels, and provide instruction based on the needs of such students.

(K) A description of how the State will use data and ongoing consultation as described in paragraph (3) to continually update and improve the activities supported under this part.

(L) A description of how the State educational agency will encourage opportunities for increased autonomy and flexibility for teachers, principals, or other school leaders, such as by establishing innovation schools that have a high degree of autonomy over budget and operations, are transparent and accountable to the public, and lead to improved academic outcomes for students.

(M) A description of actions the State may take to improve preparation programs and strengthen support for teachers, principals, or other school leaders based on the needs of the State, as identified by the State educational agency.

(3) Consultation

In developing the State application under this subsection, a State shall—

(A) meaningfully consult with teachers, principals, other school leaders, paraprofessionals (including organizations representing such individuals), specialized instructional support personnel, charter school leaders (in a State that has charter schools), parents, community partners, and other organizations or partners with relevant and demonstrated expertise in programs and activities designed to meet the purpose of this subchapter;

(B) seek advice from the individuals, organizations, or partners described in subparagraph (A) regarding how best to improve the State's activities to meet the purpose of this subchapter; and

(C) coordinate the State's activities under this part with other related strategies, programs, and activities being conducted in the State.

(4) Limitation

Consultation required under paragraph (3) shall not interfere with the timely submission of the application required under this section.

(e) Prohibition

Nothing in this section shall be construed to authorize the Secretary or any other officer or

employee of the Federal Government to mandate, direct, or control any of the following:

(1) The development, improvement, or implementation of elements of any teacher, principal, or other school leader evaluation system.

(2) Any State or local educational agency's definition of teacher, principal, or other school leader effectiveness.

(3) Any teacher, principal, or other school leader professional standards, certification, or licensing.

(Pub. L. 89–10, title II, §2101, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1917.)

REFERENCES IN TEXT

Section 2202(b) of this Act (as in effect on the day before January 8, 2002), referred to in subsec. (b)(1)(A)(i), is section 2202(b) of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3621, which was classified to section 6642(b) of this title prior to the general amendment of this subchapter by Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1620.

Section 306 of the Department of Education Appropriations Act, 2001, referred to in subsec. (b)(1)(A)(ii), is section 1(a)(1) [title III, §306] of Pub. L. 106–554, Nov. 29, 1999, 114 Stat. 2763, 2763A–41, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 6611, Pub. L. 89–10, title II, §2111, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1621, related to allotments to States, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 2101 of Pub. L. 89–10 was classified to section 6601 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 2101 of Pub. L. 89–10 was classified to section 6621 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2101 of Pub. L. 89–10 was classified to section 3001 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6612. Subgrants to local educational agencies

(a) Allocation of funds to local educational agencies

(1) In general

From funds reserved by a State under section 6611(c)(1) of this title for a fiscal year, the State, acting through the State educational agency, shall award subgrants to eligible local educational agencies from allocations described in paragraph (2).

(2) Allocation formula

From the funds described in paragraph (1), the State educational agency shall allocate to each of the eligible local educational agencies in the State for a fiscal year the sum of—

(A) an amount that bears the same relationship to 20 percent of such funds for such fiscal year as the number of individuals aged 5 through 17 in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all eligible local educational agencies in the State, as so determined; and

(B) an amount that bears the same relationship to 80 percent of the funds for such fiscal year as the number of individuals aged 5 through 17 from families with incomes below the poverty line in the geographic area served by the agency, as determined by the Secretary on the basis of

the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the eligible local educational agencies in the State, as so determined.

(3) Rule of construction

Nothing in this section shall be construed to prohibit a consortium of local educational agencies that are designated with a locale code of 41, 42, or 43, or such local educational agencies designated with a locale code of 41, 42, or 43 that work in cooperation with an educational service agency, from voluntarily combining allocations received under this part for the collective use of funding by the consortium for activities under this section.

(b) Local applications

(1) In general

To be eligible to receive a subgrant under this section, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(2) Contents of application

Each application submitted under paragraph (1) shall include the following:

(A) A description of the activities to be carried out by the local educational agency under this section and how these activities will be aligned with challenging State academic standards.

(B) A description of the local educational agency's systems of professional growth and improvement, such as induction for teachers, principals, or other school leaders and opportunities for building the capacity of teachers and opportunities to develop meaningful teacher leadership.

(C) A description of how the local educational agency will prioritize funds to schools served by the agency that are implementing comprehensive support and improvement activities and targeted support and improvement activities under section 6311(d) of this title and have the highest percentage of children counted under section 6333(c) of this title.

(D) A description of how the local educational agency will use data and ongoing consultation described in paragraph (3) to continually update and improve activities supported under this part.

(E) An assurance that the local educational agency will comply with section 7881 of this title (regarding participation by private school children and teachers).

(F) An assurance that the local educational agency will coordinate professional development activities authorized under this part with professional development activities provided through other Federal, State, and local programs.

(3) Consultation

In developing the application described in paragraph (2), a local educational agency shall—

(A) meaningfully consult with teachers, principals, other school leaders, paraprofessionals (including organizations representing such individuals), specialized instructional support personnel, charter school leaders (in a local educational agency that has charter schools), parents, community partners, and other organizations or partners with relevant and demonstrated expertise in programs and activities designed to meet the purpose of this subchapter;

(B) seek advice from the individuals and organizations described in subparagraph (A) regarding how best to improve the local educational agency's activities to meet the purpose of this subchapter; and

(C) coordinate the local educational agency's activities under this part with other related strategies, programs, and activities being conducted in the community.

(4) Limitation

Consultation required under paragraph (3) shall not interfere with the timely submission of the application required under this section.

(Pub. L. 89–10, title II, §2102, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat.

1925.)

PRIOR PROVISIONS

A prior section 6612, Pub. L. 89–10, title II, §2112, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1623, related to State applications, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 2102 of Pub. L. 89–10 was classified to section 6602 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 2102 of Pub. L. 89–10 was classified to section 6622 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2102 of Pub. L. 89–10 was classified to section 3002 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6613. Local uses of funds

(a) In general

A local educational agency that receives a subgrant under section 6612 of this title shall use the funds made available through the subgrant to develop, implement, and evaluate comprehensive programs and activities described in subsection (b), which may be carried out—

(1) through a grant or contract with a for-profit or nonprofit entity; or

(2) in partnership with an institution of higher education or an Indian tribe or tribal organization (as such terms are defined under section 450b of title 25).

(b) Types of activities

The programs and activities described in this subsection—

(1) shall be in accordance with the purpose of this subchapter;

(2) shall address the learning needs of all students, including children with disabilities, English learners, and gifted and talented students; and

(3) may include, among other programs and activities—

(A) developing or improving a rigorous, transparent, and fair evaluation and support system for teachers, principals, or other school leaders that—

(i) is based in part on evidence of student achievement, which may include student growth; and

(ii) shall include multiple measures of educator performance and provide clear, timely, and useful feedback to teachers, principals, or other school leaders;

(B) developing and implementing initiatives to assist in recruiting, hiring, and retaining effective teachers, particularly in low-income schools with high percentages of ineffective teachers and high percentages of students who do not meet the challenging State academic standards, to improve within-district equity in the distribution of teachers, consistent with section 6311(g)(1)(B) of this title, such as initiatives that provide—

(i) expert help in screening candidates and enabling early hiring;

(ii) differential and incentive pay for teachers, principals, or other school leaders in high-need academic subject areas and specialty areas, which may include performance-based pay systems;

(iii) teacher, paraprofessional, principal, or other school leader advancement and professional growth, and an emphasis on leadership opportunities, multiple career paths, and pay differentiation;

(iv) new teacher, principal, or other school leader induction and mentoring programs that are designed to—

(I) improve classroom instruction and student learning and achievement; and

(II) increase the retention of effective teachers, principals, or other school leaders;

(v) the development and provision of training for school leaders, coaches, mentors, and evaluators on how accurately to differentiate performance, provide useful feedback, and use evaluation results to inform decisionmaking about professional development, improvement strategies, and personnel decisions; and

(vi) a system for auditing the quality of evaluation and support systems;

(C) recruiting qualified individuals from other fields to become teachers, principals, or other school leaders, including mid-career professionals from other occupations, former military personnel, and recent graduates of institutions of higher education with records of academic distinction who demonstrate potential to become effective teachers, principals, or other school leaders;

(D) reducing class size to a level that is evidence-based, to the extent the State (in consultation with local educational agencies in the State) determines that such evidence is reasonably available, to improve student achievement through the recruiting and hiring of additional effective teachers;

(E) providing high-quality, personalized professional development that is evidence-based, to the extent the State (in consultation with local educational agencies in the State) determines that such evidence is reasonably available, for teachers, instructional leadership teams, principals, or other school leaders, that is focused on improving teaching and student learning and achievement, including supporting efforts to train teachers, principals, or other school leaders to—

(i) effectively integrate technology into curricula and instruction (including education about the harms of copyright piracy);

(ii) use data to improve student achievement and understand how to ensure individual student privacy is protected, as required under section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974") and State and local policies and laws in the use of such data;

(iii) effectively engage parents, families, and community partners, and coordinate services between school and community;

(iv) help all students develop the skills essential for learning readiness and academic success;

(v) develop policy with school, local educational agency, community, or State leaders; and

(vi) participate in opportunities for experiential learning through observation;

(F) developing programs and activities that increase the ability of teachers to effectively teach children with disabilities, including children with significant cognitive disabilities, and English learners, which may include the use of multi-tier systems of support and positive behavioral intervention and supports, so that such children with disabilities and English learners can meet the challenging State academic standards;

(G) providing programs and activities to increase—

(i) the knowledge base of teachers, principals, or other school leaders on instruction in the early grades and on strategies to measure whether young children are progressing; and

(ii) the ability of principals or other school leaders to support teachers, teacher leaders, early childhood educators, and other professionals to meet the needs of students through age 8, which may include providing joint professional learning and planning activities for school staff and educators in preschool programs that address the transition to elementary school;

(H) providing training, technical assistance, and capacity-building in local educational

agencies to assist teachers, principals, or other school leaders with selecting and implementing formative assessments, designing classroom-based assessments, and using data from such assessments to improve instruction and student academic achievement, which may include providing additional time for teachers to review student data and respond, as appropriate;

(I) carrying out in-service training for school personnel in—

(i) the techniques and supports needed to help educators understand when and how to refer students affected by trauma, and children with, or at risk of, mental illness;

(ii) the use of referral mechanisms that effectively link such children to appropriate treatment and intervention services in the school and in the community, where appropriate;

(iii) forming partnerships between school-based mental health programs and public or private mental health organizations; and

(iv) addressing issues related to school conditions for student learning, such as safety, peer interaction, drug and alcohol abuse, and chronic absenteeism;

(J) providing training to support the identification of students who are gifted and talented, including high-ability students who have not been formally identified for gifted education services, and implementing instructional practices that support the education of such students, such as—

(i) early entrance to kindergarten;

(ii) enrichment, acceleration, and curriculum compacting activities; and

(iii) dual or concurrent enrollment programs in secondary school and postsecondary education;

(K) supporting the instructional services provided by effective school library programs;

(L) providing training for all school personnel, including teachers, principals, other school leaders, specialized instructional support personnel, and paraprofessionals, regarding how to prevent and recognize child sexual abuse;

(M) developing and providing professional development and other comprehensive systems of support for teachers, principals, or other school leaders to promote high-quality instruction and instructional leadership in science, technology, engineering, and mathematics subjects, including computer science;

(N) developing feedback mechanisms to improve school working conditions, including through periodically and publicly reporting results of educator support and working conditions feedback;

(O) providing high-quality professional development for teachers, principals, or other school leaders on effective strategies to integrate rigorous academic content, career and technical education, and work-based learning (if appropriate), which may include providing common planning time, to help prepare students for postsecondary education and the workforce; and

(P) carrying out other activities that are evidence-based, to the extent the State (in consultation with local educational agencies in the State) determines that such evidence is reasonably available, and identified by the local educational agency that meet the purpose of this subchapter.

(Pub. L. 89–10, title II, §2103, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1926.)

PRIOR PROVISIONS

A prior section 6613, Pub. L. 89–10, title II, §2113, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1625, related to State use of funds, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 2103 of Pub. L. 89–10 was classified to section 6603 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 2103 of Pub. L. 89–10 was classified to section 6623 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2103 of Pub. L. 89–10 was classified to section 3003 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6614. Reporting

(a) State report

Each State educational agency receiving funds under this part shall annually submit to the Secretary a report that provides—

(1) a description of how the State is using grant funds received under this part to meet the purpose of this subchapter, and how such chosen activities improved teacher, principal, or other school leader effectiveness, as determined by the State or local educational agency;

(2) if funds are used under this part to improve equitable access to teachers for low-income and minority students, consistent with section 6311(g)(1)(B) of this title, a description of how funds have been used to improve such access;

(3) for a State that implements a teacher, principal, or other school leader evaluation and support system, consistent with section 6611(c)(4)(B)(ii), using funds under this part, the evaluation results of teachers, principals, or other school leaders, except that such information shall not provide personally identifiable information on individual teachers, principals, or other school leaders; and

(4) where available, the annual retention rates of effective and ineffective teachers, principals, or other school leaders, using any methods or criteria the State has or develops under section 6311(g)(2)(A) of this title, except that nothing in this paragraph shall be construed to require any State educational agency or local educational agency to collect and report any data the State educational agency or local educational agency is not collecting or reporting as of the day before December 10, 2015.

(b) Local educational agency report

Each local educational agency receiving funds under this part shall submit to the State educational agency such information as the State requires, which shall include the information described in subsection (a) for the local educational agency.

(c) Availability

The reports and information provided under subsections (a) and (b) shall be made readily available to the public.

(d) Limitation

The reports and information provided under subsections (a) and (b) shall not reveal personally identifiable information about any individual.

(Pub. L. 89–10, title II, §2104, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1930.)

PRIOR PROVISIONS

A prior section 2104 of Pub. L. 89–10 was classified to section 3004 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART B—NATIONAL ACTIVITIES

§6621. Reservations

From the amounts appropriated under section 6603(b) of this title for a fiscal year, the Secretary shall reserve—

(1) to carry out activities authorized under subpart 1—
  (A) 49.1 percent for each of fiscal years 2017 through 2019; and
  (B) 47 percent for fiscal year 2020;

(2) to carry out activities authorized under subpart 2—
  (A) 34.1 percent for each of fiscal years 2017 through 2019; and
  (B) 36.8 percent for fiscal year 2020;

(3) to carry out activities authorized under subpart 3, 1.4 percent for each of fiscal years 2017 through 2020; and

(4) to carry out activities authorized under subpart 4—
  (A) 15.4 percent for each of fiscal years 2017 through 2019; and
  (B) 14.8 percent for fiscal year 2020.

(Pub. L. 89–10, title II, §2201, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1930.)

PRIOR PROVISIONS

Prior sections 6621 to 6623 were repealed by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6621, Pub. L. 89–10, title II, §2121, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1627, related to allocations to local educational agencies.

Another prior section 6621, Pub. L. 89–10, title II, §2101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3614; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, authorized professional development program, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2201 of Pub. L. 89–10 was classified to section 6661 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 2201 of Pub. L. 89–10 was classified to section 6641 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2201 of Pub. L. 89–10 was classified to section 3011 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 6622, Pub. L. 89–10, title II, §2122, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1628, related to local applications and needs assessment.

Another prior section 6622, Pub. L. 89–10, title II, §2102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3615, related to authorized professional development activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6623, Pub. L. 89–10, title II, §2123, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1630, related to local use of funds.

Another prior section 6623, Pub. L. 89–10, title II, §2103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3617, related to National Teacher Training Project, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 1—TEACHER AND SCHOOL LEADER INCENTIVE PROGRAM

§6631. Purposes; definitions

(a) Purposes

The purposes of this subpart are—

(1) to assist States, local educational agencies, and nonprofit organizations to develop, implement, improve, or expand comprehensive performance-based compensation systems or human capital management systems for teachers, principals, or other school leaders (especially for teachers, principals, or other school leaders in high-need schools) who raise student academic achievement and close the achievement gap between high- and low-performing students; and

(2) to study and review performance-based compensation systems or human capital management systems for teachers, principals, or other school leaders to evaluate the effectiveness, fairness, quality, consistency, and reliability of the systems.

(b) Definitions

In this subpart:

(1) Eligible entity

The term "eligible entity" means—

(A) a local educational agency, including a charter school that is a local educational agency, or a consortium of local educational agencies;

(B) a State educational agency or other State agency designated by the chief executive of a State to participate under this subpart;

(C) the Bureau of Indian Education; or

(D) a partnership consisting of—

(i) 1 or more agencies described in subparagraph (A), (B), or (C); and

(ii) at least 1 nonprofit or for-profit entity.

(2) High-need school

The term "high-need school" means a public elementary school or secondary school that is located in an area in which the percentage of students from families with incomes below the poverty line is 30 percent or more.

(3) Human capital management system

The term "human capital management system" means a system—

(A) by which a local educational agency makes and implements human capital decisions, such as decisions on preparation, recruitment, hiring, placement, retention, dismissal, compensation, professional development, tenure, and promotion; and

(B) that includes a performance-based compensation system.

(4) Performance-based compensation system

The term "performance-based compensation system" means a system of compensation for teachers, principals, or other school leaders—

(A) that differentiates levels of compensation based in part on measurable increases in student academic achievement; and

(B) which may include—

(i) differentiated levels of compensation, which may include bonus pay, on the basis of the employment responsibilities and success of effective teachers, principals, or other school leaders in hard-to-staff schools or high-need subject areas; and

(ii) recognition of the skills and knowledge of teachers, principals, or other school leaders as demonstrated through—

(I) successful fulfillment of additional responsibilities or job functions, such as teacher

leadership roles; and

(II) evidence of professional achievement and mastery of content knowledge and superior teaching and leadership skills.

(Pub. L. 89–10, title II, §2211, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1931.)

PRIOR PROVISIONS

A prior section 6631, Pub. L. 89–10, title II, §2131, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1633, defined terms in subpart 3 of part A of former subchapter II of this chapter, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 2211 of Pub. L. 89–10 was classified to section 6651 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6632. Teacher and school leader incentive fund grants

(a) Grants authorized

From the amounts reserved by the Secretary under section 6621(1) of this title, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to develop, implement, improve, or expand performance-based compensation systems or human capital management systems, in schools served by the eligible entity.

(b) Duration of grants

(1) In general

A grant awarded under this subpart shall be for a period of not more than 3 years.

(2) Renewal

The Secretary may renew a grant awarded under this subpart for a period of not more than 2 years if the grantee demonstrates to the Secretary that the grantee is effectively using funds. Such renewal may include allowing the grantee to scale up or replicate the successful program.

(3) Limitation

A local educational agency may receive (whether individually or as part of a consortium or partnership) a grant under this subpart, as amended by the Every Student Succeeds Act,[1] only twice.

(c) Applications

An eligible entity desiring a grant under this subpart shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall include—

(1) a description of the performance-based compensation system or human capital management system that the eligible entity proposes to develop, implement, improve, or expand through the grant;

(2) a description of the most significant gaps or insufficiencies in student access to effective teachers, principals, or other school leaders in high-need schools, including gaps or inequities in how effective teachers, principals, or other school leaders are distributed across the local educational agency, as identified using factors such as data on school resources, staffing patterns, school environment, educator support systems, and other school-level factors;

(3) a description and evidence of the support and commitment from teachers, principals, or

other school leaders, which may include charter school leaders, in the school (including organizations representing teachers, principals, or other school leaders), the community, and the local educational agency to the activities proposed under the grant;

(4) a description of how the eligible entity will develop and implement a fair, rigorous, valid, reliable, and objective process to evaluate teacher, principal, or other school leader performance under the system that is based in part on measures of student academic achievement, including the baseline performance against which evaluations of improved performance will be made;

(5) a description of the local educational agencies or schools to be served under the grant, including such student academic achievement, demographic, and socioeconomic information as the Secretary may request;

(6) a description of the effectiveness of teachers, principals, or other school leaders in the local educational agency and the schools to be served under the grant and the extent to which the system will increase the effectiveness of teachers, principals, or other school leaders in such schools;

(7) a description of how the eligible entity will use grant funds under this subpart in each year of the grant, including a timeline for implementation of such activities;

(8) a description of how the eligible entity will continue the activities assisted under the grant after the grant period ends;

(9) a description of the State, local, or other public or private funds that will be used to supplement the grant, including funds under part A, and sustain the activities assisted under the grant after the end of the grant period;

(10) a description of—

(A) the rationale for the project;

(B) how the proposed activities are evidence-based; and

(C) if applicable, the prior experience of the eligible entity in developing and implementing such activities; and

(11) a description of how activities funded under this subpart will be evaluated, monitored, and publically reported.

(d) Award basis

(1) Priority

In awarding a grant under this subpart, the Secretary shall give priority to an eligible entity that concentrates the activities proposed to be assisted under the grant on teachers, principals, or other school leaders serving in high-need schools.

(2) Equitable distribution

To the extent practicable, the Secretary shall ensure an equitable geographic distribution of grants under this subpart, including the distribution of such grants between rural and urban areas.

(e) Use of funds

(1) In general

An eligible entity that receives a grant under this subpart shall use the grant funds to develop, implement, improve, or expand, in collaboration with teachers, principals, other school leaders, and members of the public, a performance-based compensation system or human capital management system consistent with this subpart.

(2) Authorized activities

Grant funds under this subpart may be used for one or more of the following:

(A) Developing or improving an evaluation and support system, including as part of a human capital management system as applicable, that—

(i) reflects clear and fair measures of teacher, principal, or other school leader performance, based in part on demonstrated improvement in student academic achievement; and

(ii) provides teachers, principals, or other school leaders with ongoing, differentiated,

targeted, and personalized support and feedback for improvement, including professional development opportunities designed to increase effectiveness.

(B) Conducting outreach within a local educational agency or a State to gain input on how to construct an evaluation and support system described in subparagraph (A) and to develop support for the evaluation and support system, including by training appropriate personnel in how to observe and evaluate teachers, principals, or other school leaders.

(C) Providing principals or other school leaders with—

(i) balanced autonomy to make budgeting, scheduling, and other school-level decisions in a manner that meets the needs of the school without compromising the intent or essential components of the policies of the local educational agency or State; and

(ii) authority to make staffing decisions that meet the needs of the school, such as building an instructional leadership team that includes teacher leaders or offering opportunities for teams or pairs of effective teachers or candidates to teach or start teaching in high-need schools together.

(D) Implementing, as part of a comprehensive performance-based compensation system, a differentiated salary structure, which may include bonuses and stipends, to—

(i) teachers who—

(I) teach in—

(aa) high-need schools; or

(bb) high-need subjects;

(II) raise student academic achievement; or

(III) take on additional leadership responsibilities; or

(ii) principals or other school leaders who serve in high-need schools and raise student academic achievement in the schools.

(E) Improving the local educational agency's system and process for the recruitment, selection, placement, and retention of effective teachers, principals, or other school leaders in high-need schools, such as by improving local educational agency policies and procedures to ensure that high-need schools are competitive and timely in—

(i) attracting, hiring, and retaining effective educators;

(ii) offering bonuses or higher salaries to effective educators; or

(iii) establishing or strengthening school leader residency programs and teacher residency programs.

(F) Instituting career advancement opportunities characterized by increased responsibility and pay that reward and recognize effective teachers, principals, or other school leaders in high-need schools and enable them to expand their leadership and results, such as through teacher-led professional development, mentoring, coaching, hybrid roles, administrative duties, and career ladders.

(f) Matching requirement

Each eligible entity that receives a grant under this subpart shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (which may be provided in cash or in kind) to carry out the activities supported by the grant.

(g) Supplement, not supplant

Grant funds provided under this subpart shall be used to supplement, not supplant, other Federal or State funds available to carry out activities described in this subpart.

(Pub. L. 89–10, title II, §2212, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1932.)

REFERENCES IN TEXT

This subpart, as amended by the Every Student Succeeds Act, referred to in subsec. (b)(3), probably means this subpart as enacted by Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1931.

PRIOR PROVISIONS

A prior section 6632, Pub. L. 89–10, title II, §2132, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1633, related to subgrants to eligible partnerships, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

[1] *See References in Text note below.*

§6633. Reports

(a) Activities summary

Each eligible entity receiving a grant under this subpart shall provide to the Secretary a summary of the activities assisted under the grant.

(b) Report

The Secretary shall provide to Congress an annual report on the implementation of the program carried out under this subpart, including—

(1) information on eligible entities that received grant funds under this subpart, including—

(A) information provided by eligible entities to the Secretary in the applications submitted under section 6632(c) of this title;

(B) the summaries received under subsection (a); and

(C) grant award amounts; and

(2) student academic achievement and, as applicable, growth data from the schools participating in the programs supported under the grant.

(c) Evaluation and technical assistance

(1) Reservation of funds

Of the total amount reserved for this subpart for a fiscal year, the Secretary may reserve for such fiscal year not more than 1 percent for the cost of the evaluation under paragraph (2) and for technical assistance in carrying out this subpart.

(2) Evaluation

From amounts reserved under paragraph (1), the Secretary, acting through the Director of the Institute of Education Sciences, shall carry out an independent evaluation to measure the effectiveness of the program assisted under this subpart.

(3) Contents

The evaluation under paragraph (2) shall measure—

(A) the effectiveness of the program in improving student academic achievement;

(B) the satisfaction of the participating teachers, principals, or other school leaders; and

(C) the extent to which the program assisted the eligible entities in recruiting and retaining high-quality teachers, principals, or other school leaders, especially in high-need subject areas.

(Pub. L. 89–10, title II, §2213, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1935.)

PRIOR PROVISIONS

Prior sections 6633 and 6634 were repealed by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6633, Pub. L. 89–10, title II, §2133, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1633, related to subgrant applications.

Section 6634, Pub. L. 89–10, title II, §2134, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1633, related to use of funds.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 2—LITERACY EDUCATION FOR ALL, RESULTS FOR THE NATION

§6641. Purposes; definitions

(a) Purposes

The purposes of this subpart are—

(1) to improve student academic achievement in reading and writing by providing Federal support to States to develop, revise, or update comprehensive literacy instruction plans that, when implemented, ensure high-quality instruction and effective strategies in reading and writing from early education through grade 12; and

(2) for States to provide targeted subgrants to early childhood education programs and local educational agencies and their public or private partners to implement evidence-based programs that ensure high-quality comprehensive literacy instruction for students most in need.

(b) Definitions

In this subpart:

(1) Comprehensive literacy instruction

The term "comprehensive literacy instruction" means instruction that—

(A) includes developmentally appropriate, contextually explicit, and systematic instruction, and frequent practice, in reading and writing across content areas;

(B) includes age-appropriate, explicit, systematic, and intentional instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension;

(C) includes age-appropriate, explicit instruction in writing, including opportunities for children to write with clear purposes, with critical reasoning appropriate to the topic and purpose, and with specific instruction and feedback from instructional staff;

(D) makes available and uses diverse, high-quality print materials that reflect the reading and development levels, and interests, of children;

(E) uses differentiated instructional approaches, including individual and small group instruction and discussion;

(F) provides opportunities for children to use language with peers and adults in order to develop language skills, including developing vocabulary;

(G) includes frequent practice of reading and writing strategies;

(H) uses age-appropriate, valid, and reliable screening assessments, diagnostic assessments, formative assessment processes, and summative assessments to identify a child's learning needs, to inform instruction, and to monitor the child's progress and the effects of instruction;

(I) uses strategies to enhance children's motivation to read and write and children's engagement in self-directed learning;

(J) incorporates the principles of universal design for learning;

(K) depends on teachers' collaboration in planning, instruction, and assessing a child's progress and on continuous professional learning; and

(L) links literacy instruction to the challenging State academic standards, including the ability to navigate, understand, and write about, complex print and digital subject matter.

(2) Eligible entity

The term "eligible entity" means an entity that consists of—

(A) one or more local educational agencies that serve a high percentage of high-need schools and—

(i) have the highest number or proportion of children who are counted under section 6333(c) of this title, in comparison to other local educational agencies in the State;

(ii) are among the local educational agencies in the State with the highest number or percentages of children reading or writing below grade level, based on the most currently available State academic assessment data under section 6311(b)(2) of this title; or

(iii) serve a significant number or percentage of schools that are implementing comprehensive support and improvement activities and targeted support and improvement activities under section 6311(d) of this title;

(B) one or more early childhood education programs serving low-income or otherwise disadvantaged children, which may include home-based literacy programs for preschool-aged children, that have a demonstrated record of providing comprehensive literacy instruction for the age group such program proposes to serve; or

(C) a local educational agency, described in subparagraph (A), or consortium of such local educational agencies, or an early childhood education program, which may include home-based literacy programs for preschool-aged children, acting in partnership with 1 or more public or private nonprofit organizations or agencies (which may include early childhood education programs) that have a demonstrated record of effectiveness in—

(i) improving literacy achievement of children, consistent with the purposes of participation under this subpart, from birth through grade 12; and

(ii) providing professional development in comprehensive literacy instruction.

(3) High-need school

(A) In general

The term "high-need school" means—

(i) an elementary school or middle school in which not less than 50 percent of the enrolled students are children from low-income families; or

(ii) a high school in which not less than 40 percent of the enrolled students are children from low-income families, which may be calculated using comparable data from the schools that feed into the high school.

(B) Low-income family

For purposes of subparagraph (A), the term "low-income family" means a family—

(i) in which the children are eligible for a free or reduced-price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(ii) receiving assistance under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(iii) in which the children are eligible to receive medical assistance under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(Pub. L. 89–10, title II, §2221, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1936.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (b)(3)(B)(i), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (b)(3)(B)(ii), (iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6641, Pub. L. 89–10, title II, §2141, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1634, related to technical assistance and accountability, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 6641, Pub. L. 89–10, title II, §2201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3621, authorized program for State and local professional development activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6642. Comprehensive literacy State development grants

(a) Grants authorized

From the amounts reserved by the Secretary under section 6621(2) of this title and not reserved under subsection (b), the Secretary shall award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to—

(1) provide subgrants to eligible entities serving a diversity of geographic areas, giving priority to entities serving greater numbers or percentages of children from low-income families; and

(2) develop or enhance comprehensive literacy instruction plans that ensure high-quality instruction and effective strategies in reading and writing for children from early childhood education through grade 12, including English learners and children with disabilities.

(b) Reservation

From the amounts reserved to carry out this subpart for a fiscal year, the Secretary shall reserve—

(1) not more than a total of 5 percent for national activities, including a national evaluation, technical assistance and training, data collection, and reporting;

(2) one half of 1 percent for the Secretary of the Interior to carry out a program described in this subpart at schools operated or funded by the Bureau of Indian Education; and

(3) one half of 1 percent for the outlying areas to carry out a program under this subpart.

(c) Duration of grants

A grant awarded under this subpart shall be for a period of not more than 5 years total. Such grant may be renewed for an additional 2-year period upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that—

(1) the State has made adequate progress; and

(2) renewing the grant for an additional 2-year period is necessary to carry out the objectives of the grant described in subsection (d).

(d) State applications

(1) In general

A State educational agency desiring a grant under this subpart shall submit an application to the Secretary, at such time and in such manner as the Secretary may require. The State educational agency shall collaborate with the State agency responsible for administering early childhood education programs and the State agency responsible for administering child care programs in the State in writing and implementing the early childhood education portion of the grant application under this subsection.

(2) Contents

An application described in paragraph (1) shall include, at a minimum, the following:

(A) A needs assessment that analyzes literacy needs across the State and in high-need schools and local educational agencies that serve high-need schools, including identifying the most significant gaps in literacy proficiency and inequities in student access to effective teachers of literacy, considering each of the subgroups of students, as defined in section 6311(c)(2) of this title.

(B) A description of how the State educational agency, in collaboration with the State literacy team, if applicable, will develop a State comprehensive literacy instruction plan or will revise and update an already existing State comprehensive literacy instruction plan.

(C) An implementation plan that includes a description of how the State educational agency will carry out the State activities described in subsection (f).

(D) An assurance that the State educational agency will use implementation grant funds described in subsection (f)(1) for comprehensive literacy instruction programs as follows:

(i) Not less than 15 percent of such grant funds shall be used for State and local programs and activities pertaining to children from birth through kindergarten entry.

(ii) Not less than 40 percent of such grant funds shall be used for State and local programs and activities, allocated equitably among the grades of kindergarten through grade 5.

(iii) Not less than 40 percent of such grant funds shall be used for State and local programs and activities, allocated equitably among grades 6 through 12.

(E) An assurance that the State educational agency will give priority in awarding a subgrant under section 6643 of this title to an eligible entity that—

(i) serves children from birth through age 5 who are from families with income levels at or below 200 percent of the Federal poverty line; or

(ii) is a local educational agency serving a high number or percentage of high-need schools.

(e) Priority

In awarding grants under this section, the Secretary shall give priority to State educational agencies that will use the grant funds for evidence-based activities, defined for the purpose of this subsection as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(f) State activities

(1) In general

A State educational agency receiving a grant under this section shall use not less than 95 percent of such grant funds to award subgrants to eligible entities, based on their needs assessment and a competitive application process.

(2) Reservation

A State educational agency receiving a grant under this section may reserve not more than 5 percent for activities identified through the needs assessment and comprehensive literacy plan described in subparagraphs (A) and (B) of subsection (d)(2), including the following activities:

(A) Providing technical assistance, or engaging qualified providers to provide technical assistance, to eligible entities to enable the eligible entities to design and implement literacy programs.

(B) Coordinating with institutions of higher education in the State to provide

recommendations to strengthen and enhance pre-service courses for students preparing to teach children from birth through grade 12 in explicit, systematic, and intensive instruction in evidence-based literacy methods.

(C) Reviewing and updating, in collaboration with teachers and institutions of higher education, State licensure or certification standards in the area of literacy instruction in early education through grade 12.

(D) Making publicly available, including on the State educational agency's website, information on promising instructional practices to improve child literacy achievement.

(E) Administering and monitoring the implementation of subgrants by eligible entities.

(3) Additional uses

After carrying out the activities described in paragraphs (1) and (2), a State educational agency may use any remaining amount to carry out 1 or more of the following activities:

(A) Developing literacy coach training programs and training literacy coaches.

(B) Administration and evaluation of activities carried out under this subpart.

(Pub. L. 89–10, title II, §2222, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1938.)

PRIOR PROVISIONS

A prior section 6642, Pub. L. 89–10, title II, §2202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3621, related to allocation of funds for State and local professional development activities, prior to its omission in the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6643. Subgrants to eligible entities in support of birth through kindergarten entry literacy

(a) Subgrants

(1) In general

A State educational agency receiving a grant under this subpart shall, in consultation with the State agencies responsible for administering early childhood education programs and services, including the State agency responsible for administering child care programs, and, if applicable, the State Advisory Council on Early Childhood Education and Care designated or established pursuant to section 9837b(b)(1)(A)(i) of title 42, use a portion of the grant funds, in accordance with section 6642(d)(2)(D)(i) of this title, to award subgrants, on a competitive basis, to eligible entities to enable the eligible entities to support high-quality early literacy initiatives for children from birth through kindergarten entry.

(2) Duration

The term of a subgrant under this section shall be determined by the State educational agency awarding the subgrant and shall in no case exceed 5 years.

(3) Sufficient size and scope

Each subgrant awarded under this section shall be of sufficient size and scope to allow the eligible entity to carry out high-quality early literacy initiatives for children from birth through kindergarten entry.

(b) Local applications

An eligible entity desiring to receive a subgrant under this section shall submit an application to the State educational agency, at such time, in such manner, and containing such information as the

State educational agency may require. Such application shall include a description of—

(1) how the subgrant funds will be used to enhance the language and literacy development and school readiness of children, from birth through kindergarten entry, in early childhood education programs, which shall include an analysis of data that support the proposed use of subgrant funds;

(2) how the subgrant funds will be used to prepare and provide ongoing assistance to staff in the programs, including through high-quality professional development;

(3) how the activities assisted under the subgrant will be coordinated with comprehensive literacy instruction at the kindergarten through grade 12 levels; and

(4) how the subgrant funds will be used to evaluate the success of the activities assisted under the subgrant in enhancing the early language and literacy development of children from birth through kindergarten entry.

(c) Priority

In awarding grants under this section, the State educational agency shall give priority to an eligible entity that will use the grant funds to implement evidence-based activities, defined for the purpose of this subsection as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(d) Local uses of funds

An eligible entity that receives a subgrant under this section shall use the subgrant funds, consistent with the entity's approved application under subsection (b), to—

(1) carry out high-quality professional development opportunities for early childhood educators, teachers, principals, other school leaders, paraprofessionals, specialized instructional support personnel, and instructional leaders;

(2) train providers and personnel to develop and administer evidence-based early childhood education literacy initiatives; and

(3) coordinate the involvement of families, early childhood education program staff, principals, other school leaders, specialized instructional support personnel (as appropriate), and teachers in literacy development of children served under the subgrant.

(Pub. L. 89–10, title II, §2223, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1940.)

PRIOR PROVISIONS

A prior section 6643, Pub. L. 89–10, title II, §2203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3621, related to within-State allocations, prior to its omission in the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6644. Subgrants to eligible entities in support of kindergarten through grade 12 literacy

(a) Subgrants to eligible entities

(1) Subgrants

A State educational agency receiving a grant under this subpart shall use a portion of the grant funds, in accordance with clauses (ii) and (iii) of section 6642(d)(2)(D) of this title, to award subgrants, on a competitive basis, to eligible entities to enable the eligible entities to carry out the authorized activities described in subsections (c) and (d).

(2) Duration

The term of a subgrant under this section shall be determined by the State educational agency awarding the subgrant and shall in no case exceed 5 years.

(3) Sufficient size and scope

A State educational agency shall award subgrants under this section of sufficient size and scope to allow the eligible entities to carry out high-quality comprehensive literacy instruction in each grade level for which the subgrant funds are provided.

(4) Local applications

An eligible entity desiring to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Such application shall include, for each school that the eligible entity identifies as participating in a subgrant program under this section, the following information:

(A) A description of the eligible entity's needs assessment conducted to identify how subgrant funds will be used to inform and improve comprehensive literacy instruction at the school.

(B) How the school, the local educational agency, or a provider of high-quality professional development will provide ongoing high-quality professional development to all teachers, principals, other school leaders, specialized instructional support personnel (as appropriate), and other instructional leaders served by the school.

(C) How the school will identify children in need of literacy interventions or other support services.

(D) An explanation of how the school will integrate comprehensive literacy instruction into a well-rounded education.

(E) A description of how the school will coordinate comprehensive literacy instruction with early childhood education programs and activities and after-school programs and activities in the area served by the local educational agency.

(b) Priority

In awarding grants under this section, the State educational agency shall give priority to an eligible entity that will use funds under subsection (c) or (d) to implement evidence-based activities, defined for the purpose of this subsection as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(c) Local uses of funds for kindergarten through grade 5

An eligible entity that receives a subgrant under this section shall use the subgrant funds to carry out the following activities pertaining to children in kindergarten through grade 5:

(1) Developing and implementing a comprehensive literacy instruction plan across content areas for such children that—

(A) serves the needs of all children, including children with disabilities and English learners, especially children who are reading or writing below grade level;

(B) provides intensive, supplemental, accelerated, and explicit intervention and support in reading and writing for children whose literacy skills are below grade level; and

(C) supports activities that are provided primarily during the regular school day but that may be augmented by after-school and out-of-school time instruction.

(2) Providing high-quality professional development opportunities for teachers, literacy coaches, literacy specialists, English as a second language specialists (as appropriate), principals, other school leaders, specialized instructional support personnel, school librarians, paraprofessionals, and other program staff.

(3) Training principals, specialized instructional support personnel, and other local educational agency personnel to support, develop, administer, and evaluate high-quality kindergarten through grade 5 literacy initiatives.

(4) Coordinating the involvement of early childhood education program staff, principals, other instructional leaders, teachers, teacher literacy teams, English as a second language specialists (as appropriate), special educators, school personnel, and specialized instructional support personnel (as appropriate) in the literacy development of children served under this subsection.

(5) Engaging families and encouraging family literacy experiences and practices to support literacy development.

(d) Local uses of funds for grades 6 through 12

An eligible entity that receives a subgrant under this section shall use subgrant funds to carry out the following activities pertaining to children in grades 6 through 12:

(1) Developing and implementing a comprehensive literacy instruction plan described in subsection (c)(1) for children in grades 6 through 12.

(2) Training principals, specialized instructional support personnel, school librarians, and other local educational agency personnel to support, develop, administer, and evaluate high-quality comprehensive literacy instruction initiatives for grades 6 through 12.

(3) Assessing the quality of adolescent comprehensive literacy instruction as part of a well-rounded education.

(4) Providing time for teachers to meet to plan evidence-based adolescent comprehensive literacy instruction to be delivered as part of a well-rounded education.

(5) Coordinating the involvement of principals, other instructional leaders, teachers, teacher literacy teams, English as a second language specialists (as appropriate), paraprofessionals, special educators, specialized instructional support personnel (as appropriate), and school personnel in the literacy development of children served under this subsection.

(e) Allowable uses

An eligible entity that receives a subgrant under this section may, in addition to carrying out the activities described in subsections (c) and (d), use subgrant funds to carry out the following activities pertaining to children in kindergarten through grade 12:

(1) Recruiting, placing, training, and compensating literacy coaches.

(2) Connecting out-of-school learning opportunities to in-school learning in order to improve children's literacy achievement.

(3) Training families and caregivers to support the improvement of adolescent literacy.

(4) Providing for a multi-tier system of supports for literacy services.

(5) Forming a school literacy leadership team to help implement, assess, and identify necessary changes to the literacy initiatives in 1 or more schools to ensure success.

(6) Providing time for teachers (and other literacy staff, as appropriate, such as school librarians or specialized instructional support personnel) to meet to plan comprehensive literacy instruction.

(Pub. L. 89–10, title II, §2224, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1941.)

PRIOR PROVISIONS

A prior section 6644, Pub. L. 89–10, title II, §2204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3622, related to consortium requirement, prior to its omission in the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6645. National evaluation and information dissemination

(a) National evaluation

From funds reserved under section 6642(b)(1) of this title, the Director of the Institute of Education Sciences shall conduct a national evaluation of the grant and subgrant programs assisted under this subpart. Such evaluation shall include high-quality research that applies rigorous and

systematic procedures to obtain valid knowledge relevant to the implementation and effect of the programs and shall directly coordinate with individual State evaluations of the programs' implementation and impact.

(b) Program improvement

The Secretary shall—

(1) provide the findings of the evaluation conducted under this section to State educational agencies and subgrant recipients for use in program improvement;

(2) make such findings publicly available, including on the websites of the Department and the Institute of Education Sciences;

(3) submit such findings to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives; and

(4) make publicly available, in a manner consistent with paragraph (2), best practices for implementing evidence-based activities under this subpart, including evidence-based activities, defined for the purpose of this paragraph as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(Pub. L. 89–10, title II, §2225, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1943.)

PRIOR PROVISIONS

A prior section 6645, Pub. L. 89–10, title II, §2205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3622; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to State applications, prior to its omission in the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6646. Innovative approaches to literacy

(a) In general

From amounts reserved under section 6621(2) of this title, the Secretary may award grants, contracts, or cooperative agreements, on a competitive basis, to eligible entities for the purposes of promoting literacy programs that support the development of literacy skills in low-income communities, including—

(1) developing and enhancing effective school library programs, which may include providing professional development for school librarians, books, and up-to-date materials to high-need schools;

(2) early literacy services, including pediatric literacy programs through which, during well-child visits, medical providers trained in research-based methods of early language and literacy promotion provide developmentally appropriate books and recommendations to parents to encourage them to read aloud to their children starting in infancy; and

(3) programs that provide high-quality books on a regular basis to children and adolescents from low-income communities to increase reading motivation, performance, and frequency.

(b) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) a local educational agency in which 20 percent or more of the students served by the local educational agency are from families with an income below the poverty line;

(B) a consortium of such local educational agencies;

(C) the Bureau of Indian Education; or

(D) an eligible national nonprofit organization.

(2) Eligible national nonprofit organization

The term "eligible national nonprofit organization" means an organization of national scope that—

(A) is supported by staff, which may include volunteers, or affiliates at the State and local levels; and

(B) demonstrates effectiveness or high-quality plans for addressing childhood literacy activities for the population targeted by the grant.

(Pub. L. 89–10, title II, §2226, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1944.)

PRIOR PROVISIONS

Prior sections 6646 to 6650 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6646, Pub. L. 89–10, title II, §2206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3625; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §101(b)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406, related to priority for professional development in mathematics and science.

Section 6647, Pub. L. 89–10, title II, §2207, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3625, related to State-level activities.

Section 6648, Pub. L. 89–10, title II, §2208, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3626; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to local plan and application for improving teaching and learning.

Section 6649, Pub. L. 89–10, title II, §2209, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3628; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to local cost-sharing.

Section 6650, Pub. L. 89–10, title II, §2210, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3629, related to local allocation of funds and allowable activities.

Prior section 6651, Pub. L. 89–10, title II, §2151, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1635, related to national activities of demonstrated effectiveness, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 6651, Pub. L. 89–10, title II, §2211, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3632, related to higher education activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 3—AMERICAN HISTORY AND CIVICS EDUCATION

§6661. Program authorized

(a) In general

From the amount reserved by the Secretary under section 6621(3) of this title, the Secretary is authorized to carry out an American history and civics education program to improve—

(1) the quality of American history, civics, and government education by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights; and

(2) the quality of the teaching of American history, civics, and government in elementary schools and secondary schools, including the teaching of traditional American history.

(b) Funding allotment

Of the amount available under subsection (a) for a fiscal year, the Secretary—

(1) shall reserve not less than 26 percent for activities under section 6662 of this title; and

(2) may reserve not more than 74 percent for activities under section 6663 of this title.

(Pub. L. 89–10, title II, §2231, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1945.)

PRIOR PROVISIONS

A prior section 6661, Pub. L. 89–10, title II, §2201, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1642, set forth purpose of part B of former subchapter II of this chapter and defined terms, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 6661, Pub. L. 89–10, title II, §2251, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391, set forth purposes of former part relating to reading and literacy grants, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6661a to 6661i were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6661a, Pub. L. 89–10, title II, §2252, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–392; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1606(b)(2)(A)], Dec. 21, 2000, 114 Stat. 2763, 2763A–335, defined terms for purposes of former part.

Section 6661b, Pub. L. 89–10, title II, §2253, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–393, related to reading and literacy grants to State educational agencies.

Section 6661c, Pub. L. 89–10, title II, §2254, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–397, related to use of amounts by State educational agencies.

Section 6661d, Pub. L. 89–10, title II, §2255, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–397, related to local reading improvement subgrants.

Section 6661e, Pub. L. 89–10, title II, §2256, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–401, related to tutorial assistance subgrants.

Section 6661f, Pub. L. 89–10, title II, §2257, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–405, related to national evaluation of programs under former part.

Section 6661g, Pub. L. 89–10, title II, §2258, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–405, related to information dissemination.

Section 6661h, Pub. L. 89–10, title II, §2259, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–405, related to State evaluations and performance reports.

Section 6661i, Pub. L. 89–10, title II, §2260, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1606(b)(2)(B)], Dec. 21, 2000, 114 Stat. 2763, 2763A–335, related to authorization of appropriations, reservations from appropriations, and sunset.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6662. Presidential and Congressional Academies for American History and Civics

(a) In general

From the amounts reserved under section 6661(b)(1) of this title for a fiscal year, the Secretary shall award not more than 12 grants, on a competitive basis, to—

(1) eligible entities to establish Presidential Academies for the Teaching of American History

and Civics (in this section referred to as the "Presidential Academies") in accordance with subsection (e); and

(2) eligible entities to establish Congressional Academies for Students of American History and Civics (in this section referred to as the "Congressional Academies") in accordance with subsection (f).

(b) Application

An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(c) Eligible entity

The term "eligible entity" under this section means—

(1) an institution of higher education or nonprofit educational organization, museum, library, or research center with demonstrated expertise in historical methodology or the teaching of American history and civics; or

(2) a consortium of entities described in paragraph (1).

(d) Grant terms

Grants awarded to eligible entities under subsection (a) shall be for a term of not more than 5 years.

(e) Presidential Academies

(1) Use of funds

Each eligible entity that receives a grant under subsection (a)(1) shall use the grant funds to establish a Presidential Academy that offers a seminar or institute for teachers of American history and civics, which—

(A) provides intensive professional development opportunities for teachers of American history and civics to strengthen such teachers' knowledge of the subjects of American history and civics;

(B) is led by a team of primary scholars and core teachers who are accomplished in the field of American history and civics;

(C) is conducted during the summer or other appropriate time; and

(D) is of not less than 2 weeks and not more than 6 weeks in duration.

(2) Selection of teachers

Each year, each Presidential Academy shall select between 50 and 300 teachers of American history and civics from public or private elementary schools and secondary schools to attend the seminar or institute under paragraph (1).

(3) Teacher stipends

Each teacher selected to participate in a seminar or institute under this subsection shall be awarded a fixed stipend based on the length of the seminar or institute to ensure that such teacher does not incur personal costs associated with the teacher's participation in the seminar or institute.

(4) Priority

In awarding grants under subsection (a)(1), the Secretary shall give priority to eligible entities that coordinate or align their activities with the National Park Service National Centennial Parks initiative to develop innovative and comprehensive programs using the resources of the National Parks.

(f) Congressional Academies

(1) Use of funds

Each eligible entity that receives a grant under subsection (a)(2) shall use the grant funds to establish a Congressional Academy that offers a seminar or institute for outstanding students of American history and civics, which—

(A) broadens and deepens such students' understanding of American history and civics;

(B) is led by a team of primary scholars and core teachers who are accomplished in the field of American history and civics;

(C) is conducted during the summer or other appropriate time; and

(D) is of not less than 2 weeks and not more than 6 weeks in duration.

(2) Selection of students

(A) In general

Each year, each Congressional Academy shall select between 100 and 300 eligible students to attend the seminar or institute under paragraph (1).

(B) Eligible students

A student shall be eligible to attend a seminar or institute offered by a Congressional Academy under this subsection if the student—

(i) is recommended by the student's secondary school principal or other school leader to attend the seminar or institute; and

(ii) will be a secondary school junior or senior in the academic year following attendance at the seminar or institute.

(3) Student stipends

Each student selected to participate in a seminar or institute under this subsection shall be awarded a fixed stipend based on the length of the seminar or institute to ensure that such student does not incur personal costs associated with the student's participation in the seminar or institute.

(g) Matching funds

(1) In general

An eligible entity that receives funds under subsection (a) shall provide, toward the cost of the activities assisted under the grant, from non-Federal sources, an amount equal to 100 percent of the amount of the grant.

(2) Waiver

The Secretary may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible entity if the Secretary determines that applying the matching requirement would result in serious hardship or an inability to carry out the activities described in subsection (e) or (f).

(Pub. L. 89–10, title II, §2232, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1945.)

PRIOR PROVISIONS

A prior section 6662, Pub. L. 89–10, title II, §2202, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1644, related to grants for mathematics and science partnerships, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 2202 of Pub. L. 89–10 was classified to section 6642 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2202 of Pub. L. 89–10 was classified to section 3012 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

AMERICAN HISTORY AND CIVICS EDUCATION

Pub. L. 108–474, Dec. 21, 2004, 118 Stat. 3898, as amended by Pub. L. 114–95, title IX, §9215(j), Dec. 10, 2015, 129 Stat. 2168, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'American History and Civics Education Act of 2004'.

"SEC. 2. PRESIDENTIAL ACADEMIES FOR TEACHING OF AMERICAN HISTORY AND CIVICS; CONGRESSIONAL ACADEMIES FOR STUDENTS OF AMERICAN HISTORY AND CIVICS.

"(a) ESTABLISHMENT.—The Secretary of Education (referred to in this Act as the 'Secretary') may award not more than 12 grants, on a competitive basis—

"(1) to entities to establish Presidential Academies for Teaching of American History and Civics that may offer workshops for both veteran and new teachers of American history and civics; and

"(2) to entities to establish Congressional Academies for Students of American History and Civics.

"(b) APPLICATION.—An entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(c) DEMONSTRATED EXPERTISE.—The Secretary shall require that each entity, to be eligible to receive a grant under this section, demonstrate expertise in historical methodology or the teaching of history.

"(d) AVAILABLE FUNDS.—To carry out this section, the Secretary may use any funds appropriated for fiscal year 2005 or any subsequent fiscal year to carry out section 2232 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6662].

"SEC. 3. NATIONAL HISTORY DAY PROGRAM.

"The Secretary may award grants to the National History Day Program for the purpose of continuing and expanding its activities to promote the study of history and improve instruction."

[Pub. L. 114–95, title IX, §9215(j), Dec. 10, 2015, 129 Stat. 2168, which directed amendment of section 2(d) of Pub. L. 108–474, set out above, by substituting "to carry out section 2232 of the Elementary and Secondary Education Act of 1965" for "to carry out part D of title V of the Elementary and Secondary Education Act of 1965", was executed by making the substitution for "to carry out part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.)" to reflect the probable intent of Congress.]

§6663. National activities

(a) Purpose

The purpose of this section is to promote new and existing evidence-based strategies to encourage innovative American history, civics and government, and geography instruction, learning strategies, and professional development activities and programs for teachers, principals, or other school leaders, particularly such instruction, strategies, activities, and programs that benefit low-income students and underserved populations.

(b) In general

From the amounts reserved by the Secretary under section 6661(b)(2) of this title, the Secretary shall award grants, on a competitive basis, to eligible entities for the purposes of expanding, developing, implementing, evaluating, and disseminating for voluntary use, innovative, evidence-based approaches or professional development programs in American history, civics and government, and geography, which—

(1) shall—

(A) show potential to improve the quality of student achievement in, and teaching of, American history, civics and government, or geography, in elementary schools and secondary schools; and

(B) demonstrate innovation, scalability, accountability, and a focus on underserved populations; and

(2) may include—

(A) hands-on civic engagement activities for teachers and students; and

(B) programs that educate students about the history and principles of the Constitution of the United States, including the Bill of Rights.

(c) Program periods and diversity of projects

(1) In general

A grant awarded by the Secretary to an eligible entity under this section shall be for a period of not more than 3 years.

(2) Renewal

The Secretary may renew a grant awarded under this section for 1 additional 2-year period.

(3) Diversity of projects

In awarding grants under this section, the Secretary shall ensure that, to the extent practicable, grants are distributed among eligible entities that will serve geographically diverse areas, including urban, suburban, and rural areas.

(d) Applications

In order to receive a grant under this section, an eligible entity shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(e) Eligible entity

In this section, the term "eligible entity" means an institution of higher education or other nonprofit or for-profit organization with demonstrated expertise in the development of evidence-based approaches with the potential to improve the quality of American history, civics and government, or geography learning and teaching.

(Pub. L. 89–10, title II, §2233, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1947.)

PRIOR PROVISIONS

A prior section 6663, Pub. L. 89–10, title II, §2203, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1647, authorized appropriations to carry out part B of former subchapter II of this chapter, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 2203 of Pub. L. 89–10 was classified to section 6643 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2203 of Pub. L. 89–10 was classified to section 3013 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 4—PROGRAMS OF NATIONAL SIGNIFICANCE

§6671. Funding allotment

From the funds reserved under section 6621(4) of this title, the Secretary—

(1) shall use not less than 74 percent to carry out activities under section 6672 of this title;

(2) shall use not less than 22 percent to carry out activities under section 6673 of this title;

(3) shall use not less than 2 percent to carry out activities under section 6674 of this title; and

(4) may reserve not more than 2 percent to carry out activities under section 6675 of this title.

(Pub. L. 89–10, title II, §2241, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1948.)

PRIOR PROVISIONS

A prior section 6671, Pub. L. 89–10, title II, §2301, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1648; amended Pub. L. 107–296, title XVII, §1704(e)(8), Nov. 25, 2002, 116 Stat. 2315; Pub. L.

109–163, div. A, title V, §515(g)(1), Jan. 6, 2006, 119 Stat. 3236, defined terms for division A of subpart 1 of part C of former subchapter II of this chapter, prior to repeal by Pub. L. 112–239, div. A, title V, §541(d)(1), Jan. 2, 2013, 126 Stat. 1735.

Another prior section 6671, Pub. L. 89–10, title II, §2301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3633, set forth findings and purpose of former part relating to professional development demonstration project, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6672. Supporting effective educator development

(a) In general

From the funds reserved by the Secretary under section 6671(1) of this title for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities for the purposes of—

(1) providing teachers, principals, or other school leaders from nontraditional preparation and certification routes or pathways to serve in traditionally underserved local educational agencies;

(2) providing evidence-based professional development activities that address literacy, numeracy, remedial, or other needs of local educational agencies and the students the agencies serve;

(3) providing teachers, principals, or other school leaders with professional development activities that enhance or enable the provision of postsecondary coursework through dual or concurrent enrollment programs and early college high school settings across a local educational agency;

(4) making freely available services and learning opportunities to local educational agencies, through partnerships and cooperative agreements or by making the services or opportunities publicly accessible through electronic means; or

(5) providing teachers, principals, or other school leaders with evidence-based professional enhancement activities, which may include activities that lead to an advanced credential.

(b) Program periods and diversity of projects

(1) In general

A grant awarded by the Secretary to an eligible entity under this section shall be for a period of not more than 3 years.

(2) Renewal

The Secretary may renew a grant awarded under this section for 1 additional 2-year period.

(3) Diversity of projects

In awarding grants under this section, the Secretary shall ensure that, to the extent practicable, grants are distributed among eligible entities that will serve geographically diverse areas, including urban, suburban, and rural areas.

(4) Limitation

The Secretary shall not award more than 1 grant under this section to an eligible entity during a grant competition.

(c) Cost-sharing

(1) In general

An eligible entity that receives a grant under this section shall provide, from non-Federal sources, not less than 25 percent of the funds for the total cost for each year of activities carried out under this section.

(2) Acceptable contributions

An eligible entity that receives a grant under this section may meet the requirement of paragraph (1) by providing contributions in cash or in kind, fairly evaluated, including plant, equipment, and services.

(3) Waivers

The Secretary may waive or modify the requirement of paragraph (1) in cases of demonstrated financial hardship.

(d) Applications

In order to receive a grant under this section, an eligible entity shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Such application shall include, at a minimum, a certification that the services provided by an eligible entity under the grant to a local educational agency or to a school served by the local educational agency will not result in direct fees for participating students or parents.

(e) Priority

In awarding grants under this section, the Secretary shall give priority to an eligible entity that will implement evidence-based activities, defined for the purpose of this subsection as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(f) Definition of eligible entity

In this section, the term "eligible entity" means—

(1) an institution of higher education that provides course materials or resources that are evidence-based in increasing academic achievement, graduation rates, or rates of postsecondary education matriculation;

(2) a national nonprofit entity with a demonstrated record of raising student academic achievement, graduation rates, and rates of higher education attendance, matriculation, or completion, or of effectiveness in providing preparation and professional development activities and programs for teachers, principals, or other school leaders;

(3) the Bureau of Indian Education; or

(4) a partnership consisting of—

(A) 1 or more entities described in paragraph (1) or (2); and

(B) a for-profit entity.

(Pub. L. 89–10, title II, §2242, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1948.)

PRIOR PROVISIONS

A prior section 6672, Pub. L. 89–10, title II, §2302, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1648, authorized funding and administration of the Troops-to-Teachers Program, prior to repeal by Pub. L. 112–239, div. A, title V, §541(d)(1), Jan. 2, 2013, 126 Stat. 1735.

Another prior section 6672, Pub. L. 89–10, title II, §2302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3633, authorized professional development demonstration program, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6673. School leader recruitment and support

(a) In general

From the funds reserved under section 6671(2) of this title for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable such entities to improve the

recruitment, preparation, placement, support, and retention of effective principals or other school leaders in high-need schools, which may include—

(1) developing or implementing leadership training programs designed to prepare and support principals or other school leaders in high-need schools, including through new or alternative pathways or school leader residency programs;

(2) developing or implementing programs or activities for recruiting, selecting, and developing aspiring or current principals or other school leaders to serve in high-need schools;

(3) developing or implementing programs for recruiting, developing, and placing school leaders to improve schools implementing comprehensive support and improvement activities and targeted support and improvement activities under section 6311(d) of this title, including through cohort-based activities that build effective instructional and school leadership teams and develop a school culture, design, instructional program, and professional development program focused on improving student learning;

(4) providing continuous professional development for principals or other school leaders in high-need schools;

(5) developing and disseminating information on best practices and strategies for effective school leadership in high-need schools, such as training and supporting principals to identify, develop, and maintain school leadership teams using various leadership models; and

(6) other evidence-based programs or activities described in section 6611(c)(4) of this title or section 6613(b)(3) of this title focused on principals or other school leaders in high-need schools.

(b) Program periods and diversity of projects

(1) In general

A grant awarded by the Secretary to an eligible entity under this section shall be for a period of not more than 5 years.

(2) Renewal

The Secretary may renew a grant awarded under this section for 1 additional 2-year period.

(3) Diversity of projects

In awarding grants under this section, the Secretary shall ensure that, to the extent practicable, grants are distributed among eligible entities that will serve geographically diverse areas, including urban, suburban, and rural areas.

(4) Limitation

The Secretary shall not award more than 1 grant under this section to an eligible entity during a grant competition.

(c) Cost-sharing

(1) In general

An eligible entity that receives a grant under this section shall provide, from non-Federal sources, not less than 25 percent of the funds for the total cost for each year of activities carried out under this section.

(2) Acceptable contributions

An eligible entity that receives a grant under this section may meet the requirement of paragraph (1) by providing contributions in cash or in kind, fairly evaluated, including plant, equipment, and services.

(3) Waivers

The Secretary may waive or modify the requirement of paragraph (1) in cases of demonstrated financial hardship.

(d) Applications

An eligible entity that desires a grant under this section shall submit to the Secretary an application at such time, and in such manner, as the Secretary may require.

(e) Priority

In awarding grants under this section, the Secretary shall give priority to an eligible entity—

(1) with a record of preparing or developing principals who—

(A) have improved school-level student outcomes;

(B) have become principals in high-need schools; and

(C) remain principals in high-need schools for multiple years; and

(2) who will implement evidence-based activities, defined for the purpose of this paragraph as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(f) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) a local educational agency, including an educational service agency, that serves a high-need school or a consortium of such agencies;

(B) a State educational agency or a consortium of such agencies;

(C) a State educational agency in partnership with 1 or more local educational agencies, or educational service agencies, that serve a high-need school;

(D) the Bureau of Indian Education; or

(E) an entity described in subparagraph (A), (B), (C), or (D) in partnership with 1 or more nonprofit organizations or institutions of higher education.

(2) High-need school

The term "high-need school" means—

(A) an elementary school in which not less than 50 percent of the enrolled students are from families with incomes below the poverty line; or

(B) a secondary school in which not less than 40 percent of the enrolled students are from families with incomes below the poverty line.

(Pub. L. 89–10, title II, §2243, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1949.)

PRIOR PROVISIONS

A prior section 6673, Pub. L. 89–10, title II, §2303, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1649, related to recruitment and selection of Troops-to-Teachers Program participants, prior to repeal by Pub. L. 112–239, div. A, title V, §541(d)(1), Jan. 2, 2013, 126 Stat. 1735.

Another prior section 6673, Pub. L. 89–10, title II, §2303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3634, related to grants for the implementation of professional development programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6674. Technical assistance and national evaluation

(a) In general

From the funds reserved under section 6671(3) of this title for a fiscal year, the Secretary—

(1) shall establish, in a manner consistent with section 9602 of this title, a comprehensive center on students at risk of not attaining full literacy skills due to a disability that meets the purposes of subsection (b); and

(2) may—

(A) provide technical assistance, which may be carried out directly or through grants or contracts, to States and local educational agencies carrying out activities under this part; and

(B) carry out evaluations of activities by States and local educational agencies under this part, which shall be conducted by a third party or by the Institute of Education Sciences.

(b) Purposes

The comprehensive center established by the Secretary under subsection (a)(1) shall—

(1) identify or develop free or low-cost evidence-based assessment tools for identifying students at risk of not attaining full literacy skills due to a disability, including dyslexia impacting reading or writing, or developmental delay impacting reading, writing, language processing, comprehension, or executive functioning;

(2) identify evidence-based literacy instruction, strategies, and accommodations, including assistive technology, designed to meet the specific needs of such students;

(3) provide families of such students with information to assist such students;

(4) identify or develop evidence-based professional development for teachers, paraprofessionals, principals, other school leaders, and specialized instructional support personnel to—

(A) understand early indicators of students at risk of not attaining full literacy skills due to a disability, including dyslexia impacting reading or writing, or developmental delay impacting reading, writing, language processing, comprehension, or executive functioning;

(B) use evidence-based screening assessments for early identification of such students beginning not later than kindergarten; and

(C) implement evidence-based instruction designed to meet the specific needs of such students; and

(5) disseminate the products of the comprehensive center to regionally diverse State educational agencies, local educational agencies, regional educational agencies, and schools, including, as appropriate, through partnerships with other comprehensive centers established under section 9602 of this title, and regional educational laboratories established under section 9564 of this title.

(Pub. L. 89–10, title II, §2244, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1951.)

PRIOR PROVISIONS

A prior section 6674, Pub. L. 89–10, title II, §2304, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1651, related to participation agreements with, and financial assistance for, Troops-to-Teachers Program participants, prior to repeal by Pub. L. 112–239, div. A, title V, §541(d)(1), Jan. 2, 2013, 126 Stat. 1735.

Another prior section 6674, Pub. L. 89–10, title II, §2304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3634, related to plan for program to be assisted, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6675. STEM master teacher corps

(a) In general

From the funds reserved under section 6671(4) of this title for a fiscal year, the Secretary may award grants to—

(1) State educational agencies to enable such agencies to support the development of a State-wide STEM master teacher corps; or

(2) State educational agencies, or nonprofit organizations in partnership with State educational

agencies, to support the implementation, replication, or expansion of effective science, technology, engineering, and mathematics professional development programs in schools across the State through collaboration with school administrators, principals, and STEM educators.

(b) STEM master teacher corps

In this section, the term "STEM master teacher corps" means a State-led effort to elevate the status of the science, technology, engineering, and mathematics teaching profession by recognizing, rewarding, attracting, and retaining outstanding science, technology, engineering, and mathematics teachers, particularly in high-need and rural schools, by—

(1) selecting candidates to be master teachers in the corps on the basis of—
(A) content knowledge based on a screening examination; and
(B) pedagogical knowledge of and success in teaching;

(2) offering such teachers opportunities to—
(A) work with one another in scholarly communities; and
(B) participate in and lead high-quality professional development; and

(3) providing such teachers with additional appropriate and substantial compensation for the work described in paragraph (2) and in the master teacher community.

(Pub. L. 89–10, title II, §2245, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1952.)

PRIOR PROVISIONS

Prior sections 6675 to 6677 were repealed by Pub. L. 112–239, div. A, title V, §541(d)(1), Jan. 2, 2013, 126 Stat. 1735.

Section 6675, Pub. L. 89–10, title II, §2305, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1654, related to participation by States in the Troops-to-Teachers Program.

Another prior section 6675, Pub. L. 89–10, title II, §2305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3635, related to technical assistance, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6676, Pub. L. 89–10, title II, §2306, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1654, related to support of innovative preretirement teacher certification programs.

Another prior section 6676, Pub. L. 89–10, title II, §2306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3635, related to matching funds from private sources, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6677, Pub. L. 89–10, title II, §2307, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1655; amended Pub. L. 107–296, title XVII, §1704(e)(9), Nov. 25, 2002, 116 Stat. 2315, required a report not later than Mar. 31, 2006, on the effectiveness of the Troops-to-Teachers Program.

Prior sections 6681 to 6684 were repealed by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6681, Pub. L. 89–10, title II, §2311, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1655, set forth purposes of division B of subpart 1 of part C of former subchapter II of this chapter.

Section 6682, Pub. L. 89–10, title II, §2312, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1656, defined terms in division B of subpart 1 of part C of former subchapter II of this chapter.

Section 6683, Pub. L. 89–10, title II, §2313, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1656, related to transition to teaching grant program.

Section 6684, Pub. L. 89–10, title II, §2314, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1659, related to evaluation and accountability for recruiting and retaining teachers.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART C—GENERAL PROVISIONS

§6691. Supplement, not supplant

Funds made available under this subchapter shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subchapter.

(Pub. L. 89–10, title II, §2301, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1953.)

PRIOR PROVISIONS

A prior section 6691, Pub. L. 89–10, title II, §2321, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1660, authorized appropriations for subpart 1 of part C of former subchapter II of this chapter, prior to repeal by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 2301 of Pub. L. 89–10 was classified to section 6671 of this title, prior to repeal by Pub. L. 112–239.

Another prior section 2301 of Pub. L. 89–10 was classified to section 6671 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6692. Rules of construction

(a) Prohibition against Federal mandates, direction, or control

Nothing in this subchapter shall be construed to authorize the Secretary or any other officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's—

(1) instructional content or materials, curriculum, program of instruction, academic standards, or academic assessments;

(2) teacher, principal, or other school leader evaluation system;

(3) specific definition of teacher, principal, or other school leader effectiveness; or

(4) teacher, principal, or other school leader professional standards, certification, or licensing.

(b) School or district employees

Nothing in this subchapter shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

(Pub. L. 89–10, title II, §2302, as added Pub. L. 114–95, title II, §2002, Dec. 10, 2015, 129 Stat. 1953.)

PRIOR PROVISIONS

A prior section 2302 of Pub. L. 89–10 was classified to section 6672 of this title, prior to repeal by Pub. L. 112–239.

Another prior section 2302 of Pub. L. 89–10 was classified to section 6672 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6701, 6702, 6711 to 6716, 6721, and 6722 were repealed by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6701, Pub. L. 89–10, title II, §2331, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat.

1660, set forth purposes of subpart 2 of part C of former subchapter II of this chapter.

Another prior section 6701, Pub. L. 89–10, title II, §2401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3635; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §101(b)(3)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407, related to reporting and accountability, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6702, Pub. L. 89–10, title II, §2332, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1660, related to the National Writing Project.

Another prior section 6702, Pub. L. 89–10, title II, §2402, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3635; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §101(b)(4)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407, defined terms used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6711, Pub. L. 89–10, title II, §2341, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1662, provided that subpart 3 of part C of former subchapter II of this chapter could be cited as the "Education for Democracy Act".

Section 6712, Pub. L. 89–10, title II, §2342, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1662, set forth purpose of subpart 3 of part C of former subchapter II of this chapter.

Section 6713, Pub. L. 89–10, title II, §2343, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1662, related to authority to award grants or enter into contracts.

Section 6714, Pub. L. 89–10, title II, §2344, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1663, related to We the People program.

Section 6715, Pub. L. 89–10, title II, §2345, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1664, related to cooperative civic education and economic education exchange programs.

Section 6716, Pub. L. 89–10, title II, §2346, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1666, authorized appropriations to carry out subpart 3 of part C of former subchapter II of this chapter.

Section 6721, Pub. L. 89–10, title II, §2351, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1666, related to establishment of the Teaching American History Grant Program.

Section 6722, Pub. L. 89–10, title II, §2352, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667, authorized appropriations to carry out subpart 4 of part C of former subchapter II of this chapter.

A prior section 6731, Pub. L. 89–10, title II, §2361, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667, which set out short title of the Paul D. Coverdell Teacher Protection Act of 2001, was renumbered section 8551 of title VIII of Pub. L. 89–10 by Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, and transferred to section 7941 of this title.

A prior section 6732, Pub. L. 89–10, title II, §2362, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667, which related to purpose, was renumbered section 8552 of title VIII of Pub. L. 89–10 by Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, and transferred to section 7942 of this title.

A prior section 6733, Pub. L. 89–10, title II, §2363, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667, which related to definitions, was renumbered section 8553 of title VIII of Pub. L. 89–10 by Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, and transferred to section 7943 of this title.

A prior section 6734, Pub. L. 89–10, title II, §2364, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1668, which related to applicability, was renumbered section 8554 of title VIII of Pub. L. 89–10 by Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, and transferred to section 7944 of this title.

A prior section 6735, Pub. L. 89–10, title II, §2365, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1668, which related to preemption and election of State nonapplicability, was renumbered section 8555 of title VIII of Pub. L. 89–10 by Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, and transferred to section 7945 of this title.

A prior section 6736, Pub. L. 89–10, title II, §2366, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1668, which related to limitation on liability for teachers, was renumbered section 8556 of title VIII of Pub. L. 89–10 by Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, and transferred to section 7946 of this title.

A prior section 6737, Pub. L. 89–10, title II, §2367, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1670, which related to allocation of responsibility for noneconomic loss, was renumbered section 8557 of title VIII of Pub. L. 89–10 by Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, and transferred to section 7947 of this title.

A prior section 6738, Pub. L. 89–10, title II, §2368, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1670, which set out effective date, was renumbered section 8558 of title VIII of Pub. L. 89–10 by

Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, and transferred to section 7948 of this title.

Prior sections 6751 to 6754, 6761 to 6766, 6771, 6672, and 6775 were repealed by Pub. L. 114–95, §5, title II, §2002, Dec. 10, 2015, 129 Stat. 1806, 1913, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6751, Pub. L. 89–10, title II, §2401, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1671, provided that part D of former subchapter II of this chapter could be cited as the "Enhancing Education Through Technology Act of 2001".

A prior section 2401 of Pub. L. 89–10 was classified to section 6701 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6752, Pub. L. 89–10, title II, §2402, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1671, set forth purposes and goals of part D of former subchapter II of this chapter.

A prior section 2402 of Pub. L. 89–10 was classified to section 6702 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6753, Pub. L. 89–10, title II, §2403, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1672, defined terms.

Section 6754, Pub. L. 89–10, title II, §2404, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1673, authorized appropriations.

Section 6761, Pub. L. 89–10, title II, §2411, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1673, related to allotment and reallotment of funds.

Section 6762, Pub. L. 89–10, title II, §2412, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1674, related to use of allotment by State.

Section 6763, Pub. L. 89–10, title II, §2413, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1675, related to State applications.

Section 6764, Pub. L. 89–10, title II, §2414, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1677, related to local applications.

Section 6765, Pub. L. 89–10, title II, §2415, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1679, related to State activities.

Section 6766, Pub. L. 89–10, title II, §2416, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1680, related to local activities.

Section 6771, Pub. L. 89–10, title II, §2421, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1682, related to national activities.

Section 6772, Pub. L. 89–10, title II, §2422, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1682, related to national education technology plan.

Section 6775, Pub. L. 89–10, title II, §2431, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1683, related to Ready-to-Learn Television program.

A prior section 6777, Pub. L. 89–10, title II, §2441, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1686, which related to Internet safety, was renumbered section 4121 of title IV of Pub. L. 89–10 by Pub. L. 114–95, title II, §2001(a)(4)(A), (B), (D), title IV, §4001(a)(5)(D), Dec. 10, 2015, 129 Stat. 1913, 1966, and transferred to section 7131 of this title.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBCHAPTER III—LANGUAGE INSTRUCTION FOR ENGLISH LEARNERS AND IMMIGRANT STUDENTS

CODIFICATION

Pub. L. 114–95, title III, §3001(1), Dec. 10, 2015, 129 Stat. 1953, substituted "ENGLISH LEARNERS" for "LIMITED ENGLISH PROFICIENT" in subchapter heading.

Title III of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title III is shown, herein, as having been added by Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1689, without reference to earlier amendments because of the

extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

§6801. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter—

(1) $756,332,450 for fiscal year 2017;

(2) $769,568,267 for fiscal year 2018;

(3) $784,959,633 for fiscal year 2019; and

(4) $884,959,633 for fiscal year 2020.

(Pub. L. 89–10, title III, §3001, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1689; amended Pub. L. 114–95, title III, §3002, Dec. 10, 2015, 129 Stat. 1953.)

PRIOR PROVISIONS

A prior section 6801, Pub. L. 89–10, title III, §3101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3636, set out Short Title of prior subchapter III as the Technology for Education Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3001 of Pub. L. 89–10 was classified to section 3021 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to authorizations of appropriations, conditions on effectiveness of parts A and B of this subchapter, and references to parts A and B of this subchapter.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART A—ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT

§6811. Short title

This part may be cited as the "English Language Acquisition, Language Enhancement, and Academic Achievement Act".

(Pub. L. 89–10, title III, §3101, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1690.)

PRIOR PROVISIONS

A prior section 6811, Pub. L. 89–10, title III, §3111, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3637, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3101 of Pub. L. 89–10 was classified to section 6801 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§6812. Purposes

The purposes of this part are—

(1) to help ensure that English learners, including immigrant children and youth, attain English proficiency and develop high levels of academic achievement in English;

(2) to assist all English learners, including immigrant children and youth, to achieve at high

levels in academic subjects so that all English learners can meet the same challenging State academic standards that all children are expected to meet;

(3) to assist teachers (including preschool teachers), principals and other school leaders, State educational agencies, local educational agencies, and schools in establishing, implementing, and sustaining effective language instruction educational programs designed to assist in teaching English learners, including immigrant children and youth;

(4) to assist teachers (including preschool teachers), principals and other school leaders, State educational agencies, and local educational agencies to develop and enhance their capacity to provide effective instructional programs designed to prepare English learners, including immigrant children and youth, to enter all-English instructional settings; and

(5) to promote parental, family, and community participation in language instruction educational programs for the parents, families, and communities of English learners.

(Pub. L. 89–10, title III, §3102, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1690; amended Pub. L. 114–95, title III, §3003(a), Dec. 10, 2015, 129 Stat. 1954.)

PRIOR PROVISIONS

A prior section 6812, Pub. L. 89–10, title III, §3112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3638, set forth purpose of former part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6813 to 6815 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6813, Pub. L. 89–10, title III, §3113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3639; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(a)(1), (3)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312; Pub. L. 105–220, title II, §251(b)(2)(D), Aug. 7, 1998, 112 Stat. 1080, defined terms for purposes of prior subchapter III.

Section 6814, Pub. L. 89–10, title III, §3114, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3640, authorized appropriations and set forth funding rule.

Section 6815, Pub. L. 89–10, title III, §3115, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3641, limited use of funds for administrative costs and technical assistance.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to purposes of this part.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 1—GRANTS AND SUBGRANTS FOR ENGLISH LANGUAGE ACQUISITION AND LANGUAGE ENHANCEMENT

§6821. Formula grants to States

(a) In general

In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 6823 of this title, the Secretary shall make a grant for the year to the agency for the purposes specified in subsection (b) of this section. The grant shall consist of the allotment determined for the State educational agency under subsection (c) of this section.

(b) Use of funds

(1) Subgrants to eligible entities

The Secretary may make a grant under subsection (a) of this section only if the State

educational agency involved agrees to expend at least 95 percent of the State educational agency's allotment under subsection (c) of this section for a fiscal year—

(A) to award subgrants, from allocations under section 6824 of this title, to eligible entities to carry out the activities described in section 6825 of this title (other than subsection (e)); and

(B) to award subgrants under section 6824(d)(1) of this title to eligible entities that are described in that section to carry out the activities described in section 6825(e) of this title.

(2) State activities

Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) of this section may reserve not more than 5 percent of the agency's allotment under subsection (c) of this section to carry out one or more of the following activities:

(A) Establishing and implementing, with timely and meaningful consultation with local educational agencies representing the geographic diversity of the State, standardized statewide entrance and exit procedures, including a requirement that all students who may be English learners are assessed for such status within 30 days of enrollment in a school in the State.

(B) Providing effective teacher and principal preparation, effective professional development activities, and other effective activities related to the education of English learners, which may include assisting teachers, principals, and other educators in—

(i) meeting State and local certification and licensing requirements for teaching English learners; and

(ii) improving teaching skills in meeting the diverse needs of English learners, including how to implement effective programs and curricula on teaching English learners.

(C) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

(D) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this subpart, including assistance in—

(i) identifying and implementing effective language instruction educational programs and curricula for teaching English learners;

(ii) helping English learners meet the same challenging State academic standards that all children are expected to meet;

(iii) identifying or developing, and implementing, measures of English proficiency; and

(iv) strengthening and increasing parent, family, and community engagement in programs that serve English learners.

(E) Providing recognition, which may include providing financial awards, to recipients of subgrants under section 6825 of this title that have significantly improved the achievement and progress of English learners in meeting—

(i) the State-designed long-term goals established under section 6311(c)(4)(A)(ii) of this title, including measurements of interim progress towards meeting such goals, based on the State's English language proficiency assessment under section 6311(b)(2)(G) of this title; and

(ii) the challenging State academic standards.

(3) Direct administrative expenses

From the amount reserved under paragraph (2), a State educational agency may use not more than 50 percent of such amount or $175,000, whichever is greater, for the planning and direct administrative costs of carrying out paragraphs (1) and (2).

(c) Reservations and allotments

(1) Reservations

From the amount appropriated under section 6801 of this title for each fiscal year, the Secretary shall reserve—

(A) 0.5 percent or $5,000,000 of such amount, whichever is greater, for payments to eligible

entities that are defined under section 6822(a) of this title for activities, approved by the Secretary, consistent with this subpart;

(B) 0.5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this subpart, as determined by the Secretary, for activities, approved by the Secretary, consistent with this subpart; and

(C) 6.5 percent of such amount for national activities under sections 6861 and 7013 of this title, except that not more than $2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 7013 of this title.

(2) State allotments

(A) In general

Except as provided in subparagraph (B), from the amount appropriated under section 6801 of this title for each fiscal year that remains after making the reservations under paragraph (1), the Secretary shall allot to each State educational agency having a plan approved under section 6823(c) of this title—

(i) an amount that bears the same relationship to 80 percent of the remainder as the number of English learners in the State bears to the number of English learners in all States, as determined in accordance with paragraph (3)(A); and

(ii) an amount that bears the same relationship to 20 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States, as determined in accordance with paragraph (3)(B).

(B) Minimum allotments

No State educational agency shall receive an allotment under this paragraph that is less than $500,000.

(C) Reallotment

If any State educational agency described in subparagraph (A) does not submit a plan to the Secretary for a fiscal year, or submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of this subpart, the Secretary—

(i) shall endeavor to make the State's allotment available on a competitive basis to specially qualified agencies within the State to satisfy the requirements of section 6825 of this title (and any additional requirements that the Secretary may impose), consistent with the purposes of such section, and to carry out required and authorized activities under such section; and

(ii) shall reallot any portion of such allotment remaining after the application of clause (i) to the remaining State educational agencies in accordance with subparagraph (A).

(D) Special rule for Puerto Rico

The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

(3) Use of data for determinations

In making State allotments under paragraph (2) for each fiscal year, the Secretary shall—

(A) determine the number of English learners in a State and in all States, using the most accurate, up-to-date data, which shall be—

(i) data available from the American Community Survey conducted by the Department of Commerce, which may be multiyear estimates;

(ii) the number of students being assessed for English language proficiency, based on the State's English language proficiency assessment under section 6311(b)(2)(G) of this title, which may be multiyear estimates; or

(iii) a combination of data available under clauses (i) and (ii); and

(B) determine the number of immigrant children and youth in the State and in all States based only on data available from the American Community Survey conducted by the Department of Commerce, which may be multiyear estimates.

(Pub. L. 89–10, title III, §3111, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1691; amended Pub. L. 114–95, title III, §3003(b), Dec. 10, 2015, 129 Stat. 1954.)

PRIOR PROVISIONS

A prior section 3111 of Pub. L. 89–10 was classified to section 6811 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114–95, §3003(b)(1)(A), added subpars. (A) to (E) and struck out former subpars. (A) to (D) which read as follows:

"(A) Professional development activities, and other activities, that assist personnel in meeting State and local certification and licensing requirements for teaching limited English proficient children.

"(B) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

"(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this subpart, including assistance in—

"(i) identifying and implementing language instruction educational programs and curricula that are based on scientifically based research on teaching limited English proficient children;

"(ii) helping limited English proficient children meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

"(iii) identifying or developing, and implementing, measures of English proficiency; and

"(iv) promoting parental and community participation in programs that serve limited English proficient children.

"(D) Providing recognition, which may include providing financial awards, to subgrantees that have exceeded their annual measurable achievement objectives pursuant to section 6842 of this title."

Subsec. (b)(3). Pub. L. 114–95, §3003(b)(1)(B), substituted "Direct administrative" for "Administrative" in heading and substituted "50 percent" for "60 percent" and inserted "direct" before "administrative costs" in text.

Subsec. (c)(1). Pub. L. 114–95, §3003(b)(2)(A)(i), substituted "section 6801" for "section 6801(a)" in introductory provisions.

Subsec. (c)(1)(B). Pub. L. 114–95, §3003(b)(2)(A)(ii), inserted "and" after semicolon at end.

Subsec. (c)(1)(C). Pub. L. 114–95, §3003(b)(2)(A)(iii), added subpar. (C) and struck out former subpar. (C) which read as follows: "6.5 percent of such amount for national activities under sections 6861 and 7013 of this title, except that not more than 0.5 percent of such amount shall be reserved for evaluation activities conducted by the Secretary and not more than $2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 7013 of this title; and".

Subsec. (c)(1)(D). Pub. L. 114–95, §3003(b)(2)(A)(iv), struck out subpar. (D) which read as follows: "such sums as may be necessary to make continuation awards under paragraph (2)."

Subsec. (c)(2). Pub. L. 114–95, §3003(b)(2)(B), (C), redesignated par. (3) as (2) and struck out former par. (2) which related to continuation awards.

Subsec. (c)(2)(A). Pub. L. 114–95, §3003(b)(2)(D)(i), substituted "section 6801" for "section 6801(a)" in introductory provisions.

Subsec. (c)(2)(A)(i). Pub. L. 114–95, §3003(b)(2)(D)(ii), substituted "English learners in the State bears to the number of English learners in all States, as determined in accordance with paragraph (3)(A); and" for "limited English proficientt children in the State bears to the number of such children in all States; and".

Subsec. (c)(2)(A)(ii). Pub. L. 114–95, §3003(b)(2)(D)(iii), inserted ", as determined in accordance with paragraph (3)(B)" before period at end.

Subsec. (c)(3). Pub. L. 114–95, §3003(b)(2)(E), added par. (3). Former par. (3) redesignated (2).

Subsec. (c)(4). Pub. L. 114–95, §3003(b)(2)(B), struck out par. (4) which related to use of data for determinations.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of

this title.

§6822. Native American and Alaska Native children in school

(a) Eligible entities

For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American children (including Alaska Native children), the following shall be considered to be an eligible entity:

(1) An Indian tribe.

(2) A tribally sanctioned educational authority.

(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

(4) An elementary school or secondary school that is operated or funded by the Bureau of Indian Education, or a consortium of such schools.

(5) An elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Education, in consortium with another such school or a tribal or community organization.

(6) An elementary school or secondary school operated by the Bureau of Indian Education and an institution of higher education, in consortium with an elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Education or a tribal or community organization.

(b) Submission of applications for assistance

Notwithstanding any other provision of this part, an entity that is considered to be an eligible entity under subsection (a) of this section, and that desires to receive Federal financial assistance under this subpart, shall submit an application to the Secretary.

(c) Special rule

An eligible entity described in subsection (a) of this section that receives Federal financial assistance pursuant to this section shall not be eligible to receive a subgrant under section 6824 of this title.

(Pub. L. 89–10, title III, §3112, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1694; amended Pub. L. 114–95, title III, §3003(c), Dec. 10, 2015, 129 Stat. 1956.)

PRIOR PROVISIONS

A prior section 3112 of Pub. L. 89–10 was classified to section 6812 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(4) to (6). Pub. L. 114–95 substituted "Bureau of Indian Education" for "Bureau of Indian Affairs" wherever appearing.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6823. State and specially qualified agency plans

(a) Plan required

Each State educational agency and specially qualified agency desiring a grant under this subpart shall submit a plan to the Secretary at such time and in such manner as the Secretary may require.

(b) Contents

Each plan submitted under subsection (a) of this section shall—

(1) describe the process that the agency will use in awarding subgrants to eligible entities under section 6824(d)(1) of this title;

(2) describe how the agency will establish and implement, with timely and meaningful consultation with local educational agencies representing the geographic diversity of the State, standardized, statewide entrance and exit procedures, including an assurance that all students who may be English learners are assessed for such status within 30 days of enrollment in a school in the State;

(3) provide an assurance that—

(A) the agency will ensure that eligible entities receiving a subgrant under this subpart comply with the requirement in section 6311(b)(2)(B)(ix) of this title regarding assessment of English learners in English;

(B) the agency will ensure that eligible entities receiving a subgrant under this subpart annually assess the English proficiency of all English learners participating in a program funded under this subpart, consistent with section 6311(b)(2)(G) of this title;

(C) in awarding subgrants under section 6824 of this title, the agency will address the needs of school systems of all sizes and in all geographic areas, including school systems with rural and urban schools;

(D) subgrants to eligible entities under section 6824(d)(1) of this title will be of sufficient size and scope to allow such entities to carry out effective language instruction educational programs for English learners;

(E) the agency will require an eligible entity receiving a subgrant under this subpart to use the subgrant in ways that will build such recipient's capacity to continue to offer effective language instruction educational programs that assist English learners in meeting challenging State academic standards;

(F) the agency will monitor each eligible entity receiving a subgrant under this subpart for compliance with applicable Federal fiscal requirements; and

(G) the plan has been developed in consultation with local educational agencies, teachers, administrators of programs implemented under this subpart, parents of English learners, and other relevant stakeholders;

(4) describe how the agency will coordinate its programs and activities under this subpart with other programs and activities under this chapter and other Acts, as appropriate;

(5) describe how each eligible entity will be given the flexibility to teach English learners—

(A) using a high-quality, effective language instruction curriculum for teaching English learners; and

(B) in the manner the eligible entity determines to be the most effective;

(6) describe how the agency will assist eligible entities in meeting—

(A) the State-designed long-term goals established under section 6311(c)(4)(A)(ii) of this title, including measurements of interim progress towards meeting such goals, based on the State's English language proficiency assessment under section 6311(b)(2)(G) of this title; and

(B) the challenging State academic standards;

(7) describe how the agency will meet the unique needs of children and youth in the State being served through the reservation of funds under section 6824(d) of this title; and

(8) describe—

(A) how the agency will monitor the progress of each eligible entity receiving a subgrant under this subpart in helping English learners achieve English proficiency; and

(B) the steps the agency will take to further assist eligible entities if the strategies funded under this subpart are not effective, such as providing technical assistance and modifying such strategies.

(c) Approval

The Secretary, after using a peer review process, shall approve a plan submitted under subsection (a) of this section if the plan meets the requirements of this section.

(d) Duration of plan

(1) In general

Each plan submitted by a State educational agency or specially qualified agency and approved under subsection (c) of this section shall—

(A) remain in effect for the duration of the agency's participation under this subpart; and

(B) be periodically reviewed and revised by the agency, as necessary, to reflect changes to the agency's strategies and programs carried out under this subpart.

(2) Additional information

(A) Amendments

If the State educational agency or specially qualified agency amends the plan, the agency shall submit such amendment to the Secretary.

(B) Approval

The Secretary shall approve such amendment to an approved plan, unless the Secretary determines that the amendment will result in the agency not meeting the requirements, or fulfilling the purposes, of this subpart.

(e) Consolidated plan

A plan submitted under subsection (a) of this section may be submitted as part of a consolidated plan under section 7842 of this title.

(f) Secretary assistance

The Secretary shall provide technical assistance, if requested by the State, in the development of English proficiency standards and assessments.

(Pub. L. 89–10, title III, §3113, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1694; amended Pub. L. 114–95, title III, §3003(d), Dec. 10, 2015, 129 Stat. 1956.)

PRIOR PROVISIONS

A prior section 3113 of Pub. L. 89–10 was classified to section 6813 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §3003(d)(1), substituted "and in such manner" for ", in such manner, and containing such information".

Subsec. (b)(1). Pub. L. 114–95, §3003(d)(2)(A), substituted "awarding" for "making".

Subsec. (b)(2) to (8). Pub. L. 114–95, §3003(d)(2)(B), added pars. (2) to (8) and struck out former pars. (2) to (6) which related to establishing standards and objectives for raising the level of English proficiency, assurances by the agency, coordination of programs and activities under this subpart with other programs and activities, accountability, and flexibility in teaching limited English proficient children, respectively.

Subsec. (d). Pub. L. 114–95, §3003(d)(3), substituted "this subpart" for "this part" wherever appearing.

Subsec. (e). Pub. L. 114–95, §3003(d)(4), made technical amendment to reference in original act which appears in text as reference to section 7842 of this title.

Subsec. (f). Pub. L. 114–95, §3003(d)(5), inserted "by the State" after "if requested" and struck out ", objectives," after "proficiency standards".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6824. Within-State allocations

(a) In general

After making the reservation required under subsection (d)(1), each State educational agency receiving a grant under section 6821(c)(2) of this title shall award subgrants for a fiscal year by allocating in a timely manner to each eligible entity in the State having a plan approved under section 6826 of this title an amount that bears the same relationship to the amount received under the grant and remaining after making such reservation as the population of English learners in schools served by the eligible entity bears to the population of English learners in schools served by all eligible entities in the State.

(b) Limitation

A State educational agency shall not award a subgrant from an allocation made under subsection (a) of this section if the amount of such subgrant would be less than $10,000.

(c) Reallocation

Whenever a State educational agency determines that an amount from an allocation made to an eligible entity under subsection (a) of this section for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate, reallocate such amount, consistent with such subsection, to other eligible entities in the State that the agency determines will use the amount to carry out that purpose.

(d) Required reservation

A State educational agency receiving a grant under this subpart for a fiscal year—

(1) shall reserve not more than 15 percent of the agency's allotment under section 6821(c)(2) of this title to award subgrants to eligible entities in the State that have experienced a significant increase, as compared to the average of the 2 preceding fiscal years, in the percentage or number of immigrant children and youth, who have enrolled, during the fiscal year for which the subgrant is made, in public and nonpublic elementary schools and secondary schools in the geographic areas under the jurisdiction of, or served by, such entities; and

(2) in awarding subgrants under paragraph (1)—

(A) shall equally consider eligible entities that satisfy the requirement of such paragraph but have limited or no experience in serving immigrant children and youth; and

(B) shall consider the quality of each local plan under section 6826 of this title and ensure that each subgrant is of sufficient size and scope to meet the purposes of this part.

(Pub. L. 89–10, title III, §3114, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1696; amended Pub. L. 114–95, title III, §3003(e), Dec. 10, 2015, 129 Stat. 1958.)

PRIOR PROVISIONS

A prior section 3114 of Pub. L. 89–10 was classified to section 6814 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §3003(e)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "After making the reservation required under subsection (d)(1) of this section, each State educational agency receiving a grant under section 6821(c)(3) of this title shall award subgrants for a fiscal year by allocating to each eligible entity in the State having a plan approved under section 6826 of this title an amount that bears the same relationship to the amount received under the grant and remaining after making such reservation as the population of limited English proficient children in schools served by the eligible entity bears to the population of limited English proficient children in schools served by all eligible entities in the State."

Subsec. (d)(1). Pub. L. 114–95, §3003(e)(2), substituted "section 6821(c)(2)" for "section 6821(c)(3)" and struck out "preceding the fiscal year" before "for which the subgrant is made".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of

this title.

§6825. Subgrants to eligible entities

(a) Purposes of subgrants

A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this subpart only if the entity agrees to expend the funds to improve the education of English learners by assisting the children to learn English and meet the challenging State academic standards. In carrying out activities with such funds, the eligible entity shall use effective approaches and methodologies for teaching English learners and immigrant children and youth for the following purposes:

(1) Developing and implementing new language instruction educational programs and academic content instructional programs for English learners and immigrant children and youth, including early childhood education programs, elementary school programs, and secondary school programs.

(2) Carrying out highly focused, innovative, locally designed activities to expand or enhance existing language instruction educational programs and academic content instructional programs for English learners and immigrant children and youth.

(3) Implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for English learners and immigrant children and youth.

(4) Implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for English learners and immigrant children and youth.

(b) Direct administrative expenses

Each eligible entity receiving funds under section 6824(a) of this title for a fiscal year may use not more than 2 percent of such funds for the cost of administering this subpart.

(c) Required subgrantee activities

An eligible entity receiving funds under section 6824(a) of this title shall use the funds—

(1) to increase the English language proficiency of English learners by providing effective language instruction educational programs that meet the needs of English learners and demonstrate success in increasing—

(A) English language proficiency; and

(B) student academic achievement;

(2) to provide effective professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals and other school leaders, administrators, and other school or community-based organizational personnel, that is—

(A) designed to improve the instruction and assessment of English learners;

(B) designed to enhance the ability of such teachers, principals, and other school leaders to understand and implement curricula, assessment practices and measures, and instructional strategies for English learners;

(C) effective in increasing children's English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and

(D) of sufficient intensity and duration (which shall not include activities such as 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a

teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher, as appropriate; and

(3) to provide and implement other effective activities and strategies that enhance or supplement language instruction educational programs for English learners, which—

(A) shall include parent, family, and community engagement activities; and

(B) may include strategies that serve to coordinate and align related programs.

(d) Authorized subgrantee activities

Subject to subsection (c), an eligible entity receiving funds under section 6824(a) of this title may use the funds to achieve any of the purposes described in subsection (a) by undertaking 1 or more of the following activities:

(1) Upgrading program objectives and effective instructional strategies.

(2) Improving the instructional program for English learners by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures.

(3) Providing to English learners—

(A) tutorials and academic or career and technical education; and

(B) intensified instruction, which may include materials in a language that the student can understand, interpreters, and translators.

(4) Developing and implementing effective preschool, elementary school, or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

(5) Improving the English language proficiency and academic achievement of English learners.

(6) Providing community participation programs, family literacy services, and parent and family outreach and training activities to English learners and their families—

(A) to improve the English language skills of English learners; and

(B) to assist parents and families in helping their children to improve their academic achievement and becoming active participants in the education of their children.

(7) Improving the instruction of English learners, which may include English learners with a disability, by providing for—

(A) the acquisition or development of educational technology or instructional materials;

(B) access to, and participation in, electronic networks for materials, training, and communication; and

(C) incorporation of the resources described in subparagraphs (A) and (B) into curricula and programs, such as those funded under this subpart.

(8) Offering early college high school or dual or concurrent enrollment programs or courses designed to help English learners achieve success in postsecondary education.

(9) Carrying out other activities that are consistent with the purposes of this section.

(e) Activities by agencies experiencing substantial increases in immigrant children and youth

(1) In general

An eligible entity receiving funds under section 6824(d)(1) of this title shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include—

(A) family literacy, parent and family outreach, and training activities designed to assist parents and families to become active participants in the education of their children;

(B) recruitment of, and support for, personnel, including teachers and paraprofessionals who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

(C) provision of tutorials, mentoring, and academic or career counseling for immigrant

children and youth;

(D) identification, development, and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with awarded funds;

(E) basic instructional services that are directly attributable to the presence of immigrant children and youth in the local educational agency involved, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services;

(F) other instructional services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents and families of immigrant children and youth by offering comprehensive community services.

(2) Duration of subgrants

The duration of a subgrant made by a State educational agency under section 6824(d)(1) of this title shall be determined by the agency in its discretion.

(f) Selection of method of instruction

(1) In general

To receive a subgrant from a State educational agency under this subpart, an eligible entity shall select one or more methods or forms of effective instruction to be used in the programs and activities undertaken by the entity to assist English learners to attain English language proficiency and meet challenging State academic standards.

(2) Consistency

The selection described in paragraph (1) shall be consistent with sections 6845 through 6847 of this title.

(g) Supplement, not supplant

Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for English learners and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.

(Pub. L. 89–10, title III, §3115, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1697; amended Pub. L. 114–95, title III, §3003(f), Dec. 10, 2015, 129 Stat. 1958.)

PRIOR PROVISIONS

A prior section 3115 of Pub. L. 89–10 was classified to section 6815 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (g) relating to subgrants to eligible entities.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6826. Local plans

(a) Plan required

Each eligible entity desiring a subgrant from the State educational agency under section 6824 of

this title shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

(b) Contents

Each plan submitted under subsection (a) of this section shall—

(1) describe the effective programs and activities, including language instruction educational programs, proposed to be developed, implemented, and administered under the subgrant that will help English learners increase their English language proficiency and meet the challenging State academic standards;

(2) describe how the eligible entity will ensure that elementary schools and secondary schools receiving funds under this subpart assist English learners in—

(A) achieving English proficiency based on the State's English language proficiency assessment under section 6311(b)(2)(G) of this title, consistent with the State's long-term goals, as described in section 6311(c)(4)(A)(ii) of this title; and

(B) meeting the challenging State academic standards;

(3) describe how the eligible entity will promote parent, family, and community engagement in the education of English learners;

(4) contain assurances that—

(A) each local educational agency that is included in the eligible entity is complying with section 6312(e) of this title prior to, and throughout, each school year as of the date of application;

(B) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of English learners, consistent with sections 6846 and 6847 of this title;

(C) the eligible entity consulted with teachers, researchers, school administrators, parents and family members, community members, public or private entities, and institutions of higher education, in developing and implementing such plan; and

(D) the eligible entity will, if applicable, coordinate activities and share relevant data under the plan with local Head Start and Early Head Start agencies, including migrant and seasonal Head Start agencies, and other early childhood education providers.

(c) Teacher English fluency

Each eligible entity receiving a subgrant under section 6824 of this title shall include in its plan a certification that all teachers in any language instruction educational program for English learners that is, or will be, funded under this part are fluent in English and any other language used for instruction, including having written and oral communications skills.

(Pub. L. 89–10, title III, §3116, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1700; amended Pub. L. 114–95, title III, §3003(g), Dec. 10, 2015, 129 Stat. 1961.)

PRIOR PROVISIONS

Prior sections 6831 to 6833 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6831, Pub. L. 89–10, title III, §3121, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3641, related to national long-range technology plan.

Section 6832, Pub. L. 89–10, title III, §3122, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3642, related to Federal leadership in promoting the use of technology in education.

Section 6833, Pub. L. 89–10, title III, §3123, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3644, related to study, evaluation and report of funding alternatives.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–95, §3003(g)(1), added pars. (1) to (4) and struck out former pars. (1) to (6) which set out required content of plans submitted under subsec. (a).

Subsec. (c). Pub. L. 114–95, §3003(g)(2), substituted "English learners" for "limited English proficient children".

Subsec. (d). Pub. L. 114–95, §3003(g)(3), struck out subsec. (d) which related to other requirements for approval.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 2—ACCOUNTABILITY AND ADMINISTRATION

§6841. Reporting

(a) In general

Each eligible entity that receives a subgrant from a State educational agency under subpart 1 shall provide such agency, at the conclusion of every second fiscal year during which the subgrant is received, with a report, in a form prescribed by the agency, on the activities conducted and children served under such subpart that includes—

(1) a description of the programs and activities conducted by the entity with funds received under subpart 1 during the 2 immediately preceding fiscal years, which shall include a description of how such programs and activities supplemented programs funded primarily with State or local funds;

(2) the number and percentage of English learners in the programs and activities who are making progress toward achieving English language proficiency, as described in section 6311(c)(4)(A)(ii) of this title, in the aggregate and disaggregated, at a minimum, by English learners with a disability;

(3) the number and percentage of English learners in the programs and activities attaining English language proficiency based on State English language proficiency standards established under section 6311(b)(1)(G) [1] of this title by the end of each school year, as determined by the State's English language proficiency assessment under section 6311(b)(2)(G) of this title;

(4) the number and percentage of English learners who exit the language instruction educational programs based on their attainment of English language proficiency;

(5) the number and percentage of English learners meeting challenging State academic standards for each of the 4 years after such children are no longer receiving services under this part, in the aggregate and disaggregated, at a minimum, by English learners with a disability;

(6) the number and percentage of English learners who have not attained English language proficiency within 5 years of initial classification as an English learner and first enrollment in the local educational agency; and

(7) any other information that the State educational agency may require.

(b) Use of report

A report provided by an eligible entity under subsection (a) shall be used by the entity and the State educational agency for improvement of programs and activities under this part.

(c) Special rule for specially qualified agencies

Each specially qualified agency receiving a grant under subpart 1 shall provide the reports described in subsection (a) to the Secretary subject to the same requirements as apply to eligible entities providing such evaluations to State educational agencies under such subsection.

(Pub. L. 89–10, title III, §3121, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1701; amended Pub. L. 114–95, title III, §3003(h), Dec. 10, 2015, 129 Stat. 1962.)

PRIOR PROVISIONS

A prior section 6841, Pub. L. 89–10, title III, §3131, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3644, related to allotment and reallotment of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3121 of Pub. L. 89–10 was classified to section 6831 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to evaluations.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

INFORMATION REGARDING BILINGUAL EDUCATION

Pub. L. 100–297, title VI, §6213, Apr. 28, 1988, 102 Stat. 429, as amended by Pub. L. 104–66, title I, §1042(a), Dec. 21, 1995, 109 Stat. 715, provided that: "The Secretary [of Education] shall collect data for program management and accountability purposes regarding—

"(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

"(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date [sic], for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

"(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

"(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title [sic] and those carried out under other programs for persons of limited English proficiency;

"(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

"(C) the number of other educational personnel needed to carry out programs of bilingual education in the States."

[1] *So in original. Probably should be "6311(b)(1)(F)".*

§6842. Repealed. Pub. L. 114–95, title III, §3001(2)(A), Dec. 10, 2015, 129 Stat. 1953

Section, Pub. L. 89–10, title III, §3122, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1702, related to achievement objectives and accountability.

A prior section 6842, Pub. L. 89–10, title III, §3132, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3645, related to school technology resource grants, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§6843. Biennial reports

(a) States

Based upon the reports provided to a State educational agency under section 6841 of this title, each such agency that receives a grant under this part shall prepare and submit every second year to the Secretary a report on programs and activities carried out by the State educational agency under

this part and the effectiveness of such programs and activities in improving the education provided to English learners.

(b) Secretary

Every second year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

(1) on programs and activities carried out to serve English learners under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of English learners;

(2) on the types of language instruction educational programs used by local educational agencies or eligible entities receiving funding under this part to teach English learners;

(3) containing a critical synthesis of data reported by eligible entities to States under section 6841(a) of this title;

(4) containing a description of technical assistance and other assistance provided by State educational agencies under section 6821(b)(2)(D) of this title;

(5) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating English learners, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

(6) containing the findings of the most recent evaluation related to English learners carried out under section 7981 of this title;

(7) containing the number of programs or activities, if any, that were terminated because the entities carrying out the programs or activities were not able to reach program goals;

(8) containing the number of English learners served by eligible entities receiving funding under this part who were transitioned out of language instruction educational programs funded under this part; and

(9) containing other information gathered from the evaluations from specially qualified agencies and other reports submitted to the Secretary under this part when applicable.

(Pub. L. 89–10, title III, §3122, formerly §3123, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1704; renumbered §3122 and amended Pub. L. 114–95, title III, §§3001(2)(B), 3003(i), Dec. 10, 2015, 129 Stat. 1953, 1963.)

PRIOR PROVISIONS

A prior section 6843, Pub. L. 89–10, title III, §3133, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3646, related to State applications for technology education assistance, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3122 of Pub. L. 89–10 was classified to section 6842 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 3122 of Pub. L. 89–10 was classified to section 6832 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §3003(i)(1), substituted "Biennial reports" for "Reporting requirements" in section catchline.

Subsec. (a). Pub. L. 114–95, §3003(i)(2), substituted "reports provided" for "evaluations provided" and "English learners" for "children who are limited English proficient".

Subsec. (b)(1). Pub. L. 114–95, §3003(i)(3)(A), substituted "to serve English learners" for "to serve limited English proficient children" and "proficiency of English learners" for "proficiency of children who are limited English proficient".

Subsec. (b)(2). Pub. L. 114–95, §3003(i)(3)(B), substituted "English learners" for "limited English proficient children".

Subsec. (b)(4). Pub. L. 114–95, §3003(i)(3)(C), substituted "section 6821(b)(2)(D)" for "section 6821(b)(2)(C)".

Subsec. (b)(5). Pub. L. 114–95, §3003(i)(3)(D), substituted "English learners" for "limited English proficient children".

Subsec. (b)(6). Pub. L. 114–95, §3003(i)(3)(E), substituted "findings of the most recent evaluation related

to English learners carried out under section 7981 of this title" for "major findings of scientifically based research carried out under this part".

Subsec. (b)(8). Pub. L. 114–95, §3003(i)(3)(F), substituted "of English learners" for "of limited English proficient children" and struck out "into classrooms where instruction is not tailored for limited English proficient children" before the semicolon.

Subsec. (b)(9). Pub. L. 114–95, §3003(i)(3)(G), substituted "part" for "subchapter".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6844. Coordination with related programs

In order to maximize Federal efforts aimed at serving the educational needs of English learners, the Secretary shall coordinate and ensure close cooperation with other entities carrying out programs serving language-minority and English learners that are administered by the Department and other agencies. The Secretary shall report to the Congress on parallel Federal programs in other agencies and departments.

(Pub. L. 89–10, title III, §3123, formerly §3124, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1705; renumbered §3123 and amended Pub. L. 114–95, title III, §§3001(2)(B), 3003(j), Dec. 10, 2015, 129 Stat. 1953, 1963.)

PRIOR PROVISIONS

A prior section 6844, Pub. L. 89–10, title III, §3134, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3646, related to local uses of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3123 of Pub. L. 89–10 was renumbered section 3122 and is classified to section 6843 of this title.

Another prior section 3123 of Pub. L. 89–10 was classified to section 6833 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §3003(j), substituted "needs of English learners" for "needs of children of limited English proficiency" and "and English learners" for "and limited English proficient children" and inserted at end "The Secretary shall report to the Congress on parallel Federal programs in other agencies and departments."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6845. Rules of construction

Nothing in this part shall be construed—

(1) to prohibit a local educational agency from serving English learners simultaneously with children with similar educational needs, in the same educational settings where appropriate;

(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for English learners; or

(3) to limit the preservation or use of Native American languages.

(Pub. L. 89–10, title III, §3124, formerly §3125, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1705; renumbered §3124 and amended Pub. L. 114–95, title III, §§3001(2)(B), 3003(k), Dec. 10, 2015, 129 Stat. 1953, 1964.)

PRIOR PROVISIONS

A prior section 6845, Pub. L. 89–10, title III, §3135, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3647, related to local applications for technology education assistance, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3124 of Pub. L. 89–10 was renumbered section 3123 and is classified to section 6844 of this title.

AMENDMENTS

2015—Pars. (1), (2). Pub. L. 114–95, §3003(k), substituted "English learners" for "limited English proficient children".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§6846. Legal authority under State law

Nothing in this part shall be construed to negate or supersede State law, or the legal authority under State law of any State agency, State entity, or State public official, over programs that are under the jurisdiction of the State agency, entity, or official.

(Pub. L. 89–10, title III, §3125, formerly §3126, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1705; renumbered §3125, Pub. L. 114–95, title III, §3001(2)(B), Dec. 10, 2015, 129 Stat. 1953.)

PRIOR PROVISIONS

A prior section 6846, Pub. L. 89–10, title III, §3136, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3648, related to national challenge grants for technology in education, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3125 of Pub. L. 89–10 was renumbered section 3124 and is classified to section 6845 of this title.

§6847. Civil rights

Nothing in this part shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

(Pub. L. 89–10, title III, §3126, formerly §3127, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1705; renumbered §3126, Pub. L. 114–95, title III, §3001(2)(B), Dec. 10, 2015, 129 Stat. 1953.)

PRIOR PROVISIONS

A prior section 6847, Pub. L. 89–10, title III, §3137, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3649, related to Federal administration of programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3126 of Pub. L. 89–10 was renumbered section 3125 and is classified to section 6846 of this title.

§6848. Programs for Native Americans and Puerto Rico

Notwithstanding any other provision of this part, programs authorized under this part that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an

outcome of programs serving such children shall be increased English proficiency among such children.

(Pub. L. 89–10, title III, §3127, formerly §3128, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1705; renumbered §3127, Pub. L. 114–95, title III, §3001(2)(B), Dec. 10, 2015, 129 Stat. 1953.)

PRIOR PROVISIONS

A prior section 3127 of Pub. L. 89–10 was renumbered section 3126 and is classified to section 6847 of this title.

§6849. Prohibition

In carrying out this part, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating English learners.

(Pub. L. 89–10, title III, §3128, formerly §3129, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1706; renumbered §3128 and amended Pub. L. 114–95, title III, §§3001(2)(B), 3003(l), Dec. 10, 2015, 129 Stat. 1953, 1964.)

PRIOR PROVISIONS

A prior section 3128 of Pub. L. 89–10 was renumbered section 3127 and is classified to section 6848 of this title.

AMENDMENTS

2015—Pub. L. 114–95, §3003(l), substituted "English learners" for "limited English proficient children".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 3—NATIONAL ACTIVITIES

§6861. National professional development project

The Secretary shall use funds made available under section 6821(c)(1)(C) of this title to award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education or public or private entities with relevant experience and capacity (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for English learners and assist educational personnel working with English learners to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve English learners. Grants awarded under this section may be used—

(1) for effective preservice or inservice professional development programs that will improve the qualifications and skills of educational personnel involved in the education of English learners, including personnel who are not certified or licensed and educational paraprofessionals, and for other activities to increase teacher and school leader effectiveness in meeting the needs of English learners;

(2) for the development of curricula or other instructional strategies appropriate to the needs of the consortia participants involved;

(3) to support strategies that strengthen and increase parent, family, and community member engagement in the education of English learners;

(4) to develop, share, and disseminate effective practices in the instruction of English learners

and in increasing the student academic achievement of English learners, such as through the use of technology-based programs;

(5) in conjunction with other Federal need-based student financial assistance programs, for financial assistance, and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, to meet certification or licensing requirements for teachers who work in language instruction educational programs or serve English learners; and

(6) as appropriate, to support strategies that promote school readiness of English learners and their transition from early childhood education programs, such as Head Start or State-run preschool programs, to elementary school programs.

(Pub. L. 89–10, title III, §3131, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1706; amended Pub. L. 114–95, title III, §3003(m), Dec. 10, 2015, 129 Stat. 1964.)

PRIOR PROVISIONS

A prior section 6861, Pub. L. 89–10, title III, §3141, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3649, related to regional technical support and professional development, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3131 of Pub. L. 89–10 was classified to section 6841 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to grants to be used for preservice professional development programs, for development of curricula, and for financial assistance for certain language teachers.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 4—DEFINITIONS

§6871. Repealed. Pub. L. 114–95, title III, §3001(2)(C), Dec. 10, 2015, 129 Stat. 1953

Section, Pub. L. 89–10, title III, §3141, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1706, defined "eligible entity".

A prior section 6871, Pub. L. 89–10, title III, §3151, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3652, related to educational technology product development, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3141 of Pub. L. 89–10 was classified to section 6861 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6891 to 6894 were repealed by Pub. L. 114–95, §5, title III, §3001(3), Dec. 10, 2015, 129 Stat. 1806, 1953, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6891, Pub. L. 89–10, title III, §3201, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1706, provided that former part B of this subchapter could be cited as the "Improving Language Instruction Educational Programs For Academic Achievement Act".

A prior section 6891, Pub. L. 89–10, title III, §3201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3654, set out short title of the Star Schools Act, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6892, Pub. L. 89–10, title III, §3202, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1707, related to purpose of former part B of this subchapter.

A prior section 6892, Pub. L. 89–10, title III, §3202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3654, set forth findings relating to the Star Schools Program, prior to the general amendment of this

subchapter by Pub. L. 107–110.

Section 6893, Pub. L. 89–10, title III, §3203, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1707, related to Native American children in school.

A prior section 6893, Pub. L. 89–10, title III, §3203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3655, set forth purpose of the Star Schools Program, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6894, Pub. L. 89–10, title III, §3204, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1707, related to residents of the territories and freely associated states.

A prior section 6894, Pub. L. 89–10, title III, §3204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3655, authorized grants, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6895 to 6900 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6895, Pub. L. 89–10, title III, §3205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3656, related to eligible entities.

Section 6896, Pub. L. 89–10, title III, §3206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3657, related to applications for grants.

Section 6897, Pub. L. 89–10, title III, §3207, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3660, related to leadership and evaluation activities.

Section 6898, Pub. L. 89–10, title III, §3208, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3661, defined terms.

Section 6899, Pub. L. 89–10, title III, §3209, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3661, set forth administrative provisions.

Section 6900, Pub. L. 89–10, title III, §3210, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3661, related to other assistance.

Prior sections 6911 to 6918 were repealed by Pub. L. 114–95, §5, title III, §3001(3), Dec. 10, 2015, 129 Stat. 1806, 1953, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6911, Pub. L. 89–10, title III, §3211, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1707, related to financial assistance for language instruction educational programs.

Section 6912, Pub. L. 89–10, title III, §3212, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1708, related to program enhancement activities.

Section 6913, Pub. L. 89–10, title III, §3213, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1709, related to comprehensive school and systemwide improvement activities.

Section 6914, Pub. L. 89–10, title III, §3214, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1712, related to grant applications.

Section 6915, Pub. L. 89–10, title III, §3215, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1716, related to capacity building.

Section 6916, Pub. L. 89–10, title III, §3216, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1716, related to programs for Native Americans and Puerto Rico.

Section 6917, Pub. L. 89–10, title III, §3217, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1716, related to evaluations.

Section 6918, Pub. L. 89–10, title III, §3218, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1717, set out rule of construction.

Prior sections 6921 to 6928, which comprised former part C of this subchapter, were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6921, Pub. L. 89–10, title III, §3301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3663, related to Ready-to-Learn television.

A prior section 3301 of Pub. L. 89–10 was renumbered section 3201 and is classified to section 7011 of this title.

Section 6922, Pub. L. 89–10, title III, §3302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3663, related to educational programming.

Section 6923, Pub. L. 89–10, title III, §3303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3664, set forth duties of Secretary.

A prior section 3303 of Pub. L. 89–10 was renumbered section 3202 and is classified to section 7011 of this title.

Section 6924, Pub. L. 89–10, title III, §3304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3665, related to applications.

A prior section 3304 of Pub. L. 89–10 was renumbered section 3203 and is classified to section 7011 of this title.

Section 6925, Pub. L. 89–10, title III, §3305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3665, related to reports and evaluation of program activities.

Section 6926, Pub. L. 89–10, title III, §3306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3665, related to administrative costs.

Section 6927, Pub. L. 89–10, title III, §3307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3665, defined "distance learning".

Section 6928, Pub. L. 89–10, title III, §3308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3666, authorized appropriations.

Prior sections 6931 to 6935 and 6951 were repealed by Pub. L. 114–95, §5, title III, §3001(3), Dec. 10, 2015, 129 Stat. 1806, 1953, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6931, Pub. L. 89–10, title III, §3221, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1717, related to authority of the Secretary.

Section 6932, Pub. L. 89–10, title III, §3222, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1717; amended Pub. L. 107–279, title IV, §404(d)(5)(A), Nov. 5, 2002, 116 Stat. 1986, related to research.

Section 6933, Pub. L. 89–10, title III, §3223, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1718, related to academic excellence awards.

Section 6934, Pub. L. 89–10, title III, §3224, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1719, related to State grant program.

Section 6935, Pub. L. 89–10, title III, §3225, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1720, related to instruction materials development.

Section 6951, Pub. L. 89–10, title III, §3231, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1720, related to professional development grants.

A prior section 6951, Pub. L. 89–10, title III, §3401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3666, authorized a national telecommunications-based demonstration project to improve the teaching of mathematics, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6952 and 6953 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6952, Pub. L. 89–10, title III, §3402, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3666, required application for demonstration project grant.

Section 6953, Pub. L. 89–10, title III, §3403, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3666, authorized appropriations.

Prior sections 6961 to 6968 were repealed by Pub. L. 114–95, §5, title III, §3001(3), Dec. 10, 2015, 129 Stat. 1806, 1953, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6961, Pub. L. 89–10, title III, §3241, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1723, related to purpose of former subpart 4 of part B of this subchapter.

Section 6962, Pub. L. 89–10, title III, §3242, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1723, related to State administrative costs.

Section 6963, Pub. L. 89–10, title III, §3243, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1724, related to withholding of funds.

Section 6964, Pub. L. 89–10, title III, §3244, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1724, related to State allotments.

Section 6965, Pub. L. 89–10, title III, §3245, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1725, related to State applications.

Section 6966, Pub. L. 89–10, title III, §3246, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1727, related to administrative provisions.

Section 6967, Pub. L. 89–10, title III, §3247, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1727, related to uses of funds.

Section 6968, Pub. L. 89–10, title III, §3248, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1728, related to reports.

Prior sections 6971 to 6979 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6971, Pub. L. 89–10, title III, §3501, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3667, set forth short title of the Elementary Mathematics and Science Equipment Act.

Section 6972, Pub. L. 89–10, title III, §3502, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3667, stated purpose of former provisions.

Section 6973, Pub. L. 89–10, title III, §3503, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108

Stat. 3667, authorized program for the provision of equipment and materials to elementary schools to improve mathematics and science education.

Section 6974, Pub. L. 89–10, title III, §3504, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3667, related to allotments of funds.

Section 6975, Pub. L. 89–10, title III, §3505, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3668, related to State application for an allotment.

Section 6976, Pub. L. 89–10, title III, §3506, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3669, related to local application for a grant.

Section 6977, Pub. L. 89–10, title III, §3507, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3670, set forth program requirements.

Section 6978, Pub. L. 89–10, title III, §3508, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3670, related to Federal administration of programs.

Section 6979, Pub. L. 89–10, title III, §3509, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3671, authorized appropriations.

Prior sections 6981 to 6983 were repealed by Pub. L. 114–95, §5, title III, §3001(3), Dec. 10, 2015, 129 Stat. 1806, 1953, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6981,Pub. L. 89–10, title III, §3251, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1728, related to professional release time.

Section 6982, Pub. L. 89–10, title III, §3252, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1728, related to notification of awards.

Section 6983, Pub. L. 89–10, title III, §3253, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1728, related to coordination and reporting requirements.

A prior section 7001, Pub. L. 89–10, title III, §3601, as added Pub. L. 106–554, §1(a)(4) [div. B, title XVII, §1711], Dec. 21, 2000, 114 Stat. 2763, 2763A–337, related to limitation on availability of certain funds for schools, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 7001 and prior sections 7002 to 7005 were repealed by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(e)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Section 7001, Pub. L. 89–10, title III, §3601, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3671, authorized elementary and secondary school library media resources program.

Section 7002, Pub. L. 89–10, title III, §3602, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3671, related to allocation of funds to States.

Section 7003, Pub. L. 89–10, title III, §3603, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3671, required State plans meeting certain criteria.

Section 7004, Pub. L. 89–10, title III, §3604, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3672, related to distribution of allocations to local educational agencies.

Section 7005, Pub. L. 89–10, title III, §3605, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3672, authorized appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART B—GENERAL PROVISIONS

CODIFICATION

Pub. L. 114–95, title III, §3001(4), Dec. 10, 2015, 129 Stat. 1953, redesignated part C (§7011 et seq.) of this subchapter as part B of this subchapter.

PRIOR PROVISIONS

A prior part B, consisting of sections 6891 to 6894, 6911 to 6918, 6931 to 6935, 6951, 6961 to 6968, and 6981 to 6983 of this title, related to improving language instruction educational programs, prior to repeal by Pub. L. 114–95, title III, §3001(3), Dec. 10, 2015, 129 Stat. 1953.

§7011. Definitions

Except as otherwise provided, in this subchapter:

(1) Child

The term "child" means any individual aged 3 through 21.

(2) Community-based organization

The term "community-based organization" means a private nonprofit organization of demonstrated effectiveness, Indian tribe, or tribally sanctioned educational authority, that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

(3) Eligible entity

The term "eligible entity" means—

(A) one or more local educational agencies; or

(B) one or more local educational agencies, in consortia or collaboration with an institution of higher education, educational service agency, community-based organization, or State educational agency.

(4) English learner with a disability

The term "English learner with a disability" means an English learner who is also a child with a disability, as that term is defined in section 1401 of this title.

(5) Immigrant children and youth

The term "immigrant children and youth" means individuals who—

(A) are aged 3 through 21;

(B) were not born in any State; and

(C) have not been attending one or more schools in any one or more States for more than 3 full academic years.

(6) Indian tribe

The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) Language instruction educational program

The term "language instruction educational program" means an instruction course—

(A) in which an English learner is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic standards; and

(B) that may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language.

(8) Native American and Native American language

The terms "Native American" and "Native American language" shall have the meanings given such terms in section 2902 of title 25.

(9) Native Hawaiian or Native American Pacific Islander native language educational organization

The term "Native Hawaiian or Native American Pacific Islander native language educational organization" means a nonprofit organization with—

(A) a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization's educational programs; and

(B) not less than 5 years successful experience in providing educational services in traditional Native American languages.

(10) Native language

The term "native language", when used with reference to an individual of limited English proficiency, means—

(A) the language normally used by such individual; or

(B) in the case of a child or youth, the language normally used by the parents of the child or youth.

(11) Paraprofessional

The term "paraprofessional" means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migrant education.

(12) Specially qualified agency

The term "specially qualified agency" means an eligible entity in a State whose State educational agency—

(A) does not participate in a program under subpart 1 of part A of this subchapter for a fiscal year; or

(B) submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of such subpart.

(13) State

The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(14) Tribally sanctioned educational authority

The term "tribally sanctioned educational authority" means—

(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

(B) any nonprofit institution or organization that is—

(i) chartered by the governing body of an Indian tribe to operate a school described in section 6822(a) of this title or otherwise to oversee the delivery of educational services to members of the tribe; and

(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 of part A of this subchapter for individuals served by a school described in section 6822(a) of this title.

(Pub. L. 89–10, title III, §3201, formerly §3301, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1729; amended Pub. L. 110–315, title IX, §941(k)(2)(F)(i), Aug. 14, 2008, 122 Stat. 3466; renumbered §3201 and amended Pub. L. 114–95, title III, §§3001(5)(A), 3004(a), Dec. 10, 2015, 129 Stat. 1953, 1965.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (6), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 3201 of Pub. L. 89–10 was classified to section 6891 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 3201 of Pub. L. 89–10 was classified to section 6891 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pars. (3), (4). Pub. L. 114–95, §3004(a)(1), (2), added pars. (3) and (4) and struck out former pars. (3) and (4) which defined "community college" and "Director", respectively.

Par. (5). Pub. L. 114–95, §3004(a)(1), (3), redesignated par. (6) as (5) and struck out former par. (5) which defined "family education program".

Par. (6). Pub. L. 114–95, §3004(a)(3), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Par. (7). Pub. L. 114–95, §3004(a)(3), redesignated par. (8) as (7). Former par. (7) redesignated (6).

Par. (7)(A). Pub. L. 114–95, §3004(a)(4), substituted "an English learner" for "a limited English proficient child" and "challenging State academic standards" for "challenging State academic content and student academic achievement standards, as required by section 6311(b)(1) of this title".

Pars. (8) to (11). Pub. L. 114–95, §3004(a)(3), redesignated pars. (9) to (12) as (8) to (11), respectively. Former par. (8) redesignated (7).

Par. (12). Pub. L. 114–95, §3004(a)(3), (5), redesignated par. (13) as (12) and struck out ", as defined in section 6871 of this title," after "eligible entity" in introductory provisions. Former par. (12) redesignated (11).

Pars. (13), (14). Pub. L. 114–95, §3004(a)(3), redesignated pars. (14) and (15) as (13) and (14), respectively. Former par. (13) redesignated (12).

2008—Par. (3). Pub. L. 110–315 substituted "the Tribally Controlled Colleges and Universities Assistance Act of 1978" for "the Tribally Controlled College or University Assistance Act of 1978".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

RESEARCH RELATING TO BILINGUAL EDUCATION

Pub. L. 100–297, title VI, §6211, Apr. 28, 1988, 102 Stat. 429, provided that:

"(a) RESEARCH AND DEVELOPMENT.—The Secretary [of Education] shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

"(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

"(1) studies to determine and evaluate effective models for bilingual education programs;

"(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

"(3) longitudinal studies to measure the effect of title VII of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 3281 et seq.] on students enrolled in programs under such title (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under such title and which provides information including data on grade retention, academic performance, and dropout rates);

"(4) studies to determine effective and reliable methods for identifying students who are entitled to services under such title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

"(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

"(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

"(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

"(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

"(9) the effect of such title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this [such] title; and

"(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English.

"(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of

this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources [now Committee on Health, Education, Labor, and Pensions] of the Senate, and the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives.

"(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under such title.

"(e) LIMITATION OF AUTHORITY.—Nothing in this section shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks."

INFORMATION REGARDING BILINGUAL EDUCATION

Pub. L. 100–297, title VI, §6213, Apr. 28, 1988, 102 Stat. 429, as amended by Pub. L. 104–66, title I, §1042(a), Dec. 21, 1995, 109 Stat. 715, provided that: "The Secretary [of Education] shall collect data for program management and accountability purposes regarding—

"(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

"(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date [sic], for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

"(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

"(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title [sic] and those carried out under other programs for persons of limited English proficiency;

"(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

"(C) the number of other educational personnel needed to carry out programs of bilingual education in the States."

§7012. Repealed. Pub. L. 114–95, title III, §3001(5)(B), Dec. 10, 2015, 129 Stat. 1953

Section, Pub. L. 89–10, title III, §3302, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1732, related to parental notification.

A prior section 3302 of Pub. L. 89–10 was classified to section 6922 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7013. National clearinghouse

(a) In general

The Secretary shall establish and support the operation of a National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, which shall collect, analyze, synthesize, and disseminate information about language instruction educational programs for English learners, and related programs. The National Clearinghouse shall—

(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Institute of Education Sciences;

(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

(3) develop a system for improving the operation and effectiveness of federally funded language instruction educational programs;

(4) collect and disseminate information on—

(A) educational research and processes related to the education of English learners, including English learners with a disability, that includes information on best practices on instructing and serving English learners; and

(B) accountability systems that monitor the academic progress of English learners in language instruction educational programs, including information on academic content and English proficiency assessments for language instruction educational programs; and

(5) publish, on an annual basis, a list of grant recipients under this subchapter.

(b) Construction

Nothing in this section shall authorize the Secretary to hire additional personnel to execute subsection (a).

(Pub. L. 89–10, title III, §3202, formerly §3303, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1733; amended Pub. L. 107–279, title IV, §404(d)(5)(B), Nov. 5, 2002, 116 Stat. 1986; renumbered §3202 and amended Pub. L. 114–95, title III, §§3001(5)(C), 3004(b), Dec. 10, 2015, 129 Stat. 1953, 1965.)

PRIOR PROVISIONS

A prior section 3202 of Pub. L. 89–10 was classified to section 6892 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 3202 of Pub. L. 89–10 was classified to section 6892 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §3004(b)(1), designated existing provisions as subsec. (a) and substituted "English learners" for "limited English proficient children" in introductory provisions.

Subsec. (a)(4)(A). Pub. L. 114–95, §3004(b)(2)(A), substituted "English learners, including English learners with a disability, that includes information on best practices on instructing and serving English learners" for "limited English proficient children".

Subsec. (a)(4)(B). Pub. L. 114–95, §3004(b)(2)(B), substituted "English learners" for "limited English proficient children".

Subsec. (b). Pub. L. 114–95, §3004(b)(3), added subsec. (b).

2002—Par. (1). Pub. L. 107–279 substituted "Institute of Education Sciences" for "Office of Educational Research and Improvement".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7014. Regulations

In developing regulations under this subchapter, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing English learners, and organizations representing teachers and other personnel involved in the education of English learners.

(Pub. L. 89–10, title III, §3203, formerly §3304, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1734; renumbered §3203 and amended Pub. L. 114–95, title III, §§3001(5)(C), 3004(c), Dec. 10, 2015, 129 Stat. 1953, 1965.)

PRIOR PROVISIONS

A prior section 3203 of Pub. L. 89–10 was classified to section 6893 of this title, prior to repeal by Pub. L.

114–95.

Another prior section 3203 of Pub. L. 89–10 was classified to section 6893 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §3004(c), substituted "representing English learners" for "representing limited English proficient individuals" and "education of English learners" for "education of limited English proficient children".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBCHAPTER IV—21ST CENTURY SCHOOLS

CODIFICATION

Title IV of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and subsequently revised, restated, and amended by other public laws. Title IV is shown, herein, as having been added by Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1734, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—STUDENT SUPPORT AND ACADEMIC ENRICHMENT GRANTS

CODIFICATION

Pub. L. 114–95, title IV, §4001(a)(5)(A), Dec. 10, 2015, 129 Stat. 1966, substituted "Student Support and Academic Enrichment Grants" for "Safe and Drug-Free Schools and Communities" in part heading.

§7101. General provisions

(a) Parental consent

(1) In general

(A) Informed written consent

A State, local educational agency, or other entity receiving funds under this subchapter shall obtain prior written, informed consent from the parent of each child who is under 18 years of age to participate in any mental-health assessment or service that is funded under this subchapter and conducted in connection with an elementary school or secondary school under this subchapter.

(B) Contents

Before obtaining the consent described in subparagraph (A), the entity shall provide the parent written notice describing in detail such mental health assessment or service, including the purpose for such assessment or service, the provider of such assessment or service, when such assessment or service will begin, and how long such assessment or service may last.

(C) Limitation

The informed written consent required under this paragraph shall not be a waiver of any rights or protections under section 1232g of this title.

(2) Exception

Notwithstanding paragraph (1)(A), the written, informed consent described in such paragraph shall not be required in—

(A) an emergency, where it is necessary to protect the immediate health and safety of the child, other children, or entity personnel; or

(B) other instances in which an entity actively seeks parental consent but such consent cannot be reasonably obtained, as determined by the State or local educational agency, including in the case of—

(i) a child whose parent has not responded to the notice described in paragraph (1)(B); or

(ii) a child who has attained 14 years of age and is an unaccompanied youth, as defined in section 11434a of title 42.

(b) Prohibited use of funds

No funds under this subchapter may be used for medical services or drug treatment or rehabilitation, except for integrated student supports, specialized instructional support services, or referral to treatment for impacted students, which may include students who are victims of, or witnesses to, crime or who illegally use drugs.

(c) Prohibition on mandatory medication

No child shall be required to obtain a prescription for a controlled substance, as defined in section 802 of title 21 as a condition of—

(1) receiving an evaluation or other service described under this subchapter; or

(2) attending a school receiving assistance under this subchapter.

(Pub. L. 89–10, title IV, §4001, as added Pub. L. 114–95, title IV, §4002, Dec. 10, 2015, 129 Stat. 1967.)

PRIOR PROVISIONS

A prior section 7101, Pub. L. 89–10, title IV, §4001, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1734, provided that this part could be cited as the "Safe and Drug-Free Schools and Communities Act", prior to repeal by Pub. L. 114–95, §5, title IV, §4002, Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 7101, Pub. L. 89–10, title IV, §4001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3672, set forth short title of subchapter as the "Safe and Drug-Free Schools and Communities Act of 1994", prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4001 of Pub. L. 89–10 was classified to section 3041 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§§7102, 7103. Repealed. Pub. L. 114–95, title IV, §4002, Dec. 10, 2015, 129 Stat. 1967

Section 7102, Pub. L. 89–10, title IV, §4002, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1734, related to purpose of this part.

A prior section 7102, Pub. L. 89–10, title IV, §4002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3672, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4002 of Pub. L. 89–10 was classified to section 3042 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7103, Pub. L. 89–10, title IV, §4003, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1734, authorized appropriations for fiscal year 2002 and each of the 5 succeeding fiscal years.

A prior section 7103, Pub. L. 89–10, title IV, §4003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3673, set forth purpose of former provisions, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4003 of Pub. L. 89–10 was classified to section 3043 of this title, prior to the general

amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7104, Pub. L. 89–10, title IV, §4004, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3674, related to funding, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4004 of Pub. L. 89–10 was classified to section 3044 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7105, Pub. L. 99–570, title IV, §4302, Oct. 27, 1986, 100 Stat. 3207–153, which established National Trust for Drug-Free Youth to encourage private gifts of property to assist the Secretary of Education in carrying out the national programs of drug abuse research, education, and prevention under subtitle B of title IV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–125 (former 20 U.S.C. 4601 et seq.), was omitted from the Code because of the repeal of subtitle B. Section was formerly classified to section 4665, and subsequently section 3225, of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 1—STUDENT SUPPORT AND ACADEMIC ENRICHMENT GRANTS

CODIFICATION

Subpart 1 of part A of title IV of the Elementary and Secondary Education Act of 1965, comprising this subpart, was originally added to Pub. L. 89–10, title IV, by Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1735. Subpart 1 is shown herein, however, as having been added by Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1968, without reference to the amendments by Pub. L. 107–110 because of the extensive revision of subpart 1 by Pub. L. 114–95.

§7111. Purpose

The purpose of this subpart is to improve students' academic achievement by increasing the capacity of States, local educational agencies, schools, and local communities to—

(1) provide all students with access to a well-rounded education;

(2) improve school conditions for student learning; and

(3) improve the use of technology in order to improve the academic achievement and digital literacy of all students.

(Pub. L. 89–10, title IV, §4101, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1968.)

PRIOR PROVISIONS

A prior section 7111, Pub. L. 89–10, title IV, §4111, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1735, related to reservations and allotments, prior to the general amendment of this subpart by Pub. L. 114–95.

Another prior section 7111, Pub. L. 89–10, title IV, §4011 [4111], as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3674, related to reservations and allotments, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4101 of Pub. L. 89–10 was classified to section 3061 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7112. Definitions

In this subpart:

(1) Blended learning

The term "blended learning" means a formal education program that leverages both technology-based and face-to-face instructional approaches—

(A) that include an element of online or digital learning, combined with supervised learning time, and student-led learning, in which the elements are connected to provide an integrated learning experience; and

(B) in which students are provided some control over time, path, or pace.

(2) Controlled substance

The term "controlled substance" means a drug or other substance identified under Schedule I, II, III, IV, or V in section 812(c) of title 21.

(3) Digital learning

The term "digital learning" means any instructional practice that effectively uses technology to strengthen a student's learning experience and encompasses a wide spectrum of tools and practices, including—

(A) interactive learning resources, digital learning content (which may include openly licensed content), software, or simulations, that engage students in academic content;

(B) access to online databases and other primary source documents;

(C) the use of data and information to personalize learning and provide targeted supplementary instruction;

(D) online and computer-based assessments;

(E) learning environments that allow for rich collaboration and communication, which may include student collaboration with content experts and peers;

(F) hybrid or blended learning, which occurs under direct instructor supervision at a school or other location away from home and, at least in part, through online delivery of instruction with some element of student control over time, place, path, or pace; and

(G) access to online course opportunities for students in rural or remote areas.

(4) Drug

The term "drug" includes—

(A) controlled substances;

(B) the illegal use of alcohol or tobacco, including smokeless tobacco products and electronic cigarettes; and

(C) the harmful, abusive, or addictive use of substances, including inhalants and anabolic steroids.

(5) Drug and violence prevention

The term "drug and violence prevention" means—

(A) with respect to drugs, prevention, early intervention, rehabilitation referral, recovery support services, or education related to the illegal use of drugs, such as raising awareness about the consequences of drug use that are evidence-based (to the extent a State, in consultation with local educational agencies in the State, determines that such evidence is reasonably available); and

(B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

(6) School-based mental health services provider

The term "school-based mental health services provider" includes a State-licensed or State-certified school counselor, school psychologist, school social worker, or other State licensed or certified mental health professional qualified under State law to provide mental health services to children and adolescents.

(7) State

The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(8) Stem-focused specialty school

The term "STEM-focused specialty school" means a school, or dedicated program within a school, that engages students in rigorous, relevant, and integrated learning experiences focused on science, technology, engineering, and mathematics, including computer science, which include authentic schoolwide research.

(Pub. L. 89–10, title IV, §4102, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1969.)

PRIOR PROVISIONS

A prior section 7112, Pub. L. 89–10, title IV, §4112, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1736, related to reservation of State funds for safe and drug-free schools, prior to the general amendment of this subpart by Pub. L. 114–95.

Another prior section 7112, Pub. L. 89–10, title IV, §4112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3675, related to State applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4102 of Pub. L. 89–10 was classified to section 3062 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7113. Formula grants to States

(a) Reservations

From the total amount appropriated under section 7122 of this title for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent for allotments for payments to the outlying areas, to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this subpart;

(2) one-half of 1 percent for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Education; and

(3) 2 percent for technical assistance and capacity building.

(b) State allotments

(1) Allotment

(A) In general

Subject to subparagraphs (B) and (C), from the amount appropriated to carry out this subpart that remains after the Secretary makes the reservations under subsection (a), the Secretary shall allot to each State having a plan approved under subsection (c), an amount that bears the same relationship to the remainder as the amount the State received under subpart 2 of part A of subchapter I for the preceding fiscal year bears to the amount all States received under that subpart for the preceding fiscal year.

(B) Small State minimum

No State receiving an allotment under this paragraph shall receive less than one-half of 1 percent of the total amount allotted under this paragraph.

(C) Puerto Rico

The amount allotted under this paragraph to the Commonwealth of Puerto Rico for a fiscal year may not exceed one-half of 1 percent of the total amount allotted under this paragraph.

(2) Reallotment

If a State does not receive an allotment under this subpart for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this subsection.

(c) State plan

(1) In general

In order to receive an allotment under this section for any fiscal year, a State shall submit a plan to the Secretary, at such time and in such manner as the Secretary may reasonably require.

(2) Contents

Each plan submitted by a State under this section shall include the following:

(A) A description of how the State educational agency will use funds received under this subpart for State-level activities.

(B) A description of how the State educational agency will ensure that awards made to local educational agencies under this subpart are in amounts that are consistent with section 7115(a)(2) of this title.

(C) Assurances that the State educational agency will—

(i) review existing resources and programs across the State and will coordinate any new plans and resources under this subpart with such existing resources and programs;

(ii) monitor the implementation of activities under this subpart and provide technical assistance to local educational agencies in carrying out such activities; and

(iii) provide for equitable access for all students to the activities supported under this subpart, including aligning those activities with the requirements of other Federal laws.

(Pub. L. 89–10, title IV, §4103, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1970.)

PRIOR PROVISIONS

A prior section 7113, Pub. L. 89–10, title IV, §4113, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1739, related to State application to receive allotment, prior to the general amendment of this subpart by Pub. L. 114–95.

Another prior section 7113, Pub. L. 89–10, title IV, §4113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3677, related to State and local educational agency programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4103 of Pub. L. 89–10 was classified to section 3063 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7114. State use of funds

(a) In general

Each State that receives an allotment under section 7113 of this title for a fiscal year shall—

(1) reserve not less than 95 percent of the allotment to make allocations to local educational agencies under section 7115 of this title;

(2) reserve not more than 1 percent of the allotment for the administrative costs of carrying out its responsibilities under this subpart, including public reporting on how funds made available under this subpart are being expended by local educational agencies, including the degree to which the local educational agencies have made progress toward meeting the objectives and outcomes described in section 7116(e)(1)(E) of this title; and

(3) use the amount made available to the State and not reserved under paragraphs (1) and (2) for activities described in subsection (b).

(b) State activities

Each State that receives an allotment under section 7113 of this title shall use the funds available under subsection (a)(3) for activities and programs designed to meet the purposes of this subpart, which may include—

(1) providing monitoring of, and training, technical assistance, and capacity building to, local educational agencies that receive an allotment under section 7115 of this title;

(2) identifying and eliminating State barriers to the coordination and integration of programs, initiatives, and funding streams that meet the purposes of this subpart, so that local educational agencies can better coordinate with other agencies, schools, and community-based services and programs; or

(3) supporting local educational agencies in providing programs and activities that—

(A) offer well-rounded educational experiences to all students, as described in section 7117 of this title, including female students, minority students, English learners, children with disabilities, and low-income students who are often underrepresented in critical and enriching subjects, which may include—

(i) increasing student access to and improving student engagement and achievement in—

(I) high-quality courses in science, technology, engineering, and mathematics, including computer science;

(II) activities and programs in music and the arts;

(III) foreign languages;

(IV) accelerated learning programs that provide—

(aa) postsecondary level courses accepted for credit at institutions of higher education, including dual or concurrent enrollment programs, and early college high schools; or

(bb) postsecondary level instruction and examinations that are accepted for credit at institutions of higher education, including Advanced Placement and International Baccalaureate programs;

(V) American history, civics, economics, geography, social studies, or government education;

(VI) environmental education; or

(VII) other courses, activities, and programs or other experiences that contribute to a well-rounded education; or

(ii) reimbursing low-income students to cover part or all of the costs of accelerated learning examination fees, as described in clause (i)(IV);

(B) foster safe, healthy, supportive, and drug-free environments that support student academic achievement, as described in section 7118 of this title, which may include—

(i) coordinating with any local educational agencies or consortia of such agencies implementing a youth PROMISE plan to reduce exclusionary discipline, as described in section 7118(5)(F) of this title;

(ii) supporting local educational agencies to—

(I) implement mental health awareness training programs that are evidence-based (to the extent the State determines that such evidence is reasonably available) to provide education

to school personnel regarding resources available in the community for students with mental illnesses and other relevant resources relating to mental health or the safe de-escalation of crisis situations involving a student with a mental illness; or

(II) expand access to or coordinate resources for school-based counseling and mental health programs, such as through school-based mental health services partnership programs;

(iii) providing local educational agencies with resources that are evidence-based (to the extent the State determines that such evidence is reasonably available) addressing ways to integrate health and safety practices into school or athletic programs; and

(iv) disseminating best practices and evaluating program outcomes relating to any local educational agency activities to promote student safety and violence prevention through effective communication as described in section 7118(5)(C)(iv) of this title; and

(C) increase access to personalized, rigorous learning experiences supported by technology by—

(i) providing technical assistance to local educational agencies to improve the ability of local educational agencies to—

(I) identify and address technology readiness needs, including the types of technology infrastructure and access available to the students served by the local educational agency, including computer devices, access to school libraries, Internet connectivity, operating systems, software, related network infrastructure, and data security;

(II) use technology, consistent with the principles of universal design for learning, to support the learning needs of all students, including children with disabilities and English learners; and

(III) build capacity for principals, other school leaders, and local educational agency administrators to support teachers in using data and technology to improve instruction and personalize learning;

(ii) supporting schools in rural and remote areas to expand access to high-quality digital learning opportunities;

(iii) developing or using strategies that are innovative or evidence-based (to the extent the State determines that such evidence is reasonably available) for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including digital learning technologies and assistive technology, which may include increased access to online dual or concurrent enrollment opportunities, career and technical courses, and programs leading to a recognized postsecondary credential (as defined in section 3102 of title 29);

(iv) disseminating promising practices related to technology instruction, data security, and the acquisition and implementation of technology tools and applications, including through making such promising practices publicly available on the website of the State educational agency;

(v) providing teachers, paraprofessionals, school librarians and media personnel, specialized instructional support personnel, and administrators with the knowledge and skills to use technology effectively, including effective integration of technology, to improve instruction and student achievement, which may include coordination with teacher, principal, and other school leader preparation programs; and

(vi) making instructional content widely available through open educational resources, which may include providing tools and processes to support local educational agencies in making such resources widely available.

(c) Special rule

A State that receives a grant under this subpart for fiscal year 2017 may use the amount made available to the State and not reserved under paragraphs (1) and (2) of subsection (a) for such fiscal year to cover part or all of the fees for accelerated learning examinations taken by low-income

students during the 2016-2017 school year, in accordance with subsection (b)(3)(A)(ii).

(Pub. L. 89–10, title IV, §4104, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1971.)

PRIOR PROVISIONS

A prior section 7114, Pub. L. 89–10, title IV, §4114, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1742, related to local educational agency programs, prior to the general amendment of this subpart by Pub. L. 114–95.

Another prior section 7114, Pub. L. 89–10, title IV, §4114, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3679, related to governor's programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4104 of Pub. L. 89–10 was classified to section 3064 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7115. Allocations to local educational agencies

(a) Allocations to local educational agencies

(1) In general

From the funds reserved by a State under section 7114(a)(1) of this title, the State shall allocate to each local educational agency in the State that has an application approved by the State educational agency under section 7116 of this title an amount that bears the same relationship to the total amount of such reservation as the amount the local educational agency received under subpart 2 of part A of subchapter I for the preceding fiscal year bears to the total amount received by all local educational agencies in the State under such subpart for the preceding fiscal year.

(2) Minimum local educational agency allocation

No allocation to a local educational agency under this subsection may be made in an amount that is less than $10,000, subject to subsection (b).

(3) Consortia

Local educational agencies in a State may form a consortium with other surrounding local educational agencies and combine the funds each such agency in the consortium receives under this section to jointly carry out the local activities described in this subpart.

(b) Ratable reduction

If the amount reserved by the State under section 7114(a)(1) of this title is insufficient to make allocations to local educational agencies in an amount equal to the minimum allocation described in subsection (a)(2), such allocations shall be ratably reduced.

(c) Administrative costs

Of the amount received under subsection (a)(2), a local educational agency may reserve not more than 2 percent for the direct administrative costs of carrying out the local educational agency's responsibilities under this subpart.

(Pub. L. 89–10, title IV, §4105, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1974.)

PRIOR PROVISIONS

A prior section 7115, Pub. L. 89–10, title IV, §4115, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1745, related to authorized activities, prior to the general amendment of this subpart by Pub. L. 114–95.

Another prior section 7115, Pub. L. 89–10, title IV, §4115, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3681, related to local applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4105 of Pub. L. 89–10 was classified to section 3065 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7116. Local educational agency applications

(a) Eligibility

To be eligible to receive an allocation under section 7115(a) of this title, a local educational agency shall—

(1) submit an application, which shall contain, at a minimum, the information described in subsection (e), to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require; and

(2) complete a needs assessment in accordance with subsection (d).

(b) Consortium

If a local educational agency desires to carry out the activities described in this subpart in consortium with one or more surrounding local educational agencies as described in section 7115(a)(3) of this title, such local educational agencies shall submit a single application as required under subsection (a).

(c) Consultation

(1) In general

A local educational agency, or consortium of such agencies, shall develop its application through consultation with parents, teachers, principals, other school leaders, specialized instructional support personnel, students, community-based organizations, local government representatives (which may include a local law enforcement agency, local juvenile court, local child welfare agency, or local public housing agency), Indian tribes or tribal organizations that may be located in the region served by the local educational agency (where applicable), charter school teachers, principals, and other school leaders (if such agency or consortium of such agencies supports charter schools), and others with relevant and demonstrated expertise in programs and activities designed to meet the purpose of this subpart.

(2) Continued consultation

The local educational agency, or consortium of such agencies, shall engage in continued consultation with the entities described in paragraph (1) in order to improve the local activities in order to meet the purpose of this subpart and to coordinate such implementation with other related strategies, programs, and activities being conducted in the community.

(d) Needs assessment

(1) In general

Except as provided in paragraph (2) and prior to receiving an allocation under this subpart, a local educational agency or consortium of such agencies shall conduct a comprehensive needs assessment of the local educational agency or agencies proposed to be served under this subpart in order to examine needs for improvement of—

(A) access to, and opportunities for, a well-rounded education for all students;

(B) school conditions for student learning in order to create a healthy and safe school environment; and

(C) access to personalized learning experiences supported by technology and professional development for the effective use of data and technology.

(2) Exception

A local educational agency receiving an allocation under section 7115(a) of this title in an amount that is less than $30,000 shall not be required to conduct a comprehensive needs assessment under paragraph (1).

(3) Frequency of needs assessment

Each local educational agency, or consortium of local educational agencies, shall conduct the needs assessment described in paragraph (1) once every 3 years.

(e) Contents of local application

Each application submitted under this section by a local educational agency, or a consortium of such agencies, shall include the following:

(1) Descriptions

A description of the activities and programming that the local educational agency, or consortium of such agencies, will carry out under this subpart, including a description of—

(A) any partnership with an institution of higher education, business, nonprofit organization, community-based organization, or other public or private entity with a demonstrated record of success in implementing activities under this subpart;

(B) if applicable, how funds will be used for activities related to supporting well-rounded education under section 7117 of this title;

(C) if applicable, how funds will be used for activities related to supporting safe and healthy students under section 7118 of this title;

(D) if applicable, how funds will be used for activities related to supporting the effective use of technology in schools under section 7119 of this title; and

(E) the program objectives and intended outcomes for activities under this subpart, and how the local educational agency, or consortium of such agencies, will periodically evaluate the effectiveness of the activities carried out under this section based on such objectives and outcomes.

(2) Assurances

Each application shall include assurances that the local educational agency, or consortium of such agencies, will—

(A) prioritize the distribution of funds to schools served by the local educational agency, or consortium of such agencies, that—

(i) are among the schools with the greatest needs, as determined by such local educational agency, or consortium;

(ii) have the highest percentages or numbers of children counted under section 6333(c) of this title;

(iii) are identified for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title;

(iv) are implementing targeted support and improvement plans as described in section 6311(d)(2) of this title; or

(v) are identified as a persistently dangerous public elementary school or secondary school under section 7912 of this title;

(B) comply with section 7881 of this title (regarding equitable participation by private school children and teachers);

(C) use not less than 20 percent of funds received under this subpart to support one or more of the activities authorized under section 7117 of this title;

(D) use not less than 20 percent of funds received under this subpart to support one or more activities authorized under section 7118 of this title;

(E) use a portion of funds received under this subpart to support one or more activities authorized under section 7119(a) of this title, including an assurance that the local educational agency, or consortium of local educational agencies, will comply with section 7119(b) of this title; and

(F) annually report to the State for inclusion in the report described in section 7114(a)(2) of this title how funds are being used under this subpart to meet the requirements of subparagraphs (C) through (E).

(f) Special rule

Any local educational agency receiving an allocation under section 7115(a)(1) of this title in an amount less than $30,000 shall be required to provide only one of the assurances described in subparagraphs (C), (D), and (E) of subsection (e)(2).

(Pub. L. 89–10, title IV, §4106, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1974.)

PRIOR PROVISIONS

A prior section 7116, Pub. L. 89–10, title IV, §4116, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1750, related to reporting by States and local educational agencies, prior to the general amendment of this subpart by Pub. L. 114–95.

Another prior section 7116, Pub. L. 89–10, title IV, §4116, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3682; amended Pub. L. 106–554, §1(a)(1) [title III, §314], Dec. 21, 2000, 114 Stat. 2763, 2763A–47, related to local drug and violence prevention programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4106 of Pub. L. 89–10 was classified to section 3066 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7117. Activities to support well-rounded educational opportunities

(a) In general

Subject to section 7116(f) of this title, each local educational agency, or consortium of such agencies, that receives an allocation under section 7115(a) of this title shall use a portion of such funds to develop and implement programs and activities that support access to a well-rounded education and that—

(1) are coordinated with other schools and community-based services and programs;

(2) may be conducted in partnership with an institution of higher education, business, nonprofit organization, community-based organization, or other public or private entity with a demonstrated record of success in implementing activities under this section; and

(3) may include programs and activities, such as—

(A) college and career guidance and counseling programs, such as—

(i) postsecondary education and career awareness and exploration activities;

(ii) training counselors to effectively use labor market information in assisting students with postsecondary education and career planning; and

(iii) financial literacy and Federal financial aid awareness activities;

(B) programs and activities that use music and the arts as tools to support student success through the promotion of constructive student engagement, problem solving, and conflict resolution;

(C) programming and activities to improve instruction and student engagement in science, technology, engineering, and mathematics, including computer science, (referred to in this

section as "STEM subjects") such as—

(i) increasing access for students through grade 12 who are members of groups underrepresented in such subject fields, such as female students, minority students, English learners, children with disabilities, and economically disadvantaged students, to high-quality courses;

(ii) supporting the participation of low-income students in nonprofit competitions related to STEM subjects (such as robotics, science research, invention, mathematics, computer science, and technology competitions);

(iii) providing hands-on learning and exposure to science, technology, engineering, and mathematics and supporting the use of field-based or service learning to enhance the students' understanding of the STEM subjects;

(iv) supporting the creation and enhancement of STEM-focused specialty schools;

(v) facilitating collaboration among school, after-school program, and informal program personnel to improve the integration of programming and instruction in the identified subjects; and

(vi) integrating other academic subjects, including the arts, into STEM subject programs to increase participation in STEM subjects, improve attainment of skills related to STEM subjects, and promote well-rounded education;

(D) efforts to raise student academic achievement through accelerated learning programs described in section 7114(b)(3)(A)(i)(IV) of this title, such as—

(i) reimbursing low-income students to cover part or all of the costs of accelerated learning examination fees, if the low-income students are enrolled in accelerated learning courses and plan to take accelerated learning examinations; or

(ii) increasing the availability of, and enrollment in, accelerated learning courses, accelerated learning examinations, dual or concurrent enrollment programs, and early college high school courses;

(E) activities to promote the development, implementation, and strengthening of programs to teach traditional American history, civics, economics, geography, or government education;

(F) foreign language instruction;

(G) environmental education;

(H) programs and activities that promote volunteerism and community involvement;

(I) programs and activities that support educational programs that integrate multiple disciplines, such as programs that combine arts and mathematics; or

(J) other activities and programs to support student access to, and success in, a variety of well-rounded education experiences.

(b) Special rule

A local educational agency, or consortium of such agencies, that receives a subgrant under this subpart for fiscal year 2017 may use such funds to cover part or all of the fees for accelerated learning examinations taken by low-income students during the 2016-2017 school year, in accordance with subsection (a)(3)(D).

(Pub. L. 89–10, title IV, §4107, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1977.)

PRIOR PROVISIONS

A prior section 7117, Pub. L. 89–10, title IV, §4117, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1750, related to programs for Native Hawaiians, prior to the general amendment of this subpart by Pub. L. 114–95.

Another prior section 7117, Pub. L. 89–10, title IV, §4117, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3685, related to evaluation and reporting, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4107 of Pub. L. 89–10 was classified to section 3067 of this title, prior to the general

amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7118. Activities to support safe and healthy students

Subject to section 7116(f) of this title, each local educational agency, or consortium of such agencies, that receives an allocation under section 7115(a) of this title shall use a portion of such funds to develop, implement, and evaluate comprehensive programs and activities that—

(1) are coordinated with other schools and community-based services and programs;

(2) foster safe, healthy, supportive, and drug-free environments that support student academic achievement;

(3) promote the involvement of parents in the activity or program;

(4) may be conducted in partnership with an institution of higher education, business, nonprofit organization, community-based organization, or other public or private entity with a demonstrated record of success in implementing activities described in this section; and

(5) may include, among other programs and activities—

(A) drug and violence prevention activities and programs that are evidence-based (to the extent the State, in consultation with local educational agencies in the State, determines that such evidence is reasonably available) including—

(i) programs to educate students against the use of alcohol, tobacco, marijuana, smokeless tobacco products, and electronic cigarettes; and

(ii) professional development and training for school and specialized instructional support personnel and interested community members in prevention, education, early identification, intervention mentoring, recovery support services and, where appropriate, rehabilitation referral, as related to drug and violence prevention;

(B) in accordance with sections 7101 and 7121 of this title—

(i) school-based mental health services, including early identification of mental health symptoms, drug use, and violence, and appropriate referrals to direct individual or group counseling services, which may be provided by school-based mental health services providers; and

(ii) school-based mental health services partnership programs that—

(I) are conducted in partnership with a public or private mental health entity or health care entity; and

(II) provide comprehensive school-based mental health services and supports and staff development for school and community personnel working in the school that are—

(aa) based on trauma-informed practices that are evidence-based (to the extent the State, in consultation with local educational agencies in the State, determines that such evidence is reasonably available);

(bb) coordinated (where appropriate) with early intervening services provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

(cc) provided by qualified mental and behavioral health professionals who are certified or licensed by the State involved and practicing within their area of expertise;

(C) programs or activities that—

(i) integrate health and safety practices into school or athletic programs;

(ii) support a healthy, active lifestyle, including nutritional education and regular, structured physical education activities and programs, that may address chronic disease management with instruction led by school nurses, nurse practitioners, or other appropriate

specialists or professionals to help maintain the well-being of students;

(iii) help prevent bullying and harassment;

(iv) improve instructional practices for developing relationship-building skills, such as effective communication, and improve safety through the recognition and prevention of coercion, violence, or abuse, including teen and dating violence, stalking, domestic abuse, and sexual violence and harassment;

(v) provide mentoring and school counseling to all students, including children who are at risk of academic failure, dropping out of school, involvement in criminal or delinquent activities, or drug use and abuse;

(vi) establish or improve school dropout and re-entry programs; or

(vii) establish learning environments and enhance students' effective learning skills that are essential for school readiness and academic success, such as by providing integrated systems of student and family supports;

(D) high-quality training for school personnel, including specialized instructional support personnel, related to—

(i) suicide prevention;

(ii) effective and trauma-informed practices in classroom management;

(iii) crisis management and conflict resolution techniques;

(iv) human trafficking (defined, for purposes of this subparagraph, as an act or practice described in paragraph (9) or (10) of section 7102 of title 22);

(v) school-based violence prevention strategies;

(vi) drug abuse prevention, including educating children facing substance abuse at home; and

(vii) bullying and harassment prevention;

(E) in accordance with sections 7101 and 7121 of this title, child sexual abuse awareness and prevention programs or activities, such as programs or activities designed to provide—

(i) age-appropriate and developmentally-appropriate instruction for students in child sexual abuse awareness and prevention, including how to recognize child sexual abuse and how to safely report child sexual abuse; and

(ii) information to parents and guardians of students about child sexual abuse awareness and prevention, including how to recognize child sexual abuse and how to discuss child sexual abuse with a child;

(F) designing and implementing a locally-tailored plan to reduce exclusionary discipline practices in elementary and secondary schools that—

(i) is consistent with best practices;

(ii) includes strategies that are evidence-based (to the extent the State, in consultation with local educational agencies in the State, determines that such evidence is reasonably available); and

(iii) is aligned with the long-term goal of prison reduction through opportunities, mentoring, intervention, support, and other education services, referred to as a "youth PROMISE plan"; or

(G) implementation of schoolwide positive behavioral interventions and supports, including through coordination with similar activities carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), in order to improve academic outcomes and school conditions for student learning;

(H) designating a site resource coordinator at a school or local educational agency to provide a variety of services, such as—

(i) establishing partnerships within the community to provide resources and support for schools;

(ii) ensuring that all service and community partners are aligned with the academic expectations of a community school in order to improve student success; and

(iii) strengthening relationships between schools and communities; or

(I) pay for success initiatives aligned with the purposes of this section.

(Pub. L. 89–10, title IV, §4108, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1978.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (5)(B)(ii)(II)(bb), (G), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 7118, Pub. L. 89–10, title IV, §4118, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3685, related to programs for Native Hawaiians, and was omitted in the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4108 of Pub. L. 89–10 was classified to section 3068 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7119. Activities to support the effective use of technology

(a) Uses of funds

Subject to section 7116(f) of this title, each local educational agency, or consortium of such agencies, that receives an allocation under section 7115(a) [1] of this title shall use a portion of such funds to improve the use of technology to improve the academic achievement, academic growth, and digital literacy of all students, including by meeting the needs of such agency or consortium that are identified in the needs assessment conducted under section 7116(d) of this title (if applicable), which may include—

(1) providing educators, school leaders, and administrators with the professional learning tools, devices, content, and resources to—

(A) personalize learning to improve student academic achievement;

(B) discover, adapt, and share relevant high-quality educational resources;

(C) use technology effectively in the classroom, including by administering computer-based assessments and blended learning strategies; and

(D) implement and support school- and district-wide approaches for using technology to inform instruction, support teacher collaboration, and personalize learning;

(2) building technological capacity and infrastructure, which may include—

(A) procuring content and ensuring content quality; and

(B) purchasing devices, equipment, and software applications in order to address readiness shortfalls;

(3) developing or using effective or innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including digital learning technologies and assistive technology;

(4) carrying out blended learning projects, which shall include—

(A) planning activities, which may include development of new instructional models (including blended learning technology software and platforms), the purchase of digital

instructional resources, initial professional development activities, and one-time information technology purchases, except that such expenditures may not include expenditures related to significant construction or renovation of facilities; or

(B) ongoing professional development for teachers, principals, other school leaders, or other personnel involved in the project that is designed to support the implementation and academic success of the project;

(5) providing professional development in the use of technology (which may be provided through partnerships with outside organizations) to enable teachers and instructional leaders to increase student achievement in the areas of science, technology, engineering, and mathematics, including computer science; and

(6) providing students in rural, remote, and underserved areas with the resources to take advantage of high-quality digital learning experiences, digital resources, and access to online courses taught by effective educators.

(b) Special rule

A local educational agency, or consortium of such agencies, shall not use more than 15 percent of funds for purchasing technology infrastructure as described in subsection (a)(2)(B), which shall include technology infrastructure purchased for the activities under subsection (a)(4)(A).

(Pub. L. 89–10, title IV, §4109, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1981.)

REFERENCES IN TEXT

Section 7115(a) of this title, referred to in subsec. (a), was in the original "section 4015(a)", and was translated as meaning section 4105(a) of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, to reflect the probable intent of Congress, because that Act does not contain a section 4015 and section 4105(a) refers to allocations.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

[1] *See References in Text note below.*

§7120. Supplement, not supplant

Funds made available under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

(Pub. L. 89–10, title IV, §4110, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1982.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7121. Rule of construction

Nothing in this subpart may be construed to—

(1) authorize activities or programming that encourages teenage sexual activity; or

(2) prohibit effective activities or programming that meet the requirements of section 7906 of this title.

(Pub. L. 89–10, title IV, §4111, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1982.)

PRIOR PROVISIONS

A prior section 4111 of Pub. L. 89–10 was classified to section 7111 of this title, prior to the general amendment of this subpart by Pub. L. 114–95.

A prior section 4011 [4111] of Pub. L. 89–10 was classified to section 7111 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7122. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subpart $1,650,000,000 for fiscal year 2017 and $1,600,000,000 for each of fiscal years 2018 through 2020.

(b) Forward funding

Section 1223 of this title shall apply to this subpart.

(Pub. L. 89–10, title IV, §4112, as added Pub. L. 114–95, title IV, §4101, Dec. 10, 2015, 129 Stat. 1982.)

PRIOR PROVISIONS

A prior section 4112 of Pub. L. 89–10 was classified to section 7112 of this title, prior to the general amendment of this subpart by Pub. L. 114–95.

Another prior section 4112 of Pub. L. 89–10 was classified to section 7112 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 2—INTERNET SAFETY

CODIFICATION

Pub. L. 114–95, title II, §2001(a)(4)(A)–(C), title IV, §4001(a)(5)(C), Dec. 10, 2015, 129 Stat. 1913, 1966, redesignated subpart 4 (§6777) of part D of subchapter II of this chapter as subpart 2 of part A of this subchapter.

PRIOR PROVISIONS

A prior subpart 2, consisting of sections 7131 to 7140 of this title, related to national programs, prior to repeal by Pub. L. 114–95, title IV, §4001(a)(5)(B), Dec. 10, 2015, 129 Stat. 1966.

§7131. Internet safety

(a) In general

No funds made available under this part to a local educational agency for an elementary school or secondary school that does not receive services at discount rates under section 254(h)(5) of title 47 may be used to purchase computers used to access the Internet, or to pay for direct costs associated

with accessing the Internet, for such school unless the school, school board, local educational agency, or other authority with responsibility for administration of such school both—

(1)(A) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(i) obscene;

(ii) child pornography; or

(iii) harmful to minors; and

(B) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(2)(A) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(i) obscene; or

(ii) child pornography; and

(B) is enforcing the operation of such technology protection measure during any use of such computers.

(b) Timing and applicability of implementation

(1) In general

The local educational agency with responsibility for a school covered by subsection (a) of this section shall certify the compliance of such school with the requirements of subsection (a) of this section as part of the application process for the next program funding year under this chapter following December 21, 2000, and for each subsequent program funding year thereafter.

(2) Process

(A) Schools with Internet safety policies and technology protection measures in place

A local educational agency with responsibility for a school covered by subsection (a) of this section that has in place an Internet safety policy meeting the requirements of subsection (a) of this section shall certify its compliance with subsection (a) of this section during each annual program application cycle under this chapter.

(B) Schools without Internet safety policies and technology protection measures in place

(i) Certification

A local educational agency with responsibility for a school covered by subsection (a) of this section that does not have in place an Internet safety policy meeting the requirements of subsection (a) of this section—

(I) for the first program year after December 21, 2000, in which the local educational agency is applying for funds for such school under this chapter, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

(II) for the second program year after December 21, 2000, in which the local educational agency is applying for funds for such school under this chapter, shall certify that such school is in compliance with such requirements.

(ii) Ineligibility

Any school covered by subsection (a) of this section for which the local educational agency concerned is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this part for such second program year and all subsequent program years until such time as such school comes into compliance with such requirements.

(C) Waivers

Any school subject to a certification under subparagraph (B)(i)(II) for which the local educational agency concerned cannot make the certification otherwise required by that subparagraph may seek a waiver of that subparagraph if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that subparagraph. The local educational agency concerned shall notify the Secretary of the applicability of that subparagraph to the school. Such notice shall certify that the school will be brought into compliance with the requirements in subsection (a) of this section before the start of the third program year after December 21, 2000, in which the school is applying for funds under this part.

(c) Disabling during certain use

An administrator, supervisor, or person authorized by the responsible authority under subsection (a) of this section may disable the technology protection measure concerned to enable access for bona fide research or other lawful purposes.

(d) Noncompliance

(1) Use of General Education Provisions Act remedies

Whenever the Secretary has reason to believe that any recipient of funds under this part is failing to comply substantially with the requirements of this section, the Secretary may—

(A) withhold further payments to the recipient under this part;

(B) issue a complaint to compel compliance of the recipient through a cease and desist order; or

(C) enter into a compliance agreement with a recipient to bring it into compliance with such requirements,

in [1] same manner as the Secretary is authorized to take such actions under sections 455, 456, and 457, respectively, of the General Education Provisions Act [20 U.S.C. 1234d, 1234e, 1234f].

(2) Recovery of funds prohibited

The actions authorized by paragraph (1) are the exclusive remedies available with respect to the failure of a school to comply substantially with a provision of this section, and the Secretary shall not seek a recovery of funds from the recipient for such failure.

(3) Recommencement of payments

Whenever the Secretary determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under paragraph (1)(A) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments to the recipient under that paragraph.

(e) Definitions

In this subpart:

(1) Computer

The term "computer" includes any hardware, software, or other technology attached or connected to, installed in, or otherwise used in connection with a computer.

(2) Access to Internet

A computer shall be considered to have access to the Internet if such computer is equipped with a modem or is connected to a computer network that has access to the Internet.

(3) Acquisition or operation

An elementary school or secondary school shall be considered to have received funds under this part for the acquisition or operation of any computer if such funds are used in any manner, directly or indirectly—

(A) to purchase, lease, or otherwise acquire or obtain the use of such computer; or

(B) to obtain services, supplies, software, or other actions or materials to support, or in connection with, the operation of such computer.

(4) Minor

The term "minor" means an individual who has not attained the age of 17.

(5) Child pornography

The term "child pornography" has the meaning given that term in section 2256 of title 18.

(6) Harmful to minors

The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that—

(A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(7) Obscene

The term "obscene" has the meaning applicable to that term under section 1460 of title 18.

(8) Sexual act and sexual contact

The terms "sexual act" and "sexual contact" have the meanings given those terms in section 2246 of title 18.

(f) Severability

If any provision of this section is held invalid, the remainder of this section shall not be affected thereby.

(Pub. L. 89–10, title IV, §4121, formerly title II, §2441, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1686; renumbered title IV, §4161, renumbered §4121, Pub. L. 114–95, title II, §2001(a)(4)(A), (B), (D), title IV, §4001(a)(5)(D), Dec. 10, 2015, 129 Stat. 1913, 1966.)

CODIFICATION

Section was classified to section 6777 of this title prior to renumbering by Pub. L. 114–95.

PRIOR PROVISIONS

Prior sections 7131 to 7140 were repealed by Pub. L. 114–95, §5, title IV, §4001(a)(5)(B), Dec. 10, 2015, 129 Stat. 1806, 1966, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7131, Pub. L. 89–10, title IV, §4121, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1751, related to Federal activities.

A prior section 7131, Pub. L. 89–10, title IV, §4121, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3686, related to Federal activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 7132, Pub. L. 89–10, title IV, §4122, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1752, related to impact evaluation.

A prior section 7132, Pub. L. 89–10, title IV, §4122, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3687, related to grants to institutions of higher education, prior to repeal by Pub. L. 105–244, §3, title IX, §981, Oct. 7, 1998, 112 Stat. 1585, 1837, effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244.

Section 7133, Pub. L. 89–10, title IV, §4123, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1752, related to hate crime prevention.

A prior section 7133, Pub. L. 89–10, title IV, §4123, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3687, related to hate crime prevention, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 7134, Pub. L. 89–10, title IV, §4124, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1754, related to the Safe and Drug-Free Schools and Communities Advisory Committee.

Section 7135, Pub. L. 89–10, title IV, §4125, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1755, related to the National Coordinator Program.

Section 7136, Pub. L. 89–10, title IV, §4126, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1756, related to community service grant programs.

Section 7137, Pub. L. 89–10, title IV, §4127, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1756, related to the School Security Technology and Resource Center.

Section 7138, Pub. L. 89–10, title IV, §4128, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1756, related to the National Center for School and Youth Safety.

Section 7139, Pub. L. 89–10, title IV, §4129, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1757, authorized grants to reduce alcohol abuse.

Section 7140, Pub. L. 89–10, title IV, §4130, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1758, related to mentoring programs.

Prior sections 7141 to 7144 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7141, Pub. L. 89–10, title IV, §4131, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3689, defined terms.

Section 7142, Pub. L. 89–10, title IV, §4132, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3689, related to materials.

Section 7143, Pub. L. 89–10, title IV, §4133, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3690, set forth prohibited uses of funds.

Section 7144, Pub. L. 89–10, title IV, §4134, as added Pub. L. 105–277, div. D, title I, §122, Oct. 21, 1998, 112 Stat. 2681–756, related to quality rating of drug, alcohol, and tobacco prevention programs implemented in public elementary schools and secondary schools.

[1] So in original. Probably should be followed by "the".

SUBPART 3—GUN POSSESSION

CODIFICATION

Subpart 3 of part A of title IV of the Elementary and Secondary Education Act, comprising this subpart, was redesignated subpart 4 of part F of title VIII of the Act by Pub. L. 114–95, title IV, §4001(a)(2)(A)–(C), title VIII, §8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, and transferred to subpart 4 (§7961) of part F of subchapter VIII of this chapter.

§7151. Transferred

CODIFICATION

Section 7151, Pub. L. 89–10, title IV, §4141, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1762, which related to gun-free requirements, was renumbered section 8561 of Pub. L. 89–10 by Pub. L. 114–95, title IV, §4001(a)(2)(D), title VIII, §8001(a)(8), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, and transferred to section 7961 of this title.

SUBPART 4—GENERAL PROVISIONS

§§7161 to 7164. Repealed. Pub. L. 114–95, title IV, §4001(a)(5)(B), Dec. 10, 2015, 129 Stat. 1966

Section 7161, Pub. L. 89–10, title IV, §4151, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1763, defined terms.

Section 7162, Pub. L. 89–10, title IV, §4152, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1764, related to message and materials.

Section 7163, Pub. L. 89–10, title IV, §4153, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115

Stat. 1765, related to parental consent.

Section 7164, Pub. L. 89–10, title IV, §4154, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1765, related to prohibited uses of funds.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7165. Transferred

CODIFICATION

Section, Pub. L. 89–10, title IV, §4155, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1765, which related to transfer of school disciplinary records, was renumbered section 8537 of Pub. L. 89–10 by Pub. L. 114–95, title IV, §4001(a)(3), title VIII, §8001(a)(6), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, and transferred to section 7917 of this title.

PART B—21ST CENTURY COMMUNITY LEARNING CENTERS

§7171. Purpose; definitions

(a) Purpose

The purpose of this part is to provide opportunities for communities to establish or expand activities in community learning centers that—

(1) provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet the challenging State academic standards;

(2) offer students a broad array of additional services, programs, and activities, such as youth development activities, service learning, nutrition and health education, drug and violence prevention programs, counseling programs, arts, music, physical fitness and wellness programs, technology education programs, financial literacy programs, environmental literacy programs, mathematics, science, career and technical programs, internship or apprenticeship programs, and other ties to an in-demand industry sector or occupation for high school students that are designed to reinforce and complement the regular academic program of participating students; and

(3) offer families of students served by community learning centers opportunities for active and meaningful engagement in their children's education, including opportunities for literacy and related educational development.

(b) Definitions

In this part:

(1) Community learning center

The term "community learning center" means an entity that—

(A) assists students to meet the challenging State academic standards by providing the students with academic enrichment activities and a broad array of other activities (such as programs and activities described in subsection (a)(2)) during nonschool hours or periods when school is not in session (such as before and after school or during summer recess) that—

(i) reinforce and complement the regular academic programs of the schools attended by the students served; and

(ii) are targeted to the students' academic needs and aligned with the instruction students receive during the school day; and

(B) offers families of students served by such center opportunities for active and meaningful engagement in their children's education, including opportunities for literacy and related educational development.

(2) Covered program

The term "covered program" means a program for which—

(A) the Secretary made a grant under this part (as this part was in effect on the day before the effective date of this part under the Every Student Succeeds Act); and

(B) the grant period had not ended on that effective date.

(3) Eligible entity

The term "eligible entity" means a local educational agency, community-based organization, Indian tribe or tribal organization (as such terms are defined in section 450b of title 25), another public or private entity, or a consortium of 2 or more such agencies, organizations, or entities.

(4) External organization

The term "external organization" means—

(A) a nonprofit organization with a record of success in running or working with before and after school (or summer recess) programs and activities; or

(B) in the case of a community where there is no such organization, a nonprofit organization in the community that enters into a written agreement or partnership with an organization described in subparagraph (A) to receive mentoring and guidance in running or working with before and after school (or summer recess) programs and activities.

(5) Rigorous peer-review process

The term "rigorous peer-review process" means a process by which—

(A) employees of a State educational agency who are familiar with the programs and activities assisted under this part review all applications that the State receives for awards under this part for completeness and applicant eligibility;

(B) the State educational agency selects peer reviewers for such applications, who shall—

(i) be selected for their expertise in providing effective academic, enrichment, youth development, and related services to children; and

(ii) not include any applicant, or representative of an applicant, that has submitted an application under this part for the current application period; and

(C) the peer reviewers described in subparagraph (B) review and rate the applications to determine the extent to which the applications meet the requirements under sections 7174(b) and 7175 of this title.

(6) State

The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title IV, §4201, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1765; amended Pub. L. 114–95, title IV, §4201(a), Dec. 10, 2015, 129 Stat. 1982.)

REFERENCES IN TEXT

This part (as this part was in effect on the day before the effective date of this part under the Every Student Succeeds Act), referred to in subsec. (b)(2)(A), means this part as in effect before it was amended generally by Pub. L. 114–95, title IV, §4201(a), Dec. 10, 2015, 129 Stat. 1982. For effective date of Pub. L. 114–95, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to purpose and definitions of this part.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7172. Allotments to States

(a) Reservation

From the funds appropriated under section 7176 of this title for any fiscal year, the Secretary shall reserve—

(1) such amounts as may be necessary to make continuation awards to subgrant recipients under covered programs (under the terms of those grants);

(2) not more than 1 percent for national activities, which the Secretary may carry out directly or through grants and contracts, such as providing technical assistance to eligible entities carrying out programs under this part or conducting a national evaluation; and

(3) not more than 1 percent for payments to the outlying areas and the Bureau of Indian Education, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, to enable the outlying areas and the Bureau to carry out the purpose of this part.

(b) State allotments

(1) Determination

From the funds appropriated under section 7176 of this title for any fiscal year and remaining after the Secretary makes reservations under subsection (a), the Secretary shall allot to each State for the fiscal year an amount that bears the same relationship to the remainder as the amount the State received under subpart 2 of part A of subchapter I for the preceding fiscal year bears to the amount all States received under that subpart for the preceding fiscal year, except that no State shall receive less than an amount equal to one-half of 1 percent of the total amount made available to all States under this subsection.

(2) Reallotment of unused funds

If a State does not receive an allotment under this part for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this part.

(c) State use of funds

(1) In general

Each State that receives an allotment under this part shall reserve not less than 93 percent of the amount allotted to such State under subsection (b), for each fiscal year for awards to eligible entities under section 7174 of this title.

(2) State administration

A State educational agency may use not more than 2 percent of the amount made available to the State under subsection (b) for—

(A) the administrative costs of carrying out its responsibilities under this part;

(B) establishing and implementing a rigorous peer-review process for subgrant applications described in section 7174(b) of this title (including consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities); and

(C) awarding of funds to eligible entities (in consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities).

(3) State activities

A State educational agency may use not more than 5 percent of the amount made available to

the State under subsection (b) for the following activities:

(A) Monitoring and evaluating programs and activities assisted under this part.

(B) Providing capacity building, training, and technical assistance under this part.

(C) Conducting a comprehensive evaluation (directly, or through a grant or contract) of the effectiveness of programs and activities assisted under this part.

(D) Providing training and technical assistance to eligible entities that are applicants for or recipients of awards under this part.

(E) Ensuring that any eligible entity that receives an award under this part from the State aligns the activities provided by the program with the challenging State academic standards.

(F) Ensuring that any such eligible entity identifies and partners with external organizations, if available, in the community.

(G) Working with teachers, principals, parents, the local workforce, the local community, and other stakeholders to review and improve State policies and practices to support the implementation of effective programs under this part.

(H) Coordinating funds received under this part with other Federal and State funds to implement high-quality programs.

(I) Providing a list of prescreened external organizations, as described under section 7173(a)(11) of this title.

(Pub. L. 89–10, title IV, §4202, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1766; amended Pub. L. 114–95, title IV, §4201(a), Dec. 10, 2015, 129 Stat. 1984.)

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to allotments to States.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7173. State application

(a) In general

In order to receive an allotment under section 7172 of this title for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

(1) designates the State educational agency as the agency responsible for the administration and supervision of programs assisted under this part;

(2) describes how the State educational agency will use funds received under this part, including funds reserved for State-level activities;

(3) contains an assurance that the State educational agency—

(A) will make awards under this part to eligible entities that serve—

(i) students who primarily attend—

(I) schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title; and

(II) other schools determined by the local educational agency to be in need of intervention and support; and

(ii) the families of such students; and

(B) will further give priority to eligible entities that propose in the application to serve students described in subclauses (I) and (II) of section 7174(i)(1)(A)(i) of this title;

(4) describes the procedures and criteria the State educational agency will use for reviewing

applications and awarding funds to eligible entities on a competitive basis, which shall include procedures and criteria that take into consideration the likelihood that a proposed community learning center will help participating students meet the challenging State academic standards and any local academic standards;

(5) describes how the State educational agency will ensure that awards made under this part are—

(A) of sufficient size and scope to support high-quality, effective programs that are consistent with the purpose of this part; and

(B) in amounts that are consistent with section 7174(h) of this title;

(6) describes the steps the State educational agency will take to ensure that programs implement effective strategies, including providing ongoing technical assistance and training, evaluation, dissemination of promising practices, and coordination of professional development for staff in specific content areas and youth development;

(7) describes how programs under this part will be coordinated with programs under this chapter, and other programs as appropriate;

(8) contains an assurance that the State educational agency—

(A) will make awards for programs for a period of not less than 3 years and not more than 5 years; and

(B) will require each eligible entity seeking such an award to submit a plan describing how the activities to be funded through the award will continue after funding under this part ends;

(9) contains an assurance that funds appropriated to carry out this part will be used to supplement, and not supplant, other Federal, State, and local public funds expended to provide programs and activities authorized under this part and other similar programs;

(10) contains an assurance that the State educational agency will require eligible entities to describe in their applications under section 7174(b) of this title how the transportation needs of participating students will be addressed;

(11) describes how the State will—

(A) prescreen external organizations that could provide assistance in carrying out the activities under this part; and

(B) develop and make available to eligible entities a list of external organizations that successfully completed the prescreening process;

(12) provides—

(A) an assurance that the application was developed in consultation and coordination with appropriate State officials, including the chief State school officer, and other State agencies administering before and after school (or summer recess) programs and activities, the heads of the State health and mental health agencies or their designees, statewide after-school networks (where applicable) and representatives of teachers, local educational agencies, and community-based organizations; and

(B) a description of any other representatives of teachers, parents, students, or the business community that the State has selected to assist in the development of the application, if applicable;

(13) describes the results of the State's needs and resources assessment for before and after school (or summer recess) programs and activities, which shall be based on the results of on-going State evaluation activities;

(14) describes how the State educational agency will evaluate the effectiveness of programs and activities carried out under this part, which shall include, at a minimum—

(A) a description of the performance indicators and performance measures that will be used to evaluate programs and activities with emphasis on alignment with the regular academic program of the school and the academic needs of participating students, including performance

indicators and measures that—

(i) are able to track student success and improvement over time;

(ii) include State assessment results and other indicators of student success and improvement, such as improved attendance during the school day, better classroom grades, regular (or consistent) program attendance, and on-time advancement to the next grade level; and

(iii) for high school students, may include indicators such as career competencies, successful completion of internships or apprenticeships, or work-based learning opportunities;

(B) a description of how data collected for the purposes of subparagraph (A) will be collected; and

(C) public dissemination of the evaluations of programs and activities carried out under this part; and

(15) provides for timely public notice of intent to file an application and an assurance that the application will be available for public review after submission.

(b) Deemed approval

An application submitted by a State educational agency pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this part.

(c) Disapproval

The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and an opportunity for a hearing.

(d) Notification

If the Secretary finds that the application is not in compliance, in whole or in part, with this part, the Secretary shall—

(1) give the State educational agency notice and an opportunity for a hearing; and

(2) notify the State educational agency of the finding of noncompliance and, in such notification—

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(e) Response

If the State educational agency responds to the Secretary's notification described in subsection (d)(2) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (d)(2)(B), the Secretary shall approve or disapprove such application prior to the later of—

(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(2) the expiration of the 120-day period described in subsection (b).

(f) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subsection (d)(2) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(g) Limitation

The Secretary may not give a priority or a preference for States or eligible entities that seek to use funds made available under this part to extend the regular school day.

(Pub. L. 89–10, title IV, §4203, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1767; amended Pub. L. 114–95, title IV, §4201(a), Dec. 10, 2015, 129 Stat. 1986.)

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to State application, consisting of subsecs. (a) to (f).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7174. Local competitive subgrant program

(a) In general

(1) Community learning centers

A State that receives funds under this part for a fiscal year shall provide the amount made available under section 7172(c)(1) of this title to award subgrants to eligible entities for community learning centers in accordance with this part.

(2) Expanded learning program activities

A State that receives funds under this part for a fiscal year may use funds under section 7172(c)(1) of this title to support those enrichment and engaging academic activities described in section 7175(a) of this title that—

(A) are included as part of an expanded learning program that provides students at least 300 additional program hours before, during, or after the traditional school day;

(B) supplement but do not supplant regular school day requirements; and

(C) are carried out by entities that meet the requirements of subsection (i).

(b) Application

(1) In general

To be eligible to receive a subgrant under this part, an eligible entity shall submit an application to the State educational agency at such time, in such manner, and including such information as the State educational agency may reasonably require.

(2) Contents

Each application submitted under paragraph (1) shall include—

(A) a description of the activities to be funded, including—

(i) an assurance that the program will take place in a safe and easily accessible facility;

(ii) a description of how students participating in the program carried out by the community learning center will travel safely to and from the center and home, if applicable; and

(iii) a description of how the eligible entity will disseminate information about the community learning center (including its location) to the community in a manner that is understandable and accessible;

(B) a description of how such activities are expected to improve student academic achievement as well as overall student success;

(C) a demonstration of how the proposed program will coordinate Federal, State, and local programs and make the most effective use of public resources;

(D) an assurance that the proposed program was developed and will be carried out—

(i) in active collaboration with the schools that participating students attend (including through the sharing of relevant data among the schools), all participants of the eligible entity, and any partnership entities described in subparagraph (H), in compliance with applicable

laws relating to privacy and confidentiality; and

(ii) in alignment with the challenging State academic standards and any local academic standards;

(E) a description of how the activities will meet the measures of effectiveness described in section 7175(b) of this title;

(F) an assurance that the program will target students who primarily attend schools eligible for schoolwide programs under section 6314 of this title and the families of such students;

(G) an assurance that subgrant funds under this part will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this part, be made available for programs and activities authorized under this part, and in no case supplant Federal, State, local, or non-Federal funds;

(H) a description of the partnership between a local educational agency, a community-based organization, and another public entity or private entity, if appropriate;

(I) an evaluation of the community needs and available resources for the community learning center, and a description of how the program proposed to be carried out in the center will address those needs (including the needs of working families);

(J) a demonstration that the eligible entity will use best practices, including research or evidence-based practices, to provide educational and related activities that will complement and enhance academic performance, achievement, postsecondary and workforce preparation, and positive youth development of the students;

(K) a description of a preliminary plan for how the community learning center will continue after funding under this part ends;

(L) an assurance that the community will be given notice of an intent to submit an application and that the application and any waiver request will be available for public review after submission of the application;

(M) if the eligible entity plans to use volunteers in activities carried out through the community learning center, a description of how the eligible entity will encourage and use appropriately qualified persons to serve as the volunteers; and

(N) such other information and assurances as the State educational agency may reasonably require.

(c) Approval of certain applications

The State educational agency may approve an application under this part for a program to be located in a facility other than an elementary school or secondary school only if the program will be at least as available and accessible to the students to be served as if the program were located in an elementary school or secondary school.

(d) Permissive local match

(1) In general

A State educational agency may require an eligible entity to match subgrant funds awarded under this part, except that such match may not exceed the amount of the subgrant and may not be derived from other Federal or State funds.

(2) Sliding scale

The amount of a match under paragraph (1) shall be established based on a sliding scale that takes into account—

(A) the relative poverty of the population to be targeted by the eligible entity; and

(B) the ability of the eligible entity to obtain such matching funds.

(3) In-kind contributions

Each State educational agency that requires an eligible entity to match funds under this subsection shall permit the eligible entity to provide all or any portion of such match in the form of in-kind contributions.

(4) Consideration

Notwithstanding this subsection, a State educational agency shall not consider an eligible entity's ability to match funds when determining which eligible entities will receive subgrants under this part.

(e) Peer review

In reviewing local applications under this part, a State educational agency shall use a rigorous peer-review process or other methods to ensure the quality of funded projects.

(f) Geographic diversity

To the extent practicable, a State educational agency shall distribute subgrant funds under this part equitably among geographic areas within the State, including urban and rural communities.

(g) Duration of awards

A subgrant awarded under this part shall be awarded for a period of not less than 3 years and not more than 5 years.

(h) Amount of awards

A subgrant awarded under this part may not be made in an amount that is less than $50,000.

(i) Priority

(1) In general

In awarding subgrants under this part, a State educational agency shall give priority to applications—

(A) proposing to target services to—

(i) students who primarily attend schools that—

(I) are implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title or other schools determined by the local educational agency to be in need of intervention and support to improve student academic achievement and other outcomes; and

(II) enroll students who may be at risk for academic failure, dropping out of school, involvement in criminal or delinquent activities, or who lack strong positive role models; and

(ii) the families of students described in clause (i);

(B) submitted jointly by eligible entities consisting of not less than 1—

(i) local educational agency receiving funds under part A of subchapter I; and

(ii) another eligible entity; and

(C) demonstrating that the activities proposed in the application—

(i) are, as of the date of the submission of the application, not accessible to students who would be served; or

(ii) would expand accessibility to high-quality services that may be available in the community.

(2) Special rule

The State educational agency shall provide the same priority under paragraph (1) to an application submitted by a local educational agency if the local educational agency demonstrates that it is unable to partner with a community-based organization in reasonable geographic proximity and of sufficient quality to meet the requirements of this part.

(3) Limitation

A State educational agency may not give a priority or a preference to eligible entities that seek to use funds made available under this part to extend the regular school day.

(j) Renewability of awards

A State educational agency may renew a subgrant provided under this part to an eligible entity, based on the eligible entity's performance during the preceding subgrant period.

(Pub. L. 89–10, title IV, §4204, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1769; amended Pub. L. 114–95, title IV, §4201(a), Dec. 10, 2015, 129 Stat. 1988.)

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to local competitive grant program, consisting of subsecs. (a) to (i).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7175. Local activities

(a) Authorized activities

Each eligible entity that receives an award under section 7174 of this title may use the award funds to carry out a broad array of activities that advance student academic achievement and support student success, including—

(1) academic enrichment learning programs, mentoring programs, remedial education activities, and tutoring services, that are aligned with—

(A) the challenging State academic standards and any local academic standards; and

(B) local curricula that are designed to improve student academic achievement;

(2) well-rounded education activities, including such activities that enable students to be eligible for credit recovery or attainment;

(3) literacy education programs, including financial literacy programs and environmental literacy programs;

(4) programs that support a healthy and active lifestyle, including nutritional education and regular, structured physical activity programs;

(5) services for individuals with disabilities;

(6) programs that provide after-school activities for students who are English learners that emphasize language skills and academic achievement;

(7) cultural programs;

(8) telecommunications and technology education programs;

(9) expanded library service hours;

(10) parenting skills programs that promote parental involvement and family literacy;

(11) programs that provide assistance to students who have been truant, suspended, or expelled to allow the students to improve their academic achievement;

(12) drug and violence prevention programs and counseling programs;

(13) programs that build skills in science, technology, engineering, and mathematics (referred to in this paragraph as "STEM"), including computer science, and that foster innovation in learning by supporting nontraditional STEM education teaching methods; and

(14) programs that partner with in-demand fields of the local workforce or build career competencies and career readiness and ensure that local workforce and career readiness skills are aligned with the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) and the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.).

(b) Measures of effectiveness

(1) In general

For a program or activity developed pursuant to this part to meet the measures of effectiveness,

monitored by the State educational agency as described in section 7173(a)(14) of this title, such program or activity shall—

(A) be based upon an assessment of objective data regarding the need for before and after school (or summer recess) programs and activities in the schools and communities;

(B) be based upon an established set of performance measures aimed at ensuring the availability of high-quality academic enrichment opportunities;

(C) if appropriate, be based upon evidence-based research that the program or activity will help students meet the challenging State academic standards and any local academic standards;

(D) ensure that measures of student success align with the regular academic program of the school and the academic needs of participating students and include performance indicators and measures described in section 7173(a)(14)(A) of this title; and

(E) collect the data necessary for the measures of student success described in subparagraph (D).

(2) Periodic evaluation

(A) In general

The program or activity shall undergo a periodic evaluation in conjunction with the State educational agency's overall evaluation plan as described in section 7173(a)(14) of this title, to assess the program's progress toward achieving the goal of providing high-quality opportunities for academic enrichment and overall student success.

(B) Use of results

The results of evaluations under subparagraph (A) shall be—

(i) used to refine, improve, and strengthen the program or activity, and to refine the performance measures;

(ii) made available to the public upon request, with public notice of such availability provided; and

(iii) used by the State to determine whether a subgrant is eligible to be renewed under section 7174(j) of this title.

(Pub. L. 89–10, title IV, §4205, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1772; amended Pub. L. 114–95, title IV, §4201(a), Dec. 10, 2015, 129 Stat. 1992.)

REFERENCES IN TEXT

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(14), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in (a)(14), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of this title, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to local activities.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7176. Authorization of appropriations

There are authorized to be appropriated to carry out this part $1,000,000,000 for fiscal year 2017 and $1,100,000,000 for each of fiscal years 2018 through 2020.

(Pub. L. 89–10, title IV, §4206, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1773; amended Pub. L. 114–95, title IV, §4201(a), Dec. 10, 2015, 129 Stat. 1993.)

PRIOR PROVISIONS

A prior section 7181, Pub. L. 89–10, title IV, §4301, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1773, which set forth short title of the Pro-Children Act of 2001, was renumbered section 8571 of Pub. L. 89–10 by Pub. L. 114–95, title IV, §4001(a)(4)(A), (B), (C)(ii), title VIII, §8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, and transferred to section 7971 of this title.

A prior section 7182, Pub. L. 89–10, title IV, §4302, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1773, which related to definitions, was renumbered section 8572 of Pub. L. 89–10 by Pub. L. 114–95, title IV, §4001(a)(4)(A), (B), (C)(ii), title VIII, §8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, and transferred to section 7972 of this title.

A prior section 7183, Pub. L. 89–10, title IV, §4303, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1774; amended Pub. L. 114–95, title IV, §4001(a)(1), Dec. 10, 2015, 129 Stat. 1966, which related to nonsmoking policy for children's services, was renumbered section 8573 of Pub. L. 89–10 by Pub. L. 114–95, title IV, §4001(a)(4)(A), (B), (C)(ii), title VIII, §8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, and transferred to section 7973 of this title.

A prior section 7184, Pub. L. 89–10, title IV, §4304, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1776, which related to preemption of law, was renumbered section 8574 of Pub. L. 89–10 by Pub. L. 114–95, title IV, §4001(a)(4)(A), (B), (C)(ii), title VIII, §8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, and transferred to section 7974 of this title.

A prior section 7201, Pub. L. 89–10, title V, §5101, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1776, related to purposes and State and local responsibility, prior to repeal by Pub. L. 114–95, §5, title IV, §4001(b)(1)(A), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 7201, Pub. L. 89–10, title V, §5101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3690, set forth findings relating to magnet schools assistance, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Prior sections 7202 to 7210 were omitted in the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Section 7202, Pub. L. 89–10, title V, §5102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3691, related to purpose of magnet schools assistance.

Section 7203, Pub. L. 89–10, title V, §5103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3691, authorized program.

Section 7204, Pub. L. 89–10, title V, §5104, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3691, defined "magnet school".

Section 7205, Pub. L. 89–10, title V, §5105, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3692, related to eligibility for assistance.

Section 7206, Pub. L. 89–10, title V, §5106, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3692, related to applications and requirements.

Section 7207, Pub. L. 89–10, title V, §5107, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3693, related to priority in approving applications.

Section 7208, Pub. L. 89–10, title V, §5108, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3693, related to use of funds. See section 7231f of this title.

Section 7209, Pub. L. 89–10, title V, §5109, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3694, set forth prohibitions.

Section 7210, Pub. L. 89–10, title V, §5110, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3694, related to limitations.

A prior section 7211, Pub. L. 89–10, title V, §5111, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1777, related to allotment to States, prior to repeal by Pub. L. 114–95, §5, title IV, §4001(b)(1)(A), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 7211, Pub. L. 89–10, title V, §5111, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3694, related to innovative programs, prior to the general amendment of former subchapter V by Pub. L. 107–110.

A prior section 5111 of Pub. L. 89–10 was classified to section 3181 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7211a, Pub. L. 89–10, title V, §5112, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002,

115 Stat. 1777, related to allocation to local educational agencies, prior to repeal by Pub. L. 114–95, §5, title IV, §4001(b)(1)(A), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 5112 of Pub. L. 89–10 was classified to section 7212 of this title, prior to the general amendment of former this subchapter V of this chapterby Pub. L. 107–110.

Another prior section 5112 of Pub. L. 89–10 was classified to section 3182 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7212, Pub. L. 89–10, title V, §5112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3695, which related to evaluations, was omitted in the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

A prior section 7213, Pub. L. 89–10, title V, §5121, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1779, related to State uses of funds, prior to repeal by Pub. L. 114–95, §5, title IV, §4001(b)(1)(A), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 7213, Pub. L. 89–10, title V, §5113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3695, related to authorization of appropriations and reservation of funds, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

A prior section 5121 of Pub. L. 89–10 was classified to section 3191 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 7213a, 7215 to 7215b, and 7217 to 7217e were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(A), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7213a, Pub. L. 89–10, title V, §5122, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1780, related to State applications.

A prior section 5122 of Pub. L. 89–10 was classified to section 3192 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7215, Pub. L. 89–10, title V, §5131, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1781, related to local uses of funds.

A prior section 5131 of Pub. L. 89–10 was classified to section 3211 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7215a, Pub. L. 89–10, title V, §5132, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1783, related to administrative authority.

A prior section 5132 of Pub. L. 89–10 was classified to section 3212 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7215b, Pub. L. 89–10, title V, §5133, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1783, related to local applications.

A prior section 5133 of Pub. L. 89–10 was classified to section 3213 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7217, Pub. L. 89–10, title V, §5141, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1784, related to maintenance of effort.

A prior section 5141 of Pub. L. 89–10 was classified to section 3221 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7217a, Pub. L. 89–10, title V, §5142, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1785, related to participation of children enrolled in private schools.

A prior section 5142 of Pub. L. 89–10 was classified to section 3222 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7217b, Pub. L. 89–10, title V, §5143, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1787, related to Federal administration.

A prior section 5143 of Pub. L. 89–10 was classified to section 3223 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7217c, Pub. L. 89–10, title V, §5144, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1788, provided that funds made available were to supplement, not supplant, other funds.

A prior section 5144 of Pub. L. 89–10 was classified to section 3224 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7217d, Pub. L. 89–10, title V, §5145, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1788, defined terms.

A prior section 5145 of Pub. L. 89–10 was classified to section 3224a of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7217e, Pub. L. 89–10, title V, §5146, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1788, authorized appropriations for fiscal years 2002 to 2007.

A prior section 5146 of Pub. L. 89–10 was classified to section 3224b of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment section authorized appropriations for fiscal years 2002 to 2007.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART C—EXPANDING OPPORTUNITY THROUGH QUALITY CHARTER SCHOOLS

CODIFICATION

Pub. L. 114–95, title IV, §4001(b)(2)(A)–(D)(ii), Dec. 10, 2015, 129 Stat. 1967, redesignated part B (§7221 et seq.) of subchapter V of this chapter as part C of this subchapter, substituted "Expanding Opportunity Through Quality Charter Schools" for "Public Charter Schools" in part heading, and struck out subpart 1 heading.

PRIOR PROVISIONS

A prior part C of title IV of the Elementary and Secondary Education Act of 1965, comprising part C (§7181 et seq.) of this subchapter, was redesignated subpart 5 of part F of title VIII of the Act and transferred to subpart 5 (§7971 et seq.) of part F of subchapter VIII of this chapter by Pub. L. 114–95, title IV, §4001(a)(4)(A)–(C)(i), title VIII, §8001(a)(9), (b)(1), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.

§7221. Purpose

It is the purpose of this part to—

(1) improve the United States education system and education opportunities for all people in the United States by supporting innovation in public education in public school settings that prepare students to compete and contribute to the global economy and a stronger Nation;

(2) provide financial assistance for the planning, program design, and initial implementation of charter schools;

(3) increase the number of high-quality charter schools available to students across the United States;

(4) evaluate the impact of charter schools on student achievement, families, and communities, and share best practices between charter schools and other public schools;

(5) encourage States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount States typically provide for traditional public schools;

(6) expand opportunities for children with disabilities, English learners, and other traditionally underserved students to attend charter schools and meet the challenging State academic standards;

(7) support efforts to strengthen the charter school authorizing process to improve performance management, including transparency, oversight and monitoring (including financial audits), and evaluation of such schools; and

(8) support quality, accountability, and transparency in the operational performance of all authorized public chartering agencies, including State educational agencies, local educational agencies, and other authorizing entities.

(Pub. L. 89–10, title IV, §4301, as added Pub. L. 114–95, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1993.)

PRIOR PROVISIONS

A prior section 7221, Pub. L. 89–10, title IV, §4301, formerly title V, §5201, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1788; renumbered title IV, §4301, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967, related to purpose of former subpart 1 of part B of subchapter V of this chapter, prior to repeal by Pub. L. 114–95, §5, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1806, 1993, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 4301 of Pub. L. 89–10 was renumbered section 8571, and is classified to section 7971 of this title.

Another prior section 4301 of Pub. L. 89–10 was classified to section 3081 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7221a. Program authorized

(a) In general

The Secretary may carry out a charter school program that supports charter schools that serve early childhood, elementary school, or secondary school students by—

(1) supporting the startup of new charter schools, the replication of high-quality charter schools, and the expansion of high-quality charter schools;

(2) assisting charter schools in accessing credit to acquire and renovate facilities for school use; and

(3) carrying out national activities to support—

(A) the activities described in paragraph (1);

(B) the dissemination of best practices of charter schools for all schools;

(C) the evaluation of the impact of the charter school program under this part on schools participating in such program; and

(D) stronger charter school authorizing practices.

(b) Funding allotment

From the amount made available under section 7221j of this title for a fiscal year, the Secretary shall—

(1) reserve 12.5 percent to support charter school facilities assistance under section 7221c of this title;

(2) reserve 22.5 percent to carry out national activities under section 7221d of this title; and

(3) use the remaining amount after the reservations under paragraphs (1) and (2) to carry out section 7221b of this title.

(c) Prior grants and subgrants

The recipient of a grant or subgrant under part B of title V (as such part was in effect on the day before December 10, 2015) shall continue to receive funds in accordance with the terms and conditions of such grant or subgrant.

(Pub. L. 89–10, title IV, §4302, as added Pub. L. 114–95, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1994.)

REFERENCES IN TEXT

Part B of title V (as such part was in effect on the day before December 10, 2015), referred to in subsec. (c), means part B of title V of Pub. L. 89–10, which was classified generally to part B (§7221 et seq.) of subchapter V of this chapter prior to being amended by Pub. L. 114–95. Pub. L. 114–95, title IV, §§4001(b)(1)(B), (2), 4301, Dec. 10, 2015, 129 Stat. 1967, 1993, repealed subparts 2 (§7223 et seq.) and 3 (§7225 et seq.) of part B of subchapter V, redesignated the remainder of part B as this part, struck out the

subpart 1 designation and heading, repealed and amended various sections of this part, and added several new sections. For complete classification of Pub. L. 114–95 to the Code, see Tables.

PRIOR PROVISIONS

A prior section 7221a, Pub. L. 89–10, title IV, §4302, formerly title V, §5202, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1788; renumbered title IV, §4302, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967, related to authorization of grant program, prior to repeal by Pub. L. 114–95, §5, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1806, 1993, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 4302 of Pub. L. 89–10 was renumbered section 8572, and is classified to section 7972 of this title.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7221b. Grants to support high-quality charter schools

(a) State entity defined

For purposes of this section, the term "State entity" means—

(1) a State educational agency;

(2) a State charter school board;

(3) a Governor of a State; or

(4) a charter school support organization.

(b) Program authorized

From the amount available under section 7221a(b)(3) of this title, the Secretary shall award, on a competitive basis, grants to State entities having applications approved under subsection (f) to enable such entities to—

(1) award subgrants to eligible applicants to enable eligible applicants to—

(A) open and prepare for the operation of new charter schools;

(B) open and prepare for the operation of replicated high-quality charter schools; or

(C) expand high-quality charter schools; and

(2) provide technical assistance to eligible applicants and authorized public chartering agencies in carrying out the activities described in paragraph (1), and work with authorized public chartering agencies in the State to improve authorizing quality, including developing capacity for, and conducting, fiscal oversight and auditing of charter schools.

(c) State entity uses of funds

(1) In general

A State entity receiving a grant under this section shall—

(A) use not less than 90 percent of the grant funds to award subgrants to eligible applicants, in accordance with the quality charter school program described in the State entity's application pursuant to subsection (f), for the purposes described in subsection (b)(1);

(B) reserve not less than 7 percent of such funds to carry out the activities described in subsection (b)(2); and

(C) reserve not more than 3 percent of such funds for administrative costs, which may include technical assistance.

(2) Contracts and grants

A State entity may use a grant received under this section to carry out the activities described in subsection (b)(2) directly or through grants, contracts, or cooperative agreements.

(3) Rule of construction

(A) Use of lottery

Nothing in this chapter shall prohibit the Secretary from awarding grants to State entities, or prohibit State entities from awarding subgrants to eligible applicants, that use a weighted lottery to give slightly better chances for admission to all, or a subset of, educationally disadvantaged students if—

(i) the use of weighted lotteries in favor of such students is not prohibited by State law, and such State law is consistent with laws described in section 7221i(2)(G) of this title; and

(ii) such weighted lotteries are not used for the purpose of creating schools exclusively to serve a particular subset of students.

(B) Students with special needs

Nothing in this paragraph shall be construed to prohibit schools from specializing in providing specific services for students with a demonstrated need for such services, such as students who need specialized instruction in reading, spelling, or writing.

(d) Program periods; peer review; distribution of subgrants; waivers

(1) Program periods

(A) Grants

A grant awarded by the Secretary to a State entity under this section shall be for a period of not more than 5 years.

(B) Subgrants

A subgrant awarded by a State entity under this section shall be for a period of not more than 5 years, of which an eligible applicant may use not more than 18 months for planning and program design.

(2) Peer review

The Secretary, and each State entity awarding subgrants under this section, shall use a peer-review process to review applications for assistance under this section.

(3) Grant awards

(A) In general

The Secretary—

(i) shall for each fiscal year for which funds are appropriated under section 7221j of this title—

(I) award not less than 3 grants under this section; and

(II) fully obligate the first 2 years of funds appropriated for the purpose of awarding grants under this section in the first fiscal year for which such grants are awarded; and

(ii) prior to the start of the third year of the grant period and each succeeding year of each grant awarded under this section to a State entity—

(I) shall review—

(aa) whether the State entity is using the grant funds for the agreed upon uses of funds; and

(bb) whether the full amount of the grant will be needed for the remainder of the grant period; and

(II) may, as determined necessary based on that review, terminate or reduce the amount of the grant and reallocate the remaining grant funds to other State entities—

(aa) by using such funds to award grants under this section to other State entities; or

(bb) in a fiscal year in which the amount of such remaining funds is insufficient to award grants under item (aa), in accordance with subparagraph (B).

(B) Remaining funding

For a fiscal year for which there are remaining grant funds under this paragraph, but the amount of such funds is insufficient to award a grant to a State entity under this section, the Secretary shall use such remaining grants funds—

(i) to supplement funding for grants under section 7221d(a)(2) of this title, but not to supplant—

(I) the funds reserved under section 7221d(a)(2) of this title; and

(II) funds otherwise reserved under section 7221a(b)(2) of this title to carry out national activities under section 7221d of this title;

(ii) to award grants to State entities to carry out the activities described in subsection (b)(1) for the next fiscal year; or

(iii) to award one year of a grant under subsection (b)(1) to a high-scoring State entity, in an amount at or above the minimum amount the State entity needs to be successful for such year.

(4) Diversity of projects

Each State entity awarding subgrants under this section shall award subgrants in a manner that, to the extent practicable and applicable, ensures that such subgrants—

(A) are distributed throughout different areas, including urban, suburban, and rural areas; and

(B) will assist charter schools representing a variety of educational approaches.

(5) Waivers

The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority, except any such requirement relating to the elements of a charter school described in section 7221i(2) of this title, if—

(A) the waiver is requested in an approved application under this section; and

(B) the Secretary determines that granting such waiver will promote the purpose of this part.

(e) Limitations

(1) Grants

No State entity may receive a grant under this section for use in a State in which a State entity is currently using a grant received under this section.

(2) Subgrants

An eligible applicant may not receive more than 1 subgrant under this section for each individual charter school for a 5-year period, unless the eligible applicant demonstrates to the State entity that such individual charter school has at least 3 years of improved educational results for students enrolled in such charter school with respect to the elements described in subparagraphs (A) and (D) of section 7221i(8) of this title.

(f) Applications

A State entity desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall include the following:

(1) Description of program

A description of the State entity's objectives in running a quality charter school program under this section and how the objectives of the program will be carried out, including—

(A) a description of how the State entity will—

(i) support the opening of charter schools through the startup of new charter schools and, if applicable, the replication of high-quality charter schools, and the expansion of high-quality charter schools (including the proposed number of new charter schools to be opened,

high-quality charter schools to be opened as a result of the replication of a high-quality charter school, or high-quality charter schools to be expanded under the State entity's program);

(ii) inform eligible charter schools, developers, and authorized public chartering agencies of the availability of funds under the program;

(iii) work with eligible applicants to ensure that the eligible applicants access all Federal funds that such applicants are eligible to receive, and help the charter schools supported by the applicants and the students attending those charter schools—

(I) participate in the Federal programs in which the schools and students are eligible to participate;

(II) receive the commensurate share of Federal funds the schools and students are eligible to receive under such programs; and

(III) meet the needs of students served under such programs, including students with disabilities and English learners;

(iv) ensure that authorized public chartering agencies, in collaboration with surrounding local educational agencies where applicable, establish clear plans and procedures to assist students enrolled in a charter school that closes or loses its charter to attend other high-quality schools;

(v) in the case of a State entity that is not a State educational agency—

(I) work with the State educational agency and charter schools in the State to maximize charter school participation in Federal and State programs for which charter schools are eligible; and

(II) work with the State educational agency to operate the State entity's program under this section, if applicable;

(vi) ensure that each eligible applicant that receives a subgrant under the State entity's program—

(I) is using funds provided under this section for one of the activities described in subsection (b)(1); and

(II) is prepared to continue to operate charter schools funded under this section in a manner consistent with the eligible applicant's application for such subgrant once the subgrant funds under this section are no longer available;

(vii) support—

(I) charter schools in local educational agencies with a significant number of schools identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title; and

(II) the use of charter schools to improve struggling schools, or to turn around struggling schools;

(viii) work with charter schools on—

(I) recruitment and enrollment practices to promote inclusion of all students, including by eliminating any barriers to enrollment for educationally disadvantaged students (who include foster youth and unaccompanied homeless youth); and

(II) supporting all students once they are enrolled to promote retention, including by reducing the overuse of discipline practices that remove students from the classroom;

(ix) share best and promising practices between charter schools and other public schools;

(x) ensure that charter schools receiving funds under the State entity's program meet the educational needs of their students, including children with disabilities and English learners;

(xi) support efforts to increase charter school quality initiatives, including meeting the quality authorizing elements described in paragraph (2)(D);

(xii)(I) in the case of a State entity not described in subclause (II), a description of how the State entity will provide oversight of authorizing activity, including how the State will help ensure better authorizing, such as by establishing authorizing standards that may include approving, monitoring, and re-approving or revoking the authority of an authorized public chartering agency based on the performance of the charter schools authorized by such agency in the areas of student achievement, student safety, financial and operational management, and compliance with all applicable statutes and regulations; and

(II) in the case of a State entity described in subsection (a)(4), a description of how the State entity will work with the State to support the State's system of technical assistance and oversight, as described in subclause (I), of the authorizing activity of authorized public chartering agencies; and

(xiii) work with eligible applicants receiving a subgrant under the State entity's program to support the opening of new charter schools or charter school models described in clause (i) that are high schools;

(B) a description of the extent to which the State entity—

(i) is able to meet and carry out the priorities described in subsection (g)(2);

(ii) is working to develop or strengthen a cohesive statewide system to support the opening of new charter schools and, if applicable, the replication of high-quality charter schools, and the expansion of high-quality charter schools; and

(iii) is working to develop or strengthen a cohesive strategy to encourage collaboration between charter schools and local educational agencies on the sharing of best practices;

(C) a description of how the State entity will award subgrants, on a competitive basis, including—

(i) a description of the application each eligible applicant desiring to receive a subgrant will be required to submit, which application shall include—

(I) a description of the roles and responsibilities of eligible applicants, partner organizations, and charter management organizations, including the administrative and contractual roles and responsibilities of such partners;

(II) a description of the quality controls agreed to between the eligible applicant and the authorized public chartering agency involved, such as a contract or performance agreement, how a school's performance in the State's accountability system and impact on student achievement (which may include student academic growth) will be one of the most important factors for renewal or revocation of the school's charter, and how the State entity and the authorized public chartering agency involved will reserve the right to revoke or not renew a school's charter based on financial, structural, or operational factors involving the management of the school;

(III) a description of how the autonomy and flexibility granted to a charter school is consistent with the definition of a charter school in section 7221i of this title;

(IV) a description of how the eligible applicant will solicit and consider input from parents and other members of the community on the implementation and operation of each charter school that will receive funds under the State entity's program;

(V) a description of the eligible applicant's planned activities and expenditures of subgrant funds to support the activities described in subsection (b)(1), and how the eligible applicant will maintain financial sustainability after the end of the subgrant period; and

(VI) a description of how the eligible applicant will support the use of effective parent, family, and community engagement strategies to operate each charter school that will receive funds under the State entity's program; and

(ii) a description of how the State entity will review applications from eligible applicants;

(D) in the case of a State entity that partners with an outside organization to carry out the

State entity's quality charter school program, in whole or in part, a description of the roles and responsibilities of the partner;

(E) a description of how the State entity will ensure that each charter school receiving funds under the State entity's program has considered and planned for the transportation needs of the school's students;

(F) a description of how the State in which the State entity is located addresses charter schools in the State's open meetings and open records laws; and

(G) a description of how the State entity will support diverse charter school models, including models that serve rural communities.

(2) Assurances

Assurances that—

(A) each charter school receiving funds through the State entity's program will have a high degree of autonomy over budget and operations, including autonomy over personnel decisions;

(B) the State entity will support charter schools in meeting the educational needs of their students, as described in paragraph (1)(A)(x);

(C) the State entity will ensure that the authorized public chartering agency of any charter school that receives funds under the State entity's program adequately monitors each charter school under the authority of such agency in recruiting, enrolling, retaining, and meeting the needs of all students, including children with disabilities and English learners;

(D) the State entity will provide adequate technical assistance to eligible applicants to meet the objectives described in clause (viii) of paragraph (1)(A) and subparagraph (B) of this paragraph;

(E) the State entity will promote quality authorizing, consistent with State law, such as through providing technical assistance to support each authorized public chartering agency in the State to improve such agency's ability to monitor the charter schools authorized by the agency, including by—

(i) assessing annual performance data of the schools, including, as appropriate, graduation rates, student academic growth, and rates of student attrition;

(ii) reviewing the schools' independent, annual audits of financial statements prepared in accordance with generally accepted accounting principles, and ensuring that any such audits are publically reported; and

(iii) holding charter schools accountable to the academic, financial, and operational quality controls agreed to between the charter school and the authorized public chartering agency involved, such as through renewal, non-renewal, or revocation of the school's charter;

(F) the State entity will work to ensure that charter schools are included with the traditional public schools in decisionmaking about the public school system in the State; and

(G) the State entity will ensure that each charter school receiving funds under the State entity's program makes publicly available, consistent with the dissemination requirements of the annual State report card under section 6311(h) of this title, including on the website of the school, information to help parents make informed decisions about the education options available to their children, including—

(i) information on the educational program;

(ii) student support services;

(iii) parent contract requirements (as applicable), including any financial obligations or fees;

(iv) enrollment criteria (as applicable); and

(v) annual performance and enrollment data for each of the subgroups of students, as defined in section 6311(c)(2) of this title, except that such disaggregation of performance and enrollment data shall not be required in a case in which the number of students in a group is insufficient to yield statically reliable information or the results would reveal personally identifiable information about an individual student.

(3) Requests for waivers

Information about waivers, including—

(A) a request and justification for waivers of any Federal statutory or regulatory provisions that the State entity believes are necessary for the successful operation of the charter schools that will receive funds under the State entity's program under this section or, in the case of a State entity defined in subsection (a)(4), a description of how the State entity will work with the State to request such necessary waivers, where applicable; and

(B) a description of any State or local rules, generally applicable to public schools, that will be waived, or otherwise not apply to such schools.

(g) Selection criteria; priority

(1) Selection criteria

The Secretary shall award grants to State entities under this section on the basis of the quality of the applications submitted under subsection (f), after taking into consideration—

(A) the degree of flexibility afforded by the State's charter school law and how the State entity will work to maximize the flexibility provided to charter schools under such law;

(B) the ambitiousness of the State entity's objectives for the quality charter school program carried out under this section;

(C) the likelihood that the eligible applicants receiving subgrants under the program will meet those objectives and improve educational results for students;

(D) the State entity's plan to—

(i) adequately monitor the eligible applicants receiving subgrants under the State entity's program;

(ii) work with the authorized public chartering agencies involved to avoid duplication of work for the charter schools and authorized public chartering agencies; and

(iii) provide technical assistance and support for—

(I) the eligible applicants receiving subgrants under the State entity's program; and

(II) quality authorizing efforts in the State; and

(E) the State entity's plan to solicit and consider input from parents and other members of the community on the implementation and operation of charter schools in the State.

(2) Priority

In awarding grants under this section, the Secretary shall give priority to a State entity to the extent that the entity meets the following criteria:

(A) The State entity is located in a State that—

(i) allows at least one entity that is not a local educational agency to be an authorized public chartering agency for developers seeking to open a charter school in the State; or

(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, the State has an appeals process for the denial of an application for a charter school.

(B) The State entity is located in a State that ensures equitable financing, as compared to traditional public schools, for charter schools and students in a prompt manner.

(C) The State entity is located in a State that provides charter schools one or more of the following:

(i) Funding for facilities.

(ii) Assistance with facilities acquisition.

(iii) Access to public facilities.

(iv) The ability to share in bonds or mill levies.

(v) The right of first refusal to purchase public school buildings.

(vi) Low- or no-cost leasing privileges.

(D) The State entity is located in a State that uses best practices from charter schools to help improve struggling schools and local educational agencies.

(E) The State entity supports charter schools that serve at-risk students through activities such as dropout prevention, dropout recovery, or comprehensive career counseling services.

(F) The State entity has taken steps to ensure that all authorizing public chartering agencies implement best practices for charter school authorizing.

(h) Local uses of funds

An eligible applicant receiving a subgrant under this section shall use such funds to support the activities described in subsection (b)(1), which shall include one or more of the following activities:

(1) Preparing teachers, school leaders, and specialized instructional support personnel, including through paying the costs associated with—

(A) providing professional development; and

(B) hiring and compensating, during the eligible applicant's planning period specified in the application for subgrant funds that is required under this section, one or more of the following:

(i) Teachers.

(ii) School leaders.

(iii) Specialized instructional support personnel.

(2) Acquiring supplies, training, equipment (including technology), and educational materials (including developing and acquiring instructional materials).

(3) Carrying out necessary renovations to ensure that a new school building complies with applicable statutes and regulations, and minor facilities repairs (excluding construction).

(4) Providing one-time, startup costs associated with providing transportation to students to and from the charter school.

(5) Carrying out community engagement activities, which may include paying the cost of student and staff recruitment.

(6) Providing for other appropriate, non-sustained costs related to the activities described in subsection (b)(1) when such costs cannot be met from other sources.

(i) Reporting requirements

Each State entity receiving a grant under this section shall submit to the Secretary, at the end of the third year of the 5-year grant period (or at the end of the second year of the grant period if the grant is less than 5 years), and at the end of such grant period, a report that includes the following:

(1) The number of students served by each subgrant awarded under this section and, if applicable, the number of new students served during each year of the period of the subgrant.

(2) A description of how the State entity met the objectives of the quality charter school program described in the State entity's application under subsection (f), including—

(A) how the State entity met the objective of sharing best and promising practices described in subsection (f)(1)(A)(ix) in areas such as instruction, professional development, curricula development, and operations between charter schools and other public schools; and

(B) if known, the extent to which such practices were adopted and implemented by such other public schools.

(3) The number and amount of subgrants awarded under this section to carry out activities described in each of subparagraphs (A) through (C) of subsection (b)(1).

(4) A description of—

(A) how the State entity complied with, and ensured that eligible applicants complied with, the assurances included in the State entity's application; and

(B) how the State entity worked with authorized public chartering agencies, and how the agencies worked with the management company or leadership of the schools that received subgrant funds under this section, if applicable.

(Pub. L. 89–10, title IV, §4303, as added Pub. L. 114–95, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1995.)

PRIOR PROVISIONS

A prior section 7221b, Pub. L. 89–10, title IV, §4303, formerly title V, §5203, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1790; renumbered title IV, §4303, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967, related to applications from State agencies, prior to repeal by Pub. L. 114–95, §5, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1806, 1993, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 4303 of Pub. L. 89–10 was renumbered section 8573, and is classified to section 7973 of this title.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7221c. Facilities financing assistance

(a) Grants to eligible entities

(1) In general

From the amount reserved under section 7221a(b)(1) of this title, the Secretary shall use not less than 50 percent to award, on a competitive basis, not less than 3 grants to eligible entities that have the highest-quality applications approved under subsection (d), after considering the diversity of such applications, to demonstrate innovative methods of helping charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

(2) Eligible entity defined

For the purposes of this section, the term "eligible entity" means—

(A) a public entity, such as a State or local governmental entity;

(B) a private nonprofit entity; or

(C) a consortium of entities described in subparagraphs (A) and (B).

(b) Grantee selection

The Secretary shall evaluate each application submitted under subsection (d), and shall determine whether the application is sufficient to merit approval.

(c) Grant characteristics

Grants under subsection (a) shall be of sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

(d) Applications

(1) In general

An eligible entity desiring to receive a grant under this section shall submit an application to the Secretary in such form as the Secretary may reasonably require.

(2) Contents

An application submitted under paragraph (1) shall contain—

(A) a statement identifying the activities that the eligible entity proposes to carry out with funds received under subsection (a), including how the eligible entity will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

(B) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

(C) a description of the eligible entity's expertise in capital market financing;

(D) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools, including how the eligible entity will offer a combination of rates and terms more favorable than the rates and terms that a charter school could receive without assistance from the eligible entity under this section;

(E) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought; and

(F) in the case of an application submitted by a State governmental entity, a description of the actions that the eligible entity has taken, or will take, to ensure that charter schools within the State receive the funding that charter schools need to have adequate facilities.

(e) Charter school objectives

An eligible entity receiving a grant under subsection (a) shall use the funds deposited in the reserve account established under subsection (f) to assist one or more charter schools to access private-sector capital to accomplish one or more of the following objectives:

(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

(3) The predevelopment costs required to assess sites for purposes of paragraph (1) or (2) and that are necessary to commence or continue the operation of a charter school.

(f) Reserve account

(1) Use of funds

To assist charter schools in accomplishing the objectives described in subsection (e), an eligible entity receiving a grant under subsection (a) shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under subsection (a) (other than funds used for administrative costs in accordance with subsection (g)) in a reserve account established and maintained by the eligible entity for this purpose. Amounts deposited in such account shall be used by the eligible entity for one or more of the following purposes:

(A) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in subsection (e).

(B) Guaranteeing and insuring leases of personal and real property for an objective described in subsection (e).

(C) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

(D) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

(2) Investment

Funds received under subsection (a) and deposited in the reserve account established under paragraph (1) shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

(3) Reinvestment of earnings

Any earnings on funds received under subsection (a) shall be deposited in the reserve account established under paragraph (1) and used in accordance with this subsection.

(g) Limitation on administrative costs

An eligible entity may use not more than 2.5 percent of the funds received under subsection (a) for

the administrative costs of carrying out its responsibilities under this section (excluding subsection (k)).

(h) Audits and reports

(1) Financial record maintenance and audit

The financial records of each eligible entity receiving a grant under subsection (a) shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

(2) Reports

(A) Grantee annual reports

Each eligible entity receiving a grant under subsection (a) shall submit to the Secretary an annual report of the entity's operations and activities under this section (excluding subsection (k)).

(B) Contents

Each annual report submitted under subparagraph (A) shall include—

(i) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

(ii) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under paragraph (1) during the reporting period;

(iii) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under subsection (a) in leveraging private funds;

(iv) a listing and description of the charter schools served during the reporting period, including the amount of funds used by each school, the type of project facilitated by the grant, and the type of assistance provided to the charter schools;

(v) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in subsection (e); and

(vi) a description of the characteristics of lenders and other financial institutions participating in the activities carried out by the eligible entity under this section (excluding subsection (k)) during the reporting period.

(C) Secretarial report

The Secretary shall review the reports submitted under subparagraph (A) and shall provide a comprehensive annual report to Congress on the activities conducted under this section (excluding subsection (k)).

(i) No full faith and credit for grantee obligation

No financial obligation of an eligible entity entered into pursuant to this section (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds that may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this section.

(j) Recovery of funds

(1) In general

The Secretary, in accordance with chapter 37 of title 31, shall collect—

(A) all of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines, not earlier than 2 years after the date on which the eligible entity first received funds under subsection (a), that the eligible entity has failed to make substantial progress in carrying out the purposes described in subsection (f)(1); or

(B) all or a portion of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines that the eligible entity has permanently ceased to

use all or a portion of the funds in such account to accomplish any purpose described in subsection (f)(1).

(2) Exercise of authority

The Secretary shall not exercise the authority provided in paragraph (1) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in subsection (f)(1).

(3) Procedures

The provisions of sections 451, 452, and 458 of the General Education Provisions Act [20 U.S.C. 1234, 1234a, 1234g] shall apply to the recovery of funds under paragraph (1).

(4) Construction

This subsection shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

(k) Per-pupil facilities aid program

(1) Definition of per-pupil facilities aid program

In this subsection, the term "per-pupil facilities aid program" means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—

(A) that is dedicated solely to funding charter school facilities; or

(B) a portion of which is dedicated for funding charter school facilities.

(2) Grants

(A) In general

From the amount reserved under section 7221a(b)(1) of this title and remaining after the Secretary makes grants under subsection (a), the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering, per-pupil facilities aid programs.

(B) Period

The Secretary shall award grants under this subsection for periods of not more than 5 years.

(C) Federal share

The Federal share of the cost described in subparagraph (A) for a per-pupil facilities aid program shall be not more than—

(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;

(ii) 80 percent for the second such year;

(iii) 60 percent for the third such year;

(iv) 40 percent for the fourth such year; and

(v) 20 percent for the fifth such year.

(D) State share

A State receiving a grant under this subsection may partner with 1 or more organizations, and such organizations may provide not more than 50 percent of the State share of the cost of establishing or enhancing, and administering, the per-pupil facilities aid program.

(E) Multiple grants

A State may receive more than 1 grant under this subsection, so long as the amount of total funds provided to charter schools increases with each successive grant.

(3) Use of funds

(A) In general

A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter

schools in the State of the applicant.

(B) Evaluations; technical assistance; dissemination

From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 5 percent to carry out evaluations, to provide technical assistance, and to disseminate information.

(C) Supplement, not supplant

Funds made available under this subsection shall be used to supplement, and not supplant, State and local public funds expended to provide per-pupil facilities aid programs, operations financing programs, or other programs, for charter schools.

(4) Requirements

(A) Voluntary participation

No State may be required to participate in a program carried out under this subsection.

(B) State law

(i) In general

To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

(I) is specified in State law; and

(II) provides annual financing, on a per-pupil basis, for charter school facilities.

(ii) Special rule

A State that is required under State law to provide its charter schools with access to adequate facility space, but that does not have a per-pupil facilities aid program for charter schools specified in State law, is eligible to receive a grant under this subsection if the State agrees to use the funds to develop a per-pupil facilities aid program consistent with the requirements of this subsection.

(5) Applications

To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(Pub. L. 89–10, title IV, §4304, as added Pub. L. 114–95, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 2004.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (j)(4), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814. Part D of the Act is classified generally to subchapter IV (§1234 et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

A prior section 7221c, Pub. L. 89–10, title IV, §4304, formerly title V, §5204, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1792; renumbered title IV, §4304, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967, related to administration, prior to repeal by Pub. L. 114–95, §5, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1806, 1993, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 4304 of Pub. L. 89–10 was renumbered section 8574, and is classified to section 7974 of this title.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7221d. National activities

(a) In general

From the amount reserved under section 7221a(b)(2) of this title, the Secretary shall—

(1) use not more than 80 percent of such funds to award grants in accordance with subsection (b);

(2) use not more than 9 percent of such funds to award grants, on a competitive basis, to eligible applicants for the purpose of carrying out the activities described in section 7221b(h) of this title in a State that did not receive a grant under section 7221b of this title; and

(3) after the uses described in paragraphs (1) and (2), use the remainder of such funds to—

(A) disseminate technical assistance to—

(i) State entities in awarding subgrants under section 7221b(b)(1) of this title; and

(ii) eligible entities and States receiving grants under section 7221c of this title;

(B) disseminate best practices regarding charter schools; and

(C) evaluate the impact of the charter school program carried out under this part, including the impact on student achievement.

(b) Grants for the replication and expansion of high-quality charter schools

(1) In general

The Secretary shall make grants, on a competitive basis, to eligible entities having applications approved under paragraph (3) to enable such entities to open and prepare for the operation of one or more replicated high-quality charter schools or to expand one or more high-quality charter schools.

(2) Definition of eligible entity

For purposes of this subsection, the term "eligible entity" means a charter management organization.

(3) Application requirements

An eligible entity desiring to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall include the following:

(A) Existing charter school data

For each charter school currently operated or managed by the eligible entity—

(i) student assessment results for all students and for each subgroup of students described in section 6311(c)(2) of this title;

(ii) attendance and student retention rates for the most recently completed school year and, if applicable, the most recent available 4-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates; and

(iii) information on any significant compliance and management issues encountered within the last 3 school years by any school operated or managed by the eligible entity, including in the areas of student safety and finance.

(B) Descriptions

A description of—

(i) the eligible entity's objectives for implementing a high-quality charter school program with funding under this subsection, including a description of the proposed number of high-quality charter schools the eligible entity proposes to open as a result of the replication of a high-quality charter school or to expand with funding under this subsection;

(ii) the educational program that the eligible entity will implement in such charter schools, including—

(I) information on how the program will enable all students to meet the challenging State academic standards;

(II) the grade levels or ages of students who will be served; and
(III) the instructional practices that will be used;

(iii) how the operation of such charter schools will be sustained after the grant under this subsection has ended, which shall include a multi-year financial and operating model for the eligible entity;

(iv) how the eligible entity will ensure that such charter schools will recruit and enroll students, including children with disabilities, English learners, and other educationally disadvantaged students; and

(v) any request and justification for any waivers of Federal statutory or regulatory requirements that the eligible entity believes are necessary for the successful operation of such charter schools.

(C) Assurance

An assurance that the eligible entity has sufficient procedures in effect to ensure timely closure of low-performing or financially mismanaged charter schools and clear plans and procedures in effect for the students in such schools to attend other high-quality schools.

(4) Selection criteria

The Secretary shall select eligible entities to receive grants under this subsection, on the basis of the quality of the applications submitted under paragraph (3), after taking into consideration such factors as—

(A) the degree to which the eligible entity has demonstrated success in increasing academic achievement for all students and for each of the subgroups of students described in section 6311(c)(2) of this title attending the charter schools the eligible entity operates or manages;

(B) a determination that the eligible entity has not operated or managed a significant proportion of charter schools that—

(i) have been closed;

(ii) have had the school's charter revoked due to problems with statutory or regulatory compliance; or

(iii) have had the school's affiliation with the eligible entity revoked or terminated, including through voluntary disaffiliation; and

(C) a determination that the eligible entity has not experienced significant problems with statutory or regulatory compliance that could lead to the revocation of a school's charter.

(5) Priority

In awarding grants under this section, the Secretary shall give priority to eligible entities that—

(A) plan to operate or manage high-quality charter schools with racially and socioeconomically diverse student bodies;

(B) demonstrate success in working with schools identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title;

(C) propose to use funds—

(i) to expand high-quality charter schools to serve high school students; or

(ii) to replicate high-quality charter schools to serve high school students; or

(D) propose to operate or manage high-quality charter schools that focus on dropout recovery and academic reentry.

(c) Terms and conditions

Except as otherwise provided, grants awarded under paragraphs (1) and (2) of subsection (a) shall have the same terms and conditions as grants awarded to State entities under section 7221b of this title.

(Pub. L. 89–10, title IV, §4305, as added Pub. L. 114–95, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 2009.)

PRIOR PROVISIONS

A prior section 7221d, Pub. L. 89–10, title IV, §4305, formerly title V, §5205, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1795; renumbered title IV, §4305, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967, related to national activities, prior to repeal by Pub. L. 114–95, §5, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1806, 1993, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7221e. Federal formula allocation during first year and for successive enrollment expansions

(a) In general

For purposes of the allocation to schools by the States or their agencies of funds under part A of subchapter I of this chapter, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

(b) Adjustment and late openings

(1) In general

The measures described in subsection (a) of this section shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

(2) Rule

For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) of this section for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

(c) New or significantly expanding charter schools

For purposes of implementing the hold harmless protections in sections 6332(c) and 6337(g)(3) [1] of this title for a newly opened or significantly expanded charter school under this part, a State educational agency shall calculate a hold-harmless base for the prior year that, as applicable, reflects the new or significantly expanded enrollment of the charter school.

(Pub. L. 89–10, title IV, §4306, formerly title V, §5206, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1797; renumbered title IV, §4306, and amended Pub. L. 114–95, title IV, §§4001(b)(2)(A), (B), (D)(iii), 4301(2), Dec. 10, 2015, 129 Stat. 1967, 2011.)

REFERENCES IN TEXT

Section 6337(g)(3) of this title, referred to in subsec. (c), was redesignated section 6337(f)(3) of this title by Pub. L. 114–95, title I, §1017(7), Dec. 10, 2015, 129 Stat. 1879.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114–95, §4301(2), added subsec. (c).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *See References in Text note below.*

§7221f. Solicitation of input from charter school operators

To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of subchapter I of this chapter, the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

(Pub. L. 89–10, title IV, §4307, formerly title V, §5207, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1798; renumbered title IV, §4307, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§7221g. Records transfer

State educational agencies and local educational agencies, as quickly as possible and to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 1401 of this title, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

(Pub. L. 89–10, title IV, §4308, formerly title V, §5208, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1798; amended Pub. L. 108–446, title III, §305(g)(2), Dec. 3, 2004, 118 Stat. 2805; renumbered title IV, §4308, and amended Pub. L. 114–95, title IV, §§4001(b)(2)(A), (B), (D)(iii), 4301(3), Dec. 10, 2015, 129 Stat. 1967, 2012.)

AMENDMENTS

2015—Pub. L. 114–95, §4301(3), inserted "as quickly as possible and" before "to the extent practicable".
2004—Pub. L. 108–446 substituted "section 1401" for "section 1401(11)".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7221h. Paperwork reduction

To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or

charter school.

(Pub. L. 89–10, title IV, §4309, formerly title V, §5209, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1798; renumbered title IV, §4309, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967.)

§7221i. Definitions

In this part:

(1) Authorized public chartering agency

The term "authorized public chartering agency" means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

(2) Charter school

The term "charter school" means a public school that—

(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), section 1232g of this title (commonly referred to as the "Family Educational Rights and Privacy Act of 1974"), and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.];

(H) is a school to which parents choose to send their children, and that—

(i) admits students on the basis of a lottery, consistent with section 7221b(c)(3)(A) of this title, if more students apply for admission than can be accommodated; or

(ii) in the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in clause (i);

(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such State audit requirements are waived by the State;

(J) meets all applicable Federal, State, and local health and safety requirements;

(K) operates in accordance with State law;

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and

(M) may serve students in early childhood education programs or postsecondary students.

(3) Charter management organization

The term "charter management organization" means a nonprofit organization that operates or manages a network of charter schools linked by centralized support, operations, and oversight.

(4) Charter school support organization

The term "charter school support organization" means a nonprofit, nongovernmental entity that is not an authorized public chartering agency and provides, on a statewide basis—

(A) assistance to developers during the planning, program design, and initial implementation of a charter school; and

(B) technical assistance to operating charter schools.

(5) Developer

The term "developer" means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

(6) Eligible applicant

The term "eligible applicant" means a developer that has—

(A) applied to an authorized public chartering authority to operate a charter school; and

(B) provided adequate and timely notice to that authority.

(7) Expand

The term "expand", when used with respect to a high-quality charter school, means to significantly increase enrollment or add one or more grades to the high-quality charter school.

(8) High-quality charter school

The term "high-quality charter school" means a charter school that—

(A) shows evidence of strong academic results, which may include strong student academic growth, as determined by a State;

(B) has no significant issues in the areas of student safety, financial and operational management, or statutory or regulatory compliance;

(C) has demonstrated success in significantly increasing student academic achievement, including graduation rates where applicable, for all students served by the charter school; and

(D) has demonstrated success in increasing student academic achievement, including graduation rates where applicable, for each of the subgroups of students, as defined in section 6311(c)(2) of this title, except that such demonstration is not required in a case in which the number of students in a group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

(9) Replicate

The term "replicate", when used with respect to a high-quality charter school, means to open a new charter school, or a new campus of a high-quality charter school, based on the educational model of an existing high-quality charter school, under an existing charter or an additional charter, if permitted or required by State law.

(Pub. L. 89–10, title IV, §4310, formerly title V, §5210, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1798; renumbered title IV, §4310, and amended Pub. L. 114–95, title IV, §§4001(b)(2)(A), (B), (D)(iii), 4301(4), Dec. 10, 2015, 129 Stat. 1967, 2012.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in par. (2)(G), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in par. (2)(G), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title

VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in par. (2)(G), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in par. (2)(G), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in par. (2)(G), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

2015—Pub. L. 114–95, §4301(4)(A), substituted "part" for "subpart" in introductory provisions.

Par. (1). Pub. L. 114–95, §4301(4)(C), redesignated par. (4) as (1). Former par. (1) redesignated (2).

Par. (2). Pub. L. 114–95, §4301(4)(B), redesignated par. (1) as (2). Former par. (2) redesignated (5).

Par. (2)(G). Pub. L. 114–95, §4301(4)(D)(i), substituted ", the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), section 1232g of this title (commonly referred to as the 'Family Educational Rights and Privacy Act of 1974'), and part B" for ", and part B".

Par. (2)(H). Pub. L. 114–95, §4301(4)(D)(ii), added subpar. (H) and struck out former subpar. (H) which read as follows: "is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;".

Par. (2)(I). Pub. L. 114–95, §4301(4)(D)(iii), added subpar. (I) and struck out former subpar. (I) which read as follows: "agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;".

Par. (2)(M). Pub. L. 114–95, §4301(4)(D)(iv)–(vi), added subpar. (M).

Pars. (3), (4). Pub. L. 114–95, §4301(4)(E), added pars. (3) and (4). Former pars. (3) and (4) redesignated (6) and (1), respectively.

Par. (5). Pub. L. 114–95, §4301(4)(B), redesignated par. (2) as (5).

Par. (6). Pub. L. 114–95, §4301(4)(B), redesignated par. (3) as (6).

Par. (6)(B). Pub. L. 114–95, §4301(4)(F), struck out "under section 7221b(d)(3) of this title" before period at end.

Pars. (7) to (9). Pub. L. 114–95, §4301(4)(G), added pars. (7) to (9).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7221j. Authorization of appropriations

There are authorized to be appropriated to carry out this part—

(1) $270,000,000 for fiscal year 2017;

(2) $270,000,000 for fiscal year 2018;

(3) $300,000,000 for fiscal year 2019; and

(4) $300,000,000 for fiscal year 2020.

(Pub. L. 89–10, title IV, §4311, as added Pub. L. 114–95, title IV, §4301(5), Dec. 10, 2015, 129 Stat. 2013.)

PRIOR PROVISIONS

A prior section 7221j, Pub. L. 89–10, title IV, §4311, formerly title V, §5211, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1799; renumbered title IV, §4311, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967, authorized appropriations for fiscal year 2002

and the 5 succeeding fiscal years, prior to repeal by Pub. L. 114–95, §5, title IV, §4301(5), Dec. 10, 2015, 129 Stat. 1806, 2013, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 4311 of Pub. L. 89–10 was classified to section 3091 of this title, prior to general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 7223 to 7223j and 7225 to 7225g were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(B), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7223, Pub. L. 89–10, title V, §5221, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1800, stated purpose of subpart 2 of part B of former subchapter V of this chapter, related to credit enhancement initiatives to assist charter school facility acquisition, construction, and renovation.

Section 7223a, Pub. L. 89–10, title V, §5222, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1800, related to grants to eligible entities.

Section 7223b, Pub. L. 89–10, title V, §5223, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1800, related to applications for grants.

Section 7223c, Pub. L. 89–10, title V, §5224, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1801, related to charter school objectives.

Section 7223d, Pub. L. 89–10, title V, §5225, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1801, related to reserve account.

Section 7223e, Pub. L. 89–10, title V, §5226, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1802, related to limitation on administrative costs.

Section 7223f, Pub. L. 89–10, title V, §5227, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1802, related to audits and reports.

Section 7223g, Pub. L. 89–10, title V, §5228, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1803, provided that there was no full faith and credit for grantee obligations.

Section 7223h, Pub. L. 89–10, title V, §5229, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1803, related to recovery of funds.

Section 7223i, Pub. L. 89–10, title V, §5230, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1803, defined terms for the former subpart.

Section 7223j, Pub. L. 89–10, title V, §5231, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1803, authorized appropriations for fiscal years 2002 and 2003.

Section 7225, Pub. L. 89–10, title V, §5241, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1803, authorized grants to carry out subpart 3 of part B of former subchapter V of this chapter, related to voluntary public school choice programs.

Section 7225a, Pub. L. 89–10, title V, §5242, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1804, related to uses of funds.

Section 7225b, Pub. L. 89–10, title V, §5243, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1804, related to applications for grants.

Section 7225c, Pub. L. 89–10, title V, §5244, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1804, related to priorities in awarding grants.

Section 7225d, Pub. L. 89–10, title V, §5245, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1805, related to requirements and voluntary participation.

Section 7225e, Pub. L. 89–10, title V, §5246, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1805, related to evaluations.

Section 7225f, Pub. L. 89–10, title V, §5247, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1805, defined terms for the former subpart.

Section 7225g, Pub. L. 89–10, title V, §5248, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1806, authorized appropriations for fiscal year 2002 and the 5 succeeding fiscal years.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART D—MAGNET SCHOOLS ASSISTANCE

CODIFICATION

Pub. L. 114–95, title IV, §4001(b)(3)(A)–(C), Dec. 10, 2015, 129 Stat. 1967, redesignated part C (§7231 et seq.) of subchapter V of this chapter as part D of this subchapter.

§7231. Findings and purpose

(a) Findings

Congress makes the following findings:

(1) Magnet schools are a significant part of the Nation's effort to achieve voluntary desegregation in our Nation's schools.

(2) The use of magnet schools has increased dramatically since the inception of the magnet schools assistance program under this chapter, with approximately 2,500,000 students nationwide attending such schools, of whom more than 69 percent are non-white.

(3) Magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts.

(4) It is in the best interests of the United States—

(A) to continue the Federal Government's support of local educational agencies that are implementing court-ordered desegregation plans and local educational agencies that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

(B) to ensure that all students have equitable access to a high quality education that will prepare all students to function well in a technologically oriented and a highly competitive economy comprised of people from many different racial and ethnic backgrounds; and

(C) to continue to desegregate and diversify schools by supporting magnet schools, recognizing that segregation exists between minority and nonminority students as well as among students of different minority groups.

(5) Desegregation efforts through magnet school programs are a significant part of our Nation's effort to achieve voluntary desegregation in schools and help to ensure equal educational opportunities for all students.

(b) Purpose

The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

(1) the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students, which shall include assisting in the efforts of the United States to achieve voluntary desegregation in public schools;

(2) the development, implementation, and expansion of magnet school programs that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State academic standards;

(3) the development, design, and expansion of innovative educational methods and practices that promote diversity and increase choices in public elementary schools and public secondary schools and public educational programs;

(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the attainment of tangible and marketable career, technological, and professional skills of students attending such schools;

(5) improving the capacity of local educational agencies, including through professional development, to continue operating magnet schools at a high performance level after Federal funding for the magnet schools is terminated; and

(6) ensuring that all students enrolled in the magnet school programs have equitable access to high quality education that will enable the students to succeed academically and continue with postsecondary education or employment.

(Pub. L. 89–10, title IV, §4401, formerly title V, §5301, as added Pub. L. 107–110, title V, §501,

Jan. 8, 2002, 115 Stat. 1806; renumbered title IV, §4401, and amended Pub. L. 114–95, title IV, §§4001(b)(3)(A), (B), (D)(i), 4401(1), Dec. 10, 2015, 129 Stat. 1967, 2014.)

PRIOR PROVISIONS

A prior section 7231, Pub. L. 89–10, title V, §5201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3695, set forth short title and findings for the Women's Educational Equity Act of 1994, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

A prior section 4401 of Pub. L. 89–10 was classified to section 3121 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114–95, §4401(1)(A), substituted "2,500,000" for "2,000,000" and "69" for "65".

Subsec. (b)(2). Pub. L. 114–95, §4401(1)(B)(i), substituted ", implementation, and expansion" for "and implementation" and "standards" for "content standards and student academic achievement standards".

Subsec. (b)(3). Pub. L. 114–95, §4401(1)(B)(ii), substituted ", design, and expansion" for "and design".

Subsec. (b)(4). Pub. L. 114–95, §4401(1)(B)(iii), substituted "career" for "vocational".

Subsec. (b)(6). Pub. L. 114–95, §4401(1)(B)(iv), struck out "productive" before "employment".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7231a. Definition

For the purpose of this part, the term "magnet school" means a public elementary school, public secondary school, public elementary education center, or public secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

(Pub. L. 89–10, title IV, §4402, formerly title V, §5302, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1807; renumbered title IV, §4402, Pub. L. 114–95, title IV, §4001(b)(3)(A), (B), (D)(i), Dec. 10, 2015, 129 Stat. 1967.)

PRIOR PROVISIONS

A prior section 4402 of Pub. L. 89–10 was classified to section 3122 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§7231b. Program authorized

The Secretary, in accordance with this part, is authorized to award grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

(1) part of an approved desegregation plan; and

(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

(Pub. L. 89–10, title IV, §4403, formerly title V, §5303, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1807; renumbered title IV, §4403, Pub. L. 114–95, title IV, §4001(b)(3)(A), (B), (D)(i), Dec. 10, 2015, 129 Stat. 1967.)

PRIOR PROVISIONS

A prior section 4403 of Pub. L. 89–10 was classified to section 3123 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§7231c. Eligibility

A local educational agency, or consortium of such agencies where appropriate, is eligible to receive a grant under this part to carry out the purpose of this part if such agency or consortium—

(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary schools and secondary schools of such agency; or

(2) without having been required to do so, has adopted and is implementing, or will, if a grant is awarded to such local educational agency, or consortium of such agencies, under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] for the desegregation of minority-group-segregated children or faculty in such schools.

(Pub. L. 89–10, title IV, §4404, formerly title V, §5304, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1807; renumbered title IV, §4404, Pub. L. 114–95, title IV, §4001(b)(3)(A), (B), (D)(i), Dec. 10, 2015, 129 Stat. 1967.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in par. (2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 4404 of Pub. L. 89–10 was classified to section 3124 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§7231d. Applications and requirements

(a) Applications

An eligible local educational agency, or consortium of such agencies, desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

(b) Information and assurances

Each application submitted under subsection (a) of this section shall include—

(1) a description of—

(A) how a grant awarded under this part will be used to promote desegregation, including any available evidence on, or if such evidence is not available, a rationale, based on current research, for how the proposed magnet school programs will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

(B) the manner and extent to which the magnet school program will increase student academic achievement in the instructional area or areas offered by the school, including any evidence, or if such evidence is not available, a rationale based on current research findings, to support such description;

(C) how the applicant will continue the magnet school program after assistance under this part is no longer available, and, if applicable, an explanation of why magnet schools established or supported by the applicant with grant funds under this part cannot be continued without the use of grant funds under this part;

(D) how the applicant will assess, monitor, and evaluate the impact of the activities funded under this part on student achievement and integration;

(E) how grant funds under this part will be used—

(i) to improve student academic achievement for all students attending the magnet school programs; and

(ii) to implement services and activities that are consistent with other programs under this chapter, and other Acts, as appropriate; and

(F) the criteria to be used in selecting students to attend the proposed magnet school program; and

(2) assurances that the applicant will—

(A) use grant funds under this part for the purposes specified in section 7231(b) of this title;

(B) employ effective teachers in the courses of instruction assisted under this part;

(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

(i) the hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant has any administrative responsibility;

(ii) the assignment of students to schools, or to courses of instruction within the schools, of such applicant, except to carry out the approved plan; and

(iii) designing or operating extracurricular activities for students;

(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

(E) give students residing in the local attendance area of the proposed magnet school program equitable consideration for placement in the program, consistent with desegregation guidelines and the capacity of the applicant to accommodate the students.

(c) Special rule

No grant shall be awarded under this part unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) of this section will be met.

(Pub. L. 89–10, title IV, §4405, formerly title V, §5305, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1808; renumbered title IV, §4405, and amended Pub. L. 114–95, title IV, §§4001(b)(3)(A), (B), (D)(i), 4401(2), Dec. 10, 2015, 129 Stat. 1967, 2014.)

PRIOR PROVISIONS

A prior section 4405 of Pub. L. 89–10 was classified to section 3125 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (b)(1)(A). Pub. L. 114–95, §4401(2)(A)(i), inserted "any available evidence on, or if such evidence is not available, a rationale, based on current research, for" before "how the proposed magnet school programs".

Subsec. (b)(1)(B). Pub. L. 114–95, §4401(2)(A)(ii), inserted ", including any evidence, or if such evidence is not available, a rationale based on current research findings, to support such description" before semicolon at end.

Subsec. (b)(1)(D) to (F). Pub. L. 114–95, §4401(2)(A)(iii), (iv), added subpar. (D) and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

Subsec. (b)(2)(A). Pub. L. 114–95, §4401(2)(B)(i), made technical amendment to reference in original act which appears in text as reference to section 7231(b) of this title.

Subsec. (b)(2)(B). Pub. L. 114–95, §4401(2)(B)(ii), substituted "effective" for "highly qualified".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7231e. Priority

In awarding grants under this part, the Secretary shall give priority to applicants that—

(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out approved desegregation plans and the magnet school program for which the grant is sought;

(2) propose to—

(A) carry out a new, evidence-based magnet school program;

(B) significantly revise an existing magnet school program, using evidence-based methods and practices, as available; or

(C) replicate an existing magnet school program that has a demonstrated record of success in increasing student academic achievement and reducing isolation of minority groups;

(3) propose to select students to attend magnet school programs by methods such as lottery, rather than through academic examination; and

(4) propose to increase racial integration by taking into account socioeconomic diversity in designing and implementing magnet school programs.

(Pub. L. 89–10, title IV, §4406, formerly title V, §5306, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1809; renumbered title IV, §4406, and amended Pub. L. 114–95, title IV, §§4001(b)(3)(A), (B), (D)(i), 4401(3), Dec. 10, 2015, 129 Stat. 1967, 2014.)

PRIOR PROVISIONS

A prior section 4406 of Pub. L. 89–10 was classified to section 3126 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pars. (2) to (4). Pub. L. 114–95, §4401(3), added pars. (2) to (4) and struck out former pars. (2) and (3) which read as follows:

"(2) propose to carry out new magnet school programs, or significantly revise existing magnet school programs; and

"(3) propose to select students to attend magnet school programs by methods such as lottery, rather than through academic examination."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7231f. Use of funds

(a) In general

Grant funds made available under this part may be used by an eligible local educational agency, or consortium of such agencies—

(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation of materials, equipment, and computers, necessary to conduct programs in magnet schools;

(3) for the compensation, or subsidization of the compensation, of elementary school and secondary school teachers who are effective, and instructional staff where applicable, who are necessary to conduct programs in magnet schools;

(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

(A) are designed to make available the special curriculum that is offered by the magnet school program to students who are enrolled in the school but who are not enrolled in the magnet school program; and

(B) further the purpose of this part;

(5) for activities, which may include professional development, that will build the recipient's capacity to operate magnet school programs once the grant period has ended;

(6) to enable the local educational agency, or consortium of such agencies, to have more flexibility in the administration of a magnet school program in order to serve students attending a school who are not enrolled in a magnet school program;

(7) to enable the local educational agency, or consortium of such agencies, to have flexibility in designing magnet schools for students in all grades;

(8) to enable the local educational agency, or consortium of such agencies, or other organizations partnered with such agency or consortium, to establish, expand, or strengthen inter-district and regional magnet programs; and

(9) notwithstanding section 1228 of this title, to provide transportation to and from the magnet school, provided that—

(A) such transportation is sustainable beyond the grant period; and

(B) the costs of providing transportation do not represent a significant portion of the grant funds received by the eligible local educational agency under this part.

(b) Special rule

Grant funds under this part may be used for activities described in paragraphs (2) and (3) of subsection (a) only if the activities are directly related to improving student academic achievement based on the challenging State academic standards or directly related to improving student reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving career, technical, and professional skills.

(Pub. L. 89–10, title IV, §4407, formerly title V, §5307, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1809; renumbered title IV, §4407, and amended Pub. L. 114–95, title IV, §§4001(b)(3)(A), (B), (D)(i), 4401(4), Dec. 10, 2015, 129 Stat. 1967, 2015.)

PRIOR PROVISIONS

A prior section 4407 of Pub. L. 89–10 was classified to section 3127 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114–95, §4401(4)(A)(i), substituted "effective" for "highly qualified".

Subsec. (a)(8), (9). Pub. L. 114–95, §4401(4)(A)(ii)–(iv), added pars. (8) and (9).

Subsec. (b). Pub. L. 114–95, §4401(4)(B), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "Grant funds under this part may be used for activities described in paragraphs (2) and (3) of subsection (a) of this section only if the activities are directly related to improving student academic achievement based on the State's challenging academic content standards and student academic achievement standards or directly related to improving student reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational, technological, and professional skills."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7231g. Repealed. Pub. L. 114–95, title IV, §4001(b)(3)(D)(ii), Dec. 10, 2015, 129 Stat. 1967

Section, Pub. L. 89–10, title IV, §5308, formerly title V, §5308, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1810; renumbered title IV, §5308, Pub. L. 114–95, title IV, §4001(b)(3)(A), (B), Dec. 10, 2015, 129 Stat. 1967, prohibited certain uses of grants under this part.

PRIOR PROVISIONS

A prior section 5308 of Pub. L. 89–10 was classified to section 7268 of this title, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7231h. Limitations

(a) Duration of awards

A grant under this part shall be awarded for a period that shall not exceed 5 fiscal years.

(b) Limitation on planning funds

A local educational agency, or consortium of such agencies, may expend for planning (professional development shall not be considered to be planning for purposes of this subsection) not more than 50 percent of the grant funds received under this part for the first year of the program and not more than 15 percent of such funds for each of the second and third such years.

(c) Amount

No grant awarded under this part to a local educational agency, or a consortium of such agencies, shall be for more than $15,000,000 for the grant period described in subsection (a).

(d) Timing

To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than June 1 of the applicable fiscal year.

(Pub. L. 89–10, title IV, §4408, formerly title V, §5309, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1810; renumbered title IV, §4408, and amended Pub. L. 114–95, title IV, §§4001(b)(3)(A), (B), (D)(iii), 4401(5), Dec. 10, 2015, 129 Stat. 1967, 2015.)

PRIOR PROVISIONS

A prior section 4408 of Pub. L. 89–10 was classified to section 3128 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §4401(5)(A), substituted "5" for "3".

Subsec. (c). Pub. L. 114–95, §4401(5)(B), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "No local educational agency, or consortium of such agencies, awarded a grant under this part shall receive more than $4,000,000 under this part for any 1 fiscal year."

Subsec. (d). Pub. L. 114–95, §4401(5)(C), substituted "June" for "July".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7231i. Repealed. Pub. L. 114–95, title IV, §4001(b)(3)(D)(ii), Dec. 10, 2015, 129 Stat. 1967

Section, Pub. L. 89–10, title IV, §5310, formerly title V, §5310, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1810; renumbered title IV, §5310, Pub. L. 114–95, title IV, §4001(b)(3)(A), (B), Dec. 10, 2015, 129 Stat. 1967, related to evaluations.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under

section 6301 of this title.

§7231j. Authorization of appropriations; reservation

(a) Authorization

There are authorized to be appropriated to carry out this part the following amounts:

(1) $94,000,000 for fiscal year 2017.
(2) $96,820,000 for fiscal year 2018.
(3) $102,387,150 for fiscal year 2019.
(4) $108,530,379 for fiscal year 2020.

(b) Reservation for technical assistance

The Secretary may reserve not more than 1 percent of the funds appropriated under subsection (a) for any fiscal year to provide technical assistance and share best practices with respect to magnet school programs assisted under this part.

(c) Availability of funds for grants to agencies not previously assisted

In any fiscal year for which the amount appropriated pursuant to subsection (a) of this section exceeds $75,000,000, the Secretary shall give priority in using such amounts in excess of $75,000,000 to awarding grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.

(Pub. L. 89–10, title IV, §4409, formerly title V, §5311, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1810; renumbered title IV, §4409, and amended Pub. L. 114–95, title IV, §§4001(b)(3)(A), (B), (D)(iii), 4401(6), Dec. 10, 2015, 129 Stat. 1967, 2015.)

PRIOR PROVISIONS

A prior section 4409 of Pub. L. 89–10 was classified to section 3129 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 7232 to 7238 were omitted in the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Section 7232, Pub. L. 89–10, title V, §5202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3696, set forth purposes of part B of former subchapter V of this chapter relating to gender equity.

Section 7233, Pub. L. 89–10, title V, §5203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3696; amended Pub. L. 104–193, title I, §110(j)(3), Aug. 22, 1996, 110 Stat. 2172, authorized gender equity programs.

Section 7234, Pub. L. 89–10, title V, §5204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3699, related to applications.

Section 7235, Pub. L. 89–10, title V, §5205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3699, set forth criteria and priorities for awards.

Section 7236, Pub. L. 89–10, title V, §5206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3700, related to submission of report.

Section 7237, Pub. L. 89–10, title V, §5207, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3700, related to administration.

Section 7238, Pub. L. 89–10, title V, §5208, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3701, authorized appropriations.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §4401(6)(A), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years."

Subsecs. (b), (c). Pub. L. 114–95, §4401(6)(B), (C), added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive

programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART E—FAMILY ENGAGEMENT IN EDUCATION PROGRAMS

§7241. Purposes

The purposes of this part are the following:

(1) To provide financial support to organizations to provide technical assistance and training to State educational agencies and local educational agencies in the implementation and enhancement of systemic and effective family engagement policies, programs, and activities that lead to improvements in student development and academic achievement.

(2) To assist State educational agencies, local educational agencies, community-based organizations, schools, and educators in strengthening partnerships among parents, teachers, school leaders, administrators, and other school personnel in meeting the educational needs of children and fostering greater parental engagement.

(3) To support State educational agencies, local educational agencies, schools, educators, and parents in developing and strengthening the relationship between parents and their children's school in order to further the developmental progress of children.

(4) To coordinate activities funded under this part with parent involvement initiatives funded under section 6318 of this title and other provisions of this chapter.

(5) To assist the Secretary, State educational agencies, and local educational agencies in the coordination and integration of Federal, State, and local services and programs to engage families in education.

(Pub. L. 89–10, title IV, §4501, as added Pub. L. 114–95, title IV, §4501, Dec. 10, 2015, 129 Stat. 2016.)

PRIOR PROVISIONS

A prior section 7241, Pub. L. 89–10, title V, §5401, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1811, authorized appropriations for fiscal years 2002 to 2007, prior to repeal by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 4501 of Pub. L. 89–10 was classified to section 3141 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7242. Grants authorized.

(a) Statewide family engagement centers

From the amount appropriated under section 7246 of this title and not reserved under subsection (d), the Secretary is authorized to award grants for each fiscal year to statewide organizations (or consortia of such organizations), to establish statewide family engagement centers that—

(1) carry out parent education, and family engagement in education, programs; or

(2) provide comprehensive training and technical assistance to State educational agencies, local educational agencies, schools identified by State educational agencies and local educational agencies, organizations that support family-school partnerships, and other organizations that carry out such programs.

(b) Minimum award

In awarding grants under this section, the Secretary shall, to the extent practicable, ensure that a grant is awarded for a statewide family engagement center in an amount not less than $500,000.

(c) Matching funds for grant renewal

Each organization or consortium receiving assistance under this part shall demonstrate that, for each fiscal year after the first fiscal year for which the organization or consortium is receiving such assistance, a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which may be in cash or in-kind.

(d) Technical assistance

The Secretary shall reserve not more than 2 percent of the funds appropriated under section 7246 of this title to carry out this part to provide technical assistance, by competitive grant or contract, for the establishment, development, and coordination of statewide family engagement centers.

(Pub. L. 89–10, title IV, §4502, as added Pub. L. 114–95, title IV, §4501, Dec. 10, 2015, 129 Stat. 2016.)

PRIOR PROVISIONS

A prior section 4502 of Pub. L. 89–10 was classified to section 3142 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7243. Applications

(a) Submissions

Each statewide organization, or a consortium of such organizations, that desires a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary may require, which shall include the information described in subsection (b).

(b) Contents

Each application submitted under subsection (a) shall include, at a minimum, the following:

(1) A description of the applicant's approach to family engagement in education.

(2) A description of how the State educational agency and any partner organization will support the statewide family engagement center that will be operated by the applicant including a description of the State educational agency and any partner organization's commitment of such support.

(3) A description of the applicant's plan for building a statewide infrastructure for family engagement in education, that includes—

(A) management and governance;

(B) statewide leadership; or

(C) systemic services for family engagement in education.

(4) A description of the applicant's demonstrated experience in providing training, information, and support to State educational agencies, local educational agencies, schools, educators, parents, and organizations on family engagement in education policies and practices that are effective for parents (including low-income parents) and families, parents of English learners, minorities, students with disabilities, homeless children and youth, children and youth in foster care, and migrant students, including evaluation results, reporting, or other data exhibiting such demonstrated experience.

(5) A description of the steps the applicant will take to target services to low-income students

and parents.

(6) An assurance that the applicant will—

(A) establish a special advisory committee, the membership of which includes—

(i) parents, who shall constitute a majority of the members of the special advisory committee;

(ii) representatives of education professionals with expertise in improving services for disadvantaged children;

(iii) representatives of local elementary schools and secondary schools, including students;

(iv) representatives of the business community; and

(v) representatives of State educational agencies and local educational agencies;

(B) use not less than 65 percent of the funds received under this part in each fiscal year to serve local educational agencies, schools, and community-based organizations that serve high concentrations of disadvantaged students, including students who are English learners, minorities, students with disabilities, homeless children and youth, children and youth in foster care, and migrant students;

(C) operate a statewide family engagement center of sufficient size, scope, and quality to ensure that the center is adequate to serve the State educational agency, local educational agencies, and community-based organizations;

(D) ensure that the statewide family engagement center will retain staff with the requisite training and experience to serve parents in the State;

(E) serve urban, suburban, and rural local educational agencies and schools;

(F) work with—

(i) other statewide family engagement centers assisted under this part; and

(ii) parent training and information centers and community parent resource centers assisted under sections 1471 and 1472 of this title;

(G) use not less than 30 percent of the funds received under this part for each fiscal year to establish or expand technical assistance for evidence-based parent education programs;

(H) provide assistance to State educational agencies, local educational agencies, and community-based organizations that support family members in supporting student academic achievement;

(I) work with State educational agencies, local educational agencies, schools, educators, and parents to determine parental needs and the best means for delivery of services to address such needs;

(J) conduct sufficient outreach to assist parents, including parents who the applicant may have a difficult time engaging with a school or local educational agency; and

(K) conduct outreach to low-income students and parents, including low-income students and parents who are not proficient in English.

(7) An assurance that the applicant will conduct training programs in the community to improve adult literacy, including financial literacy.

(c) Priority

In awarding grants for activities described in this part, the Secretary shall give priority to statewide family engagement centers that will use funds under section 7244 of this title for evidence-based activities, which, for the purposes of this part is defined as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(Pub. L. 89–10, title IV, §4503, as added Pub. L. 114–95, title IV, §4501, Dec. 10, 2015, 129 Stat. 2017.)

PRIOR PROVISIONS

Prior sections 7243 to 7243c were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and

competitive programs.

Section 7243, Pub. L. 89–10, title V, §5411, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1811, related to programs authorized.

Section 7243a, Pub. L. 89–10, title V, §5412, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1812, related to applications for awards.

Section 7243b, Pub. L. 89–10, title V, §5413, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1812, related to program requirements.

Section 7243c, Pub. L. 89–10, title V, §5414, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1813, related to studies of national significance.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7244. Uses of funds

(a) In general

Each statewide organization or consortium receiving a grant under this part shall use the grant funds, based on the needs determined under section 7243(b)(6)(I) of this title, to provide training and technical assistance to State educational agencies, local educational agencies, and organizations that support family-school partnerships, and activities, services, and training for local educational agencies, school leaders, educators, and parents—

(1) to assist parents in participating effectively in their children's education and to help their children meet challenging State academic standards, such as by assisting parents—

(A) to engage in activities that will improve student academic achievement, including understanding how parents can support learning in the classroom with activities at home and in after school and extracurricular programs;

(B) to communicate effectively with their children, teachers, school leaders, counselors, administrators, and other school personnel;

(C) to become active participants in the development, implementation, and review of school-parent compacts, family engagement in education policies, and school planning and improvement;

(D) to participate in the design and provision of assistance to students who are not making academic progress;

(E) to participate in State and local decisionmaking;

(F) to train other parents; and

(G) in learning and using technology applied in their children's education;

(2) to develop and implement, in partnership with the State educational agency, statewide family engagement in education policy and systemic initiatives that will provide for a continuum of services to remove barriers for family engagement in education and support school reform efforts; and

(3) to develop and implement parental involvement policies under this chapter.

(b) Rule of construction

Nothing in this section shall be construed to prohibit a statewide family engagement center from—

(1) having its employees or agents meet with a parent at a site that is not on school grounds; or

(2) working with another agency that serves children.

(c) Parental rights

Notwithstanding any other provision of this section—

(1) no person (including a parent who educates a child at home, a public school parent, or a private school parent) shall be required to participate in any program of parent education or

developmental screening under this section; and

(2) no program or center assisted under this section shall take any action that infringes in any manner on the right of parents to direct the education of their children.

(Pub. L. 89–10, title IV, §4504, as added Pub. L. 114–95, title IV, §4501, Dec. 10, 2015, 129 Stat. 2019.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7245. Family engagement in Indian schools

The Secretary of the Interior, in consultation with the Secretary of Education, shall establish, or enter into contracts and cooperative agreements with, local tribes, tribal organizations, or Indian nonprofit parent organizations to establish and operate family engagement centers.

(Pub. L. 89–10, title IV, §4505, as added Pub. L. 114–95, title IV, §4501, Dec. 10, 2015, 129 Stat. 2020.)

PRIOR PROVISIONS

A prior section 7245, Pub. L. 89–10, title V, §5421, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1814, related to elementary and secondary school counseling programs, prior to repeal by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7246. Authorization of appropriations

There are authorized to be appropriated to carry out this part $10,000,000 for each of fiscal years 2017 through 2020.

(Pub. L. 89–10, title IV, §4506, as added Pub. L. 114–95, title IV, §4501, Dec. 10, 2015, 129 Stat. 2020.)

PRIOR PROVISIONS

Prior sections 7247 and 7249 were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7247, Pub. L. 89–10, title V, §5431, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1817, related to partnerships in character education program.

Section 7249, Pub. L. 89–10, title V, §5441, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1823, related to smaller learning communities.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART F—NATIONAL ACTIVITIES

§7251. Authorization of appropriations; reservations

(a) Authorization of appropriations

There are authorized to be appropriated to carry out this part—

(1) $200,741,000 for each of fiscal years 2017 and 2018; and

(2) $220,741,000 for each of fiscal years 2019 and 2020.

(b) Reservations

From the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall—

(1) reserve $5,000,000 to carry out activities authorized under subpart 3; and

(2) from the amounts remaining after the reservation under paragraph (1)—

(A) carry out activities authorized under subpart 1 using—

(i) 36 percent of such remainder for each of fiscal years 2017 and 2018; and

(ii) 42 percent of such remainder for each of fiscal years 2019 and 2020;

(B) carry out activities authorized under subpart 2 using—

(i) 36 percent of such remainder for each of fiscal years 2017 and 2018; and

(ii) 32 percent of such remainder for each of fiscal years 2019 and 2020; and

(C) to carry out activities authorized under subpart 4— [1]

(i) 28 percent of such remainder for each of fiscal years 2017 and 2018; and

(ii) 26 percent of such remainder for each of fiscal years 2019 and 2020.

(Pub. L. 89–10, title IV, §4601, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2020.)

PRIOR PROVISIONS

A prior section 7251, Pub. L. 89–10, title V, §5451, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1824, related to inexpensive book distribution program for reading motivation, prior to repeal by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 4601 of Pub. L. 89–10 was classified to section 3151 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 7253 to 7253e, 7255 to 7255f, 7257 to 7257d, and 7259 to 7259c were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7253, Pub. L. 89–10, title V, §5461, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1826, provided that subpart 6 of part D of former subchapter V of this chapter could be cited as the "Jacob K. Javits Gifted and Talented Students Education Act of 2001".

Section 7253a, Pub. L. 89–10, title V, §5462, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1826, provided purpose of former subpart.

Section 7253b, Pub. L. 89–10, title V, §5463, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1826, related to rule of construction.

Section 7253c, Pub. L. 89–10, title V, §5464, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1826; amended Pub. L. 107–279, title IV, §404(d)(5)(C), (6), Nov. 5, 2002, 116 Stat. 1986, related to authorized programs.

Section 7253d, Pub. L. 89–10, title V, §5465, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1828, related to program priorities.

Section 7253e, Pub. L. 89–10, title V, §5466, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1828, related to general provisions.

Section 7255, Pub. L. 89–10, title V, §5471, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1829, provided that subpart 7 of part D of former subchapter V of this chapter could be cited as the "Star Schools Act".

Section 7255a, Pub. L. 89–10, title V, §5472, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1829, provided purposes of former subpart.

Section 7255b, Pub. L. 89–10, title V, §5473, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115

Stat. 1830, authorized grant program.

Section 7255c, Pub. L. 89–10, title V, §5474, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1831, related to applications.

Section 7255d, Pub. L. 89–10, title V, §5475, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1834, related to other grant assistance.

Section 7255e, Pub. L. 89–10, title V, §5476, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1835, related to administrative provisions.

Section 7255f, Pub. L. 89–10, title V, §5477, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1836, defined terms.

Section 7257, Pub. L. 89–10, title V, §5481, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1837, authorized awarding of grants.

Section 7257a, Pub. L. 89–10, title V, §5482, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1838, related to application requirement.

Section 7257b, Pub. L. 89–10, title V, §5483, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1838, related to reports and evaluation.

Section 7257c, Pub. L. 89–10, title V, §5484, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1838, related to digital educational programming grants.

Section 7257d, Pub. L. 89–10, title V, §5485, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1839, related to administrative costs.

Section 7259, Pub. L. 89–10, title V, §5491, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1839, provided that subpart 9 of part D of former subchapter V of this chapter could be cited as the "Foreign Language Assistance Act of 2001".

Section 7259a, Pub. L. 89–10, title V, §5492, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1839, authorized awarding of grants.

Section 7259b, Pub. L. 89–10, title V, §5493, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1840, related to application requirement.

Section 7259c, Pub. L. 89–10, title V, §5494, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1840, related to elementary school foreign language incentive program.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

[1] So in original. Probably should be "(C) carry out activities authorized under subpart 4 using—".

SUBPART 1—EDUCATION INNOVATION AND RESEARCH

§7261. Grants for education innovation and research

(a) Program authorized

(1) In general

From funds reserved under section 7251(b)(2)(A) of this title, the Secretary shall make grants to eligible entities to enable the eligible entities to—

(A) create, develop, implement, replicate, or take to scale entrepreneurial, evidence-based, field-initiated innovations to improve student achievement and attainment for high-need students; and

(B) rigorously evaluate such innovations, in accordance with subsection (e).

(2) Description of grants

The grants described in paragraph (1) shall include—

(A) early-phase grants to fund the development, implementation, and feasibility testing of a

program, which prior research suggests has promise, for the purpose of determining whether the program can successfully improve student achievement or attainment for high-need students;

(B) mid-phase grants to fund implementation and a rigorous evaluation of a program that has been successfully implemented under an early-phase grant described in subparagraph (A) or other effort meeting similar criteria, for the purpose of measuring the program's impact and cost effectiveness, if possible using existing administrative data; and

(C) expansion grants to fund implementation and a rigorous replication evaluation of a program that has been found to produce sizable, important impacts under a mid-phase grant described in subparagraph (B) or other effort meeting similar criteria, for the purposes of—

(i) determining whether such impacts can be successfully reproduced and sustained over time; and

(ii) identifying the conditions in which the program is most effective.

(b) Eligible entity

In this subpart, the term "eligible entity" means any of the following:

(1) A local educational agency.

(2) A State educational agency.

(3) The Bureau of Indian Education.

(4) A consortium of State educational agencies or local educational agencies.

(5) A nonprofit organization.

(6) A State educational agency, a local educational agency, a consortium described in paragraph (4), or the Bureau of Indian Education, in partnership with—

(A) a nonprofit organization;

(B) a business;

(C) an educational service agency; or

(D) an institution of higher education.

(c) Rural areas

(1) In general

In awarding grants under subsection (a), the Secretary shall ensure that not less than 25 percent of the funds made available for any fiscal year are awarded for programs that meet both of the following requirements:

(A) The grantee is—

(i) a local educational agency with an urban-centric district locale code of 32, 33, 41, 42, or 43, as determined by the Secretary;

(ii) a consortium of such local educational agencies;

(iii) an educational service agency or a nonprofit organization in partnership with such a local educational agency; or

(iv) a grantee described in clause (i) or (ii) in partnership with a State educational agency.

(B) A majority of the schools to be served by the program are designated with a locale code of 32, 33, 41, 42, or 43, or a combination of such codes, as determined by the Secretary.

(2) Exception

Notwithstanding paragraph (1), the Secretary shall reduce the amount of funds made available under such paragraph if the Secretary does not receive a sufficient number of applications of sufficient quality.

(d) Matching funds

In order to receive a grant under subsection (a), an eligible entity shall demonstrate that the eligible entity will provide matching funds, in cash or through in-kind contributions, from Federal, State, local, or private sources in an amount equal to 10 percent of the funds provided under such grant, except that the Secretary may waive the matching funds requirement, on a case-by-case basis, upon a showing of exceptional circumstances, such as—

(1) the difficulty of raising matching funds for a program to serve a rural area;

(2) the difficulty of raising matching funds in areas with a concentration of local educational agencies or schools with a high percentage of students aged 5 through 17—

(A) who are in poverty, as counted in the most recent census data approved by the Secretary;

(B) who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(C) whose families receive assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(D) who are eligible to receive medical assistance under the Medicaid program; and

(3) the difficulty of raising funds on tribal land.

(e) Evaluation

Each recipient of a grant under this section shall conduct an independent evaluation of the effectiveness of the program carried out under such grant.

(f) Technical assistance

The Secretary may reserve not more than 5 percent of the funds appropriated under section 7251(b)(2)(A) of this title for each fiscal year to—

(1) provide technical assistance for eligibility entities, which may include pre-application workshops, web-based seminars, and evaluation support; and

(2) to disseminate best practices.

(Pub. L. 89–10, title IV, §4611, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2021.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (d)(2)(B), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (d)(2)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Prior sections 7261 to 7261f were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7261, Pub. L. 89–10, title V, §5501, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1841, provided that subpart 10 of part D of former subchapter V of this chapter could be cited as the "Carol M. White Physical Education Program".

Another prior section 7261, Pub. L. 89–10, title V, §5301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3701, provided that part C of former subchapter V of this chapter could be cited as the "School Dropout Assistance Act", prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Section 7261a, Pub. L. 89–10, title V, §5502, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1841, provided purpose of former subpart.

Section 7261b, Pub. L. 89–10, title V, §5503, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1841, authorized program.

Section 7261c, Pub. L. 89–10, title V, §5504, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1841, related to application requirement.

Section 7261d, Pub. L. 89–10, title V, §5505, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1842, related to annual report to Secretary and administrative expenses.

Section 7261e, Pub. L. 89–10, title V, §5506, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1842, related to other administrative provisions.

Section 7261f, Pub. L. 89–10, title V, §5507, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115

Stat. 1842, provided that funds were to supplement, not supplant, any other Federal, State, or local funds.

A prior section 7262, Pub. L. 89–10, title V, §5302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3701, which set forth purpose of the School Dropout Assistance Act, was omitted in the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Prior sections 7263 to 7263b were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7263, Pub. L. 89–10, title V, §5511, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1843, related to purpose and program authorization.

Another prior section 7263, Pub. L. 89–10, title V, §5303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3701, related to grants to local educational agencies, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Section 7263a, Pub. L. 89–10, title V, §5512, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1843, related to eligibility and application requirements.

Section 7263b, Pub. L. 89–10, title V, §5513, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1844, related to uses of funds.

A prior section 7264, Pub. L. 89–10, title V, §5404 [5304], as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3703, which related to application for school dropout assistance, was omitted in the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Prior sections 7265 to 7265e were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7265, Pub. L. 89–10, title V, §5521, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1845, provided that subpart 12 of part D of former subchapter V of this chapter could be cited as the "Alaska Native and Native Hawaiian Education Through Cultural and Historical Organizations Act".

Another prior section 7265, Pub. L. 89–10, title V, §5305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3704, related to use of grants for dropout prevention activities, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Section 7265a, Pub. L. 89–10, title V, §5522, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1845; amended Pub. L. 109–149, title III, §306(1), Dec. 30, 2005, 119 Stat. 2870, related to findings and purposes.

Section 7265b, Pub. L. 89–10, title V, §5523, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1846; amended Pub. L. 109–149, title III, §306(2), Dec. 30, 2005, 119 Stat. 2870, related to program authorization.

Section 7265c, Pub. L. 89–10, title V, §5524, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1847, related to administrative provisions.

Section 7265d, Pub. L. 89–10, title V, §5525, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1847; amended Pub. L. 109–149, title III, §306(3), Dec. 30, 2005, 119 Stat. 2870, related to availability of funds.

Section 7265e, Pub. L. 89–10, title V, §5526, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1848, defined terms.

A prior section 7266, Pub. L. 89–10, title V, §5306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3706, which related to distribution of assistance and limitation on costs, was omitted in the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Prior sections 7267 to 7267f were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7267, Pub. L. 89–10, title V, §5531, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1848, provided that subpart 13 of part D of former subchapter V of this chapter could be cited as the "Excellence in Economic Education Act of 2001".

Another prior section 7267, Pub. L. 89–10, title V, §5307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3706, related to reports, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Section 7267a, Pub. L. 89–10, title V, §5532, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1848, related to purpose and goals.

Section 7267b, Pub. L. 89–10, title V, §5533, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1848, authorized a grant program.

Section 7267c, Pub. L. 89–10, title V, §5534, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115

Stat. 1849, related to grant applications.

Section 7267d, Pub. L. 89–10, title V, §5535, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1850, related to requirements for grantees and subgrant recipients.

Section 7267e, Pub. L. 89–10, title V, §5536, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1850, related to administrative provisions.

Section 7267f, Pub. L. 89–10, title V, §5537, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1851, provided that funds were to supplement, not supplant, any other Federal, State, or local funds.

A prior section 7268, Pub. L. 89–10, title V, §5308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3706, which authorized appropriations for school dropout assistance, was omitted in the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Prior sections 7269 and 7269a were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7269, Pub. L. 89–10, title V, §5541, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1851, authorized grants for the integration of schools and mental health systems.

Section 7269a, Pub. L. 89–10, title V, §5542, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1853, related to promotion of school readiness through early childhood emotional and social development.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 2—COMMUNITY SUPPORT FOR SCHOOL SUCCESS

§7271. Purposes

The purposes of this subpart are to—

(1) significantly improve the academic and developmental outcomes of children living in the most distressed communities of the United States, including ensuring school readiness, high school graduation, and access to a community-based continuum of high-quality services; and

(2) provide support for the planning, implementation, and operation of full-service community schools that improve the coordination and integration, accessibility, and effectiveness of services for children and families, particularly for children attending high-poverty schools, including high-poverty rural schools.

(Pub. L. 89–10, title IV, §4621, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2023.)

PRIOR PROVISIONS

A prior section 7271, Pub. L. 89–10, title V, §5551, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1855, related to assistance for arts education, prior to repeal by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7272. Definitions

In this subpart:

(1) Eligible entity

The term "eligible entity" means the following:

(A) With respect to a grant for activities described in section 7273(a)(1)(A) of this title—

(i) an institution of higher education, as defined in section 1002 of this title;

(ii) an Indian tribe or tribal organization, as defined in section 450b of title 25; or

(iii) one or more nonprofit entities working in formal partnership with not less than 1 of the following entities:

(I) A high-need local educational agency.

(II) An institution of higher education, as defined in section 1002 of this title.

(III) The office of a chief elected official of a unit of local government.

(IV) An Indian tribe or tribal organization, as defined under section 450b of title 25.

(B) With respect to a grant for activities described in section 7273(a)(1)(B) of this title, a consortium of—

(i)(I) 1 or more local educational agencies; or

(II) the Bureau of Indian Education; and

(ii) 1 or more community-based organizations, nonprofit organizations, or other public or private entities.

(2) Full-service community school

The term "full-service community school" means a public elementary school or secondary school that—

(A) participates in a community-based effort to coordinate and integrate educational, developmental, family, health, and other comprehensive services through community-based organizations and public and private partnerships; and

(B) provides access to such services in school to students, families, and the community, such as access during the school year (including before- and after-school hours and weekends), as well as during the summer.

(3) Pipeline services

The term "pipeline services" means a continuum of coordinated supports, services, and opportunities for children from birth through entry into and success in postsecondary education, and career attainment. Such services shall include, at a minimum, strategies to address through services or programs (including integrated student supports) the following:

(A) High-quality early childhood education programs.

(B) High-quality school and out-of-school-time programs and strategies.

(C) Support for a child's transition to elementary school, from elementary school to middle school, from middle school to high school, and from high school into and through postsecondary education and into the workforce, including any comprehensive readiness assessment determined necessary.

(D) Family and community engagement and supports, which may include engaging or supporting families at school or at home.

(E) Activities that support postsecondary and workforce readiness, which may include job training, internship opportunities, and career counseling.

(F) Community-based support for students who have attended the schools in the area served by the pipeline, or students who are members of the community, facilitating their continued connection to the community and success in postsecondary education and the workforce.

(G) Social, health, nutrition, and mental health services and supports.

(H) Juvenile crime prevention and rehabilitation programs.

(Pub. L. 89–10, title IV, §4622, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2023.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7273. Program authorized

(a) Program authorized

(1) In general

The Secretary shall use not less than 95 percent of the amounts made available under section 7251(b)(2)(B) of this title to award grants, on a competitive basis and subject to subsection (e), to eligible entities for the following activities:

(A) Promise neighborhoods

The implementation of a comprehensive, effective continuum of coordinated services that meets the purpose described in section 7271(1) of this title by carrying out activities in neighborhoods with—

(i) high concentrations of low-income individuals;

(ii) multiple signs of distress, which may include high rates of poverty, childhood obesity, academic failure, and juvenile delinquency, adjudication, or incarceration; and

(iii) schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title.

(B) Full-service community schools

The provision of assistance to public elementary schools or secondary schools to function as full-service community schools.

(2) Sufficient size and scope

Each grant awarded under this subpart shall be of sufficient size and scope to allow the eligible entity to carry out the applicable purposes of this subpart.

(b) Duration

A grant awarded under this subpart shall be for a period of not more than 5 years, and may be extended for an additional period of not more than 2 years.

(c) Continued funding

Continued funding of a grant under this subpart, including a grant extended under subsection (b), after the third year of the initial grant period shall be contingent on the eligible entity's progress toward meeting—

(1) with respect to a grant for activities described in section 7274 of this title, the performance metrics described in section 7274(h) of this title; and

(2) with respect to a grant for activities described in section 7275 of this title, annual performance objectives and outcomes under section 7275(a)(4)(C) of this title.

(d) Matching requirements

(1) Promise neighborhood activities

(A) Matching funds

Each eligible entity receiving a grant under this subpart for activities described in section 7274 of this title shall contribute matching funds in an amount equal to not less than 100 percent of the amount of the grant. Such matching funds shall come from Federal, State, local, and private sources.

(B) Private sources

The Secretary shall require that a portion of the matching funds come from private sources, which may include in-kind contributions.

(C) Adjustment

The Secretary may adjust the matching funds requirement under this paragraph for applicants that demonstrate high need, including applicants from rural areas and applicants that wish to provide services on tribal lands.

(D) Financial hardship waiver

The Secretary may waive or reduce, on a case-by-case basis, the matching requirement under this paragraph, including the requirement for funds from private sources, for a period of 1 year at a time, if the eligible entity demonstrates significant financial hardship.

(2) Full-service community schools activities

(A) In general

Each eligible entity receiving a grant under this subpart for activities described in section 7275 of this title shall provide matching funds from non-Federal sources, which may be provided in part with in-kind contributions.

(B) Special rule

The Bureau of Indian Education may meet the requirement of subparagraph (A) using funds from other Federal sources.

(3) Special rules

(A) In general

The Secretary may not require any eligible entity receiving a grant under this subpart to provide matching funds in an amount that exceeds the amount of the grant award.

(B) Consideration

Notwithstanding this subsection, the Secretary shall not consider the ability of an eligible entity to match funds when determining which applicants will receive grants under this subpart.

(e) Reservation for rural areas

(1) In general

From the amounts allocated under subsection (a) for grants to eligible entities, the Secretary shall use not less than 15 percent of such amounts to award grants to eligible entities that propose to carry out the activities described in such subsection in rural areas.

(2) Exception

The Secretary shall reduce the amount described in paragraph (1) if the Secretary does not receive a sufficient number of applications of sufficient quality.

(f) Minimum number of grants

For each fiscal year, the Secretary shall award under this subpart not fewer than 3 grants for activities described in section 7274 of this title and not fewer than 10 grants for activities described in section 7275 of this title, subject to the availability of appropriations, the requirements of subsection (a)(2), and the number and quality of applications.

(Pub. L. 89–10, title IV, §4623, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2024.)

PRIOR PROVISIONS

Prior sections 7273 to 7273e were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7273, Pub. L. 89–10, title V, §5561, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1856, related to purposes.

Section 7273a, Pub. L. 89–10, title V, §5562, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1857, authorized grants.

Section 7273b, Pub. L. 89–10, title V, §5563, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115

Stat. 1857; amended Pub. L. 108–446, title III, §305(g)(3), Dec. 3, 2004, 118 Stat. 2805, related to applications.

Section 7273c, Pub. L. 89–10, title V, §5564, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1858, related to uses of funds.

Section 7273d, Pub. L. 89–10, title V, §5565, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1859, related to administrative provisions.

Section 7273e, Pub. L. 89–10, title V, §5566, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1861, related to local family information centers.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7274. Promise neighborhoods

(a) Application requirements

An eligible entity desiring a grant under this subpart for activities described in this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require, including, at a minimum, all of the following:

(1) A plan to significantly improve the academic outcomes of children living in a neighborhood that is served by the eligible entity—

(A) by providing pipeline services that address the needs of children in the neighborhood, as identified by the needs analysis described in paragraph (4); and

(B) that is supported by effective practices.

(2) A description of the neighborhood that the eligible entity will serve.

(3) Measurable annual objectives and outcomes for the grant, in accordance with the metrics described in subsection (h), for each year of the grant.

(4) An analysis of the needs and assets of the neighborhood identified in paragraph (1), including—

(A) the size and scope of the population affected;

(B) a description of the process through which the needs analysis was produced, including a description of how parents, families, and community members were engaged in such analysis;

(C) an analysis of community assets and collaborative efforts (including programs already provided from Federal and non-Federal sources) within, or accessible to, the neighborhood, including, at a minimum, early learning opportunities, family and student supports, local businesses, local educational agencies, and institutions of higher education;

(D) the steps that the eligible entity is taking, at the time of the application, to address the needs identified in the needs analysis; and

(E) any barriers the eligible entity, public agencies, and other community-based organizations have faced in meeting such needs.

(5) A description of—

(A) all information that the entity used to identify the pipeline services to be provided, which shall not include information that is more than 3 years old; and

(B) how the eligible entity will—

(i) collect data on children served by each pipeline service; and

(ii) increase the percentage of children served over time.

(6) A description of the process used to develop the application, including the involvement of family and community members.

(7) A description of how the pipeline services will facilitate the coordination of the following activities:

(A) Providing early learning opportunities for children, including by—

(i) providing opportunities for families to acquire the skills to promote early learning and child development; and

(ii) ensuring appropriate diagnostic assessments and referrals for children with disabilities and children aged 3 through 9 experiencing developmental delays, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), where applicable.

(B) Supporting, enhancing, operating, or expanding rigorous, comprehensive, effective educational improvements, which may include high-quality academic programs, expanded learning time, and programs and activities to prepare students for postsecondary education admissions and success.

(C) Supporting partnerships between schools and other community resources with an integrated focus on academics and other social, health, and familial supports.

(D) Providing social, health, nutrition, and mental health services and supports, for children, family members, and community members, which may include services provided within the school building.

(E) Supporting evidence-based programs that assist students through school transitions, which may include expanding access to postsecondary education courses and postsecondary education enrollment aid or guidance, and other supports for at-risk youth.

(8) A description of the strategies that will be used to provide pipeline services (including a description of which programs and services will be provided to children, family members, community members, and children within the neighborhood) to support the purpose described in section 7271(1) of this title.

(9) An explanation of the process the eligible entity will use to establish and maintain family and community engagement, including—

(A) involving representative participation by the members of such neighborhood in the planning and implementation of the activities of each grant awarded under this subpart for activities described in this section;

(B) the provision of strategies and practices to assist family and community members in actively supporting student achievement and child development;

(C) providing services for students, families, and communities within the school building; and

(D) collaboration with institutions of higher education, workforce development centers, and employers to align expectations and programming with postsecondary education and workforce readiness,

(10) An explanation of how the eligible entity will continuously evaluate and improve the continuum of high-quality pipeline services to provide for continuous program improvement and potential expansion.

(b) Priority

In awarding grants for activities described in this section, the Secretary shall give priority to eligible entities that will use funds under subsection (d) for evidence-based activities, which, for purposes of this subsection, is defined as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(c) Memorandum of understanding

As eligible entity shall, as part of the application described in subsection (a), submit a preliminary memorandum of understanding, signed by each partner entity or agency described in section 7272(1)(A)(3) of this title (if applicable) and detailing each partner's financial, programmatic, and long-term commitment with respect to the strategies described in the application.

(d) Uses of funds

Each eligible entity that receives a grant under this subpart to carry out a program of activities described in this section shall use the grant funds to—

(1) support planning activities to develop and implement pipeline services;

(2) implement the pipeline services; and

(3) continuously evaluate the success of the program and improve the program based on data and outcomes.

(e) Special rules

(1) Funds for pipeline services

Each eligible entity that receives a grant under this subpart for activities described in this section shall, for the first year of the grant, use not less than 50 percent of the grant funds, and, for the second year of the grant, use not less than 25 percent of the grant funds, to carry out the activities described in subsection (d)(1).

(2) Operational flexibility

Each eligible entity that operates a school in a neighborhood served by a grant program under this subpart for activities described in this section shall provide such school with the operational flexibility, including autonomy over staff, time, and budget, needed to effectively carry out the activities described in the application under subsection (a).

(3) Limitation on use of funds for early childhood education programs

Funds provided under this subpart for activities described in this section that are used to improve early childhood education programs shall not be used to carry out any of the following activities:

(A) Assessments that provide rewards or sanctions for individual children or teachers.

(B) A single assessment that is used as the primary or sole method for assessing program effectiveness.

(C) Evaluating children, other than for the purposes of improving instruction, classroom environment, professional development, or parent and family engagement, or program improvement.

(f) Report

Each eligible entity that receives a grant under this subpart for activities described in this section shall prepare and submit an annual report to the Secretary, which shall include—

(1) information about the number and percentage of children in the neighborhood who are served by the grant program, including a description of the number and percentage of children accessing each support or service offered as part of the pipeline services; and

(2) information relating to the performance metrics described in subsection (h).

(g) Publicly available data

Each eligible entity that receives a grant under this subpart for activities described in this section shall make publicly available, including through electronic means, the information described in subsection (f). To the extent practicable, such information shall be provided in a form and language accessible to parents and families in the neighborhood served under the grant, and such information shall be a part of statewide longitudinal data systems.

(h) Performance indicators

(1) In general

The Secretary shall establish performance indicators under paragraph (2) and corresponding metrics to be used for the purpose of reporting under paragraph (3) and program evaluation under subsection (i).

(2) Indicators

The performance indicators established by the Secretary under paragraph (1) shall be indicators of improved academic and developmental outcomes for children, including indicators of school

readiness, high school graduation, postsecondary education and career readiness, and other academic and developmental outcomes, to promote—

(A) data-driven decision-making by eligible entities receiving funds under this subpart; and

(B) access to a community-based continuum of high-quality services for children living in the most distressed communities of the United States, beginning at birth.

(3) Reporting

Each eligible entity that receives a grant under this subpart for activities described in this section shall annually collect and report to the Secretary data on the performance indicators described in paragraph (2) for use by the Secretary in making a determination concerning continuation funding and grant extension under section 7273(b) of this title for each eligible entity.

(i) Evaluation

The Secretary shall reserve not more than 5 percent of the funds made available under section 7251(b)(2)(A) of this title to provide technical assistance and evaluate the implementation and impact of the activities funded under this section, in accordance with section 7981 of this title.

(Pub. L. 89–10, title IV, §4624, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2026.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(7)(A)(ii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7275. Full-service community schools

(a) Application

An eligible entity that desires a grant under this subpart for activities described in this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The Secretary shall require that each such application include the following:

(1) A description of the eligible entity.

(2) A memorandum of understanding among all partner entities in the eligible entity that will assist the eligible entity to coordinate and provide pipeline services and that describes the roles the partner entities will assume.

(3) A description of the capacity of the eligible entity to coordinate and provide pipeline services at 2 or more full-service community schools.

(4) A comprehensive plan that includes descriptions of the following:

(A) The student, family, and school community to be served, including demographic information.

(B) A needs assessment that identifies the academic, physical, nonacademic, health, mental health, and other needs of students, families, and community residents.

(C) Annual measurable performance objectives and outcomes, including an increase in the number and percentage of families and students targeted for services each year of the program, in order to ensure that children are—

(i) prepared for kindergarten;

(ii) achieving academically; and

(iii) safe, healthy, and supported by engaged parents.

(D) Pipeline services, including existing and additional pipeline services, to be coordinated

and provided by the eligible entity and its partner entities, including an explanation of—

(i) why such services have been selected;

(ii) how such services will improve student academic achievement; and

(iii) how such services will address the annual measurable performance objectives and outcomes established under subparagraph (C).

(E) Plans to ensure that each full-service community school site has a full-time coordinator of pipeline services at such school, including a description of the applicable funding sources, plans for professional development for the personnel managing, coordinating, or delivering pipeline services, and plans for joint utilization and management of school facilities.

(F) Plans for annual evaluation based upon attainment of the performance objectives and outcomes described in subparagraph (C).

(G) Plans for sustaining the programs and services described in this subsection after the grant period.

(5) An assurance that the eligible entity and its partner entities will focus services on schools eligible for a schoolwide program under section 6314(b) of this title.

(b) Priority

In awarding grants under this subpart for activities described in this section, the Secretary shall give priority to eligible entities that—

(1)(A) will serve a minimum of 2 or more full-service community schools eligible for a schoolwide program under section 6314(b) of this title, as part of a community- or district-wide strategy; or

(B) include a local educational agency that satisfies the requirements of—

(i) subparagraph (A), (B), or (C) of section 7345(b)(1) of this title; or

(ii) subparagraphs (A) and (B) of section 7351(b)(1) of this title;

(2) are consortiums comprised of a broad representation of stakeholders or consortiums demonstrating a history of effectiveness; and

(3) will use funds for evidence-based activities described in subsection (e), defined for purposes of this paragraph as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(c) Planning

The Secretary may authorize an eligible entity receiving a grant under this subpart for activities described in this section to use not more than 10 percent of the total amount of grant funds for planning purposes during the first year of the grant.

(d) Minimum amount

The Secretary may not award a grant under this subpart for activities described in this section to an eligible entity in an amount that is less than $75,000 for each year of the grant period, subject to the availability of appropriations.

(e) Use of funds

Grants awarded under this subpart for activities described in this section shall be used to—

(1) coordinate not less than 3 existing pipeline services, as of the date of the grant award, and provide not less than 2 additional pipeline services, at 2 or more public elementary schools or secondary schools;

(2) to the extent practicable, integrate multiple pipeline services into a comprehensive, coordinated continuum to achieve the annual measurable performance objectives and outcomes under subsection (a)(4)(C) to meet the holistic needs of children; and

(3) if applicable, coordinate and integrate services provided by community-based organizations and government agencies with services provided by specialized instructional support personnel.

(f) Evaluations by the institute of education sciences

The Secretary, acting through the Director of the Institute of Education Sciences, shall conduct evaluations of the effectiveness of grants under this subpart for activities described in this section in achieving the purpose described in section 7271(2) of this title.

(g) Evaluations by grantees

The Secretary shall require each eligible entity receiving a grant under this subpart for activities described in this section to—

(1) conduct annual evaluations of the progress achieved with the grant toward the purpose described in section 7271(2) of this title;

(2) use such evaluations to refine and improve activities carried out through the grant and the annual measurable performance objectives and outcomes under subsection (a)(4)(C); and

(3) make the results of such evaluations publicly available, including by providing public notice of such availability.

(h) Construction clause

Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or local educational agency employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

(i) Supplement, not supplant

Funds made available to an eligible entity through a grant under this subpart for activities described in this section may be used only to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this section.

(Pub. L. 89–10, title IV, §4625, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2029.)

PRIOR PROVISIONS

Prior sections 7275, 7277 to 7277e, and 7279 to 7279e were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7275, Pub. L. 89–10, title V, §5571, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1861, related to grants to combat the impact of experiencing or witnessing domestic violence on elementary and secondary school children.

Section 7277, Pub. L. 89–10, title V, §5581, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1863, authorized grant program.

Section 7277a, Pub. L. 89–10, title V, §5582, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1863, related to State uses of funds.

Section 7277b, Pub. L. 89–10, title V, §5583, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1864, related to local uses of funds.

Section 7277c, Pub. L. 89–10, title V, §5584, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1865, related to report to Congress.

Section 7277d, Pub. L. 89–10, title V, §5585, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1865, related to limitations.

Section 7277e, Pub. L. 89–10, title V, §5586, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1865, defined term "healthy, high-performance school building".

Section 7279, Pub. L. 89–10, title V, §5591, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1865, authorized grant program.

Section 7279a, Pub. L. 89–10, title V, §5592, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1865, related to uses of funds.

Section 7279b, Pub. L. 89–10, title V, §5593, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1866, related to allotments to States.

Section 7279c, Pub. L. 89–10, title V, §5594, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1866, related to subgrants to local educational agencies.

Section 7279d, Pub. L. 89–10, title V, §5595, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1866, defined term "capital expenses".

Section 7279e, Pub. L. 89–10, title V, §5596, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1866, terminated authority effective Oct. 1, 2003.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 3—NATIONAL ACTIVITIES FOR SCHOOL SAFETY

§7281. National activities for school safety

(a) Program authorized

(1) In general

From the funds reserved under section 7251(b)(1) of this title, the Secretary—

(A) shall use a portion of such funds for the Project School Emergency Response to Violence program (in this section referred to as "Project SERV"), in order to provide education-related services to eligible entities; and

(B) may use a portion of such funds to carry out other activities to improve students' safety and well-being, during and after the school day, under this section directly or through grants, contracts, or cooperative agreements with public or private entities or individuals, or other Federal agencies, such as providing technical assistance to States and local educational agencies carrying out activities under this section or conducting a national evaluation.

(2) Availability

Amounts reserved under section 7251(b)(1) of this title for Project SERV are authorized to remain available until expended for Project SERV.

(b) Project SERV

(1) Additional use of funds

Funds made available under subsection (a) for extended services grants under Project SERV may be used by an eligible entity to initiate or strengthen violence prevention activities as part of the activities designed to restore the learning environment that was disrupted by the violent or traumatic crisis in response to which the grant was awarded.

(2) Application process

(A) In general

An eligible entity desiring to use a portion of extended services grant funds under Project SERV to initiate or strengthen a violence prevention activity shall—

(i) submit, in an application that meets all requirements of the Secretary for Project SERV, the information described in subparagraph (B); or

(ii) in the case of an eligible entity that has already received an extended services grant under Project SERV, submit an addition to the original application that includes the information described in subparagraph (B).

(B) Application requirements

An application, or addition to an application, for an extended services grant pursuant to subparagraph (A) shall include the following:

(i) A demonstration of the need for funds due to a continued disruption or a substantial risk of disruption to the learning environment.

(ii) An explanation of the proposed activities that are designed to restore and preserve the

learning environment.

(iii) A budget and budget narrative for the proposed activities.

(3) Award basis

Any award of funds under Project SERV for violence prevention activities under this section shall be subject to the discretion of the Secretary and the availability of funds.

(4) Prohibited use

No funds provided to an eligible entity for violence prevention activities may be used for construction, renovation, or repair of a facility or for the permanent infrastructure of the eligible entity.

(c) Definition of eligible entity

In this section, the term "eligible entity" means—

(1) a local educational agency, as defined in subparagraph (A), (B), or (C) of section 7801(30) of this title, or institution of higher education in which the learning environment has been disrupted due to a violent or traumatic crisis; or

(2) the Bureau of Indian Education in a case where the learning environment of a school operated or funded by the Bureau, including a school meeting the definition of a local educational agency under section 7801(30)(C) of this title, has been disrupted due to a violent or traumatic crisis.

(Pub. L. 89–10, title IV, §4631, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2032.)

PRIOR PROVISIONS

Prior sections 7281 to 7281b and 7283 to 7283g were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(C), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7281, Pub. L. 89–10, title V, §5601, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1866, authorized Secretary to provide additional assistance to meet special circumstances.

Section 7281a, Pub. L. 89–10, title V, §5602, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1866, related to eligibility.

Section 7281b, Pub. L. 89–10, title V, §5603, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1867, related to maximum amount.

Section 7283, Pub. L. 89–10, title V, §5611, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1867, provided that subpart 21 of subpart D of former subchapter V of this chapter could be cited as the "Women's Educational Equity Act of 2001" and related to findings.

Section 7283a, Pub. L. 89–10, title V, §5612, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1868, related to statement of purpose.

Section 7283b, Pub. L. 89–10, title V, §5613, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1868; amended Pub. L. 107–279, title IV, §404(d)(7), Nov. 5, 2002, 116 Stat. 1986, authorized program.

Section 7283c, Pub. L. 89–10, title V, §5614, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1871, related to applications.

Section 7283d, Pub. L. 89–10, title V, §5615, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1871; amended Pub. L. 107–279, title IV, §404(d)(5)(D), (8), Nov. 5, 2002, 116 Stat. 1986, related to criteria and priorities.

Section 7283e, Pub. L. 89–10, title V, §5616, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1872, related to report requirement.

Section 7283f, Pub. L. 89–10, title V, §5617, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1872, related to administration.

Section 7283g, Pub. L. 89–10, title V, §5618, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1873, related to amounts to be used to carry out certain activities.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 4—ACADEMIC ENRICHMENT

§7291. Awards for academic enrichment

(a) Program authorized

From funds reserved under section 7251(b)(2)(C) of this title, the Secretary shall award grants, contracts, or cooperative agreements, on a competitive basis, to eligible entities for the purposes of enriching the academic experience of students by promoting—

(1) arts education for disadvantaged students and students who are children with disabilities, as described in section 7292 of this title;

(2) school readiness through the development and dissemination of accessible instructional programming for preschool and elementary school children and their families, as described in section 7293 of this title; and

(3) support for high-ability learners and high-ability learning, as described in section 7294 of this title.

(b) Annual awards

The Secretary shall annually make awards to fulfill each of the purposes described in paragraphs (1) through (3) of subsection (a).

(Pub. L. 89–10, title IV, §4641, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2033.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7292. Assistance for arts education

(a) Awards to provide assistance for arts education

(1) In general

Awards made to eligible entities to fulfill the purpose described in section 7291(a)(1) of this title, shall be used for a program (to be known as the "Assistance for Arts Education program") to promote arts education for students, including disadvantaged students and students who are children with disabilities, through activities such as—

(A) professional development for arts educators, teachers, and principals;

(B) development and dissemination of accessible instructional materials and arts-based educational programming, including online resources, in multiple arts disciplines; and

(C) community and national outreach activities that strengthen and expand partnerships among schools, local educational agencies, communities, or centers for the arts, including national centers for the arts.

(b) Conditions

As conditions of receiving assistance made available under this section, the Secretary shall require each eligible entity receiving such assistance—

(1) to coordinate, to the extent practicable, each project or program carried out with such assistance with appropriate activities of public or private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters; and

(2) to use such assistance only to supplement, and not to supplant, any other assistance or funds made available from non-Federal sources for the activities assisted under this subpart.

(c) Consultation

In carrying out this section, the Secretary shall consult with Federal agencies or institutions, arts educators (including professional arts education associations), and organizations representing the arts (including State and local arts agencies involved in arts education).

(d) Priority

In awarding grants under this section, the Secretary shall give priority to eligible entities that are eligible national nonprofit organizations.

(e) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) a local educational agency in which 20 percent or more of the students served by the local educational agency are from families with an income below the poverty line;

(B) a consortium of such local educational agencies;

(C) a State educational agency;

(D) an institution of higher education;

(E) a museum or cultural institution;

(F) the Bureau of Indian Education;

(G) an eligible national nonprofit organization; or

(H) another private agency, institution, or organization.

(2) Eligible national nonprofit organization

The term "eligible national nonprofit organization" means an organization of national scope that—

(A) is supported by staff, which may include volunteers, or affiliates at the State and local levels; and

(B) demonstrates effectiveness or high-quality plans for addressing arts education activities for disadvantaged students or students who are children with disabilities.

(Pub. L. 89–10, title IV, §4642, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2033.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7293. Ready to learn programming

(a) Awards to promote school readiness through ready to learn programming

(1) In general

Awards made to eligible entities described in paragraph (3) to fulfill the purpose described in section 7291(a)(2) of this title shall—

(A) be known as "Ready to Learn Programming awards"; and

(B) be used to—

(i) develop, produce, and distribute accessible educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate student academic achievement;

(ii) facilitate the development, directly or through contracts with producers of children's and family educational television programming, of educational programming for preschool and elementary school children, and the accompanying support materials and services that promote the effective use of such programming;

(iii) facilitate the development of programming and digital content containing Ready-to-Learn programming and resources for parents and caregivers that is specially designed for nationwide distribution over public television stations' digital broadcasting channels and the Internet;

(iv) contract with entities (such as public telecommunications entities) so that programming developed under this section is disseminated and distributed to the widest possible audience appropriate to be served by the programming, and through the use of the most appropriate distribution technologies; and

(v) develop and disseminate education and training materials, including interactive programs and programs adaptable to distance learning technologies, that are designed—

(I) to promote school readiness; and

(II) to promote the effective use of materials developed under clauses (ii) and (iii) among parents, family members, teachers, principals and other school leaders, Head Start providers, providers of family literacy services, child care providers, early childhood educators, elementary school teachers, public libraries, and after-school program personnel caring for preschool and elementary school children.

(2) Availability

In awarding or entering into grants, contracts, or cooperative agreements under this section, the Secretary shall ensure that eligible entities described in paragraph (3) make programming widely available, with support materials as appropriate, to young children, parents, child care workers, Head Start providers, and providers of family literacy services to increase the effective use of such programming.

(3) Eligible entities

To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity shall be a public telecommunications entity that is able to demonstrate each of the following:

(A) A capacity for the development and national distribution of educational and instructional television programming of high quality that is accessible by a large majority of disadvantaged preschool and elementary school children.

(B) A capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality.

(C) A capacity, consistent with the entity's mission and nonprofit nature, to negotiate such contracts in a manner that returns to the entity an appropriate share of any ancillary income from sales of any program-related products.

(D) A capacity to localize programming and materials to meet specific State and local needs and to provide educational outreach at the local level.

(4) Coordination of activities

An entity receiving a grant, contract, or cooperative agreement under this section shall consult with the Secretary and the Secretary of Health and Human Services—

(A) to maximize the use of high-quality educational programming by preschool and elementary school children, and make such programming widely available to Federally funded programs serving such populations; and

(B) to coordinate activities with Federal programs that have major training components for early childhood development, including programs under the Head Start Act (42 U.S.C. 9831 et seq.) and State training activities funded under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) [42 U.S.C. 9857 et seq.], regarding the availability and utilization of materials developed under paragraph (1)(B)(v) to enhance parent and child care provider skills in early childhood development and education.

(b) Applications

To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Secretary an application at such time and in such manner as the Secretary may reasonably require. The application shall include—

(1) a description of the activities to be carried out under this section;

(2) a list of the types of entities with which such entity will enter into contracts under subsection (a)(1)(B)(iv);

(3) a description of the activities the entity will undertake widely to disseminate the content developed under this section; and

(4) a description of how the entity will comply with subsection (a)(2).

(c) Reports and evaluations

(1) Annual report to Secretary

An entity receiving a grant, contract, or cooperative agreement under this section shall prepare and submit to the Secretary an annual report. The report shall describe the program activities undertaken with funds received under the grant, contract, or cooperative agreement, including each of the following:

(A) The programming that has been developed, directly or indirectly, by the eligible entity, and the target population of the programming.

(B) The support and training materials that have been developed to accompany the programming, and the method by which the materials are distributed to consumers and users of the programming.

(C) The means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available, and the geographic distribution achieved through such technologies.

(D) The initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development, distribution, and broadcast of educational and instructional programming.

(2) Report to Congress

The Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives a biannual report that includes the following:

(A) A summary of the activities assisted under subsection (a).

(B) A description of the education and training materials made available under subsection (a)(1)(B)(v), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such subsection.

(d) Administrative costs

An entity that receives a grant, contract, or cooperative agreement under this section may use up to 5 percent of the amount received under the grant, contract, or agreement for the normal and customary expenses of administering the grant, contract, or agreement.

(e) Funding Rule

Not less than 60 percent of the amount used by the Secretary to carry out this section for each fiscal year shall be used to carry out activities under clauses (ii) through (iv) of subsection (a)(1)(B).

(Pub. L. 89–10, title IV, §4643, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2034.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (a)(4)(B), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (a)(4)(B), is subchapter C (§658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V,

§5082(2), Nov. 5, 1990, 104 Stat. 1388–236, which is classified generally to subchapter II–B (§9857 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 9857(a) of Title 42 and Tables.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7294. Supporting high-ability learners and learning

(a) Purpose

The purpose of this section is to promote and initiate a coordinated program, to be known as the "Jacob K. Javits Gifted and Talented Students Education Program", of evidence-based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary schools and secondary schools nationwide to identify gifted and talented students and meet their special educational needs.

(b) Program Authorized

(1) In general

The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make awards to, or enter into contracts with, State educational agencies, local educational agencies, the Bureau of Indian Education, institutions of higher education, other public agencies, and other private agencies and organizations to assist such agencies, institutions, or organizations, or the Bureau, in carrying out programs or projects to fulfill the purpose described in section 7291(a)(3) of this title, including the training of personnel in the identification and education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

(2) Application

Each entity seeking assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each application shall describe how—

(A) the proposed identification methods, as well as gifted and talented services, materials, and methods, can be adapted, if appropriate, for use by all students; and

(B) the proposed programs can be evaluated.

(c) Uses of funds

Programs and projects assisted under this section may include any of the following:

(1) Conducting evidence-based research on methods and techniques for identifying and teaching gifted and talented students and for using gifted and talented programs and methods to identify and provide the opportunity for all students to be served, particularly low-income and at-risk students.

(2) Establishing and operating programs and projects for identifying and serving gifted and talented students, including innovative methods and strategies (such as summer programs, mentoring programs, peer tutoring programs, service learning programs, and cooperative learning programs involving business, industry and education) for identifying and educating students who may not be served by traditional gifted and talented programs.

(3) Providing technical assistance and disseminating information, which may include how gifted and talented programs and methods may be adapted for use by all students, particularly low-income and at-risk students.

(d) Center for research and development

(1) In general

The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Research Center for the Education of Gifted and Talented Children and Youth through grants to, or contracts with, one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies and other public or private agencies and organizations, for the purpose of carrying out activities described in subsection (c).

(2) Director

The National Center shall be headed by a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with institutions of higher education, State educational agencies, local educational agencies, or other public or private agencies and organizations.

(e) Coordination

Evidence-based activities supported under this section—

(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by the Institute; and

(2) may include collaborative evidence-based activities that are jointly funded and carried out with such Institute.

(f) General priority

In carrying out this section, the Secretary shall give highest priority to programs and projects designed to—

(1) develop new information that—

(A) improves the capability of schools to plan, conduct, and improve programs to identify and serve gifted and talented students; or

(B) assists schools in the identification of, and provision of services to, gifted and talented students (including economically disadvantaged individuals, individuals who are English learners, and children with disabilities) who may not be identified and served through traditional assessment methods; or

(2) implement evidence-based activities, defined in this paragraph as activities meeting the requirements of section 7801(21)(A)(i) of this title.

(g) Participation of private school children and teachers

In making grants and entering into contracts under this section, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such students.

(h) Review, dissemination, and evaluation

The Secretary shall—

(1) use a peer-review process in reviewing applications under this section;

(2) ensure that information on the activities and results of programs and projects funded under this section is disseminated to appropriate State educational agencies, local educational agencies, and other appropriate organizations, including private nonprofit organizations; and

(3) evaluate the effectiveness of programs under this section in accordance with section 7981 of this title, in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than 2 years after December 10, 2015.

(i) Program operations

The Secretary shall ensure that the programs under this section are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

(1) administer and coordinate the programs authorized under this section;

(2) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs;

(3) assist the Director of the Institute of Education Sciences in identifying research priorities that reflect the needs of gifted and talented students; and

(4) disseminate, and consult on, the information developed under this section with other offices within the Department.

(Pub. L. 89–10, title IV, §4644, as added Pub. L. 114–95, title IV, §4601, Dec. 10, 2015, 129 Stat. 2037.)

PRIOR PROVISIONS

Prior sections 7301 to 7301b were repealed by Pub. L. 114–95, §5, title V, §5001(b)(1), Dec. 10, 2015, 129 Stat. 1806, 2040, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7301, Pub. L. 89–10, title V, §6111, formerly title VI, §6111, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1873; renumbered title V, §6111, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to grants for State assessments and related activities.

A prior section 7301, Pub. L. 89–10, title VI, §6001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3707, set forth findings and purpose, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

Section 7301a, Pub. L. 89–10, title V, §6112, formerly title VI, §6112, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1874; renumbered title V, §6112, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to grants for enhanced assessment instruments.

Section 7301b, Pub. L. 89–10, title V, §6113, formerly title VI, §6113, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1875; renumbered title V, §6113, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to funding.

Prior sections 7302 and 7303 were omitted in the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

Section 7302, Pub. L. 89–10, title VI, §6002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3707, related to authorization of appropriations and duration of assistance.

Section 7303, Pub. L. 89–10, title VI, §6003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3707, defined "effective schools programs".

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBCHAPTER V—FLEXIBILITY AND ACCOUNTABILITY

CODIFICATION

Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, redesignated subchapter VI (§7301 et seq.) of this chapter as this subchapter.

Title V of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title V is shown, herein, as having been added as title VI of Pub. L. 89–10 by Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1873, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. Title VI of Pub. L. 89–10 was subsequently redesignated title V by Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, and transferred to this subchapter. See Codification note preceding section 6301 of this title.

PRIOR PROVISIONS

A prior title V of the Elementary and Secondary Education Act of 1965, comprising former subchapter V (§7201 et seq.) of this chapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and

subsequently revised, restated, and amended by other public laws. Title V as extensively revised by Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1776, related to promoting informed parental choice and innovative programs, and was set out in former subchapter V of this chapter as having been added by Pub. L. 107–110. Except as provided below, title V of the Act was repealed by Pub. L. 114–95, title IV, §4001(b)(1)(A)–(C), (4), Dec. 10, 2015, 129 Stat. 1967.

A prior part B of title V of the Elementary and Secondary Education Act of 1965, comprising part B (§7221 et seq.) of former subchapter V of this chapter, was redesignated part C of title IV of the Act and transferred to part C (§7221 et seq.) of subchapter IV of this chapter by Pub. L. 114–95, title IV, §4001(b)(2)(A)–(C), Dec. 10, 2015, 129 Stat. 1967.

A prior part C of title V of the Elementary and Secondary Education Act of 1965, comprising part C (§7231 et seq.) of former subchapter V of this chapter, was redesignated part D of title IV of the Act and transferred to part D (§7231 et seq.) of subchapter IV of this chapter by Pub. L. 114–95, §4001(b)(3)(A)–(C), Dec. 10, 2015, 129 Stat. 1967.

PART A—FUNDING TRANSFERABILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

CODIFICATION

Pub. L. 114–95, title V, §5002(1), (2), Dec. 10, 2015, 129 Stat. 2040, substituted "Funding Transferability for State and Local Educational Agencies" for "Improving Academic Achievement" in part heading and struck out subpart 2 designation and heading.

PRIOR PROVISIONS

Prior subparts 1, 3, and 4 of this part, consisting of sections 7301 to 7301b, 7311 to 7311b, 7315 to 7315c, 7321 to 7321e, and 7325 to 7325c, related to accountability, State and local flexibility demonstration, and State accountability for adequate yearly progress, prior to repeal by Pub. L. 114–95, title V, §5001(b)(1), Dec. 10, 2015, 129 Stat. 2040.

§7305. Short title

This part may be cited as the "State and Local Transferability Act".

(Pub. L. 89–10, title V, §5101, formerly title VI, §6121, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1876; renumbered title V, §5101, and amended Pub. L. 114–95, title V, §§5001(a)(1), 5002(3), Dec. 10, 2015, 129 Stat. 2039, 2040.)

PRIOR PROVISIONS

A prior section 5101 of Pub. L. 89–10 was classified to section 7201 of this title prior to repeal by Pub. L. 114–95.

Another prior section 5101 of Pub. L. 89–10 was classified to section 7201 of this title, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Another prior section 5101 of Pub. L. 89–10 was classified to section 3171 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95, §5002(3), substituted "part" for "subpart".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7305a. Purpose

The purpose of this part is to allow States and local educational agencies the flexibility to target

Federal funds to the programs and activities that most effectively address the unique needs of States and localities.

(Pub. L. 89–10, title V, §5102, formerly title VI, §6122, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1876; renumbered title V, §5102, and amended Pub. L. 114–95, title V, §§5001(a)(1), 5002(4), Dec. 10, 2015, 129 Stat. 2039, 2040.)

PRIOR PROVISIONS

A prior section 5102 of Pub. L. 89–10 was classified to section 7202 of this title, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Another prior section 5102 of Pub. L. 89–10 was classified to section 3172 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95, §5002(4), amended section generally. Prior to amendment, text read as follows: "The purpose of this subpart is to allow States and local educational agencies the flexibility—

"(1) to target Federal funds to Federal programs that most effectively address the unique needs of States and localities; and

"(2) to transfer Federal funds allocated to other activities to allocations for certain activities authorized under subchapter I of this chapter."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7305b. Transferability of funds

(a) Transfers by States

(1) In general

In accordance with this part, a State may transfer all, or any lesser amount, of State funds (including funds transferred under paragraph (2)) allotted to the State for use for State-level activities under the following provisions for a fiscal year to one or more of the State's allotments for such fiscal year under any other of such provisions:

(A) Part A of subchapter II.

(B) Part A of subchapter IV.

(C) Section 7172(c)(3) of this title.

(2) Additional funds

In accordance with this part, a State may transfer any funds allotted to the State under a provision listed in paragraph (1) for a fiscal year to its allotment under any other of the following provisions:

(A) Part A of subchapter I.

(B) Part C of subchapter I.

(C) Part D of subchapter I.

(D) Part A of subchapter III.

(E) Part B.

(b) Transfers by local educational agencies

(1) Authority to transfer funds

(A) In general

In accordance with this part, a local educational agency may transfer all, or any lesser amount, of the funds allocated to it under each of the provisions listed in paragraph (2) for a fiscal year to one or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

(B) Additional funds

In accordance with this part, a local educational agency may transfer any funds allotted to such agency under a provision listed in paragraph (2) for a fiscal year to its allotment under any other of the following provisions:

(i) Part A of subchapter I.
(ii) Part C of subchapter I.
(iii) Part D of subchapter I.
(iv) Part A of subchapter III.
(v) Part B.

(2) Applicable provisions

A local educational agency may transfer funds under subparagraph (A) or (B) of paragraph (1) from allocations made under each of the following provisions:

(A) Part A of subchapter II.
(B) Part A of subchapter IV.

(c) No transfer of certain funding

A State or local educational agency may not transfer under this part to any other program any funds allotted or allocated to it for the following provisions:

(1) Part A of subchapter I.
(2) Part C of subchapter I.
(3) Part D of subchapter I.
(4) Part A of subchapter III.
(5) Part B.

(d) Modification of plans and applications; notification

(1) State transfers

Each State that makes a transfer of funds under this section shall—

(A) modify, to account for such transfer, each State plan, or application submitted by the State, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

(2) Local transfers

Each local educational agency that makes a transfer of funds under this section shall—

(A) modify, to account for such transfer, each local plan, or application submitted by the agency, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

(e) Applicable rules

(1) In general

Except as otherwise provided in this part, funds transferred under this section are subject to each of the rules and requirements applicable to the funds under the provision to which the transferred funds are transferred.

(2) Consultation

Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 7881 of this title, if such transfer transfers funds from a program that provides for the participation of students, teachers, or other

educational personnel, from private schools.

(Pub. L. 89–10, title V, §5103, formerly title VI, §6123, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1876; renumbered title V, §5103, and amended Pub. L. 114–95, title V, §§5001(a)(1), 5002(3), (5), Dec. 10, 2015, 129 Stat. 2039, 2040.)

PRIOR PROVISIONS

A prior section 5103 of Pub. L. 89–10 was classified to section 7203 of this title, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

Another prior section 5103 of Pub. L. 89–10 was classified to section 3173 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 7311 to 7311b, 7315 to 7315c, 7321 to 7321e, and 7325 to 7325c were repealed by Pub. L. 114–95, §5, title V, §5001(b)(1), Dec. 10, 2015, 129 Stat. 1806, 2040, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7311, Pub. L. 89–10, title V, §6131, formerly title VI, §6131, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1878; renumbered title V, §6131, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, provided that former subpart 3 of this part could be cited as the "State and Local Flexibility Demonstration Act".

A prior section 7311, Pub. L. 89–10, title VI, §6101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3708, related to allotment to States, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

Section 7311a, Pub. L. 89–10, title V, §6132, formerly title VI, §6132, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1878; renumbered title V, §6132, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, stated the purpose of former subpart 3 of this part.

Section 7311b, Pub. L. 89–10, title V, §6133, formerly title VI, §6133, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1878; renumbered title V, §6133, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, provided that any State that is one local educational agency would be considered a State educational agency and not a local educational agency.

A prior section 7312, Pub. L. 89–10, title VI, §6102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3708, which related to allocation to local educational agencies, was omitted in the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

Section 7315, Pub. L. 89–10, title V, §6141, formerly title VI, §6141, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1879; renumbered title V, §6141, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to State flexibility.

Section 7315a, Pub. L. 89–10, title V, §6142, formerly title VI, §6142, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1883; renumbered title V, §6142, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to consolidation and use of funds under a grant of flexibility authority.

Section 7315b, Pub. L. 89–10, title V, §6143, formerly title VI, §6143, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1883; renumbered title V, §6143, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to midterm and final performance reviews and penalties regarding grants of flexibility authority.

Section 7315c, Pub. L. 89–10, title V, §6144, formerly title VI, §6144, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1884; renumbered title V, §6144, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, provided for renewal of grant of flexibility authority.

Section 7321, Pub. L. 89–10, title V, §6151, formerly title VI, §6151, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1884; renumbered title V, §6151, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to local flexibility demonstration agreements.

Section 7321a, Pub. L. 89–10, title V, §6152, formerly title VI, §6152, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1888; renumbered title V, §6152, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to consolidation and use of funds under a local flexibility demonstration agreement.

Section 7321b, Pub. L. 89–10, title V, §6153, formerly title VI, §6153, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1889; renumbered title V, §6153, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to limitations on administrative expenditures.

Section 7321c, Pub. L. 89–10, title V, §6154, formerly title VI, §6154, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1889; renumbered title V, §6154, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to midterm and final performance reviews and penalties regarding local flexibility demonstration agreements.

Section 7321d, Pub. L. 89–10, title V, §6155, formerly title VI, §6155, as added Pub. L. 107–110, title VI,

§601, Jan. 8, 2002, 115 Stat. 1889; renumbered title V, §6155, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, provided for renewal of local flexibility demonstration agreement.

Section 7321e, Pub. L. 89–10, title V, §6156, formerly title VI, §6156, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1890; renumbered title V, §6156, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to transmittal of reports to Congress and limitation on required information.

Section 7325, Pub. L. 89–10, title V, §6161, formerly title VI, §6161, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1890; renumbered title V, §6161, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to accountability for adequate yearly progress.

Section 7325a, Pub. L. 89–10, title V, §6162, formerly title VI, §6162, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1890; renumbered title V, §6162, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to peer review of State progress.

Section 7325b, Pub. L. 89–10, title V, §6163, formerly title VI, §6163, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1890; renumbered title V, §6163, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to provision of technical assistance to States not making adequate yearly progress or meeting annual measurable achievement objectives.

Section 7325c, Pub. L. 89–10, title V, §6164, formerly title VI, §6164, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1891; renumbered title V, §6164, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, required annual reports to Congress.

Prior sections 7331 and 7332 were omitted in the general amendment of former subchapter VI by Pub. L. 107–110.

Section 7331, Pub. L. 89–10, title VI, §6201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3709; amended Pub. L. 105–278, §2(1), Oct. 22, 1998, 112 Stat. 2682, related to State uses of funds.

Section 7332, Pub. L. 89–10, title VI, §6202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3710, related to State applications.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §5002(5)(A)(i), substituted "all, or any lesser amount, of State funds" for "not more than 50 percent of the nonadministrative State funds" in introductory provisions, added subpars. (A) to (C), and struck out former subpars. (A) to (D) which read as follows:

"(A) Section 6613(a)(3) of this title.

"(B) Section 6762(a)(1) of this title.

"(C) Subsections (a)(1) (with the agreement of the Governor) and (c)(1) of section 7112 of this title and section 7172(c)(3) of this title.

"(D) Section 7211a(b) of this title."

Pub. L. 114–95, §5002(3), substituted "part" for "subpart" in introductory provisions.

Subsec. (a)(2). Pub. L. 114–95, §5002(5)(A)(ii), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "In accordance with this subpart and subject to the 50 percent limitation described in paragraph (1), a State may transfer any funds allotted to the State under a provision listed in paragraph (1) to its allotment under subchapter I of this chapter."

Subsec. (b)(1)(A). Pub. L. 114–95, §5002(3), (5)(B)(i)(I), substituted "part" for "subpart" and "may transfer all, or any lesser amount, of the funds allocated to it" for "(except a local educational agency identified for improvement under section 6316(c) of this title or subject to corrective action under section 6316(c)(9) of this title) may transfer not more than 50 percent of the funds allocated to it (including funds transferred under subparagraph (C))".

Subsec. (b)(1)(B), (C). Pub. L. 114–95, §5002(5)(B)(i)(II), added subpar. (B) and struck out former subpars. (B) and (C) which permitted transfers of allocated funds for agencies identified for improvement and for additional funds for subchapter I.

Subsec. (b)(2). Pub. L. 114–95, §5002(5)(B)(ii), substituted "subparagraph (A) or (B)" for "subparagraph (A), (B), or (C)" in introductory provisions, added subpars. (A) and (B), and struck out former subpars. (A) to (D) which read as follows:

"(A) Section 6621 of this title.

"(B) Section 6762(a)(2)(A) of this title.

"(C) Section 7112(b)(1) of this title.

"(D) Section 7211a(a) of this title."

Subsec. (c). Pub. L. 114–95, §5002(5)(C), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "A State or a local educational agency may not transfer under this subpart to any other program any funds allotted or allocated to it for part A of subchapter I of this chapter."

Subsec. (e)(1). Pub. L. 114–95, §5002(3), substituted "part" for "subpart".

Subsec. (e)(2). Pub. L. 114–95, §5002(5)(D), made technical amendment to reference in original act which appears in text as reference to section 7881 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART B—RURAL EDUCATION INITIATIVE

§7341. Short title

This part may be cited as the "Rural Education Achievement Program".

(Pub. L. 89–10, title V, §5201, formerly title VI, §6201, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1891; renumbered title V, §5201, Pub. L. 114–95, title V, §5001(a)(2), Dec. 10, 2015, 129 Stat. 2039, 2040.)

PRIOR PROVISIONS

A prior section 5201 of Pub. L. 89–10 was renumbered section 4301 and was classified to section 7221 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 5201 of Pub. L. 89–10 was classified to section 7231 of this title, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

§7341a. Purpose

It is the purpose of this part to address the unique needs of rural school districts that frequently—

(1) lack the personnel and resources needed to compete effectively for Federal competitive grants; and

(2) receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.

(Pub. L. 89–10, title V, §5202, formerly title VI, §6202, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1891; renumbered title V, §5202, Pub. L. 114–95, title V, §5001(a)(2), Dec. 10, 2015, 129 Stat. 2039, 2040.)

PRIOR PROVISIONS

A prior section 5202 of Pub. L. 89–10 was renumbered section 4302 and was classified to section 7221a of this title, prior to repeal by Pub. L. 114–95.

Another prior section 5202 of Pub. L. 89–10 was classified to section 7232 of this title, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

REVIEW RELATING TO RURAL LOCAL EDUCATIONAL AGENCIES

Pub. L. 114–95, title V, §5005, Dec. 10, 2015, 129 Stat. 2045, provided that:

"(a) REVIEW AND REPORT.—Not later than 18 months after the date of enactment of this Act [Dec. 10, 2015], the Secretary of Education shall—

"(1) review the organization, structure, and process and procedures of the Department of Education for administering its programs and developing policy and regulations, in order to—

"(A) assess the methods and manner through which, and the extent to which, the Department of Education takes into account, considers input from, and addresses the unique needs and characteristics of rural schools and rural local educational agencies; and

"(B) determine actions that the Department of Education can take to meaningfully increase the consideration and participation of rural schools and rural local educational agencies in the development and execution of the processes, procedures, policies, and regulations of the Department of Education;

"(2) make public a preliminary report containing the information described in paragraph (1) and

provide Congress and the public with 60 days to comment on the proposed actions described in paragraph (1)(B); and

"(3) issue a final report to the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives, which shall describe the final actions developed pursuant to paragraph (1)(B) after taking into account the comments submitted under paragraph (2).

"(b) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this Act [Dec. 10, 2015], the Secretary of Education shall—

"(1) carry out each action described in the report under subsection (a)(3); or

"(2) in a case in which an action is not carried out, provide a written explanation to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives of why the action was not carried out."

SUBPART 1—SMALL, RURAL SCHOOL ACHIEVEMENT PROGRAM

§7345. Use of applicable funding

(a) Alternative uses

(1) In general

Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding that the agency is eligible to receive from the State educational agency for a fiscal year to carry out local activities authorized under any of the following provisions:

(A) Part A of subchapter I.

(B) Part A of subchapter II.

(C) Subchapter III.

(D) Part A or B of subchapter IV.

(2) Notification

An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with paragraph (1), by a date that is established by the State educational agency for the notification.

(b) Eligibility

(1) In general

A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) of this section if—

(A)(i)(I) the total number of students in average daily attendance at all of the schools served by the local educational agency is fewer than 600; or

(II) each county in which a school served by the local educational agency is located has a total population density of fewer than 10 persons per square mile; and

(ii) all of the schools served by the local educational agency are designated with a locale code of 41, 42, or 43, as determined by the Secretary;

(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency's request to waive the criteria described in subparagraph (A)(ii); or

(C) the local educational agency is a member of an educational service agency that does not receive funds under this subpart and the local educational agency meets the requirements of this part.

(2) Certification

The Secretary shall determine whether to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by the local educational agency, and concurrence by the State

educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

(c) Applicable funding defined

In this section, the term "applicable funding" means funds provided under any of the following provisions:

(1) Part A of subchapter II.

(2) Part A of subchapter IV.

(d) Disbursement

Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time as the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

(e) Applicable rules

Applicable funding under this section shall be available to carry out local activities authorized under subsection (a) of this section.

(Pub. L. 89–10, title V, §5211, formerly title VI, §6211, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1891; renumbered title V, §5211, and amended Pub. L. 114–95, title V, §§5001(a)(3), 5003(1), Dec. 10, 2015, 129 Stat. 2039–2041.)

PRIOR PROVISIONS

A prior section 5211 of Pub. L. 89–10 was renumbered section 4311 and was classified to section 7221j of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §5003(1)(A), added subpars. (A) to (D) and struck out former subpars. (A) to (E) which read as follows:

"(A) Part A of subchapter I of this chapter.

"(B) Part A or D of subchapter II of this chapter.

"(C) Subchapter III of this chapter.

"(D) Part A or B of subchapter IV of this chapter.

"(E) Part A of subchapter V of this chapter."

Subsec. (b)(1)(A)(ii). Pub. L. 114–95, §5003(1)(B)(i), struck out "school" before "locale code" and substituted "41, 42, or 43, as determined by the Secretary;" for "7 or 8, as determined by the Secretary; or".

Subsec. (b)(1)(C). Pub. L. 114–95, §5003(1)(B)(ii)–(iii), added subpar. (C).

Subsec. (c). Pub. L. 114–95, §5003(1)(C), added pars. (1) and (2) and struck out former pars. (1) to (3) which read as follows:

"(1) Subpart 2 of this part and section 6762(a)(2)(A) of this title.

"(2) Section 7114 of this title.

"(3) Part A of subchapter V of this chapter."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7345a. Grant program authorized

(a) In general

The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to carry out activities authorized under any of the following provisions:

(1) Part A of subchapter I.

(2) Part A of subchapter II.

(3) Subchapter III.
(4) Part A or B of subchapter IV.

(b) Allocation

(1) Allocation

(A) In general

Except as provided in paragraphs (3) and (4), the Secretary shall award a grant under subsection (a) to a local educational agency eligible under section 7345(b) of this title for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received by the agency under the provisions of law described in section 7345(c) of this title for the preceding fiscal year.

(B) Special determination

For a local educational agency that is eligible under section 7345(b)(1)(C) of this title and is a member of an educational service agency, the Secretary may determine the award amount by subtracting from the initial amount determined under paragraph (2), an amount that is equal to that local educational agency's per-pupil share of the total amount received by the educational service agency under the provisions described in section 7345(c) of this title, as long as a determination under this subparagraph would not disproportionately affect any State.

(2) Determination of initial amount

(A) In general

The initial amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students, in average daily attendance at the schools served by the local educational agency, plus $20,000, except that the initial amount may not exceed $60,000.

(B) Special rule

For any fiscal year for which the amount made available to carry out this part is $265,000,000 or more, subparagraph (A) shall be applied—

(i) by substituting "$25,000" for "$20,000"; and
(ii) by substituting "$80,000" for "$60,000".

(3) Ratable adjustment

(A) In general

If the amount made available to carry out this section for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

(B) Additional amounts

If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

(4) Hold harmless

For a local educational agency that is not eligible under this subpart due to amendments made by the Every Student Succeeds Act to section 7345(b)(1)(A)(ii) of this title but met the eligibility requirements under section 7345(b) of this title as such section was in effect on the day before December 10, 2015, the agency shall receive—

(A) for fiscal year 2017, 75 percent of the amount such agency received for fiscal year 2015;
(B) for fiscal year 2018, 50 percent of the amount such agency received for fiscal year 2015; and
(C) for fiscal year 2019, 25 percent of the amount such agency received for fiscal year 2015.

(c) Disbursement

The Secretary shall disburse the funds awarded to a local educational agency under this section for

a fiscal year not later than July 1 of that fiscal year.

(Pub. L. 89–10, title V, §5212, formerly title VI, §6212, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1892; renumbered title V, §5212, and amended Pub. L. 114–95, title V, §§5001(a)(3), 5003(2), Dec. 10, 2015, 129 Stat. 2039, 2040, 2042.)

REFERENCES IN TEXT

Amendments made by the Every Student Succeeds Act to section 7345(b)(1)(A)(ii) of this title, referred to in subsec. (b)(4), mean the amendments made to section 7345(b)(1)(A)(ii) of this title by Pub. L. 114–95, title V, §5003(1)(B)(i), Dec. 10, 2015, 129 Stat. 2041. See 2015 Amendment note under section 7345 of this title.

Section 7345(b) of this title as such section was in effect on the day before December 10, 2015, referred to in subsec. (b)(4), means section 7345(b) of this title prior to amendment by Pub. L. 114–95, title V, §§5001(a)(3), 5003(1)(B), Dec. 10, 2015, 129 Stat. 2039–2041.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §5003(2)(A), added pars. (1) to (4) and struck out former pars. (1) to (5) which read as follows:

"(1) Part A of subchapter I of this chapter.

"(2) Part A or D of subchapter II of this chapter.

"(3) Subchapter III of this chapter.

"(4) Part A or B of subchapter IV of this chapter.

"(5) Part A of subchapter V of this chapter."

Subsec. (b)(1). Pub. L. 114–95, §5003(2)(B)(i), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "Except as provided in paragraph (3), the Secretary shall award a grant under subsection (a) of this section to a local educational agency eligible under section 7345(b) of this title for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received by the agency under the provisions of law described in section 7345(c) of this title for the preceding fiscal year."

Subsec. (b)(2). Pub. L. 114–95, §5003(2)(B)(ii), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The initial amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students, in average daily attendance at the schools served by the local educational agency, plus $20,000, except that the initial amount may not exceed $60,000."

Subsec. (b)(4). Pub. L. 114–95, §5003(2)(B)(iii), added par. (4).

Subsec. (d). Pub. L. 114–95, §5003(2)(C), struck out subsec. (d). Text read as follows: "A local educational agency that is eligible to receive a grant under this subpart for a fiscal year is not eligible to receive funds for such fiscal year under subpart 2 of this part."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7345b. Repealed. Pub. L. 114–95, title V, §5003(3), Dec. 10, 2015, 129 Stat. 2043

Section, Pub. L. 89–10, title V, §5213, formerly title VI, §6213, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1893; renumbered title V, §5213, Pub. L. 114–95, title V, §5001(a)(3), Dec. 10, 2015, 129 Stat. 2039, 2040, related to accountability for educational agencies receiving funds.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 2—RURAL AND LOW-INCOME SCHOOL PROGRAM

§7351. Program authorized

(a) Grants to States

(1) In general

From amounts appropriated under section 7355c of this title for this subpart for a fiscal year that are not reserved under subsection (c) of this section, the Secretary shall award grants (from allotments made under paragraph (2)) for the fiscal year to State educational agencies that have applications submitted under section 7351b of this title approved to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in section 7351a(a) of this title.

(2) Allotment

From amounts described in paragraph (1) for a fiscal year, the Secretary shall allot to each State educational agency for that fiscal year an amount that bears the same ratio to those amounts as the number of students in average daily attendance served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

(3) Specially qualified agencies

(A) Eligibility and application

If a State educational agency elects not to participate in the program under this subpart or does not have an application submitted under section 7351b of this title approved, a specially qualified agency in such State desiring a grant under this subpart may submit an application under such section directly to the Secretary to receive an award under this subpart.

(B) Direct awards

The Secretary may award, on a competitive basis or by formula, the amount the State educational agency is eligible to receive under paragraph (2) directly to a specially qualified agency in the State that has submitted an application in accordance with subparagraph (A) and obtained approval of the application.

(C) Specially qualified agency defined

In this subpart, the term "specially qualified agency" means an eligible local educational agency served by a State educational agency that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under this subsection.

(b) Local awards

(1) Eligibility

A local educational agency shall be eligible to receive a grant under this subpart if—

(A)(i) 20 percent or more of the children ages 5 through 17 years served by the local educational agency are from families with incomes below the poverty line; and

(ii) all of the schools served by the agency are designated with a locale code of 32, 33, 41, 42, or 43, as determined by the Secretary; or

(B) the agency meets the criteria established in clause (i) of subparagraph (A) and the Secretary, in accordance with paragraph (2), grants the local educational agency's request to waive the criteria described in clause (ii) of such subparagraph.

(2) Certification

The Secretary shall determine whether to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by the local educational agency, and concurrence by the State educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

(3) Award basis

A State educational agency shall award grants to eligible local educational agencies—

(A) on a competitive basis;

(B) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools in the State; or

(C) according to an alternative formula, if, prior to awarding the grants, the State educational agency demonstrates, to the satisfaction of the Secretary, that the alternative formula enables the State educational agency to allot the grant funds in a manner that serves equal or greater concentrations of children from families with incomes below the poverty line, relative to the concentrations that would be served if the State educational agency used the formula described in subparagraph (B).

(c) Reservations

From amounts appropriated under section 7355c of this title for this subpart for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent to make awards to elementary schools or secondary schools operated or supported by the Bureau of Indian Education, to carry out the activities authorized under this subpart; and

(2) one-half of 1 percent to make awards to the outlying areas in accordance with their respective needs, to carry out the activities authorized under this subpart.

(Pub. L. 89–10, title V, §5221, formerly title VI, §6221, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1894; renumbered title V, §5221, and amended Pub. L. 114–95, title V, §§5001(a)(4), (b)(3), (4), 5003(4), Dec. 10, 2015, 129 Stat. 2039, 2040, 2043.)

PRIOR PROVISIONS

A prior section 7351, Pub. L. 89–10, title VI, §6301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3711; amended Pub. L. 105–278, §2(2), Oct. 22, 1998, 112 Stat. 2682, related to targeted use of funds for local innovative education programs, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

A prior section 5221 of Pub. L. 89–10 was classified to section 7223 of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Subsec. (a)(1), (3)(A). Pub. L. 114–95, §§5001(b)(3), (4), 5003(4)(A), made technical amendments to references in original act which appear in text as references to sections 7355c, 7351b, and 7351a(a) of this title.

Subsec. (b)(1)(A). Pub. L. 114–95, §5003(4)(B)(i)(I), (II), designated existing provisions as cl. (i) and redesignated subpar. (B) as cl. (ii).

Subsec. (b)(1)(A)(ii). Pub. L. 114–95, §5003(4)(B)(i)(III)(aa), (bb), struck out "school" before "locale code" and substituted "32, 33, 41, 42, or 43" for "6, 7, or 8".

Subsec. (b)(1)(B). Pub. L. 114–95, §5003(4)(B)(i)(III)(cc), (IV), added subpar. (B). Former subpar. (B) redesignated cl. (ii) of subpar. (A).

Subsec. (b)(2), (3). Pub. L. 114–95, §5003(4)(B)(ii), (iii), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c). Pub. L. 114–95, §5001(b)(4), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7355c of this title.

Subsec. (c)(1). Pub. L. 114–95, §5003(4)(C), substituted "Bureau of Indian Education" for "Bureau of Indian Affairs".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7351a. Uses of funds

(a) Local awards

Grant funds awarded to local educational agencies under this subpart shall be used for any of the following:

(1) Activities authorized under part A of subchapter I.

(2) Activities authorized under part A of subchapter II.

(3) Activities authorized under subchapter III.

(4) Activities authorized under part A of subchapter IV.

(5) Parental involvement activities.

(b) Administrative costs

A State educational agency receiving a grant under this subpart may not use more than 5 percent of the amount of the grant for State administrative costs and to provide technical assistance to eligible local educational agencies.

(Pub. L. 89–10, title V, §5222, formerly title VI, §6222, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1895; renumbered title V, §5222, and amended Pub. L. 114–95, title V, §§5001(a)(4), 5003(5), Dec. 10, 2015, 129 Stat. 2039, 2040, 2043.)

PRIOR PROVISIONS

A prior section 5222 of Pub. L. 89–10 was classified to section 7223a of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §5003(5), added pars. (1) to (5) and struck out former pars. (1) to (7) which set out various approved uses for grant funds.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7351b. Applications

(a) In general

Each State educational agency or specially qualified agency desiring to receive a grant under this subpart shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) Contents

Each application submitted under subsection (a) shall include information on—

(1) program objectives and outcomes for activities under this subpart, including how the State educational agency or specially qualified agency will use funds to help all students meet the challenging State academic standards;

(2) if the State educational agency will competitively award grants to eligible local educational agencies, as described in section 7351(b)(3)(A) of this title, the application under the section shall include—

(A) the methods and criteria the State educational agency will use to review applications and award funds to local educational agencies on a competitive basis; and

(B) how the State educational agency will notify eligible local educational agencies of the grant competition; and

(3) a description of how the State educational agency will provide technical assistance to eligible local educational agencies to help such agencies implement the activities described in section 7351a of this title.

(Pub. L. 89–10, title V, §5223, formerly title VI, §6223, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1895; renumbered title V, §5223, and amended Pub. L. 114–95, title V,

§§5001(a)(4), 5003(6), Dec. 10, 2015, 129 Stat. 2039, 2040, 2044.)

PRIOR PROVISIONS

A prior section 5223 of Pub. L. 89–10 was classified to section 7223b of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §5003(6)(A), substituted "at such time and in such manner" for "at such time, in such manner, and accompanied by such information".

Subsec. (b). Pub. L. 114–95, §5003(6)(B), added subsec. (b) and struck out former subsec. (b) which described required contents for applications submitted under subsec. (a).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7351c. Report

Each State educational agency or specially qualified agency that receives a grant under this subpart shall prepare and submit an annual report to the Secretary. The report shall describe—

(1) if the report is submitted by a State educational agency, the method the State educational agency used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;

(2) how local educational agencies and schools used funds provided under this subpart; and

(3) the degree to which progress has been made toward meeting the objectives and outcomes described in the application submitted under section 7351b of this title, including having all students in the State or the area served by the specially qualified agency, as applicable, meet the challenging State academic standards.

(Pub. L. 89–10, title V, §5224, formerly title VI, §6224, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1896; renumbered title V, §5224, and amended Pub. L. 114–95, title V, §§5001(a)(4), 5003(7), Dec. 10, 2015, 129 Stat. 2039, 2040, 2044.)

PRIOR PROVISIONS

A prior section 5224 of Pub. L. 89–10 was classified to section 7223c of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Pub. L. 114–95, §5003(7)(C), inserted "or specially qualified agency" after "Each State educational agency" in introductory provisions.

Pub. L. 114–95, §5003(7)(A), (B), substituted "Report" for "Accountability" in section catchline, struck out subsec. (a) designation and heading before "Each State", and struck out subsecs. (b) to (e) which related to specially qualified agency report, biennial reports to Congress, academic achievement assessment, and determination regarding continuing participation, respectively.

Par. (1). Pub. L. 114–95, §5003(7)(D), added par. (1) and struck out former par. (1) which read as follows: "the method the State educational agency used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;".

Par. (3). Pub. L. 114–95, §5003(7)(E), added par. (3) and struck out former par. (3) which read as follows: "the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 7351b of this title."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7351d. Choice of participation

(a) In general

If a local educational agency is eligible for funding under both this subpart and subpart 1, such local educational agency may receive funds under either this subpart or subpart 1 for a fiscal year, but may not receive funds under both subparts for such fiscal year.

(b) Notification

A local educational agency eligible for funding under both this subpart and subpart 1 shall notify the Secretary and the State educational agency under which of such subparts the local educational agency intends to receive funds for a fiscal year by a date that is established by the Secretary for the notification.

(Pub. L. 89–10, title V, §5225, as added Pub. L. 114–95, title V, §5003(8), Dec. 10, 2015, 129 Stat. 2044.)

PRIOR PROVISIONS

A prior section 5225 of Pub. L. 89–10 was classified to section 7223d of this title, prior to repeal by Pub. L. 114–95.

Prior sections 7352 and 7353 were omitted in the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

Section 7352, Pub. L. 89–10, title VI, §6302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3711, related to administrative authority.

Section 7353, Pub. L. 89–10, title VI, §6303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3711, related to local applications for allocations of funds.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 3—GENERAL PROVISIONS

§7355. Annual average daily attendance determination

(a) Census determination

Each local educational agency desiring a grant under section 7345a of this title and each local educational agency or specially qualified agency desiring a grant under subpart 2 of this part shall—

(1) not later than December 1 of each year, conduct a census to determine the number of students in average daily attendance in kindergarten through grade 12 at the schools served by the agency; and

(2) not later than March 1 of each year, submit the number described in paragraph (1) to the Secretary (and to the State educational agency, in the case of a local educational agency seeking a grant under subpart (2)).[1]

(b) Penalty

If the Secretary determines that a local educational agency or specially qualified agency has knowingly submitted false information under subsection (a) of this section for the purpose of gaining additional funds under section 7345a of this title or subpart 2 of this part, then the agency shall be fined an amount equal to twice the difference between the amount the agency received under this section and the correct amount the agency would have received under section 7345a of this title or subpart 2 of this part if the agency had submitted accurate information under subsection (a) of this section.

(Pub. L. 89–10, title V, §5231, formerly title VI, §6231, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1897; renumbered title V, §5231, and amended Pub. L. 114–95, title V, §5001(a)(5), (b)(2), Dec. 10, 2015, 129 Stat. 2039, 2040.)

PRIOR PROVISIONS

A prior section 5231 of Pub. L. 89–10 was classified to section 7223j of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Pub. L. 114–95, §5001(b)(2), made technical amendment to references in original act which appear in text as references to section 7345a of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be "subpart 2)."*

§7355a. Supplement, not supplant

Funds made available under subpart 1 or subpart 2 of this part shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

(Pub. L. 89–10, title V, §5232, formerly title VI, §6232, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1897; renumbered title V, §5232, Pub. L. 114–95, title V, §5001(a)(5), Dec. 10, 2015, 129 Stat. 2039, 2040.)

§7355b. Rule of construction

Nothing in this part shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services, pursuant to State law or a written agreement, from entering into similar arrangements for the use, or the coordination of the use, of the funds made available under this part.

(Pub. L. 89–10, title V, §5233, formerly title VI, §6233, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1897; renumbered title V, §5233, Pub. L. 114–95, title V, §5001(a)(5), Dec. 10, 2015, 129 Stat. 2039, 2040.)

§7355c. Authorization of appropriations

There are authorized to be appropriated to carry out this part $169,840,000 for each of the fiscal years 2017 through 2020, to be distributed equally between subparts 1 and 2 of this part.

(Pub. L. 89–10, title V, §5234, formerly title VI, §6234, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1897; renumbered title V, §5234, and amended Pub. L. 114–95, title V, §§5001(a)(5), 5003(9), Dec. 10, 2015, 129 Stat. 2039, 2040, 2045.)

AMENDMENTS

2015—Pub. L. 114–95, §5003(9), substituted "$169,840,000 for each of the fiscal years 2017 through 2020," for "$300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years,".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive

programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART C—GENERAL PROVISIONS

§7371. Prohibition against Federal mandates, direction, or control

Nothing in this subchapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this chapter.

(Pub. L. 89–10, title V, §5301, as added Pub. L. 114–95, title V, §5004, Dec. 10, 2015, 129 Stat. 2045.)

PRIOR PROVISIONS

A prior section 7371, Pub. L. 89–10, title V, §6301, formerly title VI, §6301, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1897; renumbered title V, §6301, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to prohibition against Federal mandates, direction, or control, prior to the general amendment of this part by Pub. L. 114–95.

Another prior section 7371, Pub. L. 89–10, title VI, §6401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3712, related to maintenance of effort and supplementary nature of Federal funds, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

A prior section 5301 of Pub. L. 89–10 was renumbered section 4401 and is classified to section 7231 of this title.

Another prior section 5301 of Pub. L. 89–10 was classified to section 7261 of this title, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7372. Rule of construction on equalized spending

Nothing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(Pub. L. 89–10, title V, §5302, as added Pub. L. 114–95, title V, §5004, Dec. 10, 2015, 129 Stat. 2045.)

PRIOR PROVISIONS

A prior section 7372, Pub. L. 89–10, title V, §6302, formerly title VI, §6302, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1898; renumbered title V, §6302, Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, related to rule of construction on equalized spending, prior to the general amendment of this part by Pub. L. 114–95.

Another prior section 7372, Pub. L. 89–10, title VI, §6402, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3713, related to participation of children enrolled in private schools, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

A prior section 5302 of Pub. L. 89–10 was renumbered section 4402 and is classified to section 7231a of this title.

Another prior section 5302 of Pub. L. 89–10 was classified to section 7262 of this title, prior to the general amendment of former subchapter V of this chapter by Pub. L. 107–110.

A prior section 7373, Pub. L. 89–10, title VI, §6403, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3715, which related to Federal administration, was omitted in the general amendment of former

subchapter VI of this chapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBCHAPTER VI—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

CODIFICATION

Pub. L. 114–95, title VI, §6001(a), Dec. 10, 2015, 129 Stat. 2046, redesignated subchapter VII (§7401 et seq.) of this chapter as this subchapter.

Title VI of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and subsequently revised, restated, and amended by other public laws. Title VI is shown, herein, as having been added as title VII of Pub. L. 89–10 by Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1907, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. Title VII of Pub. L. 89–10 was subsequently redesignated title VI by Pub. L. 114–95, title VI, §6001(a), Dec. 10, 2015, 129 Stat. 2046, and transferred to this subchapter. See Codification note preceding section 6301 of this title.

PRIOR PROVISIONS

A prior title VI of the Elementary and Secondary Education Act of 1965, comprising former subchapter VI (§7301 et seq.) of this chapter, was redesignated title V of the Act by Pub. L. 114–95, title V, §5001(a), Dec. 10, 2015, 129 Stat. 2039, and transferred to subchapter V (§7305 et seq.) of this chapter.

PART A—INDIAN EDUCATION

§7401. Statement of policy

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children. It is further the policy of the United States to ensure that Indian children do not attend school in buildings that are dilapidated or deteriorating, which may negatively affect the academic success of such children.

(Pub. L. 89–10, title VI, §6101, formerly title VII, §7101, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1907; renumbered title VI, §6101, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(a), Dec. 10, 2015, 129 Stat. 2046, 2047.)

PRIOR PROVISIONS

A prior section 7401, Pub. L. 89–10, title VII, §7101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3716, set forth short title of Bilingual Education Act, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6101 of Pub. L. 89–10 was classified to section 7311 of this title, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

Another prior section 6101 of Pub. L. 89–10 was classified to section 3261 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95, §6002(a), inserted at end "It is further the policy of the United States to ensure that Indian children do not attend school in buildings that are dilapidated or deteriorating, which may negatively affect the academic success of such children."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SAVINGS PROVISIONS

Pub. L. 107–110, title VII, §703, Jan. 8, 2002, 115 Stat. 1947, provided that: "Funds appropriated for parts A, B, and C of title IX of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 7801 et seq., 7901 et seq., 7931 et seq.] (as in effect on the day before the date of enactment of this Act [Jan. 8, 2002]) shall be available for use under parts A, B, and C, respectively, of title VII [now VI] of such Act [20 U.S.C. 7401 et seq., 7511 et seq., 7541 et seq.], as added by this section [section 701]."

EXECUTIVE ORDER NO. 13096

Ex. Ord. No. 13096, Aug. 6, 1998, 63 F.R. 42681, which related to American Indian and Alaska Native education, was revoked by Ex. Ord. No. 13336, §9(b), Apr. 30, 2004, 69 F.R. 25297, formerly set out below.

EXECUTIVE ORDER NO. 13336

Ex. Ord. No. 13336, Apr. 30, 2004, 69 F.R. 25295, which established the Interagency Working Group on American Indian and Alaska Native Education and required a study, report, and conference relating to American Indian and Alaska Native students' achievement under the No Child Left Behind Act of 2001, was revoked by Ex. Ord. No. 13592, §5(c), Dec. 2, 2011, 76 F.R. 76607, set out below.

EX. ORD. NO. 13592. IMPROVING AMERICAN INDIAN AND ALASKA NATIVE EDUCATIONAL OPPORTUNITIES AND STRENGTHENING TRIBAL COLLEGES AND UNIVERSITIES

Ex. Ord. No. 13592, Dec. 2, 2011, 76 F.R. 76603, provided:

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

SECTION 1. *Policy*. The United States has a unique political and legal relationship with the federally recognized American Indian and Alaska Native (AI/AN) tribes across the country, as set forth in the Constitution of the United States, treaties, Executive Orders, and court decisions. For centuries, the Federal Government's relationship with these tribes has been guided by a trust responsibility—a long-standing commitment on the part of our Government to protect the unique rights and ensure the well-being of our Nation's tribes, while respecting their tribal sovereignty. In recognition of that special commitment—and in fulfillment of the solemn obligations it entails—Federal agencies must help improve educational opportunities provided to all AI/AN students, including students attending public schools in cities and in rural areas, students attending schools operated and funded by the Department of the Interior's Bureau of Indian Education (BIE), and students attending postsecondary institutions, including Tribal Colleges and Universities (TCUs). This is an urgent need. Recent studies show that AI/AN students are dropping out of school at an alarming rate, that our Nation has made little or no progress in closing the achievement gap between AI/AN students and their non-AI/AN student counterparts, and that many Native languages are on the verge of extinction.

It is the policy of my Administration to support activities that will strengthen the Nation by expanding educational opportunities and improving educational outcomes for all AI/AN students in order to fulfill our commitment to furthering tribal self-determination and to help ensure that AI/AN students have an opportunity to learn their Native languages and histories and receive complete and competitive educations that prepare them for college, careers, and productive and satisfying lives.

My Administration is also committed to improving educational opportunities for students attending TCUs. TCUs maintain, preserve, and restore Native languages and cultural traditions; offer a high-quality college education; provide career and technical education, job training, and other career-building programs; and often serve as anchors in some of the country's poorest and most remote areas.

SEC. 2. *Definitions*. (a) "Agency" means any executive department or agency designated by the Secretary of Education and the Secretary of the Interior to participate in this order.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a [et seq.].

(c) "American Indian and Alaska Native" means a member of an Indian tribe, as membership is defined by the tribe.

(d) "Public school" means a Head Start center or a pre-kindergarten, elementary, or secondary school that is predominantly funded by public means through the Federal Government, a State, a local educational agency, or an Indian tribal government, including a school operated directly by or through contract or grant with the BIE, an Indian tribe, or a State, county, or local government.

(e) "Tribal Colleges and Universities" are those institutions that are chartered by their respective Indian tribes through the sovereign authority of the tribes or by the Federal Government, and defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c).

SEC. 3. *White House Initiative on American Indian and Alaska Native Education.*

(a) *Establishment*. There is hereby established the White House Initiative on American Indian and Alaska Native Education (Initiative). The Secretary of Education and the Secretary of the Interior will co-chair the Initiative. The Secretary of Education shall appoint an Executive Director who shall be responsible for overseeing implementation of the Initiative. This individual shall be a senior-level, Department of Education official who shall serve as the Secretary of Education's senior policy advisor on Federal policies affecting AI/AN education.

The Executive Director shall work closely with the BIE Director and shall provide periodic reports to the Secretaries of Education and the Interior regarding progress achieved under the Initiative. The Executive Director shall coordinate frequent consultations with tribal officials and shall provide staff support for the National Advisory Council on Indian Education (NACIE), authorized by section 7141 [now 6141] of the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. 7471).

(b) *Mission and Functions*. (1) The Initiative shall help expand educational opportunities and improve educational outcomes for all AI/AN students, including opportunities to learn their Native languages, cultures, and histories and receive complete and competitive educations that prepare them for college, careers, and productive and satisfying lives, by:

(i) working closely with the Executive Office of the President to help ensure AI/AN participation in the development and implementation of key Administration priorities;

(ii) strengthening the relationship between the Department of Education, which has substantial expertise and resources to help improve Indian education, and the Department of the Interior and its BIE, which directly operates or provides grants to tribes to operate an extensive primary, secondary, and college level school system for AI/AN children and young adults;

(iii) coordinating, in consultation with the Department of Education's Director of Indian Education, programs administered by the Department of Education and other executive branch agencies regarding AI/AN education;

(iv) serving as a liaison with other executive branch agencies on AI/AN issues and advising those agencies on how they might help to promote AI/AN educational opportunities;

(v) reporting on the development, implementation, and coordination of education policy and programs that affect AI/AN students;

(vi) furthering tribal sovereignty by supporting efforts, consistent with applicable law, to build the capacity of tribal educational agencies and TCUs to provide high-quality education services to AI/AN children;

(vii) developing in partnership with tribal educational agencies a more routine and streamlined process for entering into agreements for educational studies conducted on tribal lands;

(viii) developing sufficient data resources to inform progress on Federal performance indicators, in close collaboration with the Department of Education's National Center for Educational Statistics;

(ix) encouraging and coordinating Federal partnerships with public, private, philanthropic, and nonprofit entities to help increase the readiness of AI/AN students for school, college, and careers, and to help increase the number and percentage of AI/AN students completing college; and

(x) developing a national network of individuals, organizations, and communities to share best practices in AI/AN education and encouraging them to implement these practices.

(2) In order to help expand educational opportunities and improve education outcomes for AI/AN students, the Initiative shall promote, encourage, and undertake efforts, consistent with applicable law, to meet the following objectives:

(i) increasing the number and percentage of AI/AN children who enter kindergarten ready for success through improved access to high-quality early learning programs and services, including Native language immersion programs, that encourage the learning and development of AI/AN children from birth through age five;

(ii) supporting the expanded implementation of education reform strategies that have shown evidence of success in enabling AI/AN students to acquire a rigorous and well-rounded education and increasing their

access to the support services that prepare them for college, careers, and civic involvement;

(iii) increasing the number and percentage of AI/AN students who have access to excellent teachers and school leaders, including effective science, technology, engineering, and mathematics (STEM), language, and special education teachers, in part by supporting efforts to improve the recruitment, development, and retention of effective AI/AN teachers and other effective teachers and school leaders, particularly through TCUs;

(iv) reducing the AI/AN student dropout rate and helping a greater number and percentage of those students who stay in high school to be ready for college and careers by the time of their graduation and college completion, in part by promoting a positive school climate and supporting successful and innovative dropout-prevention and recovery strategies that better engage AI/AN youths in their learning and help them catch up academically;

(v) providing pathways that enable those who have dropped out to reenter educational or training programs and acquire degrees, certificates, or industry-recognized credentials and obtain quality jobs, and expanding access to high-quality education programs leading to career advancement, especially in the STEM fields, by supporting adult, career, and technical education;

(vi) increasing college access and completion for AI/AN students through strategies to strengthen the capacity of postsecondary institutions, particularly TCUs; and

(vii) helping to ensure that the unique cultural, educational, and language needs of AI/AN students are met.

(3) To facilitate a new partnership between the Department of Education and the Department of the Interior, to improve AI/AN education, the Executive Director shall work with the BIE Director and develop a Memorandum of Understanding (MOU) between the two Departments that will take advantage of both Departments' expertise, resources, and facilities. The MOU shall be completed within 120 days of the date of this order. Among other things, the MOU shall address how the Departments will collaborate in carrying out the policy set out in section 1 of this order.

(c) *Funding and Administrative Support*. Subject to the availability of appropriations, the Department of Education shall fund the Initiative, including NACIE. The Department shall also provide administrative support for the Initiative to the extent permitted by law and within existing appropriations.

(d) *Interagency Working Group*. There is established the Interagency Working Group on AI/AN education and TCUs, which shall be convened by the Initiative's Executive Director. The Working Group shall consist of senior officials from the Department of Education and the Department of the Interior and officials from the Departments of Justice, Agriculture, Labor, Health and Human Services, and Energy, the Environmental Protection Agency, and the White House Domestic Policy Council, as well as such additional agencies and offices as the Secretaries of Education and the Interior may designate. Senior officials shall be designated by the heads of their respective agencies and offices. The Secretaries of Education and the Interior shall serve as the co-chairs of the Interagency Working Group.

(e) *Federal Agency Plans*. (1) Each agency designated by the co-chairs as a member of the Interagency Working Group shall develop and implement a two-part, 4-year plan of the agency's efforts to fulfill the purposes of this order, with part one of the plan focusing on all AI/AN students except for those attending TCUs, and part two focusing on AI/AN students attending TCUs. Each agency plan shall include:

(i) annual performance indicators and appropriate measurable objectives with which the agency will measure its success in meeting the goals of this order;

(ii) information on how the agency intends to increase the capacity of educational agencies and institutions, including our Nation's public schools and TCUs, to deliver high-quality education and related social services to all AI/AN students; and

(iii) agency efforts to enhance the ability of these educational agencies and institutions serving AI/AN students to compete effectively for grants, contracts, cooperative agreements, and other Federal resources with which to serve the education needs of AI/AN students, and to encourage eligible schools and colleges serving those students to apply for Federal grants and participate in Federal education programs, as appropriate. Agency plans may also emphasize access to high-quality educational opportunities for AI/AN students, consistent with requirements of the ESEA, the Individuals with Disabilities Education Act, and other applicable Federal education statutes; the preservation and revitalization of tribal languages and cultural traditions; and innovative approaches to more seamlessly align early learning, elementary, and secondary education programs with the work of TCUs.

(2) *Submission*. Each agency shall submit its plan to the Initiative by a deadline established by the co-chairs. In consultation with NACIE, the Initiative shall then review agency plans and develop, for submission to the President, a synthesized interagency plan to achieve the aims of this order.

(3) *Annual Performance Reports*. Each agency shall submit to the Initiative an Annual Performance Report that measures the agency's performance against the objectives set forth in its plan. In consultation with

NACIE, the Initiative shall review and combine Annual Performance Reports from the various agencies into one annual report, which shall be submitted to the Secretaries of Education and the Interior for review.

(f) *Private Sector*. In consultation with NACIE, and consistent with applicable law, the Interagency Working Group, led by the Executive Director, shall encourage the private sector to assist State- and locally-operated public schools that serve large numbers of AI/AN students, including those attending our Nation's public schools, publicly-funded preschools, and TCUs, through increased use of such strategies as:

(1) Providing funds to support the preservation and revitalization of Native languages and cultures;

(2) Providing funds to support increased institutional endowments;

(3) Helping these schools develop expertise in financial and facilities management, information systems, and curricula; and

(4) Providing resources for the hiring and training of effective teachers and administrators.

SEC. 4. *Study*. In carrying out this order, the Secretaries of Education and the Interior shall study and collect information on the education of AI/AN students.

SEC. 5. *General Provisions*. (a) NACIE shall serve as the Initiative's advisory committee.

(b) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.), may apply to the Initiative, any functions of the President under that Act, except for those of reporting to the Congress, shall be performed by the Secretary of Education, in consultation with the Secretary of the Interior, in accordance with the guidelines issued by the Administrator of General Services.

(c) This order revokes Executive Order 13270 of July 3, 2002, Executive Order 13336 of April 30, 2004, and section 1(n) of Executive Order 13585 of September 30, 2011.

(d) The heads of agencies shall assist and provide such information to the Initiative as may be necessary to carry out its functions, consistent with applicable law.

(e) Nothing in this order shall be construed to impair or otherwise affect:

(1) authority granted by law to an executive department, agency, or the head thereof; or

(2) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§7402. Purpose

It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities—

(1) to meet the unique educational and culturally related academic needs of Indian students, so that such students can meet the challenging State academic standards;

(2) to ensure that Indian students gain knowledge and understanding of Native communities, languages, tribal histories, traditions, and cultures; and

(3) to ensure that teachers, principals, other school leaders, and other staff who serve Indian students have the ability to provide culturally appropriate and effective instruction and supports to such students.

(Pub. L. 89–10, title VI, §6102, formerly title VII, §7102, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1907; renumbered title VI, §6102, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(b), Dec. 10, 2015, 129 Stat. 2046, 2047.)

PRIOR PROVISIONS

A prior section 7402, Pub. L. 89–10, title VII, §7102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3716, set forth findings, policy, and purpose of Bilingual Education Act, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6102 of Pub. L. 89–10 was classified to section 7312 of this title, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

Another prior section 6102 of Pub. L. 89–10 was classified to section 3262 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 7403 to 7405 were omitted in the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

Section 7403, Pub. L. 89–10, title VII, §7103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3718, authorized appropriations for bilingual education.

Section 7404, Pub. L. 89–10, title VII, §7104, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3718, related to Native American and Alaska Native children in school.

Section 7405, Pub. L. 89–10, title VII, §7105, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3719, related to residents of territories and freely associated nations.

AMENDMENTS

2015—Pub. L. 114–95, §6002(b), amended section generally. Prior to amendment, text read as follows:

"(a) PURPOSE.—It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the same challenging State student academic achievement standards as all other students are expected to meet.

"(b) PROGRAMS.—This part carries out the purpose described in subsection (a) of this section by authorizing programs of direct assistance for—

"(1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;

"(2) the education of Indian children and adults;

"(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

"(4) research, evaluation, data collection, and technical assistance."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 1—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

§7421. Purpose

It is the purpose of this subpart to support the efforts of local educational agencies, Indian tribes and organizations, and other entities in developing elementary school and secondary school programs for Indian students that are designed to—

(1) meet the unique cultural, language, and educational needs of such students; and

(2) ensure that all students meet the challenging State academic standards.

(Pub. L. 89–10, title VI, §6111, formerly title VII, §7111, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1908; renumbered title VI, §6111, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(c), Dec. 10, 2015, 129 Stat. 2046, 2047.)

PRIOR PROVISIONS

A prior section 7421, Pub. L. 89–10, title VII, §7111, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3719, related to financial assistance for bilingual education, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6111 of Pub. L. 89–10 was classified to section 7301 of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Pub. L. 114–95, §6002(c), amended section generally. Prior to amendment, text read as follows: "It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs—

"(1) are based on challenging State academic content and student academic achievement standards that are used for all students; and

"(2) are designed to assist Indian students in meeting those standards."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7422. Grants to local educational agencies and tribes

(a) In general

The Secretary may make grants, from allocations made under section 7423 of this title, and in accordance with this section and section 7423 of this title, to—

(1) local educational agencies;

(2) Indian tribes, as provided under subsection (c)(1);

(3) Indian organizations, as provided under subsection (c)(1);

(4) consortia of 2 or more local educational agencies, Indian tribes, Indian organizations, or Indian community-based organizations, if each local educational agency participating in such a consortium, if applicable—

(A) provides an assurance that the eligible Indian children served by such local educational agency will receive the services of the programs funded under this subpart; and

(B) is subject to all the requirements, assurances, and obligations applicable to local educational agencies under this subpart; and

(5) Indian community-based organizations, as provided under subsection (d)(1).

(b) Local educational agencies

(1) Enrollment requirements

Subject to paragraph (2), a local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 7427 of this title who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

(A) was at least 10; or

(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

(2) Cooperative agreements

A local educational agency may enter into a cooperative agreement with an Indian tribe under this subpart if such Indian tribe—

(A) represents not less than 25 percent of the eligible Indian children who are served by such local educational agency; and

(B) requests that the local educational agency enter into a cooperative agreement under this subpart.

(3) Exclusion

The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

(c) Indian tribes and Indian organizations

(1) In general

If a local educational agency that is otherwise eligible for a grant under this subpart does not establish a committee under section 7424(c)(4) of this title for such grant, an Indian tribe, an Indian organization, or a consortium of such entities, that represents more than one-half of the eligible Indian children who are served by such local educational agency may apply for such grant.

(2) Special rule

(A) In general

The Secretary shall treat each Indian tribe, Indian organization, or consortium of such entities applying for a grant pursuant to paragraph (1) as if such tribe, Indian organization, or consortium were a local educational agency for purposes of this subpart.

(B) Exceptions

Notwithstanding subparagraph (A), such Indian tribe, Indian organization, or consortium shall not be subject to the requirements of subsections (b)(7) or (c)(4) of section 7424 of this title or section 7428(c) or 7429 of this title.

(3) Assurance to serve all Indian children

An Indian tribe, Indian organization, or consortium of such entities that is eligible to apply for a grant under paragraph (1) shall include, in the application required under section 7424 of this title, an assurance that the entity will use the grant funds to provide services to all Indian students served by the local educational agency.

(d) Indian community-based organization

(1) In general

If no local educational agency pursuant to subsection (b), and no Indian tribe, Indian organization, or consortium pursuant to subsection (c), applies for a grant under this subpart in a particular community, an Indian community-based organization serving the community of the local educational agency may apply for such grant.

(2) Applicability of special rule

The Secretary shall apply the special rule in subsection (c)(2) to an Indian community-based organization applying for a grant under paragraph (1) in the same manner as such rule applies to an Indian tribe, Indian organization, or consortium described in that subsection.

(3) Definition of Indian community-based organization

In this subsection, the term "Indian community-based organization" means any organization that—

(A) is composed primarily of Indian parents, family members, and community members, tribal government education officials, and tribal members, from a specific community;

(B) assists in the social, cultural, and educational development of Indians in such community;

(C) meets the unique cultural, language, and academic needs of Indian students; and

(D) demonstrates organizational and administrative capacity to manage the grant.

(Pub. L. 89–10, title VI, §6112, formerly title VII, §7112, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1908; renumbered title VI, §6112, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), (2), 6002(d), Dec. 10, 2015, 129 Stat. 2046, 2048.)

PRIOR PROVISIONS

A prior section 7422, Pub. L. 89–10, title VII, §7112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3719, related to program development and implementation grants, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6112 of Pub. L. 89–19 was classified to section 7301a of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §6002(d)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The Secretary may make grants, from allocations made under section 7423 of this title, to local educational agencies and Indian tribes, in accordance with this section and section 7423 of this title."

Subsec. (b)(1). Pub. L. 114–95, §6002(d)(2)(A), substituted "Subject to paragraph (2), a local educational agency shall" for "A local educational agency shall" in introductory provisions.

Pub. L. 114–95, §6001(b)(2), made technical amendment to reference in original act which appears in

introductory provisions as reference to section 7427 of this title.

Subsec. (b)(2), (3). Pub. L. 114–95, §6002(d)(2)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c), (d). Pub. L. 114–95, §6002(d)(3), added subsecs. (c) and (d) and struck out former subsec. (c) which allowed certain Indian tribes to apply for grants.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7423. Amount of grants

(a) Amount of grant awards

(1) In general

Except as provided in subsection (b) of this section and paragraph (2), the Secretary shall allocate to each local educational agency that has an approved application under this subpart an amount equal to the product of—

(A) the number of Indian children who are eligible under section 7427 of this title and served by such agency; and

(B) the greater of—

(i) the average per pupil expenditure of the State in which such agency is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) Reduction

The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e) of this section.

(b) Minimum grant

(1) In general

Notwithstanding subsection (e) of this section, an entity that is eligible for a grant under section 7422 of this title, and a school that is operated or supported by the Bureau of Indian Education that is eligible for a grant under subsection (d) of this section, that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

(2) Consortia

Local educational agencies may form a consortium for the purpose of obtaining grants under this subpart.

(3) Increase

The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary determines such increase is necessary to ensure the quality of the programs provided.

(c) Definition

For the purpose of this section, the term "average per pupil expenditure", used with respect to a State, means an amount equal to—

(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

(d) Schools operated or supported by the Bureau of Indian Education

(1) In general

Subject to subsection (e) of this section, in addition to the grants awarded under subsection (a) of this section, the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

(A) the total number of Indian children enrolled in schools that are operated by—

(i) the Bureau of Indian Education; or

(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.]; and

(B) the greater of—

(i) the average per pupil expenditure of the State in which the school is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) Special rule

Any school described in paragraph (1)(A) that wishes to receive an allocation under this subpart shall submit an application in accordance with section 7424 of this title, and shall otherwise be treated as a local educational agency for the purpose of this subpart, except that such school shall not be subject to section 7424(c)(4) of this title, section 7428(c) of this title, or section 7429 of this title.

(e) Ratable reductions

If the sums appropriated for any fiscal year under 7492(a) [1] of this title are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) of this section and for the Secretary of the Interior under subsection (d) of this section, each of those amounts shall be ratably reduced.

(Pub. L. 89–10, title VI, §6113, formerly title VII, §7113, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1908, renumbered title VI, §6113, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), (3), §6002(e), Dec. 10, 2015, 129 Stat. 2046, 2049.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (d)(1)(A)(ii), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Tribally Controlled Schools Act of 1988, referred to in subsec. (d)(1)(A)(ii), is part B (§5201–5212) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§2501 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 7423, Pub. L. 89–10, title VII, §7113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3720, related to program enhancement projects, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6113 of Pub. L. 89–10 was classified to section 7301b of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Subsec. (a)(1)(A). Pub. L. 114–95, §6001(b)(3)(A), made technical amendment to reference in original act which appears in text as reference to section 7427 of this title.

Subsec. (b)(1). Pub. L. 114–95, §6002(e)(1), substituted "Bureau of Indian Education" for "Bureau of Indian Affairs".

Pub. L. 114–95, §6001(b)(3)(B), made technical amendment to reference in original act which appears in text as reference to section 7422 of this title.

Subsec. (d). Pub. L. 114–95, §6002(e)(2)(A), substituted "Indian Education" for "Indian Affairs" in heading.

Subsec. (d)(1)(A)(i). Pub. L. 114–95, §6002(e)(2)(B), substituted "Bureau of Indian Education" for "Bureau of Indian Affairs".

Subsec. (d)(2). Pub. L. 114–95, §6001(b)(3)(C), made technical amendment to references in original act which appear in text as references to sections 7424, 7424(c)(4), 7428(c), and 7429 of this title.

Subsec. (e). Pub. L. 114–95, §6001(b)(3)(D), substituted "7492(a) of this title" for "section 7492(a) of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be preceded by "section".*

§7424. Applications

(a) Application required

Each entity described in section 7422(a) of this title that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Comprehensive program required

Each application submitted under subsection (a) of this section shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of Indian students;

(2)(A) is consistent with the State, tribal, and local plans submitted under other provisions of this chapter; and

(B) includes program objectives and outcomes for activities under this subpart that are based on the same challenging State academic standards developed by the State under subchapter I for all students;

(3) explains how the grantee will use funds made available under this subpart to supplement other Federal, State, and local programs that meet the needs of Indian students;

(4) demonstrates how funds made available under this subpart will be used for activities described in section 7425 of this title;

(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs;

(6) describes how the local educational agency—

(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

(B) will provide the results of each assessment referred to in subparagraph (A) to—

(i) the committee described in subsection (c)(4) of this section;

(ii) the community served by the local educational agency; and

(iii) the Indian tribes whose children are served by the local educational agency, consistent with section 1232g of title 20 (commonly referred to as the "Family Educational Rights and

Privacy Act of 1974"); and

(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A); and

(7) describes the process the local educational agency used to meaningfully collaborate with Indian tribes located in the community in a timely, active, and ongoing manner in the development of the comprehensive program and the actions taken as a result of such collaboration.

(c) Assurances

Each application submitted under subsection (a) of this section shall include assurances that—

(1) the local educational agency will use funds received under this subpart only to supplement the funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for services described in this subsection, and not to supplant such funds;

(2) the local educational agency will prepare and submit to the Secretary such reports, in such form and containing such information, as the Secretary may require to—

(A) carry out the functions of the Secretary under this subpart;

(B) determine the extent to which activities carried out with funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency, and meet program objectives and outcomes for activities under this subpart; and

(C) determine the extent to which such activities by the local educational agency address the unique cultural, language, and educational needs of Indian students;

(3) the program for which assistance is sought—

(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the Indian students for whom the local educational agency is providing an education;

(B) will use the best available talents and resources, including individuals from the Indian community; and

(C) was developed by such agency in open consultation with parents of Indian children and teachers, representatives of Indian tribes on Indian lands located within 50 miles of any school that the agency will serve if such tribes have any children in such school, Indian organizations, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program;

(4) the local educational agency developed the program with the participation and written approval of a committee—

(A) that is composed of, and selected by—

(i) parents and family members of Indian children in the local educational agency's schools;

(ii) representatives of Indian tribes on Indian lands located within 50 miles of any school that the agency will serve if such tribes have any children in such school;

(iii) teachers in the schools; and

(iv) if appropriate, Indian students attending secondary schools of the agency;

(B) a majority of whose members are parents and family members of Indian children;

(C) with respect to an application describing a schoolwide program in accordance with section 7425(c) of this title, that has—

(i) reviewed in a timely fashion the program;

(ii) determined that the program will not diminish the availability of culturally related activities for Indian students; and

(iii) determined that the program will directly enhance the educational experience of Indian

students; and

(D) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws;

(5) the local educational agency will coordinate activities under this subchapter with other Federal programs supporting educational and related services administered by such agency;

(6) the local educational agency conducted outreach to parents and family members to meet the requirements under this paragraph;

(7) the local educational agency will use funds received under this subpart only for activities described and authorized in this subpart; and

(8) the local educational agency has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents and family members of the children, and representatives of the area, to be served.

(d) Technical assistance

The Secretary shall, directly or by contract, provide technical assistance to a local educational agency or Bureau of Indian Education school upon request (in addition to any technical assistance available under other provisions of this chapter or available through the Institute of Education Sciences) to support the services and activities provided under this subpart, including technical assistance for—

(1) the development of applications under this subpart, including identifying eligible entities that have not applied for such grants and undertaking appropriate activities to encourage such entities to apply for grants under this subpart;

(2) improvement in the quality of implementation, content, and evaluation of activities supported under this subpart; and

(3) integration of activities under this subpart with other educational activities carried out by the local educational agency.

(Pub. L. 89–10, title VI, §6114, formerly title VII, §7114, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1910, renumbered title VI, §6114, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), (4), §6002(f), Dec. 10, 2015, 129 Stat. 2046, 2049.)

PRIOR PROVISIONS

A prior section 7424, Pub. L. 89–10, title VII, §7114, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3721, related to comprehensive school grants, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §6002(f)(1), substituted "Each entity described in section 7422(a) of this title" for "Each local educational agency".

Subsec. (b)(1). Pub. L. 114–95, §6002(f)(2)(A), substituted "Indian" for "American Indian and Alaska Native".

Subsec. (b)(2)(A). Pub. L. 114–95, §6002(f)(2)(B)(i), substituted "is consistent with the State, tribal, and local plans" for "is consistent with the State and local plans".

Subsec. (b)(2)(B). Pub. L. 114–95, §6002(f)(2)(B)(ii), added subpar. (B) and struck out former subpar. (B) which read as follows: "includes academic content and student academic achievement goals for such children, and benchmarks for attaining such goals, that are based on the challenging State academic content and student academic achievement standards adopted under subchapter I of this chapter for all children;".

Subsec. (b)(3). Pub. L. 114–95, §6002(f)(2)(C), added par. (3) and struck out former par. (3) which read as follows: "explains how Federal, State, and local programs, especially programs carried out under subchapter I of this chapter, will meet the needs of such students;".

Subsec. (b)(4). Pub. L. 114–95, §6001(b)(4)(A), made technical amendment to reference in original act which appears in text as reference to section 7425 of this title.

Subsec. (b)(6)(B)(iii). Pub. L. 114–95, §6002(f)(2)(E)(i), added cl. (iii).

Subsec. (b)(7). Pub. L. 114–95, §6002(f)(2)(D), (E)(ii), (F), added par. (7).

Subsec. (c)(1). Pub. L. 114–95, §6002(f)(3)(A), substituted "for services described in this subsection," for "for the education of Indian children,".

Subsec. (c)(2)(B). Pub. L. 114–95, §6002(f)(3)(B)(ii), substituted "served by such agency, and meet program objectives and outcomes for activities under this subpart; and" for "served by such agency;".

Subsec. (c)(2)(C). Pub. L. 114–95, §6002(f)(3)(B)(i), (iii), added subpar. (C).

Subsec. (c)(3)(A). Pub. L. 114–95, §6002(f)(3)(C)(i), substituted "Indian" for "American Indian and Alaska Native".

Subsec. (c)(3)(C). Pub. L. 114–95, §6002(f)(3)(C)(ii), inserted "representatives of Indian tribes on Indian lands located within 50 miles of any school that the agency will serve if such tribes have any children in such school, Indian organizations," after "parents of Indian children and teachers," and struck out "and" after semicolon.

Subsec. (c)(4)(A)(i). Pub. L. 114–95, §6002(f)(3)(D)(i)(I), inserted "and family members" after "parents".

Subsec. (c)(4)(A)(ii) to (iv). Pub. L. 114–95, §6002(f)(3)(D)(i)(II), (III), added cl. (ii) and redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively.

Subsec. (c)(4)(B). Pub. L. 114–95, §6002(f)(3)(D)(ii), added subpar. (B) and struck out former subpar. (B) which read as follows: "a majority of whose members are parents of Indian children;".

Subsec. (c)(4)(C). Pub. L. 114–95, §6002(f)(3)(D)(iii), (iv), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: "that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;".

Subsec. (c)(4)(C)(ii). Pub. L. 114–95, §6002(f)(3)(D)(v)(II), substituted "Indian" for "American Indian and Alaska Native".

Subsec. (c)(4)(C)(iii). Pub. L. 114–95, §6002(f)(3)(D)(v)(I), (III), added cl. (iii).

Subsec. (c)(4)(D). Pub. L. 114–95, §6002(f)(3)(D)(iv), (vi), redesignated subpar. (E) as (D) and substituted semicolon for period at end. Former subpar. (D) redesignated (C).

Pub. L. 114–95, §6001(b)(4)(B), made technical amendment to reference in original act which appears in text of introductory provisions as reference to section 7425(c) of this title.

Subsec. (c)(4)(E). Pub. L. 114–95, §6002(f)(3)(D)(iv), redesignated subpar. (E) as (D).

Subsec. (c)(5) to (8). Pub. L. 114–95, §6002(f)(3)(E), added pars. (5) to (8).

Subsec. (d). Pub. L. 114–95, §6002(f)(4), added subsec. (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7425. Authorized services and activities

(a) General requirements

Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 7421 of this title, for services and activities that—

(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 7424(a) of this title solely for the services and activities described in such application;

(2) are designed to be responsive to the language and cultural needs of the Indian students; and

(3) supplement and enrich the regular school program of such agency.

(b) Particular activities

The services and activities referred to in subsection (a) may include—

(1) activities that support Native American language programs and Native American language restoration programs, which may be taught by traditional leaders;

(2) culturally related activities that support the program described in the application submitted by the local educational agency;

(3) early childhood and family programs that emphasize school readiness;

(4) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging State academic standards;

(5) integrated educational services in combination with other programs that meet the needs of Indian children and their families, including programs that promote parental involvement in school activities and increase student achievement;

(6) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), including programs for tech-prep education, mentoring, and apprenticeship;

(7) activities to educate individuals so as to prevent violence, suicide, and substance abuse;

(8) the acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in section 7421 of this title;

(9) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

(10) family literacy services;

(11) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors;

(12) dropout prevention strategies for Indian students; and

(13) strategies to meet the educational needs of at-risk Indian students in correctional facilities, including such strategies that support Indian students who are transitioning from such facilities to schools served by local educational agencies.

(c) Schoolwide programs

Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 6314 of this title if—

(1) the committee established pursuant to section 7424(c)(4) of this title approves the use of the funds for the schoolwide program;

(2) the schoolwide program is consistent with the purpose described in section 7421 of this title; and

(3) the local educational agency identifies in its application how the use of such funds in a schoolwide program will produce benefits to Indian students that would not be achieved if the funds were not used in a schoolwide program.

(d) Limitation on administrative costs

Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

(e) Limitation on the use of funds

Funds provided to a grantee under this subpart may not be used for long-distance travel expenses for training activities that are available locally or regionally.

(Pub. L. 89–10, title VI, §6115, formerly title VII, §7115, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1912; amended Pub. L. 109–270, §2(f)(4), Aug. 12, 2006, 120 Stat. 747, renumbered title VI, §6115, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), (5), 6002(g), Dec. 10, 2015, 129 Stat. 2046, 2052.)

REFERENCES IN TEXT

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(6), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

PRIOR PROVISIONS

A prior section 7425, Pub. L. 89–10, title VII, §7115, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3722, related to systemwide improvement grants, prior to the general amendment of former

subchapter VII of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §6001(b)(5)(A)(i), made technical amendment to reference in original act which appears in text of introductory provisions as reference to section 7421 of this title.

Subsec. (a)(1). Pub. L. 114–95, §6002(g)(1)(A), inserted "solely for the services and activities described in such application" before semicolon.

Pub. L. 114–95, §6001(b)(5)(A)(ii), made technical amendment to reference in original act which appears in text as reference to section 7424(a) of this title.

Subsec. (a)(2). Pub. L. 114–95, §6002(g)(1)(B), substituted "to be responsive to" for "with special regard for".

Subsec. (b). Pub. L. 114–95, §6002(g)(2), added subsec. (b) and struck out former subsec. (b) which related to particular authorized services and activities of local educational agencies receiving grant funds.

Subsec. (c)(1). Pub. L. 114–95, §6001(b)(5)(B)(i), made technical amendment to reference in original act which appears in text as reference to section 7424(c)(4) of this title.

Subsec. (c)(2). Pub. L. 114–95, §6001(b)(5)(B)(ii), made technical amendment to reference in original act which appears in text as reference to section 7421 of this title.

Subsec. (c)(3). Pub. L. 114–95, §6002(g)(3), added par. (3).

Subsec. (e). Pub. L. 114–95, §6002(g)(4), added subsec. (e).

2006—Subsec. (b)(5). Pub. L. 109–270 substituted "Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Technical Education Act of 1998".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7426. Integration of services authorized

(a) Plan

An entity receiving funds under this subpart may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

(b) Consolidation of programs

Upon the receipt of an acceptable plan under subsection (a) of this section, the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the entity, shall authorize the entity to consolidate, in accordance with such plan, the federally funded education and related services programs of the entity and the Federal programs, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

(c) Programs affected

The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (a) of this section shall include funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, under which the entity is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services that would be used to serve Indian students.

(d) Plan requirements

For a plan to be acceptable pursuant to subsection (b) of this section, the plan shall—

(1) identify the programs or funding sources to be consolidated;

(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives

set forth in this subpart;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

(8) set forth measures for academic content and student academic achievement goals designed to be met within a specific period of time; and

(9) be approved by a committee formed in accordance with section 7424(c)(4) of this title, if such a committee exists.

(e) Plan review

Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this subpart or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

(f) Plan approval

Within 90 days after the receipt of an entity's plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

(g) Responsibilities of Department of Education

Not later than 180 days after December 10, 2015, the Secretary of Education, the Secretary of the Interior, the Secretary of Health and Human Services, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation and coordination of the demonstration projects authorized under this section. The lead agency head for a demonstration project under this section shall be—

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978 [25 U.S.C. 2001 et seq.]; or

(2) the Secretary of Education, in the case of any other entity.

(h) Responsibilities of lead agency

The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

(i) Report requirements

A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format shall require that reports described in subsection (h) of this section, together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including making a demonstration of student academic achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

(j) No reduction in amounts

In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

(k) Interagency fund transfers authorized

The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

(l) Administration of funds

(1) In general

Program funds for the consolidated programs shall be administered in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted that shall be allocated to such program.

(2) Separate records not required

Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

(m) Overage

The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

(n) Fiscal accountability

Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31.

(o) Report on statutory obstacles to program integration

(1) Preliminary report

Not later than 2 years after December 10, 2015, the Secretary of Education shall submit a preliminary report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the status of the implementation of the demonstration projects authorized under this section.

(2) Final report

Not later than 5 years after December 10, 2015, the Secretary of Education shall submit a report to the Committee on Education and the Workforce and the Committee on Resources of the House

of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the results of the implementation of the demonstration projects authorized under this section.

(p) Definitions

For the purposes of this section, the term "Secretary" means—

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978 [25 U.S.C. 2001 et seq.]; or

(2) the Secretary of Education, in the case of any other entity.

(Pub. L. 89–10, title VI, §6116, formerly title VII, §7116, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1913; renumbered title VI, §6116, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), (6), 6002(h), Dec. 10, 2015, 129 Stat. 2046, 2047, 2053.)

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsecs. (g)(1) and (p)(1), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Act is classified principally to chapter 22 (§2001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 7426, Pub. L. 89–10, title VII, §7116, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3723, related to applications for grants, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (d)(9). Pub. L. 114–95, §6001(b)(6), made technical amendment to reference in original act which appears in text as reference to section 7424(c)(4) of this title.

Subsec. (g). Pub. L. 114–95, §6002(h)(1), in introductory provisions, substituted "December 10, 2015" for "January 8, 2002" and inserted "the Secretary of Health and Human Services," after "the Secretary of the Interior," and "and coordination" after "providing for the implementation".

Subsec. (o)(1). Pub. L. 114–95, §6002(h)(2)(A), substituted "December 10, 2015" for "January 8, 2002".

Subsec. (o)(2). Pub. L. 114–95, §6002(h)(2)(B), substituted "December 10, 2015" for "January 8, 2002" and struck out last sentence which read as follows: "Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the objectives of this section."

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7427. Student eligibility forms

(a) In general

The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart, and that otherwise meets the requirements of subsection (b) of this section. All individual data collected shall be protected by the local educational agencies and only aggregated data shall be reported to the Secretary.

(b) Forms

The form described in subsection (a) of this section shall include—

(1) either—

(A)(i) the name of the tribe or band of Indians (as defined in section 7491 of this title) with respect to which the child claims membership;

(ii) the enrollment number establishing the membership of the child (if readily available); and

(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

(B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this subpart, if the child is not a member of the tribe or band of Indians (as so defined);

(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

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

(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

(5) any other information that the Secretary considers necessary to provide an accurate program profile.

(c) Statutory construction

Nothing in this section shall be construed to affect a definition contained in section 7491 of this title.

(d) Documentation and types of proof

(1) Types of proof

For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7423 of this title, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

(2) No new or duplicative determinations

Once a child is determined to be an Indian eligible to be counted for such grant award, the local educational agency shall maintain a record of such determination and shall not require a new or duplicate determination to be made for such child for a subsequent application for a grant under this subpart.

(3) Previously filed forms

An Indian student eligibility form that was on file as required by this section on the day before December 10, 2015, and that met the requirements of this section, as this section was in effect on the day before December 10, 2015, shall remain valid for such Indian student.

(e) Monitoring and evaluation review

(1) In general

(A) Review

For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account the size of and the geographic location of each local educational agency.

(B) Exception

A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for an entitlement under the Indian Elementary and Secondary School Assistance Act.

(2) False information

Any local educational agency that provides false information in an application for a grant under this subpart shall—

(A) be ineligible to apply for any other grant under this subpart; and

(B) be liable to the United States for any funds from the grant that have not been expended.

(3) Excluded children

A student who provides false information for the form required under subsection (a) of this section shall not be counted for the purpose of computing the amount of a grant under section 7423 of this title.

(f) Tribal grant and contract schools

Notwithstanding any other provision of this section, in calculating the amount of a grant under this subpart to a tribal school that receives a grant or contract from the Bureau of Indian Education, the Secretary shall use only one of the following, as selected by the school:

(1) A count of the number of students in the schools certified by the Bureau.

(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

(g) Timing of child counts

For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this subpart (other than in the case described in subsection (f)(1) of this section), the local educational agency shall—

(1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 7424 of this title; and

(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

(Pub. L. 89–10, title VI, §6117, formerly title VII, §7117, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1916; renumbered title VI, §6117, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), (7), 6002(i), Dec. 10, 2015, 129 Stat. 2046, 2047, 2053.)

REFERENCES IN TEXT

The Indian Elementary and Secondary School Assistance Act, referred to in subsec. (e)(1)(B), is title III of act Sept. 30, 1950, ch. 1124, as added by Pub. L. 92–318, title IV, §411(a), June 23, 1972, 86 Stat. 335, which was classified generally to subchapter III (§241aa et seq.) of chapter 13 of this title, prior to repeal by Pub. L. 100–297, title V, §5352(1), Apr. 28, 1988, 102 Stat. 414.

PRIOR PROVISIONS

A prior section 7427, Pub. L. 89–10, title VII, §7117, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3727, related to intensified instruction for limited English proficient students, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §6002(i)(1), inserted at end "All individual data collected shall be protected by the local educational agencies and only aggregated data shall be reported to the Secretary."

Subsec. (b)(1)(A)(i). Pub. L. 114–95, §6001(b)(7)(A), made technical amendment to reference in original act which appears in text as reference to section 7491 of this title.

Subsec. (c). Pub. L. 114–95, §6001(b)(7)(B), made technical amendment to reference in original act which appears in text as reference to section 7491 of this title.

Subsec. (d). Pub. L. 114–95, §6002(i)(4), added subsec. (d) and struck out former subsec. (d). Prior to

amendment, text read as follows: "For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7423 of this title, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) of this section shall be construed to require the furnishing of an enrollment number."

Pub. L. 114–95, §6002(i)(2), (3), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to forms and standards of proof.

Subsec. (e). Pub. L. 114–95, §6002(i)(3), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 114–95, §6002(i)(5), which directed substitution of "Bureau of Indian Education" for "Bureau of Indian Affairs" in subsec. (f) as redesignated by section 6002(i)(4) of Pub. L. 114–95, was executed by making the substitution in introductory provisions of subsec. (f) as redesignated by section 6002(i)(3) of Pub. L. 114–95, to reflect the probable intent of Congress.

Pub. L. 114–95, §6002(i)(3), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(3). Pub. L. 114–95, §6001(b)(7)(C), made technical amendment to reference in original act which appears in text as reference to section 7423 of this title.

Subsec. (g). Pub. L. 114–95, §6002(i)(6), which directed substitution of "subsection (f)(1)" for "subsection (g)(1)" in subsec. (g) as redesignated by section 6002(i)(4) of Pub. L. 114–95, was executed by making the substitution in introductory provisions of subsec. (g) as redesignated by section 6002(i)(3) of Pub. L. 114–95, to reflect the probable intent of Congress.

Pub. L. 114–95, §6002(i)(3), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 114–95, §6002(i)(3), redesignated subsec. (h) as (g).

Subsec. (h)(1). Pub. L. 114–95, §6001(b)(7)(D), made technical amendment to reference in original act which appears in text as reference to section 7424 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7428. Payments

(a) In general

Subject to subsections (b) and (c) of this section, the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 7423 of this title. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

(b) Payments taken into account by the State

The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter [1] in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

(c) Reduction of payment for failure to maintain fiscal effort

Each local educational agency shall maintain fiscal effort in accordance with section 7901 of this title or be subject to reduced payments under this subpart in accordance with such section 7901 of this title.

(d) Reallocations

The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

(1) based on estimates made by local educational agencies or other information, the Secretary

determines will not be needed by such agencies to carry out approved programs under this subpart; or

(2) otherwise become available for reallocation under this subpart.

(Pub. L. 89–10, title VI, §6118, formerly title VII, §7118, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1918; renumbered title VI, §6118, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), (8), 6002(j), Dec. 10, 2015, 129 Stat. 2046, 2047, 2054.)

PRIOR PROVISIONS

A prior section 7428, Pub. L. 89–10, title VII, §7118, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3727, related to capacity building, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §6001(b)(8), made technical amendment to reference in original act which appears in text as reference to section 7423 of this title.

Subsec. (c). Pub. L. 114–95, §6002(j), added subsec. (c) and struck out former subsec. (c) which related to reduction of payment for failure to maintain fiscal effort with possibility of temporary waiver.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be "this subpart".*

§7429. State educational agency review

Before submitting an application to the Secretary under section 7424 of this title, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, the agency shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

(Pub. L. 89–10, title VI, §6119, formerly title VII, §7119, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1919; renumbered title VI, §6119, and amended Pub. L. 114–95, title VI, §6001(a), (b)(1), (9), Dec. 10, 2015, 129 Stat. 2046, 2047.)

PRIOR PROVISIONS

A prior section 7429, Pub. L. 89–10, title VII, §7119, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3727, authorized subgrants, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

Prior sections 7430 to 7434 were omitted in the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

Section 7430, Pub. L. 89–10, title VII, §7120, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3727, related to priority on funding of programs for limited English proficient students.

Section 7431, Pub. L. 89–10, title VII, §7121, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3728, related to coordination with other programs.

Section 7432, Pub. L. 89–10, title VII, §7122, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3728, related to programs for Native Americans and Puerto Rico.

Section 7433, Pub. L. 89–10, title VII, §7123, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3728, related to evaluations.

Section 7434, Pub. L. 89–10, title VII, §7124, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3728, related to construction of provisions.

AMENDMENTS

2015—Pub. L. 114–95, §6001(b)(9), made technical amendment to reference in original act which appears in text as reference to section 7424 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBPART 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

§7441. Improvement of educational opportunities for Indian children and youth

(a) Purpose

(1) In general

It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children and youth.

(2) Coordination

The Secretary shall take the necessary actions to achieve the coordination of activities assisted under this subpart with—

(A) other programs funded under this chapter; and

(B) other Federal programs operated for the benefit of Indian children and youth.

(b) Eligible entities

In this section, the term "eligible entity" means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, a Tribal College or University (as defined in section 1059c(b) of this title), or a consortium of such entities.

(c) Grants authorized

The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose of this section, including—

(1) innovative programs related to the educational needs of educationally disadvantaged Indian children and youth;

(2) educational services that are not available to such children and youth in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the subjects of English, mathematics, science, foreign languages, art, history, and geography;

(3) bilingual and bicultural programs and projects;

(4) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children and youth;

(5) special compensatory and other programs and projects designed to assist and encourage Indian children and youth to enter, remain in, or reenter school, and to increase the rate of high school graduation for Indian children and youth;

(6) comprehensive guidance, counseling, and testing services;

(7) early childhood education programs that are effective in preparing young children to make sufficient academic growth by the end of grade 3, including kindergarten and pre-kindergarten programs, family-based preschool programs that emphasize school readiness, screening and referral, and the provision of services to Indian children and youth with disabilities;

(8) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary to postsecondary education;

(9) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill career;

(10) programs designed to encourage and assist Indian students to work toward, and gain entrance into, institutions of higher education;

(11) family literacy services;

(12) activities that recognize and support the unique cultural and educational needs of Indian children and youth, and incorporate traditional leaders;

(13) high-quality professional development of teaching professionals and paraprofessionals; or

(14) other services that meet the purpose described in this section.

(d) Grant requirements and applications

(1) Grant requirements

(A) In general

The Secretary may make multiyear grants under subsection (c) of this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) of this section for a period not to exceed 5 years.

(B) Priority

In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining two or more of the activities described in subsection (c) of this section over a period of more than 1 year.

(C) Progress

The Secretary shall award grants for an initial period of not more than 3 years and may renew such grants for not more than an additional 2 years if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

(2) Dissemination grants

(A) In general

In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) of this section to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(B) Determination

The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

(i) has been adequately reviewed;

(ii) has demonstrated educational merit; and

(iii) can be replicated.

(3) Application

(A) In general

Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(B) Contents

Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—

(i) a description of how parents and family of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for

which assistance is sought;

(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

(iii) information demonstrating that the proposed program is an evidence-based program, where applicable, which may include a program that has been modified to be culturally appropriate for students who will be served;

(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over; and

(v) such other assurances and information as the Secretary may reasonably require.

(e) Administrative costs

Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

(Pub. L. 89–10, title VI, §6121, formerly title VII, §7121, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1919; renumbered title VI, §6121, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(k), Dec. 10, 2015, 129 Stat. 2046, 2054.)

PRIOR PROVISIONS

A prior section 6121 of Pub. L. 89–10 was renumbered section 5101 and is classified to section 7305 of this title.

AMENDMENTS

2015—Pub. L. 114–95, §6002(k)(1), substituted "Improvement of educational opportunities for Indian children and youth" for "Improvement of educational opportunities for Indian children" in section catchline.

Subsec. (a)(1). Pub. L. 114–95, §6002(k)(2)(A), inserted "and youth" after "Indian children".

Subsec. (a)(2)(B). Pub. L. 114–95, §6002(k)(2)(B), substituted "Indian children and youth" for "American Indian and Alaska Native children".

Subsec. (b). Pub. L. 114–95, §6002(k)(3), substituted "a Tribal College or University (as defined in section 1059c(b) of this title)" for "Indian institution (including an Indian institution of higher education)".

Subsec. (c). Pub. L. 114–95, §6002(k)(4), added subsec. (c) and struck out former subsec. (c) which related to grants authorized, consisting of pars. (1) and (2).

Subsec. (d)(1)(C). Pub. L. 114–95, §6002(k)(5)(A), substituted "award grants for an initial period of not more than 3 years and may renew such grants for not more than an additional 2 years if the Secretary determines" for "make a grant payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant only if the Secretary determines".

Subsec. (d)(3)(B)(i). Pub. L. 114–95, §6002(k)(5)(B)(i), substituted "parents and family of Indian children" for "parents of Indian children".

Subsec. (d)(3)(B)(iii). Pub. L. 114–95, §6002(k)(5)(B)(ii), substituted "information demonstrating that the proposed program is an evidence-based program" for "information demonstrating that the proposed program for the activities is a scientifically based research program".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7442. Professional development for teachers and education professionals

(a) Purposes

The purposes of this section are—

(1) to increase the number of qualified Indian teachers and administrators serving Indian students;

(2) to provide pre- and in-service training and support to qualified Indian individuals to enable such individuals to become effective teachers, principals, other school leaders, administrators, paraprofessionals, counselors, social workers, and specialized instructional support personnel;

(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2); and

(4) to develop and implement initiatives to promote retention of effective teachers, principals, and school leaders who have a record of success in helping low-achieving Indian students improve their academic achievement, outcomes, and preparation for postsecondary education or employment.

(b) Eligible entities

For the purpose of this section, the term "eligible entity" means—

(1) an institution of higher education, including a Tribal College or University, as defined in section 1059c(b) of this title;

(2) a State educational agency or local educational agency, in consortium with an institution of higher education;

(3) an Indian tribe or organization, in consortium with an institution of higher education; and

(4) a Bureau-funded school (as defined in section 2026 [1] of title 25) in a consortium with at least one Tribal College or University, as defined in section 1059c(b) of this title, where feasible.

(c) Program authorized

The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable those entities to carry out the activities described in subsection (d) of this section.

(d) Authorized activities

(1) In general

Grant funds under this section shall be used for activities to provide support and training for Indian individuals in a manner consistent with the purpose of this section. Such activities may include—

(A) continuing education programs, symposia, workshops, and conferences;

(B) teacher mentoring programs, professional guidance, and instructional support provided by educators, local traditional leaders, or cultural experts, as appropriate for teachers during their first 3 years of employment as teachers;

(C) direct financial support; and

(D) programs designed to train traditional leaders and cultural experts to assist those personnel referenced in subsection (a)(2), as appropriate, with relevant Native language and cultural mentoring, guidance, and support.

(2) Special rules

(A) Type of training

For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

(B) Program

For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

(e) Application

Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. At a minimum, an application under this section shall describe how the eligible entity will—

(1) recruit qualified Indian individuals, such as students who may not be of traditional college age, to become teachers, principals, or school leaders;

(2) use funds made available under the grant to support the recruitment, preparation, and professional development of Indian teachers or principals in local educational agencies that serve a high proportion of Indian students; and

(3) assist participants in meeting the requirements under subsection (h).

(f) Special rule

In awarding grants under this section, the Secretary—

(1) may give priority to Tribal Colleges and Universities;

(2) shall consider the prior performance of the eligible entity; and

(3) may not limit eligibility to receive a grant under this section on the basis of the length of any period for which the eligible entity has received a grant.

(g) Grant period

The Secretary shall award grants under this section for an initial period of not more than 3 years, and may renew such grants for an additional period of not more than 2 years if the Secretary finds that the grantee is achieving the objectives of the grant.

(h) Service obligation

(1) In general

The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

(A) perform work—

(i) related to the training received under this section; and

(ii) that benefits Indian students in a local educational agency that serves a high proportion of Indian students; or

(B) repay all or a prorated part of the assistance received.

(2) Reporting

The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

(Pub. L. 89–10, title VI, §6122, formerly title VII, §7122, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1922; renumbered title VI, §6122, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(l), Dec. 10, 2015, 129 Stat. 2046, 2056.)

REFERENCES IN TEXT

Section 2026 of title 25, referred to in subsec. (b)(4), was omitted in the general amendment of chapter 22 of Title 25, Indians, by Pub. L. 107–110, title X, §1042, Jan. 8, 2002, 115 Stat. 2007. See section 2021 of Title 25.

PRIOR PROVISIONS

A prior section 6122 of Pub. L. 89–10 was renumbered section 5102 and is classified to section 7305a of this title.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §6002(l)(1)(A), added par. (1) and struck out former par. (1) which read as follows: "to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;".

Subsec. (a)(2). Pub. L. 114–95, §6002(l)(1)(B), added par. (2) and struck out former par. (2) which read as follows: "to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and".

Subsec. (a)(4). Pub. L. 114–95, §6002(l)(1)(C), (D), added par. (4).

Subsec. (b)(1). Pub. L. 114–95, §6002(l)(2)(A), substituted "including a Tribal College or University, as defined in section 1059c(b) of this title" for "including an Indian institution of higher education".

Subsec. (b)(4). Pub. L. 114–95, §6002(l)(2)(B), inserted before period at end "in a consortium with at least one Tribal College or University, as defined in section 1059c(b) of this title, where feasible".

Subsec. (d)(1). Pub. L. 114–95, §6002(l)(3), substituted "purpose of this section." for "purposes of this section." and "Such activities may include—" and subpars. (A) to (D) for "Such activities may include

continuing programs, symposia, workshops, conferences, and direct financial support, and may include programs designed to train tribal elders and seniors."

Subsec. (e). Pub. L. 114–95, §6002(l)(4), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require."

Subsec. (f). Pub. L. 114–95, §6002(l)(5), added par. (1), redesignated former pars. (1) and (2) as (2) and (3), respectively, and, in par. (3), substituted "basis of the length of any period for which the eligible entity has received a grant." for "basis of—

"(A) the number of previous grants the Secretary has awarded such entity; or

"(B) the length of any period during which such entity received such grants."

Subsec. (g). Pub. L. 114–95, §6002(l)(6), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: "Each grant under this section shall be awarded for a period of not more than 5 years."

Subsec. (h)(1)(A)(ii). Pub. L. 114–95, §6002(l)(7), substituted "students in a local educational agency that serves a high proportion of Indian students" for "people".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *See References in Text note below.*

SUBPART 3—NATIONAL ACTIVITIES

§7451. National research activities

(a) Authorized activities

The Secretary may use funds made available to carry out this subpart for each fiscal year to—

(1) conduct research related to effective approaches for the education of Indian children and adults;

(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

(3) collect and analyze data on the educational status and needs of Indians; and

(4) carry out other activities that are consistent with the purpose of this part.

(b) Eligibility

The Secretary may carry out any of the activities described in subsection (a) of this section directly or through grants to, or contracts or cooperative agreements with, Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

(c) Coordination

Research activities supported under this section—

(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by the Institute; and

(2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education Programs, the Bureau of Indian Education, and the Institute of Education Sciences.

(Pub. L. 89–10, title VI, §6131, formerly title VII, §7131, as added Pub. L. 107–110, title VII, §701,

Jan. 8, 2002, 115 Stat. 1923; amended Pub. L. 107–279, title IV, §404(d)(5)(E), (8), Nov. 5, 2002, 116 Stat. 1986; renumbered title VI, §6131, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(m), Dec. 10, 2015, 129 Stat. 2046, 2057.)

PRIOR PROVISIONS

A prior section 7451, Pub. L. 89–10, title VII, §7131, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3729, authorized research, evaluation of activities, and dissemination of information, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6131 of Pub. L. 89–10 was classified to section 7311 of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §6002(m)(1), substituted "to carry out this subpart" for "under section 7492(b) of this title" in introductory provisions.

Subsec. (c)(2). Pub. L. 114–95, §6002(m)(2), inserted ", the Bureau of Indian Education," after "Office of Indian Education Programs".

2002—Subsec. (c)(1). Pub. L. 107–279 substituted "Institute of Education Sciences" for "Office of Educational Research and Improvement" and "by the Institute" for "by the Office".

Subsec. (c)(2). Pub. L. 107–279, §404(d)(5)(E), substituted "Institute of Education Sciences" for "Office of Educational Research and Improvement".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7452. Grants to tribes for education administrative planning, development, and coordination

(a) In general

The Secretary may award grants under this section to eligible applicants to enable the eligible applicants to—

(1) promote tribal self-determination in education;

(2) improve the academic achievement of Indian children and youth; and

(3) promote the coordination and collaboration of tribal educational agencies with State educational agencies and local educational agencies to meet the unique educational and culturally related academic needs of Indian students.

(b) Definitions

In this section:

(1) Eligible applicant

In this section, the term "eligible applicant" means—

(A) an Indian tribe or tribal organization approved by an Indian tribe; or

(B) a tribal educational agency.

(2) Indian tribe

The term "Indian tribe" means a federally recognized tribe or a State-recognized tribe.

(3) Tribal educational agency

The term "tribal educational agency" means the agency, department, or instrumentality of an Indian tribe that is primarily responsible for supporting tribal students' elementary and secondary education.

(c) Grant program

The Secretary may award grants to—

(1) eligible applicants described under subsection (b)(1)(A) to plan and develop a tribal educational agency, if the tribe or organization has no current tribal educational agency, for a period of not more than 1 year; and

(2) eligible applicants described under subsection (b)(1)(B), for a period of not more than 3 years, in order to—

(A) directly administer education programs, including formula grant programs under this chapter, consistent with State law and under a written agreement between the parties;

(B) build capacity to administer and coordinate such education programs, and to improve the relationship and coordination between such applicants and the State educational agencies and local educational agencies that educate students from the tribe;

(C) receive training and support from the State educational agency and local educational agency, in areas such as data collection and analysis, grants management and monitoring, fiscal accountability, and other areas as needed;

(D) train and support the State educational agency and local educational agency in areas related to tribal history, language, or culture;

(E) build on existing activities or resources rather than replacing other funds; and

(F) carry out other activities, consistent with the purposes of this section.

(d) Grant application

(1) In general

Each eligible applicant desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably prescribe.

(2) Contents

Each application described in paragraph (1) shall contain—

(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant;

(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and for determining whether such objectives are achieved; and

(C) for applications for activities under subsection (c)(2), evidence of—

(i) a preliminary agreement with the appropriate State educational agency, 1 or more local educational agencies, or both the State educational agency and a local educational agency; and

(ii) existing capacity as a tribal educational agency.

(3) Approval

The Secretary may approve an application submitted by an eligible applicant under this subsection if the application, including any documentation submitted with the application—

(A) demonstrates that the eligible applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant that will be affected by the activities to be conducted under the grant;

(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought.

(e) Restrictions

(1) In general

An Indian tribe may not receive funds under this section if the tribe receives funds under section 1140 of the Education Amendments of 1978 (20 U.S.C. 2020).[1]

(2) Direct services

No funds under this section may be used to provide direct services.

(f) Supplement, not supplant

Funds under this section shall be used to supplement, and not supplant, other Federal, State, and local programs that meet the needs of tribal students.

(Pub. L. 89–10, title VI, §6132, formerly title VII, §7135, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1928; renumbered title VI, §6135, renumbered §6132, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(n)(2), (p), Dec. 10, 2015, 129 Stat. 2046, 2057, 2060.)

CODIFICATION

Section was classified to section 7455 of this title prior to renumbering by Pub. L. 114–95.

PRIOR PROVISIONS

A prior section 7452, Pub. L. 89–10, title VI, §6132, formerly title VII, §7132, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1924; renumbered title VI, §6132, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046, related to in-service training for teachers of Indian children, prior to repeal by Pub. L. 114–95, §5, title VI, §6002(n)(1), Dec. 10, 2015, 129 Stat. 1806, 2057, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 7452, Pub. L. 89–10, title VII, §7132, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3729, related to research activities, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6132 of Pub. L. 89–10 was classified to section 7311a of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Pub. L. 114–95, §6001(p), amended section generally. Prior to amendment, section related to grants to Indian tribes for education administrative planning and development.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be "(25 U.S.C. 2020)".*

§7453. Native American and Alaska Native language immersion schools and programs

(a) Purposes

The purposes of this section are—

(1) to establish a grant program to support schools that use Native American and Alaska Native languages as the primary language of instruction;

(2) to maintain, protect, and promote the rights and freedom of Native Americans and Alaska Natives to use, practice, maintain, and revitalize their languages, as envisioned in the Native American Languages Act (25 U.S.C. 2901 et seq.); and

(3) to support the Nation's First Peoples' efforts to maintain and revitalize their languages and cultures, and to improve educational opportunities and student outcomes within Native American and Alaska Native communities.

(b) Program authorized

(1) In general

From funds reserved under section 7492(c) of this title, the Secretary shall reserve 20 percent to make grants to eligible entities to develop and maintain, or to improve and expand, programs that support schools, including elementary school and secondary school education sites and streams, using Native American and Alaska Native languages as the primary languages of instruction.

(2) Eligible entities

In this subsection, the term "eligible entity" means any of the following entities that has a plan to develop and maintain, or to improve and expand, programs that support the entity's use of a Native American or Alaska Native language as the primary language of instruction in elementary schools or secondary schools, or both:

(A) An Indian tribe.

(B) A Tribal College or University (as defined in section 1059c of this title).

(C) A tribal education agency.

(D) A local educational agency, including a public charter school that is a local educational agency under State law.

(E) A school operated by the Bureau of Indian Education.

(F) An Alaska Native Regional Corporation (as described in section 1602(g) of title 43).

(G) A private, tribal, or Alaska Native nonprofit organization.

(H) A nontribal for-profit organization.

(c) Application

(1) In general

An eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require, including the following:

(A) The name of the Native American or Alaska Native language to be used for instruction at the school supported by the eligible entity.

(B) The number of students attending such school.

(C) The number of hours of instruction in or through 1 or more Native American or Alaska Native languages being provided to targeted students at such school, if any.

(D) A description of how the eligible entity will—

(i) use the funds provided to meet the purposes of this section;

(ii) implement the activities described in subsection (e);

(iii) ensure the implementation of rigorous academic content; and

(iv) ensure that students progress toward high-level fluency goals.

(E) Information regarding the school's organizational governance or affiliations, including information about—

(i) the school governing entity (such as a local educational agency, tribal education agency or department, charter organization, private organization, or other governing entity);

(ii) the school's accreditation status;

(iii) any partnerships with institutions of higher education; and

(iv) any indigenous language schooling and research cooperatives.

(F) An assurance that—

(i) the school is engaged in meeting State or tribally designated long-term goals for students, as may be required by applicable Federal, State, or tribal law;

(ii) the school provides assessments of students using the Native American or Alaska Native language of instruction, where possible;

(iii) the qualifications of all instructional and leadership personnel at such school is sufficient to deliver high-quality education through the Native American or Alaska Native language used in the school; and

(iv) the school will collect and report to the public data relative to student achievement and, if appropriate, rates of high school graduation, career readiness, and enrollment in postsecondary education or workforce development programs, of students who are enrolled in the school's programs.

(2) Limitation

The Secretary shall not give a priority in awarding grants under this section based on the information described in paragraph (1)(E).

(3) Submission of certification

(A) In general

An eligible entity that is a public elementary school or secondary school (including a public charter school or a school operated by the Bureau of Indian Education) or a nontribal for-profit or nonprofit organization shall submit, along with the application requirements described in paragraph (1), a certification described in subparagraph (B) indicating that—

(i) the school or organization has the capacity to provide education primarily through a Native American or an Alaska Native language; and

(ii) there are sufficient speakers of the target language at the school or available to be hired by the school or organization.

(B) Certification

The certification described in subparagraph (A) shall be from one of the following entities, on whose land the school or program is located, that is an entity served by such school, or that is an entity whose members (as defined by that entity) are served by the school:

(i) A Tribal College or University (as defined in section 1059c of this title).

(ii) A Federally recognized Indian tribe or tribal organization.

(iii) An Alaska Native Regional Corporation or an Alaska Native nonprofit organization.

(iv) A Native Hawaiian organization.

(d) Awarding of grants

In awarding grants under this section, the Secretary shall—

(1) determine the amount of each grant and the duration of each grant, which shall not exceed 3 years; and

(2) ensure, to the maximum extent feasible, that diversity in languages is represented.

(e) Activities authorized

(1) Required activities

An eligible entity that receives a grant under this section shall use such funds to carry out the following activities:

(A) Supporting Native American or Alaska Native language education and development.

(B) Providing professional development for teachers and, as appropriate, staff and administrators to strengthen the overall language and academic goals of the school that will be served by the grant program.

(2) Allowable activities

An eligible entity that receives a grant under this section may use such funds to carry out the following activities:

(A) Developing or refining curriculum, including teaching materials and activities, as appropriate.

(B) Creating or refining assessments written in the Native American or Alaska Native language of instruction that measure student proficiency and that are aligned with State or tribal academic standards.

(C) Carrying out other activities that promote the maintenance and revitalization of the Native American or Alaska Native language relevant to the grant program.

(f) Report to Secretary

Each eligible entity that receives a grant under this section shall prepare and submit an annual report to the Secretary, which shall include—

(1) the activities the entity carried out to meet the purposes of this section; and

(2) the number of children served by the program and the number of instructional hours in the Native American or Alaska Native language.

(g) Administrative costs

Not more than 5 percent of the funds provided to a grantee under this section for any fiscal year may be used for administrative purposes.

(Pub. L. 89–10, title VI, §6133, as added Pub. L. 114–95, title VI, §6002(o), Dec. 10, 2015, 129 Stat. 2057.)

REFERENCES IN TEXT

The Native American Languages Act, referred to in subsec. (a)(2), is title I of Pub. L. 101–477, Oct. 30, 1990, 104 Stat. 1153, which is classified generally to chapter 31 (§2901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 7453, Pub. L. 89–10, title VI, §6133, formerly title VII, §7133, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1924; renumbered title VI, §6133, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046, related to fellowships for Indian students, prior to repeal by Pub. L. 114–95, §5, title VI, §6002(n)(1), Dec. 10, 2015, 129 Stat. 1806, 2057, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Another prior section 7453, Pub. L. 89–10, title VII, §7133, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3730, related to academic excellence awards, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6133 of Pub. L. 89–10 was classified to section 7311b of this title, prior to repeal by Pub. L. 114–95.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7454. Repealed. Pub. L. 114–95, title VI, §6002(n)(1), Dec. 10, 2015, 129 Stat. 2057

Section, Pub. L. 89–10, title VI, §6134, formerly title VII, §7134, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1925; amended Pub. L. 110–315, title IX, §941(k)(2)(F)(ii), Aug. 14, 2008, 122 Stat. 3466; renumbered title VI, §6134, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046, related to gifted and talented Indian students.

A prior section 7454, Pub. L. 89–10, title VII, §7134, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3730, related to State grant program, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7455. Transferred

CODIFICATION

Section, Pub. L. 89–10, title VII, §7135, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1928, which related to grants to Indian tribes for education administrative planning and development, was renumbered title VI, §6132, of Pub. L. 89–10 by Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(n)(2), Dec. 10, 2015, 129 Stat. 2046, 2057, and transferred to section 7452 of this title.

PRIOR PROVISIONS

A prior section 7455, Pub. L. 89–10, title VII, §7135, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3731, established National Clearinghouse for Bilingual Education, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

§7456. Repealed. Pub. L. 114–95, title VI, §6002(q), Dec. 10, 2015, 129 Stat. 2062

Section, Pub. L. 89–10, title VI, §6136, formerly title VII, §7136, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1929; renumbered title VI, §6136, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046, related to improvement of educational opportunities for adult Indians.

A prior section 7456, Pub. L. 89–10, title VII, §7136, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3732, related to instructional materials development, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 4—FEDERAL ADMINISTRATION

§7471. National Advisory Council on Indian Education

(a) Membership

There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the "Council"), which shall—

(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

(2) represent different geographic areas of the United States.

(b) Duties

The Council shall—

(1) advise the Secretary and the Secretary of the Interior concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

(A) with respect to which the Secretary has jurisdiction; and

(B)(i) that includes Indian children or adults as participants; or

(ii) that may benefit Indian children or adults;

(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

(3) submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including—

(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

(B) recommendations concerning the funding of any program described in subparagraph (A).

(Pub. L. 89–10, title VI, §6141, formerly title VII, §7141, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1930; renumbered title VI, §6141, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(r), Dec. 10, 2015, 129 Stat. 2046, 2062.)

PRIOR PROVISIONS

A prior section 7471, Pub. L. 89–10, title VII, §7141, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3732, set forth purpose of former subpart relating to professional development, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6141 of Pub. L. 89–10 was classified to section 7315 of this title, prior to repeal by Pub. L.

114–95.

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114–95, §6002(r), inserted "and the Secretary of the Interior" after "advise the Secretary" in introductory provisions.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§7472. Peer review

The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2 or subpart 3 of this part.

(Pub. L. 89–10, title VI, §6142, formerly title VII, §7142, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1931; renumbered title VI, §6142, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046.)

PRIOR PROVISIONS

A prior section 7472, Pub. L. 89–10, title VII, §7142, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3732, related to training for all teachers program, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6142 of Pub. L. 89–10 was classified to section 7315a of this title, prior to repeal by Pub. L. 114–95.

§7473. Preference for Indian applicants

In making grants and entering into contracts or cooperative agreements under subpart 2 or subpart 3 of this part, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

(Pub. L. 89–10, title VI, §6143, formerly title VII, §7143, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1931; renumbered title VI, §6143, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046.)

PRIOR PROVISIONS

A prior section 7473, Pub. L. 89–10, title VII, §7143, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3733, related to bilingual education teachers and personnel grants, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6143 of Pub. L. 89–10 was classified to section 7315b of this title, prior to repeal by Pub. L. 114–95.

§7474. Minimum grant criteria

The Secretary may not approve an application for a grant, contract, or cooperative agreement under subpart 2 or subpart 3 of this part unless the application is for a grant, contract, or cooperative

agreement that is—

(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and

(2) based on relevant research findings.

(Pub. L. 89–10, title VI, §6144, formerly title VII, §7144, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1931; renumbered title VI, §6144, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046.)

PRIOR PROVISIONS

A prior section 7474, Pub. L. 89–10, title VII, §7144, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3733, related to bilingual education career ladder program, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6144 of Pub. L. 89–10 was classified to section 7315c of this title, prior to repeal by Pub. L. 114–95.

Prior sections 7475 to 7480 were omitted in the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

Section 7475, Pub. L. 89–10, title VII, §7145, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3734, related to graduate fellowships in bilingual education program.

Section 7476, Pub. L. 89–10, title VII, §7146, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3735, related to application for professional development award.

Section 7477, Pub. L. 89–10, title VII, §7147, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3736, set forth program requirements.

Section 7478, Pub. L. 89–10, title VII, §7148, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3736, authorized payment of stipends to persons participating in programs.

Section 7479, Pub. L. 89–10, title VII, §7149, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3736, related to program evaluations.

Section 7480, Pub. L. 89–10, title VII, §7150, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3736, related to use of funds for second language competence.

SUBPART 5—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

§7491. Definitions

For the purposes of this part:

(1) Adult

The term "adult" means an individual who—

(A) has attained the age of 16 years; or

(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

(2) Free public education

The term "free public education" means education that is—

(A) provided at public expense, under public supervision and direction, and without tuition charge; and

(B) provided as elementary or secondary education in the applicable State or to preschool children.

(3) Indian

The term "Indian" means an individual who is—

(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

(i) any tribe or band terminated since 1940; and

(ii) any tribe or band recognized by the State in which the tribe or band resides;

(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

(C) considered by the Secretary of the Interior to be an Indian for any purpose;

(D) an Eskimo, Aleut, or other Alaska Native; or

(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding October 20, 1994.

(4) Traditional leaders

The term "traditional leaders" has the meaning given the term in section 2902 of title 25.

(Pub. L. 89–10, title VI, §6151, formerly title VII, §7151, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1931; renumbered title VI, §6151, and amended Pub. L. 114–95, title VI, §6001(a), (b)(1), §6002(s), Dec. 10, 2015, 129 Stat. 2046, 2062.)

REFERENCES IN TEXT

The Indian Education Act of 1988, as in effect the day preceding October 20, 1994, referred to in par. (3)(E), is part C (§§5301–5352) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 395, which was classified principally to chapter 28 (§2601 et seq.) of Title 25, Indians, prior to repeal by Pub. L. 103–382, title III, §367, Oct. 20, 1994, 108 Stat. 3976.

PRIOR PROVISIONS

A prior section 7491, Pub. L. 89–10, title VII, §7161, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3736, set forth special rule relating to transition, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6151 of Pub. L. 89–10 was classified to section 7321 of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Par. (4). Pub. L. 114–95, §6002(s), added par. (4).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7492. Authorizations of appropriations

(a) Subpart 1

For the purpose of carrying out subpart 1 of this part, there are authorized to be appropriated $100,381,000 for fiscal year 2017, $102,388,620 for fiscal year 2018, $104,436,392 for fiscal year 2019, and $106,525,120 for fiscal year 2020.

(b) Subpart 2

For the purpose of carrying out subpart 2 of this part, there are authorized to be appropriated $17,993,000 for each of fiscal years 2017 through 2020.

(c) Subpart 3

For the purpose of carrying out subpart 3, there are authorized to be appropriated $5,565,000 for each of fiscal years 2017 through 2020.

(Pub. L. 89–10, title VI, §6152, formerly title VII, §7152, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1932; renumbered title VI, §6152, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6002(t), Dec. 10, 2015, 129 Stat. 2046, 2062.)

PRIOR PROVISIONS

A prior section 6152 of Pub. L. 89–10 was classified to section 7321a of this title, prior to repeal by Pub. L. 114–95.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §6002(t)(1), substituted "$100,381,000 for fiscal year 2017, $102,388,620 for fiscal year 2018, $104,436,392 for fiscal year 2019, and $106,525,120 for fiscal year 2020" for "$96,400,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years".

Subsec. (b). Pub. L. 114–95, §6002(t)(2), in heading, substituted "Subpart 2" for "Subparts 2 and 3", and in text, substituted "subpart 2" for "subparts 2 and 3" and "$17,993,000 for each of fiscal years 2017 through 2020" for "$24,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years".

Subsec. (c). Pub. L. 114–95, §6002(t)(3), added subsec. (c).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART B—NATIVE HAWAIIAN EDUCATION

§7511. Short title

This part may be cited as the "Native Hawaiian Education Act".

(Pub. L. 89–10, title VI, §6201, formerly title VII, §7201, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1932; renumbered title VI, §6201, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046.)

PRIOR PROVISIONS

Provisions naming former part B (§7901 et seq.) of subchapter IX of this chapter as the "Native Hawaiian Education Act" were contained in section 7901 of this title, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

A prior section 7511, Pub. L. 89–10, title VII, §7201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3737, set forth short title of the Foreign Language Assistance Act of 1994, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6201 of Pub. L. 89–10 was renumbered section 5201 and is classified to section 7341 of this title.

Another prior section 6201 of Pub. L. 89–10 was classified to section 7331 of this title, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

Another prior section 6201 of Pub. L. 89–10 was classified to section 3271 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§7512. Findings

Congress finds the following:

(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as a nation by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

(2) At the time of the arrival of the first nonindigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

(3) A unified monarchal government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii.

(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the

Kingdom of Hawaii, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawaii, and entered into treaties and conventions with the Kingdom of Hawaii to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawaii, the Kingdom of Hawaii, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawaii, in 1993 the United States apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

(6) In 1898, the joint resolution entitled "Joint Resolution to provide for annexing the Hawaiian Islands to the United States", approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawaii, including the government and crown lands of the former Kingdom of Hawaii, to the United States, but mandated that revenue generated from the lands be used "solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes".

(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, Congress affirmed the special relationship between the United States and the Native Hawaiians, which was described by then Secretary of the Interior Franklin K. Lane, who said: "One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.".

(9) In 1938, Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b, 391b–1, 392b, 392c, 396, 396a), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area "only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.".

(10) Under the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii but reaffirmed the trust relationship between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and amendments to such Act affecting the rights of beneficiaries under such Act.

(11) In 1959, under the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", the United States also ceded to the State of Hawaii title to the public lands formerly held by the United States, but mandated that such lands be held by the State "in public trust" and reaffirmed the special relationship that existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawaii for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

(12) The United States has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

(C) Congress has also delegated broad authority to administer a portion of the Federal trust

responsibility to the State of Hawaii;

(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(E) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished.

(13) The political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States, as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996[, 1996a]);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) division A of subtitle III of title 54;

(F) the Native American Languages Act (25 U.S.C. 2901 et seq.);

(G) the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.);

(H) the Workforce Innovation and Opportunity Act; and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(Pub. L. 89–10, title VI, §6202, formerly title VII, §7202, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1932; amended Pub. L. 111–256, §2(c), Oct. 5, 2010, 124 Stat. 2643; Pub. L. 113–128, title V, §512(i)(5), July 22, 2014, 128 Stat. 1709; Pub. L. 113–287, §5(e)(3), Dec. 19, 2014, 128 Stat. 3268; renumbered title VI, §6202, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6003(a), Dec. 10, 2015, 129 Stat. 2046, 2063.)

REFERENCES IN TEXT

Public Law 103–150, referred to in par. (5), is Pub. L. 103–150, Nov. 23, 1993, 107 Stat. 1510, which is not classified to the Code.

Joint Resolution to provide for annexing the Hawaiian Islands to the United States, approved July 7, 1898, referred to in par. (6), is act July 7, 1898, No. 55, 30 Stat. 750, known as the Newlands Resolution. For complete classification of this joint resolution to the Code, see Tables.

The Hawaiian Homes Commission Act, 1920, referred to in pars. (7), (8), and (11), is act July 9, 1921, ch. 42, 42 Stat. 108, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code. Section 201 of the Act was classified to section 692 of Title 48.

Act of June 20, 1938, referred to in par. (9), is act June 20, 1938, ch. 530, 52 Stat. 781, which is classified to sections 391b, 391b–1, 392b, 392c, 396, and 396a of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

An Act to provide for the admission of the State of Hawaii into the Union, referred to in pars. (10) and (11), is Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, popularly known as the Hawaii Statehood Admissions Act, which is set out as a note preceding former section 491 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Native American Programs Act of 1974, referred to in par. (13)(A), is title VIII of Pub. L. 88–452, as added by Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2324, which is classified generally to subchapter VIII (§2991 et seq.) of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 2991 of Title 42 and Tables.

The American Indian Religious Freedom Act, referred to in par. (13)(B), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The National Museum of the American Indian Act, referred to in par. (13)(C), is Pub. L. 101–185, Nov. 28, 1989, 103 Stat. 1336, which is classified generally to subchapter XIII (§80q et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 80q of this title and Tables.

The Native American Graves Protection and Repatriation Act, referred to in par. (13)(D), is Pub. L.

101–601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to chapter 32 (§3001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 25 and Tables.

The Native American Languages Act, referred to in par. (13)(F), is title I of Pub. L. 101–477, Oct. 30, 1990, 104 Stat. 1153, which is classified generally to chapter 31 (§2901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of Title 25 and Tables.

The American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, referred to in par. (13)(G), is title XV of Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1600, which is classified generally to chapter 56 (§4401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4401 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in par. (13)(H), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of this title, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Older Americans Act of 1965, referred to in par. (13)(I), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 7512, Pub. L. 89–10, title VII, §7202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3737, set forth findings of the Foreign Language Assistance Act of 1994, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6202 of Pub. L. 89–10 was renumbered section 5202 and is classified to section 7341a of this title.

Another prior section 6202 of Pub. L. 89–10 was classified to section 7332 of this title, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

Another prior section 6202 of Pub. L. 89–10 was classified to section 3272 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pars. (14) to (21). Pub. L. 114–95, §6003(a), struck out pars. (14) to (21) which read as follows:

"(14) In 1981, Congress instructed the Office of Education to submit to Congress a comprehensive report on Native Hawaiian education. The report, entitled the 'Native Hawaiian Educational Assessment Project', was released in 1983 and documented that Native Hawaiians scored below parity with regard to national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics indicative of special educational needs, and had educational needs that were related to their unique cultural situation, such as different learning styles and low self-image.

"(15) In recognition of the educational needs of Native Hawaiians, in 1988, Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 130) to authorize and develop supplemental educational programs to address the unique conditions of Native Hawaiians.

"(16) In 1993, the Kamehameha Schools Bishop Estate released a 10-year update of findings of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still existed for Native Hawaiians. Subsequent reports by the Kamehameha Schools Bishop Estate and other organizations have generally confirmed those findings. For example—

"(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

"(i) late or no prenatal care;

"(ii) high rates of births by Native Hawaiian women who are unmarried; and

"(iii) high rates of births to teenage parents;

"(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

"(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

"(D) both public and private schools continue to show a pattern of lower percentages of Native

Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

"(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild intellectual disabilities, emotional impairment, and other such disabilities;

"(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

"(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics indicative of special educational needs, as demonstrated by the fact that—

"(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

"(ii) Native Hawaiian students have the highest rates of drug and alcohol use in the State of Hawaii; and

"(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

"(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawaii Department of Education, and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

"(17) In the 1998 National Assessment of Educational Progress, Hawaiian fourth-graders ranked 39th among groups of students from 39 States in reading. Given that Hawaiian students rank among the lowest groups of students nationally in reading, and that Native Hawaiian students rank the lowest among Hawaiian students in reading, it is imperative that greater focus be placed on beginning reading and early education and literacy in Hawaii.

"(18) The findings described in paragraphs (16) and (17) are inconsistent with the high rates of literacy and integration of traditional culture and Western education historically achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

"(19) Following the overthrow of the Kingdom of Hawaii in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period of Hawaii, and until 1986, use of the Hawaiian language as an instructional medium in education in public schools was declared unlawful. The declaration caused incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: 'I ka 'lelo n ke ola; I ka 'lelo n ka make. In the language rests life; In the language rests death.'.

"(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

"(21) The State of Hawaii, in the constitution and statutes of the State of Hawaii—

"(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language;

"(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii, which may be used as the language of instruction for all subjects and grades in the public school system; and

"(C) promotes the study of the Hawaiian culture, language, and history by providing a Hawaiian education program and using community expertise as a suitable and essential means to further the program."

2014—Par. (13)(E). Pub. L. 113–287 substituted "division A of subtitle III of title 54" for "the National Historic Preservation Act (16 U.S.C. 470 et seq.)".

Par. (13)(H). Pub. L. 113–128 substituted "the Workforce Innovation and Opportunity Act" for "the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

2010—Par. (16)(E). Pub. L. 111–256 substituted "mild intellectual disabilities," for "mild mental retardation,".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014

(July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§7513. Purposes

The purposes of this part are to—

(1) authorize and develop innovative educational programs to assist Native Hawaiians;

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, and to provide periodic assessment and data collection;

(3) supplement and expand programs and authorities in the area of education to further the purposes of this subchapter; and

(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

(Pub. L. 89–10, title VI, §6203, formerly title VII, §7203, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1937; renumbered title VI, §6203, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046.)

PRIOR PROVISIONS

A prior section 7513, Pub. L. 89–10, title VII, §7203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3737, authorized foreign language assistance program, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

§7514. Native Hawaiian Education Council

(a) Grant authorized

In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs that receive funding under this part, the Secretary shall award a grant to the education council described under subsection (b).

(b) Education Council

(1) Eligibility

To be eligible to receive the grant under subsection (a), the council shall be an education council (referred to in this section as the "Education Council") that meets the requirements of this subsection.

(2) Composition

The Education Council shall consist of 15 members, of whom—

(A) 1 shall be the President of the University of Hawaii (or a designee);

(B) 1 shall be the Governor of the State of Hawaii (or a designee);

(C) 1 shall be the Superintendent of the State of Hawaii Department of Education (or a designee);

(D) 1 shall be the chairperson of the Office of Hawaiian Affairs (or a designee);

(E) 1 shall be the executive director of Hawaii's Charter School Network (or a designee);

(F) 1 shall be the chief executive officer of the Kamehameha Schools (or a designee);

(G) 1 shall be the Chief Executive Officer of the Queen Liliuokalani Trust (or a designee);

(H) 1 shall be appointed by the Secretary, in a timely manner, and chosen from a list of 5 individuals who represent one or more private grant-making entities that is submitted to the Secretary by the Education Council;

(I) 1 shall be the Mayor of the County of Hawaii (or a designee);

(J) 1 shall be the Mayor of Maui County (or a designee from the Island of Maui);

(K) 1 shall be the Mayor of the County of Kauai (or a designee);

(L) 1 shall be appointed by the Secretary, in a timely manner, and chosen from a list of 5 individuals who are from the Island of Molokai or the Island of Lanai that is submitted to the Secretary by the Mayor of Maui County;

(M) 1 shall be the Mayor of the City and County of Honolulu (or a designee);

(N) 1 shall be the chairperson of the Hawaiian Homes Commission (or a designee); and

(O) 1 shall be the chairperson of the Hawaii Workforce Development Council (or a designee representing the private sector).

(3) Requirements

Any designee serving on the Education Council shall demonstrate, as determined by the individual who appointed such designee with input from the Native Hawaiian community, not less than 5 years of experience as a consumer or provider of Native Hawaiian educational or cultural activities, with traditional cultural experience given due consideration.

(4) Limitation

A member (including a designee), while serving on the Education Council, shall not be a direct recipient or administrator of grant funds that are awarded under this part.

(5) Term of members

A member who is a designee shall serve for a term of not more than 4 years.

(6) Chair; Vice Chair

(A) Selection

The Education Council shall select a Chairperson and a Vice Chairperson from among the members of the Education Council.

(B) Term limits

The Chairperson and Vice Chairperson shall each serve for a 2-year term.

(7) Administrative provisions relating to Education Council

The Education Council shall meet at the call of the Chairperson of the Council, or upon request by a majority of the members of the Education Council, but in any event not less often than every 120 days.

(8) No compensation

None of the funds made available through the grant may be used to provide compensation to any member of the Education Council or member of a working group established by the Education Council, for functions described in this section.

(c) Use of funds for coordination activities

The Education Council shall use funds made available through a grant under subsection (a) to carry out each of the following activities:

(1) Providing advice about the coordination of, and serving as a clearinghouse for, the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part.

(2) Assessing the extent to which such services and programs meet the needs of Native Hawaiians, and collecting data on the status of Native Hawaiian education.

(3) Providing direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, relating to Native Hawaiian education, and serving, where appropriate, in an advisory capacity.

(4) Awarding grants, if such grants enable the Education Council to carry out the activities described in paragraphs (1) through (3).

(5) Hiring an executive director, who shall assist in executing the duties and powers of the Education Council, as described in subsection (d).

(d) Use of funds for technical assistance

The Education Council shall use funds made available through a grant under subsection (a) to—

(1) provide technical assistance to Native Hawaiian organizations that are grantees or potential grantees under this part;

(2) obtain from such grantees information and data regarding grants awarded under this part, including information and data about—

(A) the effectiveness of such grantees in meeting the educational priorities established by the Education Council, as described in paragraph (6)(D), using metrics related to these priorities; and

(B) the effectiveness of such grantees in carrying out any of the activities described in paragraph (3) of section 7515(a) of this title that are related to the specific goals and purposes of each grantee's grant project, using metrics related to these goals and purposes;

(3) assess and define the educational needs of Native Hawaiians;

(4) assess the programs and services available to address the educational needs of Native Hawaiians;

(5) assess and evaluate the individual and aggregate impact achieved by grantees under this part in improving Native Hawaiian educational performance and meeting the goals of this part, using metrics related to these goals; and

(6) prepare and submit to the Secretary, at the end of each calendar year, an annual report that contains—

(A) a description of the activities of the Education Council during the calendar year;

(B) a description of significant barriers to achieving the goals of this part;

(C) a summary of each community consultation session described in subsection (e); and

(D) recommendations to establish priorities for funding under this part, based on an assessment of—

(i) the educational needs of Native Hawaiians;

(ii) programs and services available to address such needs;

(iii) the effectiveness of programs in improving the educational performance of Native Hawaiian students to help such students meet challenging State academic standards under section 6311(b)(1) of this title; and

(iv) priorities for funding in specific geographic communities.

(e) Use of funds for community consultations

The Education Council shall use funds made available through the grant under subsection (a) to hold not less than 1 community consultation each year on each of the islands of Hawaii, Maui, Molokai, Lanai, Oahu, and Kauai, at which—

(1) not fewer than 3 members of the Education Council shall be in attendance;

(2) the Education Council shall gather community input regarding—

(A) current grantees under this part, as of the date of the consultation;

(B) priorities and needs of Native Hawaiians; and

(C) other Native Hawaiian education issues; and

(3) the Education Council shall report to the community on the outcomes of the activities supported by grants awarded under this part.

(f) Funding

For each fiscal year, the Secretary shall use the amount described in section 7515(c)(2) of this title, to make a payment under the grant. Funds made available through the grant shall remain available until expended.

(Pub. L. 89–10, title VI, §6204, formerly title VII, §7204, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1937; renumbered title VI, §6204, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6003(b), Dec. 10, 2015, 129 Stat. 2046, 2063.)

PRIOR PROVISIONS

A prior section 7514, Pub. L. 89–10, title VII, §7204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3738, related to applications for grants, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §6003(b), amended section generally. Prior to amendment, section related to establishment of Native Hawaiian Education Council and individual island councils.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7515. Program authorized

(a) General authority

(1) Grants and contracts

The Secretary is authorized to make direct grants to, or enter into contracts with—

(A) Native Hawaiian educational organizations;

(B) Native Hawaiian community-based organizations;

(C) public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language;

(D) charter schools; and

(E) consortia of the organizations, agencies, and institutions described in subparagraphs (A) through (C),

to carry out programs that meet the purposes of this part.

(2) Priorities

In awarding grants or contracts to carry out activities described in paragraph (3), the Secretary shall give priority to entities proposing projects that are designed to address—

(A) beginning reading and literacy among students in kindergarten through third grade;

(B) the needs of at-risk children and youth;

(C) needs in fields or disciplines in which Native Hawaiians are underemployed; and

(D) the use of the Hawaiian language in instruction.

(3) Authorized activities

Activities provided through programs carried out under this part may include—

(A) the development and maintenance of a statewide Native Hawaiian early education and care system to provide a continuum of services for Native Hawaiian children from the prenatal period of the children through age 5;

(B) the operation of family-based education centers that provide such services as—

(i) programs for Native Hawaiian parents and their infants from the prenatal period of the infants through age 3;

(ii) preschool programs for Native Hawaiians; and

(iii) research on, and development and assessment of, family-based, early childhood, and preschool programs for Native Hawaiians;

(C) activities that enhance beginning reading and literacy in either the Hawaiian or the English language among Native Hawaiian students in kindergarten through grade 3 and assistance in addressing the distinct features of combined English and Hawaiian literacy for Hawaiian speakers in grades 5 and 6;

(D) activities to meet the special needs of Native Hawaiian students with disabilities,

including—

(i) the identification of such students and their needs;

(ii) the provision of support services to the families of such students; and

(iii) other activities consistent with the requirements of the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(E) activities that address the special needs of Native Hawaiian students who are gifted and talented, including—

(i) educational, psychological, and developmental activities designed to assist in the educational progress of those students; and

(ii) activities that involve the parents of those students in a manner designed to assist in the educational progress of such students;

(F) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials in the Hawaiian language and mathematics and science curricula that incorporate Native Hawaiian tradition and culture;

(G) professional development activities for educators, including—

(i) the development of programs to prepare prospective teachers to address the unique needs of Native Hawaiian students within the context of Native Hawaiian culture, language, and traditions;

(ii) in-service programs to improve the ability of teachers who teach in schools with high concentrations of Native Hawaiian students to meet the unique needs of such students; and

(iii) the recruitment and preparation of Native Hawaiians, and other individuals who live in communities with a high concentration of Native Hawaiians, to become teachers;

(H) the operation of community-based learning centers that address the needs of Native Hawaiian students, parents, families, and communities through the coordination of public and private programs and services, including—

(i) early childhood education programs;

(ii) before, after, and summer school programs, expanded learning time, or weekend academies;

(iii) career and technical education programs; and

(iv) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors;

(I) activities, including program co-location, to enable Native Hawaiians to enter and complete programs of postsecondary education, including—

(i) family literacy services; and

(ii) counseling, guidance, and support services for students;

(J) research and data collection activities to determine the educational status and needs of Native Hawaiian children and adults;

(K) other research and evaluation activities related to programs carried out under this part; and

(L) other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

(b) Administrative costs

Not more than 5 percent of funds provided to a recipient of a grant or contract under subsection (a) of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section and section 7514 of this title $32,397,000 for each of fiscal years 2017 through 2020.

(2) Reservation

Of the funds appropriated under this subsection, the Secretary shall reserve $500,000 for each of fiscal years 2017 through 2020 to make a direct grant to the Education Council to carry out section 7514 of this title.

(3) Availability

Funds appropriated under this subsection shall remain available until expended.

(Pub. L. 89–10, title VI, §6205, formerly title VII, §7205, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1939; renumbered title VI, §6205, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), (10), 6003(c), Dec. 10, 2015, 129 Stat. 2046, 2047, 2066.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(3)(D)(iii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 7515, Pub. L. 89–10, title VII, §7205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3738, related to elementary school foreign language incentive program, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(1)(D), (E). Pub. L. 114–95, §6003(c)(1)(A), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (a)(3)(C). Pub. L. 114–95, §6003(c)(1)(B)(i), substituted "grade 3" for "third grade" and "grades 5 and 6" for "fifth and sixth grade".

Subsec. (a)(3)(D)(ii). Pub. L. 114–95, §6003(c)(1)(B)(ii), substituted "of such students" for "of those students".

Subsec. (a)(3)(E)(ii). Pub. L. 114–95, §6003(c)(1)(B)(iii), substituted "educational progress of such students" for "students' educational progress".

Subsec. (a)(3)(G)(ii). Pub. L. 114–95, §6003(c)(1)(B)(iv), substituted "high concentrations of Native Hawaiian students to meet the unique needs of such students; and" for "concentrations of Native Hawaiian students to meet those students' unique needs; and".

Subsec. (a)(3)(H). Pub. L. 114–95, §6003(c)(1)(B)(v)(I), substituted "students, parents, families," for "families" in introductory provisions.

Subsec. (a)(3)(H)(i). Pub. L. 114–95, §6003(c)(1)(B)(v)(II), substituted "early childhood education programs" for "preschool programs".

Subsec. (a)(3)(H)(ii). Pub. L. 114–95, §6003(c)(1)(B)(v)(III), added cl. (ii) and struck out former cl. (ii) which read as follows: "after-school programs;".

Subsec. (a)(3)(H)(iii). Pub. L. 114–95, §6003(c)(1)(B)(v)(IV), substituted "career and technical education programs" for "vocational and adult education programs".

Subsec. (a)(3)(I). Pub. L. 114–95, §6003(c)(1)(B)(vi), added cls. (i) and (ii) and struck out former cls. (i) to (v) which read as follows:

"(i) provision of full or partial scholarships for undergraduate or graduate study that are awarded to students based on their academic promise and financial need, with a priority, at the graduate level, given to students entering professions in which Native Hawaiians are underrepresented;

"(ii) family literacy services;

"(iii) counseling and support services for students receiving scholarship assistance;

"(iv) counseling and guidance for Native Hawaiian secondary students who have the potential to receive scholarships; and

"(v) faculty development activities designed to promote the matriculation of Native Hawaiian students;".

Subsec. (a)(4). Pub. L. 114–95, §6003(c)(1)(C), struck out par. (4). Text read as follows:

"(A) INSTITUTIONS OUTSIDE HAWAII.—The Secretary shall not establish a policy under this section that prevents a Native Hawaiian student enrolled at a 2- or 4-year degree granting institution of higher education outside of the State of Hawaii from receiving a scholarship pursuant to paragraph (3)(I).

"(B) SCHOLARSHIP CONDITIONS.—The Secretary shall establish conditions for receipt of a scholarship awarded under paragraph (3)(I). The conditions shall require that an individual seeking such a scholarship enter into a contract to provide professional services, either during the scholarship period or upon completion of a program of postsecondary education, to the Native Hawaiian community."

Subsec. (c)(1). Pub. L. 114–95, §6003(c)(2)(A), substituted "$32,397,000 for each of fiscal years 2017 through 2020" for "such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years".

Pub. L. 114–95, §6001(b)(10)(A), made technical amendment to reference in original act which appears in text as reference to section 7514 of this title.

Subsec. (c)(2). Pub. L. 114–95, §6003(c)(2)(B), substituted "for each of fiscal years 2017 through 2020" for "for fiscal year 2002 and each of the 5 succeeding fiscal years".

Pub. L. 114–95, §6001(b)(10)(B), made technical amendment to reference in original act which appears in text as reference to section 7514 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7516. Administrative provisions

(a) Application required

No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

(b) Special rule

Each applicant for a grant or contract under this part shall submit the application for comment to the local educational agency serving students who will participate in the program to be carried out under the grant or contract, and include those comments, if any, with the application to the Secretary.

(Pub. L. 89–10, title VI, §6206, formerly title VII, §7206, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1941; renumbered title VI, §6206, Pub. L. 114–95, title VI, §6001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2046.)

PRIOR PROVISIONS

A prior section 7516, Pub. L. 89–10, title VII, §7206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3739, authorized appropriations for foreign language assistance, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

§7517. Definitions

In this part:

(1) Community consultation

The term "community consultation" means a public gathering—

(A) to discuss Native Hawaiian education concerns; and

(B) about which the public has been given not less than 30 days notice.

(2) Native Hawaiian

The term "Native Hawaiian" means any individual who is—

(A) a citizen of the United States; and

(B) a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

(i) genealogical records;

(ii) Kupuna (elders) or Kamaaina (long-term community residents) verification; or
(iii) certified birth records.

(3) Native Hawaiian community-based organization

The term "Native Hawaiian community-based organization" means any organization that is composed primarily of Native Hawaiians from a specific community and that assists in the social, cultural, and educational development of Native Hawaiians in that community.

(4) Native Hawaiian educational organization

The term "Native Hawaiian educational organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians;

(B) has Native Hawaiians in substantive and policymaking positions within the organization;

(C) incorporates Native Hawaiian perspective, values, language, culture, and traditions into the core function of the organization;

(D) has demonstrated expertise in the education of Native Hawaiian youth; and

(E) has demonstrated expertise in research and program development.

(5) Native Hawaiian language

The term "Native Hawaiian language" means the single Native American language indigenous to the original inhabitants of the State of Hawaii.

(6) Native Hawaiian organization

The term "Native Hawaiian organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians;

(B) has Native Hawaiians in substantive and policymaking positions within the organization; and

(C) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

(7) Office of Hawaiian Affairs

The term "Office of Hawaiian Affairs" means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

(Pub. L. 89–10, title VI, §6207, formerly title VII, §7207, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1941; renumbered title VI, §6207, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6003(d), Dec. 10, 2015, 129 Stat. 2046, 2067.)

AMENDMENTS

2015—Pub. L. 114–95, §6003(d), added par. (1) and redesignated former pars. (1) to (6) as (2) to (7), respectively.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART C—ALASKA NATIVE EDUCATION

§7541. Short title

This part may be cited as the "Alaska Native Educational Equity, Support, and Assistance Act".

(Pub. L. 89–10, title VI, §6301, formerly title VII, §7301, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1942; renumbered title VI, §6301, Pub. L. 114–95, title VI, §6001(a), (b)(1),

Dec. 10, 2015, 129 Stat. 2046.)

PRIOR PROVISIONS

Provisions naming former part C (§7931 et seq.) of subchapter IX of this chapter as the "Alaska Native Educational Equity, Support and Assistance Act" were contained in section 7931 of this title, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

A prior section 7541, Pub. L. 89–10, title VII, §7301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3739, set forth findings and purpose of emergency immigrant education program, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6301 of Pub. L. 89–10 was classified to section 7371 of this title prior to the general amendment of part C of subchapter V of this chapter by Pub. L. 114–95.

Another prior section 6301 of Pub. L. 89–10 was classified to section 7351 of this title, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

§7542. Findings

Congress finds and declares the following:

(1) It is the policy of the Federal Government to maximize the leadership of and participation by Alaska Natives in the planning and the management of Alaska Native education programs and to support efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

(2) Many Alaska Native children enter and exit school with serious educational disadvantages.

(3) Overcoming the magnitude of the geographic challenges, historical inequities, and other barriers to successfully improving educational outcomes for Alaska Native students in rural, village, and urban settings is challenging. Significant disparities between academic achievement of Alaska Native students and non-Native students continue, including lower graduation rates, increased school dropout rates, and lower achievement scores on standardized tests.

(4) The preservation of Alaska Native cultures and languages and the integration of Alaska Native cultures and languages into education, positive identity development for Alaska Native students, and local, place-based, and culture-based programming are critical to the attainment of educational success and the long-term well-being of Alaska Native students.

(5) Improving educational outcomes for Alaska Native students increases access to employment opportunities.

(6) The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for Alaska Native students. In 1983, pursuant to Public Law 98–63, Alaska ceased to receive educational funding from the Bureau of Indian Affairs. The Bureau of Indian Education does not operate any schools in Alaska, nor operate or fund Alaska Native education programs. The program under this part supports the Federal trust responsibility of the United States to Alaska Natives.

(Pub. L. 89–10, title VI, §6302, formerly title VII, §7302, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1942; renumbered title VI, §6302, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6004(a), Dec. 10, 2015, 129 Stat. 2046, 2067.)

REFERENCES IN TEXT

Public Law 98–63, referred to in par. (6), is Pub. L. 98–63, July 30, 1983, 97 Stat. 301, known as the Supplemental Appropriations Act, 1983. For complete classification of this Act to the Code, see Tables. For provisions related to cessation of funding from the Bureau of Indian Affairs for schools in Alaska, see 97 Stat. 326.

PRIOR PROVISIONS

A prior section 7542, Pub. L. 89–10, title VII, §7302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3739, related to State administrative costs, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6302 of Pub. L. 89–10 was classified to section 7372 of this title prior to the general amendment of part C of subchapter V of this chapter by Pub. L. 114–95.

Another prior section 6302 of Pub. L. 89–10 was classified to section 7352 of this title, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §6004(a), added pars. (1) to (6) and struck out former pars. (1) to (7) which related to findings concerning Alaska Native educational equity, support, and assistance.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7543. Purposes

The purposes of this part are as follows:

(1) To recognize and address the unique educational needs of Alaska Natives.

(2) To recognize the role of Alaska Native languages and cultures in the educational success and long-term well-being of Alaska Native students.

(3) To integrate Alaska Native cultures and languages into education, develop Alaska Native students' positive identity, and support local place-based and culture-based curriculum and programming.

(4) To authorize the development, management, and expansion of effective supplemental educational programs to benefit Alaska Natives.

(5) To provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

(6) To ensure the maximum participation by Alaska Native educators and leaders in the planning, development, implementation, management, and evaluation of programs designed to serve Alaska Native students.

(Pub. L. 89–10, title VI, §6303, formerly title VII, §7303, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1943; renumbered title VI, §6303, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6004(b), Dec. 10, 2015, 129 Stat. 2046, 2068.)

PRIOR PROVISIONS

A prior section 7543, Pub. L. 89–10, title VII, §7303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3739, related to withholding, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

A prior section 6303 of Pub. L. 89–10 was classified to section 7353 of this title, prior to the general amendment of former subchapter VI of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Par. (1). Pub. L. 114–95, §6004(b)(1), inserted "and address" after "To recognize".

Pars. (2) to (5). Pub. L. 114–95, §6004(b)(2)–(5), added pars. (2) and (3), redesignated former pars. (2) and (4) as (4) and (5), respectively, substituted ", management, and expansion of effective supplemental educational programs to benefit Alaska Natives." for "of supplemental educational programs to benefit Alaska Natives." in par. (4), and struck out former par. (3) which read as follows: "To supplement existing programs and authorities in the area of education to further the purposes of this part."

Par. (6). Pub. L. 114–95, §6004(b)(6), added par. (6).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7544. Program authorized

(a) General authority

(1) Grants and contracts

The Secretary is authorized to make grants to, or enter into contracts with—

(A) Alaska Native organizations with experience operating programs that fulfill the purposes of this part;

(B) Alaska Native organizations that do not have the experience described in subparagraph (A) but are in partnership with—

(i) a State educational agency or a local educational agency; or

(ii) an Alaska Native organization that operates a program that fulfills the purposes of this part;

(C) an entity located in Alaska, and predominately governed by Alaska Natives, that does not meet the definition of an Alaska Native organization under this part but—

(i) has experience operating programs that fulfill the purposes of this part; and

(ii) is granted an official charter or sanction, as described in the definition of a tribal organization under section 450b of title 25, from at least one Alaska Native tribe or Alaska Native organization to carry out programs that meet the purposes of this part.

(2) Mandatory activities

Activities provided through the programs carried out under this part shall include the following:

(A) The development and implementation of plans, methods, strategies, and activities to improve the educational outcomes of Alaska Natives.

(B) The collection of data to assist in the evaluation of the programs carried out under this part.

(3) Permissible activities

Activities provided through programs carried out under this part may include the following:

(A) The development of curricula and programs that address the educational needs of Alaska Native students, including the following:

(i) Curriculum materials that are culturally informed and reflect the cultural diversity, languages, history, or the contributions of Alaska Native people, including curricula intended to preserve and promote Alaska Native culture.

(ii) Instructional programs that make use of Alaska Native languages and cultures.

(iii) Networks that develop, test, and disseminate best practices and introduce successful programs, materials, and techniques to meet the educational needs of Alaska Native students in urban and rural schools.

(B) Training and professional development activities for educators, including the following:

(i) Pre-service and in-service training and professional development programs to prepare teachers to develop appreciation for, and understanding of, Alaska Native history, cultures, values, and ways of knowing and learning in order to effectively address the cultural diversity and unique needs of Alaska Native students and improve the teaching methods of educators.

(ii) Recruitment and preparation of Alaska Native teachers.

(iii) Programs that will lead to the certification and licensing of Alaska Native teachers, principals, other school leaders, and superintendents.

(C) Early childhood and parenting education activities designed to improve the school readiness of Alaska Native children, including—

(i) the development and operation of home visiting programs for Alaska Native preschool children, to ensure the active involvement of parents in their children's education from the earliest ages;

(ii) training, education, and support, including in-home visitation, for parents and caregivers of Alaska Native children to improve parenting and caregiving skills (including

skills relating to discipline and cognitive development, reading readiness, observation, storytelling, and critical thinking);

(iii) family literacy services;

(iv) activities carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(v) programs for parents and their infants, from the prenatal period of the infant through age 3;

(vi) early childhood education programs; and

(vii) native language immersion within early childhood education programs, Head Start, or preschool programs.

(D) The development and operation of student enrichment programs, including programs in science, technology, engineering, and mathematics that—

(i) are designed to prepare Alaska Native students to excel in such subjects;

(ii) provide appropriate support services to enable such students to benefit from the programs; and

(iii) include activities that recognize and support the unique cultural and educational needs of Alaska Native children and incorporate appropriately qualified Alaska Native elders and other tradition bearers.

(E) Research and data collection activities to determine the educational status and needs of Alaska Native children and adults and other such research and evaluation activities related to programs funded under this part.

(F) Activities designed to enable Alaska Native students served under this part to meet the challenging State academic standards or increase the graduation rates of Alaska Native students, such as—

(i) remedial and enrichment programs;

(ii) culturally based education programs, such as—

(I) programs of study and other instruction in Alaska Native history and ways of living to share the rich and diverse cultures of Alaska Natives among Alaska Native youth and elders, non-Native students and teachers, and the larger community;

(II) instructing Alaska Native youth in leadership, communication, and Alaska Native culture, arts, history, and languages;

(III) intergenerational learning and internship opportunities to Alaska Native youth and young adults;

(IV) providing cultural immersion activities aimed at Alaska Native cultural preservation;

(V) native language instruction and immersion activities, including native language immersion nests or schools;

(VI) school-within-a-school model programs; and

(VII) preparation for postsecondary education and career planning; and

(iii) comprehensive school or community-based support services, including services that—

(I) address family instability and trauma; and

(II) improve conditions for learning at home, in the community, and at school.

(G) Student and teacher exchange programs, cross-cultural immersion programs, and culture camps designed to build mutual respect and understanding among participants.

(H) Education programs for at-risk urban Alaska Native students that are designed to improve academic proficiency and graduation rates, use strategies otherwise permissible under this part, and incorporate a strong data collection and continuous evaluation component.

(I) Strategies designed to increase the involvement of parents in their children's education.

(J) Programs and strategies that increase connections between and among schools, families, and communities, including positive youth-adult relationships, to—

(i) promote the academic progress and positive development of Alaska Native children and youth; and

(ii) improve conditions for learning at home, in the community, and at school.

(K) Career preparation activities to enable Alaska Native children and adults to prepare for meaningful employment, including programs providing tech-prep, mentoring, training, and apprenticeship activities.

(L) Support for the development and operational activities of regional vocational schools in rural areas of Alaska to provide students with necessary resources to prepare for skilled employment opportunities.

(M) Regional leadership academies that demonstrate effectiveness in building respect and understanding, and fostering a sense of Alaska Native identity in Alaska Native students to promote their pursuit of and success in completing higher education or career training.

(N) Other activities, consistent with the purposes of this part, to meet the educational needs of Alaska Native children and adults.

(b) Authorization of appropriations

There are authorized to be appropriated to carry out this section $31,453,000 for each of fiscal years 2017 through 2020.

(Pub. L. 89–10, title VI, §6304, formerly title VII, §7304, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1943; amended Pub. L. 108–11, title II, §2504, Apr. 16, 2003, 117 Stat. 599; renumbered title VI, §6304, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6004(c), Dec. 10, 2015, 129 Stat. 2046, 2068.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (a)(3)(C)(iv), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 7544, Pub. L. 89–10, title VII, §7304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3740, related to State allocations, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §6004(c), amended section generally. Prior to amendment, section related to program authorized, consisting of subsecs. (a) to (d).

2003—Subsec. (a)(2)(P). Pub. L. 108–11 substituted "operated by" for "such as".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7545. Administrative provisions

Not more than 5 percent of funds provided to an award recipient under this part for any fiscal year may be used for administrative purposes.

(Pub. L. 89–10, title VI, §6305, formerly title VII, §7305, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1946; renumbered title VI, §6305, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6004(d), Dec. 10, 2015, 129 Stat. 2046, 2071.)

PRIOR PROVISIONS

A prior section 7545, Pub. L. 89–10, title VII, §7305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994,

108 Stat. 3741, related to State applications, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §6004(d), amended section generally. Prior to amendment, section set out various administrative provisions relating to applications for grants and awards under this part, consisting of subsecs. (a) to (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7546. Definitions

In this part:

(1) Alaska Native

The term "Alaska Native" has the same meaning as the term "Native" has in section 1602(b) of title 43 and includes the descendants of individuals so defined.

(2) Alaska Native organization

The term "Alaska Native organization" means an organization that has or commits to acquire expertise in the education of Alaska Natives and is—

(A) an Indian tribe, as defined in section 450b of title 25, that is an Indian tribe located in Alaska;

(B) a "tribal organization", as defined in section 450b of title 25, that is a tribal organization located in Alaska; or

(C) an organization listed in clauses (i) through (xii) of section 619(4)(B) of title 42, or the successor of an entity so listed.

(Pub. L. 89–10, title VI, §6306, formerly title VII, §7306, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1946; renumbered title VI, §6306, and amended Pub. L. 114–95, title VI, §§6001(a), (b)(1), 6004(e), Dec. 10, 2015, 129 Stat. 2046, 2071.)

PRIOR PROVISIONS

A prior section 7546, Pub. L. 89–10, title VII, §7306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3743, related to administrative provisions, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

Prior sections 7547 to 7602 were omitted in the general amendment of former subchapter VII of this chapter by Pub. L. 107–110.

Section 7547, Pub. L. 89–10, title VII, §7307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3743, related to uses of funds.

Section 7548, Pub. L. 89–10, title VII, §7308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3744, related to reports.

Section 7549, Pub. L. 89–10, title VII, §7309, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3744, authorized appropriations.

Section 7571, Pub. L. 89–10, title VII, §7401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3744, related to release time.

Section 7572, Pub. L. 89–10, title VII, §7402, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3744, related to acquisition or development of education technology.

Section 7573, Pub. L. 89–10, title VII, §7403, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3744, related to notification of awards.

Section 7574, Pub. L. 89–10, title VII, §7404, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3744, related to continued eligibility for grants.

Section 7575, Pub. L. 89–10, title VII, §7405, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3744, related to coordination and reporting requirements.

Section 7601, Pub. L. 89–10, title VII, §7501, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108

Stat. 3745; amended Pub. L. 105–244, title I, §102(a)(6)(J), title IX, §901(d), Oct. 7, 1998, 112 Stat. 1619, 1828, defined terms.

Section 7602, Pub. L. 89–10, title VII, §7502, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3748, related to regulations and parental notification.

AMENDMENTS

2015—Par. (1). Pub. L. 114–95, §6004(e)(1), inserted "and includes the descendants of individuals so defined" before period at end.

Par. (2). Pub. L. 114–95, §6004(e)(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and another organization that—

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policymaking positions within the organization."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBCHAPTER VII—IMPACT AID

CODIFICATION

Pub. L. 114–95, title VII, §7001(c), Dec. 10, 2015, 129 Stat. 2074, redesignated subchapter VIII (§7701 et seq.) of this chapter as this subchapter.

Title VII of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and subsequently revised, restated, redesignated, and amended by other public laws. Title VII is shown, herein, as having been added as title VIII of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3749, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 103–382. Title VIII of Pub. L. 89–10 was subsequently redesignated title VII by Pub. L. 114–95, title VII, §7001(c), Dec. 10, 2015, 129 Stat. 2074, and transferred to this subchapter. See Codification note preceding section 6301 of this title.

PRIOR PROVISIONS

A prior title VII of the Elementary and Secondary Education Act of 1965, comprising former subchapter VII (§7401 et seq.) of this chapter, was redesignated title VI of the Act by Pub. L. 114–95, title VI, §6001(a), Dec. 10, 2015, 129 Stat. 2046, and transferred to subchapter VI (§7401 et seq.) of this chapter.

§7701. Purpose

In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children in a manner that promotes control by local educational agencies with little or no Federal or State involvement, because certain activities of the Federal Government, such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 4001 of title 50, place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet the same challenging State academic standards, it is the purpose of this subchapter to provide financial assistance to local educational agencies that—

(1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;

(2) educate children who reside on Federal property and whose parents are employed on Federal property;

(3) educate children of parents who are in the military services and children who live in low-rent housing;

(4) educate heavy concentrations of children whose parents are civilian employees of the

Federal Government and do not reside on Federal property; or

(5) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Federal lands and because of the difficulty of raising local revenue through bond referendums for capital projects due to the inability to tax Federal property.

(Pub. L. 89–10, title VII, §7001, formerly title VIII, §8001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3749; amended Pub. L. 106–398, §1 [[div. A], title XVIII, §1802], Oct. 30, 2000, 114 Stat. 1654, 1654A–368; Pub. L. 108–189, §2(f), Dec. 19, 2003, 117 Stat. 2866; renumbered title VII, §7001, and amended Pub. L. 114–95, title VII, §§7001(c)(1), 7002, Dec. 10, 2015, 129 Stat. 2074, 2075.)

PRIOR PROVISIONS

A prior section 7001 of Pub. L. 89–10 was classified to section 3281 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95, §7002, substituted "the same challenging State academic standards" for "challenging State standards" in introductory provisions.

2003—Pub. L. 108–189 substituted "section 4001 of title 50" for "section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 574)" in introductory provisions.

2000—Pub. L. 106–398, §1 [[div. A], title XVIII, §1802(1)], inserted in introductory provisions "in a manner that promotes control by local educational agencies with little or no Federal or State involvement" after "educational services to federally connected children" and ", such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 574)," after "certain activities of the Federal Government".

Par. (4). Pub. L. 106–398, §1 [[div. A], title XVIII, §1802(2)], inserted "or" at end.

Pars. (5), (6). Pub. L. 106–398, §1 [[div. A], title XVIII, §1802(3)–(5)], redesignated par. (6) as (5), inserted "and because of the difficulty of raising local revenue through bond referendums for capital projects due to the inability to tax Federal property" before period at end, and struck out former par. (5) which read as follows: "experience sudden and substantial increases or decreases in enrollments because of military realignments; or".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title XVIII, §1818], Oct. 30, 2000, 114 Stat. 1654, 1654A–389, provided that: "This title [amending this section and sections 1228, 7702, 7703, 7705, 7707, 7709 to 7713, and 7714 of this title, repealing section 7706 of this title, and enacting provisions set out as notes under sections 6301, 7703, and 7711 of this title], and the amendments made by this title, shall take effect on October 1, 2000, or the date of the enactment of this Act [Oct. 30, 2000], whichever occurs later."

EFFECTIVE DATE

Pub. L. 103–382, §3(a)(1), Oct. 20, 1994, 108 Stat. 3518, provided that:

"(A) Title I [amending generally Pub. L. 89–10 (formerly chapter 47 of this title, now this chapter)] and the amendment made by title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under title VIII [now VII] (Impact Aid) of the Elementary and Secondary Education Act of 1965 [this subchapter], as amended by this Act, and to programs under such Act [this chapter] that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years.

"(B) Title VIII of the Elementary and Secondary Education Act of 1965 [this subchapter], as amended by title I of this Act, shall take effect on the date of the enactment of this Act [Oct. 20, 1994]."

§7702. Payments relating to Federal acquisition of real property

(a) In general

Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines—

(1) that the United States owns Federal property in the local educational agency, and that such property—

(A) has been acquired by the United States since 1938;

(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

(C) had an assessed value according to original records (including facsimiles or other reproductions of those records) documenting the assessed value of such property (determined as of the time or times when so acquired) prepared by the local officials referred to in subsection (b)(3) or, when such original records are not available due to unintentional destruction (such as natural disaster, fire, flooding, pest infestation, or deterioration due to age), other records, including Federal agency records, local historical records, or other records that the Secretary determines to be appropriate and reliable, aggregating 10 percent or more of the assessed value of—

(i) all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); or

(ii) all real property in the local educational agency as assessed in the first year preceding or succeeding acquisition, whichever is greater, only if—

(I) the assessment of all real property in the local educational agency is not made at the same time or times that such Federal property was so acquired and assessed; and

(II) State law requires an assessment be made of property so acquired; and

(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then such agency shall be eligible to receive the amount described in subsection (b) or (h) of this section.

(b) Amount

(1) In general

(A)(i)(I) Subject to subclauses (II) and (III), the amount that a local educational agency shall be paid under subsection (a) of this section for a fiscal year shall be calculated in accordance with paragraph (2).

(II) Except as provided in subclause (III), the Secretary may not reduce the amount of a payment under this section to a local educational agency for a fiscal year by (aa) the amount equal to the amount of revenue, if any, the agency received during the previous fiscal year from activities conducted on Federal property eligible under this section and located in a school district served by the agency, including amounts received from any Federal department or agency (other than the Department of Education) from such activities, by reason of receipt of such revenue, or (bb) any other amount by reason of receipt of such revenue.

(III) If the amount equal to the sum of (aa) the proposed payment under this section to a local educational agency for a fiscal year and (bb) the amount of revenue described in subclause (II)(aa) received by the agency during the previous fiscal year, exceeds the maximum amount the agency is eligible to receive under this section for the fiscal year involved, then the Secretary shall reduce the amount of the proposed payment under this section by an amount equal to such excess amount.

(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

(I) the operation of a domestic dependent elementary or secondary school; or

(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

(B) If funds appropriated under section 7714(a) of this title are insufficient to pay the amount determined under subparagraph (A), the Secretary shall calculate the payment for each eligible local educational agency in accordance with subsection (h) of this section.

(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section 7703(b) of this title, exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section 7703(b)(1)(C) of this title, or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater.

(2) Application of current levied real property tax rate

In calculating the amount that a local educational agency is eligible to receive for a fiscal year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies, or imputed for fiscally dependent local educational agencies, to the current annually determined estimated taxable value of such acquired Federal property.

(3) Determination of taxable value for eligible Federal property

(A) In general

In determining the estimated taxable value of such acquired Federal property for fiscal year 2010 and each succeeding fiscal year, the Secretary shall—

(i) first determine the total taxable value for the purpose of levying property tax for school purposes for current expenditures of real property located within the boundaries of such local educational agency;

(ii) then determine the per acre value of the eligible Federal property by dividing the total taxable value as determined in clause (i) by the difference between the total acres located within the boundaries of the local educational agency and the number of Federal acres eligible under this section; and

(iii) then determine the total taxable value of the eligible Federal property by multiplying the per acre value as calculated under clause (ii) by the number of Federal acres eligible under this section.

(B) Special rule

In the case of Federal property eligible under this section that is within the boundaries of 2 or more local educational agencies that are eligible under this section, any of such agencies may ask the Secretary to calculate (and the Secretary shall calculate) the taxable value of the eligible Federal property that is within its boundaries by—

(i) first calculating the per-acre value of the eligible Federal property separately for each eligible local educational agency that shared the Federal property, as provided in subparagraph (A)(ii);

(ii) then averaging the resulting per-acre values of the eligible Federal property from each eligible local educational agency that shares the Federal property; and

(iii) then applying the average per-acre value to determine the total taxable value of the eligible Federal property under subparagraph (A)(iii) for the requesting local educational agency.

(c) Applicability to Tennessee Valley Authority Act

For the purpose of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831l] shall not be regarded as Federal property.

(d) Ownership by United States

The United States shall be deemed to own Federal property for the purposes of this chapter, where—

(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1) of this section; and

(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

(A) restricts some or any construction on such property;

(B) requires that the property be used in perpetuity for the public purposes for which the property was conveyed;

(C) requires the grantee of the property to report to the Federal Government (or its agent) regarding information on the use of the property;

(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

(e) Local educational agency containing Forest Service land and serving certain counties

Beginning with fiscal year 1995, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) of this section if such local educational agency meets the following requirements:

(1) Acreage and acquisition by the Forest Service

The local educational agency serves a school district that contains between 20,000 and 60,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

(2) County charter

The local educational agency serves a county chartered under State law in 1875 or 1890. For each fiscal year beginning on or after December 10, 2015, the Secretary shall treat local educational agencies chartered in 1871 having more than 70 percent of the county in Federal ownership as meeting the eligibility requirements of subparagraphs (A) and (C) of subsection (a)(1).

(f) Special rule

For each fiscal year beginning on or after December 10, 2015, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) if the agency was eligible under paragraph (1) or (3) of section 7702(f) of this title as such section was in effect on the day before December 10, 2015.

(g) Former districts

(1) Consolidations

For fiscal year 2006 and each succeeding fiscal year, if a local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of 2 or more former school districts, the local educational agency may elect to have the Secretary determine its eligibility for assistance under this section for any fiscal year on the basis of 1 or more of those former districts, as designated by the local educational agency.

(2) Eligible local educational agencies

A local educational agency referred to in paragraph (1) is—

(A) any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied, and was determined to be eligible under, section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as that section was in effect for that fiscal year; or

(B) a local educational agency—

(i) that was formed by the consolidation of 2 or more districts, at least 1 of which was eligible for assistance under this section for the fiscal year preceding the year of the consolidation; and

(ii) which includes the designation referred to in paragraph (1) in its application under section 7705 of this title for a fiscal year beginning on or after December 10, 2015, or any timely amendment to such application.

(3) Amount

A local educational agency eligible under paragraph (1) shall receive a foundation payment as provided for under subparagraphs (A) and (B) of subsection (h)(1), except that the foundation payment shall be calculated based on the most recent payment received by the local educational agency based on its status prior to consolidation.

(h) Payments with respect to fiscal years in which insufficient funds are appropriated

For any fiscal year for which the amount appropriated under section 7714(a) of this title is insufficient to pay to each eligible local educational agency the full amount determined under subsection (b) of this section, the Secretary shall make payments to each local educational agency under this section as follows:

(1) Foundation payments for pre-2010 recipients

(A) In general

The Secretary shall first make a foundation payment to each local educational agency that is determined by the Secretary to be eligible to receive a payment under this section for the fiscal year involved and that filed a timely application, and met, or has been determined by statute to meet, the eligibility requirements of subsection (a) for fiscal year 2009.

(B) Amount

(i) In general

The amount of a payment under subparagraph (A) for a local educational agency shall be equal to the greater of 90 percent of the payment the local educational agency received from dollars appropriated for fiscal year 2009 or 90 percent of the average payment that the local educational agency received from dollars appropriated for fiscal years 2006, 2007, 2008, and 2009, and shall be calculated without regard to the maximum payment provisions in subsection (b)(1)(C).

(ii) Exception

In calculating such average payment for a local educational agency that did not receive a payment under subsection (b) for 1 or more of the fiscal years between fiscal year 2006 and 2009, inclusive, the lowest such payment made to the agency for fiscal year 2006, 2007, 2008, or 2009, shall be treated as the payment that the agency received under subsection (b) for each fiscal year for which the agency did not receive such a payment.

(C) Insufficient appropriations

If the amount appropriated under section 7714(a) of this title is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

(2) Foundation payments for new applicants

(A) First year

From any amounts remaining after making payments under paragraph (1) and subsection (i)(1) for the fiscal year involved, the Secretary shall make a payment, in an amount determined in accordance with subparagraph (C), to each local educational agency that the Secretary

determines eligible for a payment under this section for a fiscal year after fiscal year 2009 and that did not receive a payment under paragraph (1) for the fiscal year for which such agency was determined eligible for such payment.

(B) Second and succeeding years

For any succeeding fiscal year after the first fiscal year that a local educational agency receives a foundation payment under subparagraph (A), the amount of the local educational agency's foundation payment under this paragraph for such succeeding fiscal year shall be equal to the local educational agency's foundation payment under this paragraph for the first fiscal year.

(C) Amounts

The amount of a payment under subparagraph (A) for a local educational agency shall be determined as follows:

(i) Calculate the local educational agency's maximum payment under subsection (b).

(ii) Calculate the percentage that the amount appropriated under section 7714(a) of this title for the most recent fiscal year for which the Secretary has completed making payments under this section is of the total maximum payments for such fiscal year for all local educational agencies eligible for a payment under subsection (b) and multiply the agency's maximum payment by such percentage.

(iii) Multiply the amount determined under clause (ii) by 90 percent.

(D) Insufficient funds

If the amount appropriated under section 7714(a) of this title is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

(3) Remaining funds

From any funds remaining after making payments under paragraphs (1) and (2) for the fiscal year involved, the Secretary shall make a payment to each local educational agency that received a foundation payment under paragraph (1) or (2) or subsection (i)(1), for the fiscal year involved in an amount that bears the same relation to the remainder as a percentage share determined for the local educational agency (by dividing the maximum amount that the agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies) bears to the percentage share determined (in the same manner) for all local educational agencies eligible to receive a payment under this section for the fiscal year involved, except that, for the purpose of calculating a local educational agency's maximum amount under subsection (b), data from the most current fiscal year shall be used.

(4) Data

For each local educational agency that received a payment under this section for fiscal year 2010 or any succeeding fiscal year, the Secretary shall not make a payment under paragraph (3) to a local educational agency that fails to submit, within 60 days of the date the Secretary notifies the agency that the information is needed, the data necessary to calculate the maximum amount of a payment under subsection (b) for that local educational agency.

(i) Special payments

(1) In general

For any fiscal year beginning with fiscal year 2000 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996 and for which subsection (b)(1)(B) of this section applies, the Secretary shall use the remainder described in subsection (h)(3) of this section for the fiscal year involved (not to exceed the amount equal to the difference between (A) the amount appropriated to carry out this section for fiscal year 1997 and (B) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that

would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency described in paragraph (2).

(2) Local educational agency described

A local educational agency described in this paragraph is a local educational agency that—

(A) received a payment under this section for fiscal year 1996;

(B) serves a school district that contains all or a portion of a United States military academy;

(C) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

(D) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

(j) Prior year data

Notwithstanding any other provision of this section, in determining the eligibility of a local educational agency for a payment under subsection (b) or (h)(2) of this section for a fiscal year, and in calculating the amount of such payment, the Secretary—

(1) shall use data from the prior fiscal year with respect to the Federal property involved, including data with respect to the assessed value of the property and the real property tax rate for current expenditures levied against or imputed to the property; and

(2) shall use data from the second prior fiscal year with respect to determining the amount of revenue referred to in subsection (b)(1)(A)(i) of this section.

(k) Loss of eligibility

(1) In general

Notwithstanding any other provision of this section, the Secretary shall make a minimum payment to a local educational agency described in paragraph (2), for the first fiscal year that the agency loses eligibility for assistance under this section as a result of property located within the school district served by the agency failing to meet the definition of Federal property under section 7713(5)(C)(iii) of this title, in an amount equal to 90 percent of the amount received by the agency under this section for the preceding year.

(2) Local educational agency described

A local educational agency described in this paragraph is an agency that—

(A) was eligible for, and received, a payment under this section for fiscal year 2002; and

(B) beginning in fiscal year 2003 or a subsequent fiscal year, is no longer eligible for payments under this section as provided for in subsection (a)(1)(C) of this section as a result of the transfer of the Federal property involved to a non-Federal entity.

(Pub. L. 89–10, title VII, §7002, formerly title VIII, §8002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3749; amended Pub. L. 104–195, §§1, 6, Sept. 16, 1996, 110 Stat. 2379, 2382; Pub. L. 105–18, title VI, §§60004, 60006, June 12, 1997, 111 Stat. 214, 215; Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1498; Pub. L. 105–277, div. A, §101(f) [title III], Oct. 21, 1998, 112 Stat. 2681–337, 2681–365; Pub. L. 106–113, div. B, §1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A–247; Pub. L. 106–398, §1 [[div. A], title XVIII, §1803], Oct. 30, 2000, 114 Stat. 1654, 1654A–369; Pub. L. 107–110, title VIII, §801(a)–(e), Jan. 8, 2002, 115 Stat. 1947, 1948; Pub. L. 108–447, div. F, title III, §305, Dec. 8, 2004, 118 Stat. 3151; Pub. L. 112–239, div. A, title V, §563(b)(1), (c)(4), Jan. 2, 2013, 126 Stat. 1744, 1748; renumbered title VII, §7002, and amended Pub. L. 114–95, title VII, §§7001(a)(1), (c)(1), (d)(6), (9), 7003, Dec. 10, 2015, 129 Stat. 2074, 2075.)

REFERENCES IN TEXT

Section 7702(f) of this title as such section was in effect on the day before December 10, 2015, referred to in subsec. (f), means section 7702(f) of this title prior to amendment by Pub. L. 114–95, title VII, §§7001(c)(1), 7003(4), Dec. 10, 2015, 129 Stat. 2074, 2076. See 2015 Amendment note below.

Section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in subsec. (g)(2)(A), means section 2(c) of act Sept. 30, 1950, ch. 1124, which was classified to section 237(c) of this title prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965.

PRIOR PROVISIONS

A prior section 7002 of Pub. L. 89–10 was classified to section 3282 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95, §7001(a)(1), repealed Pub. L. 112–239, §563(c)(4). See 2013 Amendment notes below.

Subsec. (a)(1)(C). Pub. L. 114–95, §7003(1), inserted introductory provisions and struck out former introductory provisions which read as follows: "had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of—".

Subsec. (b)(1)(B). Pub. L. 114–95, §7001(d)(9), made technical amendment to reference in original act which appears in text as reference to section 7714(a) of this title.

Subsec. (b)(1)(C). Pub. L. 114–95, §7003(2)(A), made technical amendment to reference in original act which appears in text as reference to section 7703(b)(1)(C) of this title.

Pub. L. 114–95, §7001(d)(6), made technical amendment to reference in original act which appears in text as reference to section 7703(b) of this title.

Subsec. (b)(3)(B). Pub. L. 114–95, §7003(2)(B), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: "In the case of Federal property eligible under this section that is within the boundaries of 2 or more local educational agencies, such a local educational agency may ask the Secretary to calculate the per acre value of each such local educational agency as provided under subparagraph (A) and apply the average of these per acre values to the acres of the Federal property in such agency."

Subsec. (e)(2). Pub. L. 114–95, §7003(3), inserted at end "For each fiscal year beginning on or after December 10, 2015, the Secretary shall treat local educational agencies chartered in 1871 having more than 70 percent of the county in Federal ownership as meeting the eligibility requirements of subparagraphs (A) and (C) of subsection (a)(1)."

Subsec. (f). Pub. L. 114–95, §7003(4), added subsec. (f) and struck out former subsec. (f) which related to special rules for certain local educational agencies.

Subsec. (g). Pub. L. 114–95, §7003(5), added subsec. (g) and struck out former subsec. (g) which allowed a local educational agency formed by the consolidation of 2 or more former school districts to elect to have its eligibility, and the amount which the agency was eligible to receive, determined only with respect to such of the former school districts as the agency designated.

Subsec. (h). Pub. L. 114–95, §7001(d)(9), made technical amendment to references in original act which appear in text as references to section 7714(a) of this title wherever appearing.

Subsec. (h)(4). Pub. L. 114–95, §7003(6), substituted "For each local educational agency that received a payment under this section for fiscal year 2010 or any succeeding fiscal year" for "For each local educational agency that received a payment under this section for fiscal year 2010 through the fiscal year in which the Impact Aid Improvement Act of 2012 is enacted".

Subsec. (j). Pub. L. 114–95, §7003(8), (9), redesignated subsec. (l) as (j) and substituted "(h)(2)" for "(h)(4)(B)" in introductory provisions.

Subsec. (k). Pub. L. 114–95, §7003(7), (10), redesignated subsec. (n) as (k) and struck out former subsec. (k) which related to special rules for certain local educational agencies.

Subsec. (k)(1). Pub. L. 114–95, §7003(11), made technical amendment to reference in original act which appears in text as reference to section 7713(5)(C)(iii) of this title.

Subsec. (l). Pub. L. 114–95, §7003(8), redesignated subsec. (l) as (j).

Subsec. (m). Pub. L. 114–95, §7003(7), struck out subsec. (m) which related to eligibility of local educational agencies for payments for Federal property acquired by the Federal Government.

Subsec. (n). Pub. L. 114–95, §7003(10), redesignated subsec. (n) as (k).

2013—Pub. L. 112–239, §563(c)(4), which directed repeal of the amendments by Pub. L. 112–239, §563(b)(1), on the day after the 5-year period that began on Jan. 3, 2013, was itself repealed by Pub. L. 114–95, §7001(a)(1).

Subsec. (a). Pub. L. 112–239, §563(b)(1)(A), struck out "for a fiscal year ending prior to October 1, 2003" at end of introductory provisions and inserted "or (h)" after "subsection (b)" in concluding provisions.

Subsec. (b)(2). Pub. L. 112–239, §563(b)(1)(B)(i), substituted "estimated taxable" for "aggregate assessed".

Subsec. (b)(3). Pub. L. 112–239, §563(b)(1)(B)(ii), added par. (3) and struck out former par. (3). Prior to

amendment, text read as follows: "Such aggregate assessed value of such acquired Federal property shall be determined on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined, and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax."

Subsec. (h)(1). Pub. L. 112–239, §563(b)(1)(C)(i), substituted "for pre-2010 recipients" for "for pre-1995 recipients" in heading, added pars. (A) and (B), and struck out former pars. (A) and (B) which related to foundation payments for pre-1995 recipients.

Subsec. (h)(2) to (4). Pub. L. 112–239, §563(b)(1)(C)(ii), added pars. (2) to (4) and struck out former pars. (2) to (4) which related to payments for 1995 recipients, payments in accordance with subsection (i), and funds remaining after making payments, respectively.

2004—Subsec. (m). Pub. L. 108–447 substituted "7 years" for "5 years" in pars. (1), (2)(B), and (3).

2002—Subsec. (h)(1)(A). Pub. L. 107–110, §801(a)(1), substituted "and that filed, or has been determined pursuant to statute to have filed a timely application, and met, or has been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950" for "and was eligible to receive a payment under section 2 of the Act of September 30, 1950".

Subsec. (h)(1)(B). Pub. L. 107–110, §801(a)(2), substituted "(or if the local educational agency did not meet, or has not been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 for fiscal year 1994" for "(or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994".

Subsec. (h)(2)(A). Pub. L. 107–110, §801(b)(1), inserted before period at end ", or whose application under this section for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years".

Subsec. (h)(2)(B)(ii). Pub. L. 107–110, §801(b)(2), substituted "for each local educational agency described in subparagraph (A)" for "for each local educational agency that received a payment under this section for fiscal year 1995".

Subsec. (h)(4)(B). Pub. L. 107–110, §801(c), substituted "(by dividing the maximum amount that the agency is eligible to receive under subsection (b) of this section by the total of the maximum amounts for all such agencies)" for "(in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii))" and ", except that, for the purpose of calculating a local educational agency's maximum amount under subsection (b) of this section" for ", except that for the purpose of calculating a local educational agency's assessed value of the Federal property".

Subsec. (j). Pub. L. 107–110, §801(d), struck out subsec. (j) which authorized additional assistance for certain local educational agencies impacted by Federal property acquisition.

Subsec. (n). Pub. L. 107–110, §801(e), added subsec. (n).

2000—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(a)], substituted "2003" for "1999" in introductory provisions.

Subsec. (b)(1)(A)(i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(b)(1)], designated existing provisions as subcl. (I), substituted "Subject to subclauses (II) and (III), the amount" for "The amount", struck out ", except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received during the previous fiscal year from activities conducted on such Federal property" after "in accordance with paragraph (2)", and added subcls. (II) and (III).

Subsec. (b)(1)(B). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(b)(2)], substituted "shall calculate the payment for each eligible local educational agency in accordance with subsection (h) of this section" for "shall ratably reduce the payment to each eligible local educational agency".

Subsec. (b)(1)(C). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(b)(3)], inserted before period at end ", or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater".

Subsec. (h). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(c)], amended heading and text generally. Prior to amendment, subsec. (h) required the Secretary to pay under subsec. (b) of this section to eligible local education agencies certain minimum amounts for fiscal years 1995 to 2000.

Subsec. (i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(d)(2)], substituted "Special" for "Priority" in heading.

Subsec. (i)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(d)(1)], amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996—

"(A) the Secretary shall first use the excess amount (not to exceed the amount equal to the difference

of (i) the amount appropriated to carry out this section for fiscal year 1997, and (ii) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency described in paragraph (2); and

"(B) the Secretary shall use the remainder of the excess amount to increase the payments to each eligible local educational agency under this section."

Subsec. (j)(2). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(e)], struck out "(A)" before "A local educational agency", redesignated cls. (i) to (v) as subpars. (A) to (E), respectively, and inserted "and, at the time at which the agency is applying for a payment under this subsection, the agency does not have a military installation located within its geographic boundaries" before the semicolon at the end of subpar. (C).

Subsec. (l). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(f)], added subsec. (l).

Subsec. (m). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(g)], added subsec. (m).

1999—Subsec. (f)(3) to (5). Pub. L. 106–113 added pars. (3) to (5).

1998—Subsec. (f). Pub. L. 105–277 designated existing provisions as par. (1) and added par. (2).

Subsec. (k). Pub. L. 105–277 added subsec. (k).

1997—Subsec. (h)(1)(C). Pub. L. 105–18, §60004, added subpar. (C).

Subsec. (i). Pub. L. 105–18, §60006, amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: "Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996, the Secretary shall first use such excess amount to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency that—

"(1) received a payment under this section for fiscal year 1996;

"(2) serves a school district that contains all or a portion of a United States military academy;

"(3) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

"(4) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year."

Subsec. (j). Pub. L. 105–78 added subsec. (j).

1996—Subsecs. (g), (h). Pub. L. 104–195, §1, added subsecs. (g) and (h).

Subsec. (i). Pub. L. 104–195, §6, added subsec. (i).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title V, §563(c), Jan. 2, 2013, 126 Stat. 1748, as amended by Pub. L. 113–291, div. A, title V, §563, Dec. 19, 2014, 128 Stat. 3384; Pub. L. 114–95, title VII, §7001(a), title IX, §9215(pp), Dec. 10, 2015, 129 Stat. 2074, 2180, provided that:

"(1) EFFECTIVE DATE.—With respect to applications submitted under section 8002 [now 7002] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7702], as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act [Dec. 10, 2015], for fiscal year 2010, title VIII [now VII] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.] (including the amendments made by subsection (b)(1) [amending this section]), as in effect on such date, and subsection (b)(1) shall take effect with respect to such applications, notwithstanding section 8005(d) [now 7005(d)] of such Act [20 U.S.C. 7705(d)], as in effect on such date.

"(2) IMPLEMENTATION.—The Secretary of Education shall carry out the amendments made by this section [amending this section and sections 7703 and 7710 of this title] without regard to the rulemaking procedures under section 553 of title 5, United States Code.

"[(3) Redesignated (2).]

"[(4) Repealed. Pub. L. 114–95, title VII, §7001(a)(1), Dec. 10, 2015, 129 Stat. 2074.]"

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

CONSOLIDATIONS

Pub. L. 113–76, div. H, title III, §309, Jan. 17, 2014, 128 Stat. 400, allowed a local educational agency formed by the consolidation of 2 or more former school districts to elect to have the Secretary of Education determine its eligibility for fiscal year 2006 and any succeeding fiscal year on the basis of 1 or more of such former districts, prior to repeal by Pub. L. 114–95, title VII, §7001(b), Dec. 10, 2015, 129 Stat. 2074.

§7703. Payments for eligible federally connected children

(a) Computation of payment

(1) In general

For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b) or (d) of this section for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

(A)(i) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency; or

(ii) resided on Federal property with a parent who is an official of, and accredited by, a foreign government and is a foreign military officer;

(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37);

(C) resided on Indian lands;

(D)(i) had a parent on active duty in the uniformed services (as defined by section 101 of title 37) but did not reside on Federal property; or

(ii) had a parent who is an official of, and has been accredited by, a foreign government and is a foreign military officer but did not reside on Federal property;

(E) resided in low-rent housing;

(F) resided on Federal property and is not described in subparagraph (A) or (B); or

(G) resided with a parent employed on Federal property situated—

(i) in whole or in part in the county in which such agency is located, or in whole or in part in such agency if such agency is located in more than one county; or

(ii) if not in such county, in whole or in part in the same State as such agency.

(2) Determination of weighted student units

For the purpose of computing the basic support payment under subsection (b) of this section, the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

(C) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the local educational agency has—

(i) a number of such children described in such subparagraphs which exceeds 5,000; and

(ii) an average daily attendance for all children which exceeds 100,000.

(D) Multiply the number of children described in subparagraph (D) of paragraph (1) by a factor of .20.

(E) Multiply the number of children described in subparagraph (E) of paragraph (1) by a factor of .10.

(F) Multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

(3) Special rule

The Secretary shall only compute a payment for a local educational agency for children described in subparagraph (F) or (G) of paragraph (1) if the number of such children equals or exceeds 1,000 or such number equals or exceeds 10 percent of the total number of students in average daily attendance in the schools of such agency.

(4) Military installation and Indian housing undergoing renovation or rebuilding

(A) Military installation housing

Beginning in fiscal year 2014, in determining the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider those children as if they were children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that those children would have resided in housing on Federal property if the housing was not undergoing renovation or rebuilding. The total number of children treated as children described in paragraph (1)(B) shall not exceed the lessor of—

(i) the total number of children eligible under paragraph (1)(B) for the year prior to the initiation of the housing project on Federal property undergoing renovation or rebuilding; or

(ii) the total number of Federally connected children enrolled at the local educational agency as stated in the application filed for the payment for the year for which the determination is made.

(B) Indian lands

Beginning in fiscal year 2014, in determining the amount of a payment for a local educational agency that received a payment for children that resided on Indian lands in accordance with paragraph (1)(C) for the fiscal year prior to the fiscal year for which the local educational agency is making an application, the Secretary shall consider those children to be children described in paragraph (1)(C) if the Secretary determines on the basis of a certification provided to the Secretary by a designated representative of the Secretary of the Interior or the Secretary of Housing and Urban Development that those children would have resided in housing on Indian lands if the housing was not undergoing renovation or rebuilding. The total number of children treated as children described in paragraph (1)(C) shall not exceed the lessor of—

(i) the total number of children eligible under paragraph (1)(C) for the year prior to the initiation of the housing project on Indian lands undergoing renovation or rebuilding; or

(ii) the total number of Federally connected children enrolled at the local educational agency as stated in the application filed for the payment for the year for which the determination is made.

(C) Eligible housing

Renovation or rebuilding shall be defined as projects considered as capitalization, modernization, or restoration, as defined by the Secretary of Defense or the Secretary of the Interior (as the case may be) and are projects that last more than 30 days, but do not include "sustainment projects" such as painting, carpeting, or minor repairs.

(5) Military "Build to Lease" program housing

(A) In general

For purposes of computing the amount of payment for a local educational agency for children identified under paragraph (1), the Secretary shall consider children residing in housing initially acquired or constructed under the former section 2828(g) of title 10 (commonly known as the "Build to Lease" program), as added by section 801 of the Military Construction Authorization Act, 1984, or under lease of off-base property under subchapter IV of chapter 169 of title 10, to be children described under paragraph (1)(B), if the property described is—

(i) within the fenced security perimeter of the military facility; or

(ii) attached to, and under any type of force protection agreement with, the military installation upon which such housing is situated.

(B) Additional requirements

If the property described in subparagraph (A) is not owned by the Federal Government, is subject to taxation by a State or political subdivision of a State, and thereby generates revenues for a local educational agency that is applying to receive a payment under this section, then the Secretary—

(i) shall require the local educational agency to provide certification from an appropriate official of the Department of Defense that the property is being used to provide military housing; and

(ii) shall reduce the amount of the payment under this section by an amount equal to the amount of revenue from such taxation received in the second preceding fiscal year by such local educational agency, unless the amount of such revenue was taken into account by the State for such second preceding fiscal year and already resulted in a reduction in the amount of State aid paid to such local educational agency.

(b) Basic support payments; insufficient appropriations; State with only one local educational agency

(1) Basic support payments

(A) In general

From the amount appropriated under section 7714(b) of this title for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described in subsection (a) of this section.

(B) Eligibility

A local educational agency is eligible to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a)(1) of this section only if the number of children so determined with respect to such agency amounts to the lesser of—

(i) at least 400 such children; or

(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

(C) Maximum amount

The maximum amount that a local educational agency is eligible to receive under this paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) of this section, multiplied by the greater of—

(i) one-half of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made;

(ii) one-half of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made;

(iii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as such regulations were in effect on January 1, 1994; or

(iv) the average per-pupil expenditure of the State in which the local educational agency is located, multiplied by the local contribution percentage.

(D) Data

If satisfactory data from the third preceding fiscal year are not available for any of the expenditures described in clause (i) or (ii) of subparagraph (C), the Secretary shall use data from the most recent fiscal year for which data that are satisfactory to the Secretary are available.

(E) Increase in local contribution rate due to unusual geographic factors

If the current expenditures in those local educational agencies which the Secretary has

determined to be generally comparable to the local educational agency for which a computation is made under subparagraph (C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency under subparagraph (C)(iii) by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

(F) Beginning with fiscal year 2002, for the purpose of calculating a payment under this paragraph for a local educational agency whose local contribution rate was computed under subparagraph (C)(iii) for the previous year, the Secretary shall use a local contribution rate that is not less than 95 percent of the rate that the LEA received for the preceding year.

(2) Basic support payments for heavily impacted local educational agencies

(A) In general

(i) From the amount appropriated under section 7714(b) of this title for a fiscal year, the Secretary is authorized to make basic support payments to eligible heavily impacted local educational agencies with children described in subsection (a) of this section.

(ii) A local educational agency that receives a basic support payment under this paragraph for a fiscal year shall not be eligible to receive a basic support payment under paragraph (1) for that fiscal year.

(B) Eligibility for heavily impacted local educational agencies

(i) In general

A heavily impacted local educational agency is eligible to receive a basic support payment under subparagraph (A) with respect to a number of children determined under subsection (a)(1) if the agency—

(I) is a local educational agency—

(aa) whose boundaries are the same as a Federal military installation or an island property designated by the Secretary of the Interior to be property that is held in trust by the Federal Government; and

(bb) that has no taxing authority;

(II) is a local educational agency that—

(aa) has an enrollment of children described in subsection (a)(1) that constitutes a percentage of the total student enrollment of the agency that is not less than 45 percent;

(bb) has a per-pupil expenditure that is less than—

(AA) for an agency that has a total student enrollment of 500 or more students, 125 percent of the average per-pupil expenditure of the State in which the agency is located; or

(BB) for any agency that has a total student enrollment of less than 500 students, 150 percent of the average per-pupil expenditure of the State in which the agency is located or the average per-pupil expenditure of 3 or more comparable local educational agencies in the State in which the agency is located; and

(cc) is an agency that has a tax rate for general fund purposes that is not less than 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State;

(III) is a local educational agency that—

(aa) has a tax rate for general fund purposes which is not less than 125 percent of the

average tax rate for general fund purposes for comparable local educational agencies in the State; and

(bb)(AA) has an enrollment of children described in subsection (a)(1) that constitutes a percentage of the total student enrollment of the agency that is not less than 30 percent; or

(BB) has an enrollment of children described in subsection (a)(1) that constitutes a percentage of the total student enrollment of the agency that is not less than 20 percent, and for the 3 fiscal years preceding the fiscal year for which the determination is made, the average enrollment of children who are not described in subsection (a)(1) and who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] constitutes a percentage of the total student enrollment of the agency that is not less than 65 percent;

(IV) is a local educational agency that has a total student enrollment of not less than 25,000 students, of which—

(aa) not less than 50 percent are children described in subsection (a)(1); and

(bb) not less than 5,000 of such children are children described in subparagraphs (A) and (B) of subsection (a)(1); or

(V) is a local educational agency that—

(aa) has an enrollment of children described in subsection (a)(1) including, for purposes of determining eligibility, those children described in subparagraphs (F) and (G) of such subsection, that is not less than 35 percent of the total student enrollment of the agency;

(bb) has a per-pupil expenditure described in subclause (II)(bb) (except that a local educational agency with a total student enrollment of less than 350 students shall be deemed to have satisfied such per-pupil expenditure requirement) and has a tax rate for general fund purposes which is not less than 95 percent of the average tax rate for general fund purposes for comparable local educational agencies in the State; and

(cc) was eligible to receive assistance under subparagraph (A) for fiscal year 2001.

(ii) Loss of eligibility

(I) In general

Subject to subclause (II), a heavily impacted local educational agency that met the requirements of clause (i) for a fiscal year shall be ineligible to receive a basic support payment under subparagraph (A) if the agency fails to meet the requirements of clause (i) for a subsequent fiscal year, except that such agency shall continue to receive a basic support payment under this paragraph for the fiscal year for which the ineligibility determination is made.

(II) Loss of eligibility due to falling below 95 percent of the average tax rate for general fund purposes

In the case of a heavily impacted local educational agency described in subclause (II) or (V) of clause (i) that is eligible to receive a basic support payment under subparagraph (A), but that has had, for 2 consecutive fiscal years, a tax rate for general fund purposes that falls below 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State, such agency shall be determined to be ineligible under clause (i) and ineligible to receive a basic support payment under subparagraph (A) for each fiscal year succeeding such 2 consecutive fiscal years for which the agency has such a tax rate for general fund purposes, and until the fiscal year for which the agency resumes such eligibility in accordance with clause (iii).

(III) Taken over by State board of education

In the case of a heavily impacted local educational agency that is eligible to receive a

basic support payment under subparagraph (A), but that has been taken over by a State board of education in any 2 previous years, such agency shall be deemed to maintain heavily impacted status for 2 fiscal years following December 10, 2015.

(iii) Resumption of eligibility

A heavily impacted local educational agency described in clause (i) that becomes ineligible under such clause for 1 or more fiscal years may resume eligibility for a basic support payment under this paragraph for a subsequent fiscal year only if the agency meets the requirements of clause (i) for that subsequent fiscal year, except that such agency shall not receive a basic support payment under this paragraph until the fiscal year succeeding the fiscal year for which the eligibility determination is made.

(C) Maximum amount for heavily impacted local educational agencies

(i) In general

Except as provided in subparagraph (D), the maximum amount that a heavily impacted local educational agency is eligible to receive under this paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) and subject to clause (ii), multiplied by the greater of—

(I) four-fifths of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made; or

(II) four-fifths of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made.

(ii) Calculation of weighted student units

(I) In general

(aa) Percentage enrollment

For a local educational agency in which 35 percent or more of the total student enrollment of the schools of the agency are children described in subparagraph (D) or (E) (or a combination thereof) of subsection (a)(1), and that has an enrollment of children described in subparagraph (A), (B), or (C) of such subsection equal to at least 10 percent of the agency's total enrollment, the Secretary shall calculate the weighted student units of those children described in subparagraph (D) or (E) of such subsection by multiplying the number of such children by a factor of 0.55.

(bb) Exception

Notwithstanding item (aa), a local educational agency that received a payment under this paragraph for fiscal year 2013 shall not be required to have an enrollment of children described in subparagraph (A), (B), or (C) of subsection (a)(1) equal to at least 10 percent of the agency's total enrollment and shall be eligible for the student weight as provided for in item (aa).

(II) Enrollment of 100 or fewer children

For a local educational agency that has an enrollment of 100 or fewer children described in subsection (a)(1), the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 1.75.

(III) Enrollment of more than 100 children but less than 1000

For a local educational agency that is not described under subparagraph (B)(i)(I) and has an enrollment of more than 100 but not more than 1,000 children described in subsection (a)(1), the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 1.25.

(D) Maximum amount for large heavily impacted local educational agencies

(i) In general

(I) Formula

Subject to clause (ii), the maximum amount that a heavily impacted local educational agency described in subclause (II) is eligible to receive under this paragraph for any fiscal year shall be determined in accordance with the formula described in paragraph (1)(C).

(II) Heavily impacted local educational agency

A heavily impacted local educational agency described in this subclause is a local educational agency that has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are children described in subsection (a)(1) and not less than 5,000 of such children are children described in subparagraphs (A) and (B) of subsection (a)(1).

(ii) Factor

For purposes of calculating the maximum amount described in clause (i), the factor used in determining the weighted student units under subsection (a)(2) with respect to children described in subparagraphs (A) and (B) of subsection (a)(1) shall be 1.35.

(E) Data

For purposes of providing assistance under this paragraph, the Secretary shall use student, revenue, expenditure, and tax data from the third fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this paragraph.

(F) Determination of average tax rates for general fund purposes

(i) In general

Except as provided in clause (ii), for the purpose of determining the average tax rates for general fund purposes for local educational agencies in a State under this paragraph, the Secretary shall use either—

(I) the average tax rate for general fund purposes for comparable local educational agencies, as determined by the Secretary in regulations; or

(II) the average tax rate of all the local educational agencies in the State.

(ii) Fiscal years 2010–2015

(I) In general

For fiscal years 2010 through 2015, any local educational agency that was found ineligible to receive a payment under subparagraph (A) because the Secretary determined that it failed to meet the average tax rate requirement for general fund purposes in subparagraph (B)(i)(II)(cc), shall be considered to have met that requirement, if its State determined, through an alternate calculation of average tax rates for general fund purposes, that such local educational agency met that requirement.

(II) Subsequent fiscal years after 2015

For any succeeding fiscal year after 2015, any local educational agency identified in subclause (I) may continue to have its State use that alternate methodology to calculate whether the average tax rate requirement for general fund purposes under subparagraph (B)(i)(II)(cc) is met.

(III) Availability of funds

Notwithstanding any other provision of law limiting the period during which the Secretary may obligate funds appropriated for any fiscal year after 2012, the Secretary shall reserve a total of $14,000,000 from funds that remain unobligated under this section from fiscal years 2015 or 2016 in order to make payments under this clause for fiscal years 2011 through 2014.

(G) Eligibility for heavily impacted local educational agencies affected by privatization of

military housing

(i) Eligibility

For any fiscal year, a heavily impacted local educational agency that received a basic support payment under this paragraph for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B) due to the conversion of military housing units to private housing described in clause (iii), or as the direct result of base realignment and closure or modularization as determined by the Secretary of Defense and force structure change or force relocation, shall be deemed to meet the eligibility requirements under subparagraph (B) for the period during which the housing units are undergoing such conversion or during such time as activities associated with base closure and realignment, modularization, force structure change, or force relocation are ongoing.

(ii) Amount of payment

The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (C) or (D), as the case may be, shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year and under the same provisions of subparagraph (C) or (D) under which the agency was paid during the prior fiscal year.

(iii) Conversion of military housing units to private housing described

For purposes of clause (i), "conversion of military housing units to private housing" means the conversion of military housing units to private housing units pursuant to subchapter IV of chapter 169 of title 10 or pursuant to any other related provision of law.

(3) Payments with respect to fiscal years in which insufficient funds are appropriated

(A) In general

For any fiscal year in which the sums appropriated under section 7714(b) of this title are insufficient to pay to each local educational agency the full amount computed under paragraphs (1) and (2), the Secretary shall make payments in accordance with this paragraph.

(B) Learning opportunity threshold payments in lieu of payments under paragraph (1)

(i) For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereafter in this subchapter referred to as the "threshold payment") in lieu of basic support payments under paragraph (1) by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

(I) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) of this section and the denominator of which is the total number of children in average daily attendance at the schools served by such agency; and

(II) the percentage that funds under paragraph (1)(C) represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each local educational agency under this paragraph, and the denominator of which is the total current expenditures for such agency in the second preceding fiscal year for which the determination is made.

(ii) Such total percentage used to calculate threshold payments under paragraph (1) shall not exceed 100.

(iii) In the case of a local educational agency providing a free public education to students enrolled in kindergarten through grade 12, that enrolls students described in subparagraphs (A), (B), and (D) of subsection (a)(1) only in grades 9 through 12, and that received a final payment for fiscal year 2009 calculated under section 7703(b)(3) of this title (as such section was in effect on the day before December 10, 2015) for students in grades 9 through 12, the Secretary shall, in calculating the agency's payment, consider only that portion of such agency's total enrollment of students in grades 9 through 12 when calculating the percentage under clause

(i)(I) and only that portion of the total current expenditures attributed to the operation of grades 9 through 12 in such agency when calculating the percentage under clause (i)(II).

(iv) In the case of a local educational agency that has a total student enrollment of fewer than 1,000 students and that has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located or less than the average per-pupil expenditure of all the States, the total percentage used to calculate threshold payments under clause (i) shall not be less than 40 percent.

(C) Learning opportunity threshold payments in lieu of payments under paragraph (2)

For fiscal years described in subparagraph (A), the learning opportunity threshold payment in lieu of basic support payments under paragraph (2) shall be equal to the amount obtained under subparagraph (C) or (D) of paragraph (2), as the case may be.

(D) Ratable distribution

For fiscal years described in subparagraph (A), for which the sums available exceed the amount required to pay each local educational agency 100 percent of its threshold payment, the Secretary shall distribute the excess sums to each eligible local educational agency that has not received its full amount computed under paragraphs (1) or (2) (as the case may be) by multiplying—

(i) a percentage, the denominator of which is the difference between the full amount computed under paragraph (1) or (2) (as the case may be) for all local educational agencies and the amount of the threshold payment (as calculated under subparagraphs (B) and (C)) of all local educational agencies, and the numerator of which is the aggregate of the excess sums, by

(ii) the difference between the full amount computed under paragraph (1) or (2) (as the case may be) for the agency and the amount of the threshold payment (as calculated under subparagraphs (B) or (C)) of the agency, except that no local educational agency shall receive more than 100 percent of the maximum payment calculated under subparagraph (C) or (D) of paragraph (2).

(E) Insufficient payments

For each fiscal year described in subparagraph (A) for which the sums appropriated are insufficient to pay each local educational agency all of the local educational agency's threshold payment described in subparagraph (B), the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

(F) Increases

(i) Increases based on insufficient funds

If additional funds become available under 7714(b) of this title for making payments under paragraphs (1) and (2) and those funds are not sufficient to increase each local educational agency's threshold payment above 100 percent of its threshold payment described in subparagraph (B), payments that were reduced under subparagraph (E) shall be increased by the Secretary on the same basis as such payments were reduced.

(ii) Increases based on sufficient funds

If additional funds become available under section 7714(b) of this title for making payments under paragraphs (1) and (2) and those funds are sufficient to increase each local educational agency's threshold payment above 100 percent of its threshold payment described in subparagraph (B), the payment for each local educational agency shall be 100 percent of its threshold payment. The Secretary shall then distribute the excess sums to each eligible local educational agency in accordance with subparagraph (D).

(G) Provision of tax rate and resulting percentage

As soon as practicable following the payment of funds under paragraph (2) to an eligible local educational agency, the Secretary shall provide the local educational agency with a

description of—

(i) the tax rate of the local educational agency; and

(ii) the percentage such tax rate represents of the average tax rate for general fund purposes of comparable local educational agencies in the State as determined under subclauses (II)(cc), III(aa), or (V)(bb) of paragraph (2)(B)(i) (as the case may be).

(4) States with only one local educational agency

(A) In general

In any of the 50 States of the United States in which there is only one local educational agency, the Secretary shall, for purposes of subparagraphs (B) and (C) of paragraph (1) or subparagraphs (B) and (C) of paragraph (2), as the case may be, paragraph (3) of this subsection, and subsection (e) of this section, consider each administrative school district in the State to be a separate local educational agency.

(B) Computation of maximum amount of basic support payment and threshold payment

In computing the maximum payment amount under paragraph (1)(C) or subparagraph (C) or (D) of paragraph (2), as the case may be, and the learning opportunity threshold payment under subparagraph (B) or (C) of paragraph (3), as the case may be, for an administrative school district described in subparagraph (A)—

(i) the Secretary shall first determine the maximum payment amount and the total current expenditures for the State as a whole; and

(ii) the Secretary shall then—

(I) proportionately allocate such maximum payment amount among the administrative school districts on the basis of the respective weighted student units of such districts; and

(II) proportionately allocate such total current expenditures among the administrative school districts on the basis of the respective number of students in average daily attendance at such districts.

(5) Local educational agencies affected by removal of Federal property

(A) In general

In computing the amount of a basic support payment under this subsection for a fiscal year for a local educational agency described in subparagraph (B), the Secretary shall meet the additional requirements described in subparagraph (C).

(B) Local educational agency described

A local educational agency described in this subparagraph is a local educational agency with respect to which Federal property (i) located within the boundaries of the agency, and (ii) on which one or more children reside who are receiving a free public education at a school of the agency, is transferred by the Federal Government to another entity in any fiscal year beginning on or after October 30, 2000, so that the property is subject to taxation by the State or a political subdivision of the State.

(C) Additional requirements

The additional requirements described in this subparagraph are the following:

(i) For each fiscal year beginning after the date on which the Federal property is transferred, a child described in subparagraph (B) who continues to reside on such property and who continues to receive a free public education at a school of the agency shall be deemed to be a child who resides on Federal property for purposes of computing under the applicable subparagraph of subsection (a)(1) of this section the amount that the agency is eligible to receive under this subsection.

(ii)(I) For the third fiscal year beginning after the date on which the Federal property is transferred, and for each fiscal year thereafter, the Secretary shall, after computing the amount that the agency is otherwise eligible to receive under this subsection for the fiscal year involved, deduct from such amount an amount equal to the revenue received by the

agency for the immediately preceding fiscal year as a result of the taxable status of the former Federal property.

(II) For purposes of determining the amount of revenue to be deducted in accordance with subclause (I), the local educational agency—

(aa) shall provide for a review and certification of such amount by an appropriate local tax authority; and

(bb) shall submit to the Secretary a report containing the amount certified under item (aa).

(c) Prior year data

(1) In general

Except as provided in subsections (b)(1)(D), (b)(2), and paragraph (2), all calculations under this section shall be based on data for each local educational agency from not later than the fiscal year preceding the fiscal year for which the agency is making application for payment.

(2) Exception

Calculation of payments for a local educational agency shall be based on data from the fiscal year for which the agency is making an application for payment if such agency—

(A) is newly established by a State, for the first year of operation of such agency only;

(B) was eligible to receive a payment under this section for the previous fiscal year and has had an overall increase in enrollment (as determined by the Secretary in consultation with the Secretary of Defense, the Secretary of the Interior, or the heads of other Federal agencies)—

(i)(I) of not less than 10 percent of children described in—

(aa) subparagraph (A), (B), (C), or (D) of subsection (a)(1); or

(bb) subparagraphs (F) and (G) of subsection (a)(1), but only to the extent that such children are civilian dependents of employees of the Department of Defense or the Department of the Interior; or

(II) of not less than 100 of such children; and

(ii) that is the direct result of closure or realignment of military installations under the base closure process or the relocation of members of the Armed Forces and civilian employees of the Department of Defense as part of the force structure changes or movements of units or personnel between military installations or because of actions initiated by the Secretary of the Interior or the head of another Federal agency; or

(C) was eligible to receive a payment under this section for the previous fiscal year and has had an increase in enrollment (as determined by the Secretary)—

(i) of not less than 10 percent of children described in subsection (a)(1) or not less than 100 of such children; and

(ii) that is the direct result of the closure of a local educational agency that received a payment under subsection (b)(1) or (b)(2) for the previous fiscal year.

(d) Children with disabilities

(1) In general

From the amount appropriated under section 7714(c) of this title for a fiscal year, the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

(A) multiplying the number of children described in subparagraphs (A)(ii), (B) and (C) of subsection (a)(1) of this section who are eligible to receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) by a factor of 1.0; and

(B) multiplying the number of children described in subparagraph (D) of subsection (a)(1) of this section who are eligible to receive services under such Act by a factor of 0.5.

(2) Use of funds

A local educational agency that receives funds under paragraph (1) shall use such funds to provide a free appropriate public education to children described in paragraph (1) in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(e) Hold harmless

(1) In general

In the case of any local educational agency eligible to receive a payment under subsection (b) whose calculated payment amount for a fiscal year is reduced by 20 percent, as compared to the amount received for the previous fiscal year, the Secretary shall pay the local educational agency, for the year of the reduction and the following 2 years, the amount determined under paragraph (2).

(2) Amount of reduction

Subject to paragraph (3), A local educational agency described in paragraph (1) shall receive—

(A) for the first year for which the reduced payment is determined, an amount that is not less than 90 percent of the total amount that the local educational agency received under subsection (b) for the previous fiscal year;

(B) for the second year following such reduction, an amount that is not less than 85 percent of the total amount that the local educational agency received under subparagraph (A); and

(C) for the third year following such reduction, an amount that is not less than 80 percent of the total amount that the local educational agency received under subparagraph (B).

(3) Special rule

For any fiscal year for which a local educational agency would receive a payment under subsection (b) in excess of the amount determined under paragraph (2), the payment received by the local educational agency for such fiscal year shall be calculated under paragraph (1) or (2) of subsection (b).

(4) Ratable reductions

(A) In general

If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) for such year, then the Secretary shall ratably reduce the payments to all such agencies for such year.

(B) Additional funds

If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

(f) Other funds

Notwithstanding any other provision of law, a local educational agency receiving funds under this section may also receive funds under section 386 of the National Defense Authorization Act for Fiscal Year 1993 or such section's successor authority.

(Pub. L. 89–10, title VII, §7003, formerly title VIII, §8003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3752; amended Pub. L. 104–106, div. A, title X, §1074(f), (g), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L. 104–195, §§3(a), 4(a), 5(a), (b), Sept. 16, 1996, 110 Stat. 2380–2382; Pub. L. 104–201, div. A, title III, §376, Sept. 23, 1996, 110 Stat. 2503; Pub. L. 104–208, div. A, title I, §101(e) [title III, §307(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262; Pub. L. 105–18, title VI, §60005(a), June 12, 1997, 111 Stat. 214; Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1497; Pub. L. 106–398, §1 [[div. A], title XVIII, §§1804(a), (b)(1), (c), 1805–1808(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–372, 1654A–374 to 1654A–382; Pub. L. 106–554, §1(a)(1) [title III, §323], Dec. 21, 2000, 114 Stat. 2763, 2763A–61; Pub. L. 107–20, title II, §2703(a), July 24, 2001, 115 Stat. 182; Pub. L. 107–110, title VIII, §802(a)(1), Jan. 8, 2002, 115 Stat. 1949; Pub. L. 107–206, title I, §§801, 802, Aug. 2, 2002, 116 Stat. 874; Pub. L. 107–279, title IV, §406(a), Nov. 5,

2002, 116 Stat. 1986; Pub. L. 107–314, div. A, title III, §344, Dec. 2, 2002, 116 Stat. 2515; Pub. L. 108–136, div. A, title V, §537(a), Nov. 24, 2003, 117 Stat. 1475; Pub. L. 111–84, div. A, title V, §536, Oct. 28, 2009, 123 Stat. 2293; Pub. L. 112–239, div. A, title V, §563(b)(2), (c)(4), Jan. 2, 2013, 126 Stat. 1746, 1748; renumbered title VII, §7003, and amended Pub. L. 114–95, title VII, §§7001(a)(1), (c)(1), (d)(10), 7004, Dec. 10, 2015, 129 Stat. 2074, 2075, 2077.)

REFERENCES IN TEXT

Section 2828(g) of title 10 (commonly known as the "Build to Lease" program), as added by section 801 of the Military Construction Authorization Act, 1984, referred to in subsec. (a)(5)(A), means the subsection (g) added to section 2828 of Title 10, Armed Forces, by section 801 of Pub. L. 98–115, which was repealed by Pub. L. 102–190, div. B, title XXVIII, §2806(b), Dec. 5, 1991, 105 Stat. 1540.

Act of September 30, 1950, referred to in subsec. (b)(1)(C)(iii), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§236 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (b)(2)(B)(i)(III)(bb)(BB), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

Section 7703(b)(3) of this title (as such section was in effect on the day before December 10, 2015), referred to in subsec. (b)(3)(B)(iii), means section 7703(b)(3) of this title prior to amendment by Pub. L. 114–95, title VII, §§7001(c)(1), (d)(10), 7004(2)(C), Dec. 10, 2015, 129 Stat. 2074, 2075, 2082. See 2015 Amendment notes below.

The Individuals with Disabilities Education Act, referred to in subsec. (d), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Section 386 of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (f), is section 386 of Pub. L. 102–484, which is set out as a note below.

PRIOR PROVISIONS

A prior section 7003 of Pub. L. 89—10 was classified to section 3283 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2015—Pub. L. 114–95, §7001(a)(1), repealed Pub. L. 112–239, §563(c)(4). See 2013 Amendment notes below.

Subsec. (a)(5)(A). Pub. L. 114–95, §7004(1), substituted "or under lease of off-base property under subchapter IV of chapter 169 of title 10, to be children described under paragraph (1)(B), if the property described is—" for "to be children described under paragraph (1)(B) if the property described is within the fenced security perimeter of the military facility upon which such housing is situated." and added cls. (i) and (ii).

Subsec. (b). Pub. L. 114–95, §7001(d)(10), made technical amendment to references in original act which appear in text as references to section 7714(b) of this title in pars. (1)(A), (2)(A)(i), and (3)(A).

Subsec. (b)(1)(E) to (G). Pub. L. 114–95, §7004(2)(A), redesignated subpars. (F) and (G) as (E) and (F), respectively, and struck out former subpar. (E) which provided special rule for determining comparable local contribution rate.

Subsec. (b)(2)(B) to (H). Pub. L. 114–95, §7004(2)(B), added subpars. (B) to (G) and struck out former subpars. (B) to (H), which related to eligibility for receipt of basic support payments by continuing and new heavily impacted local educational agencies, maximum amouts for regular and large heavily impacted local educational agencies, data to be used by the Secretary, determination of average tax rates for general fund purposes, and eligibility as affected by privatization of military housing.

Subsec. (b)(3)(B)(iii). Pub. L. 114–95, §7004(2)(C)(i), added cl. (iii) and struck out former cl. (iii) which read as follows: "For the purpose of determining the percentages described in subclauses (I) and (II) of clause (i) that are applicable to the local educational agency providing free public education to students in grades 9 through 12 residing on Hanscom Air Force Base, Massachusetts, the Secretary shall consider only that portion of such agency's total enrollment of students in grades 9 through 12 when calculating the percentage under such subclause (I) and only that portion of the total current expenditures attributed to the operation of grades 9 through 12 in such agency when calculating the percentage under subclause (II)."

Subsec. (b)(3)(C). Pub. L. 114–95, §7004(2)(C)(ii), substituted "subparagraph (C) or (D) of paragraph (2), as the case may be" for "subparagraph (D) or (E) of paragraph (2), as the case may be".

Subsec. (b)(3)(D) to (G). Pub. L. 114–95, §7004(2)(C)(iii), added subpars. (D) to (G) and struck out former subpar. (D). Prior to amendment, text of subpar. (D) read as follows: "For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computations made under subparagraphs (B) and (C)."

Subsec. (b)(4)(A). Pub. L. 114–95, §7004(2)(D)(i), substituted "and (C) of paragraph (2)" for "through (D) of paragraph (2)".

Subsec. (b)(4)(B). Pub. L. 114–95, §7004(2)(D)(ii), substituted "subparagraph (C) or (D)" for "subparagraph (D) or (E)" in introductory provisions.

Subsec. (c)(2). Pub. L. 114–95, §7004(3), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Calculations for a local educational agency that is newly established by a State shall, for the first year of operation of such agency, be based on data from the fiscal year for which the agency is making application for payment."

Subsec. (d)(1). Pub. L. 114–95, §7004(4), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7714(c) of this title.

Subsec. (e). Pub. L. 114–95, §7004(5), added pars. (1) to (3), redesignated former par. (3) as (4), and struck out former pars. (1) and (2) which related to amounts payable to a local educational agency for fiscal years 2001 and 2002.

Subsec. (g). Pub. L. 114–95, §7004(6), struck out subsec. (g). Text read as follows: "A local educational agency may receive funds under subsection (b) of this section and section 7702 of this title for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year."

2013—Pub. L. 112–239, §563(c)(4), which directed repeal of the amendment by Pub. L. 112–239, §563(b)(2), on the day after the 5-year period that began on Jan. 3, 2013, was itself repealed by Pub. L. 114–95, §7001(a)(1).

Subsec. (a)(4). Pub. L. 112–239, §563(b)(2), added par. (4) and struck out former par. (4) which related to military installation and Indian housing undergoing renovation or rebuilding.

2009—Subsec. (a)(2)(C)(i). Pub. L. 111–84 substituted "5,000" for "6,500".

2003—Subsec. (b)(2)(H)(i), (ii). Pub. L. 108–136 added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

"(i) ELIGIBILITY.—For any fiscal year beginning with fiscal year 2003, a heavily impacted local educational agency that received a basic support payment under subparagraph (A) for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B) or (C), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion.

"(ii) AMOUNT OF PAYMENT.—The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E) (as the case may be), shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year."

2002—Subsec. (b)(1)(G). Pub. L. 107–206, §802, added subpar. (G).

Subsec. (b)(2)(C)(i). Pub. L. 107–110, §802(a)(1)(A), inserted "(or if the agency is a qualified local educational agency as described in clause (iv))" after "Federal military installation" in introductory provisions.

Subsec. (b)(2)(C)(i)(II)(bb). Pub. L. 107–279 amended item (bb) generally. Prior to amendment, item (bb) read as follows: "for a local educational agency that has a total student enrollment of less than 350 students, has a per-pupil expenditure that is less than the average per-pupil expenditure of a comparable local educational agency in the State in which the agency is located; and".

Subsec. (b)(2)(C)(ii). Pub. L. 107–110, §802(a)(1)(A), inserted "(or if the agency is a qualified local educational agency as described in clause (iv))" after "Federal military installation".

Subsec. (b)(2)(C)(iv). Pub. L. 107–110, §802(a)(1)(B), added cl. (iv).

Subsec. (b)(2)(D)(ii)(III). Pub. L. 107–206, §801, amended subcl. (III) generally. Prior to amendment, subcl. (III) read as follows: "For a local educational agency that has an enrollment of more than 100 but not more than 750 children described in subsection (a)(1) of this section, the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) of this section by multiplying the number of such children by a factor of 1.25."

Subsec. (b)(2)(H). Pub. L. 107–314 added subpar. (H).

Subsec. (b)(3)(B)(iv). Pub. L. 107–20 inserted "or less than the average per-pupil expenditure of all the States" after "of the State in which the agency is located".

2000—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(1)], substituted "subsection (b) or (d)" for "subsection (b), (d), or (f)" in introductory provisions.

Subsec. (a)(2)(D). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(a)(1)(B)], substituted "subparagraph (D) of paragraph (1) by a factor of .20" for "subparagraphs (D) and (E) of paragraph (1) by a factor of .10".

Subsec. (a)(2)(E), (F). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(a)(1)(A), (C)], added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (a)(4). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(b)(1)], inserted "and Indian" after "Military installation" and "or rebuilding" after "renovation" in par. heading, designated existing provisions as subpar. (A)(i), inserted subpar. (A) heading, inserted "or rebuilding" after "undergoing renovation", added cl. (ii) to subpar. (A) and added subpar. (B).

Subsec. (a)(5). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(c)], added par. (5).

Subsec. (b)(1)(C). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(2)(A)], substituted "this paragraph" for "this subsection" in introductory provisions.

Subsec. (b)(1)(D), (E). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(a)(2)], added subpars. (D) and (E).

Subsec. (b)(1)(F). Pub. L. 106–398, §1 [[div. A], title XVIII, §1805], added subpar. (F).

Subsec. (b)(2). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(a)(2)], added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(2)(F). Pub. L. 106–554, §1(a)(1) [title III, §323(a)], substituted "the Secretary—" for "the Secretary", designated remaining provisions as cl. (i), and added cl. (ii).

Subsec. (b)(2)(G). Pub. L. 106–554, §1(a)(1) [title III, §323(b)], added subpar. (G).

Subsec. (b)(3). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(a)(1)], redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(3)(A). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(1)], substituted "paragraphs (1) and (2)" for "paragraph (1)".

Subsec. (b)(3)(B). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(2)(A)], inserted "in lieu of payments under paragraph (1)" after "payments" in heading.

Subsec. (b)(3)(B)(i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(2)(B)], inserted "in lieu of basic support payments under paragraph (1)" before "by multiplying" in introductory provisions and struck out "(not including amounts received under subsection (f) of this section)" after "under this paragraph" in subcl. (II).

Subsec. (b)(3)(B)(iv). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(2)(C)], added cl. (iv).

Subsec. (b)(3)(C). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(4)], added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (b)(3)(D). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(3), (5)], redesignated subpar. (C) as (D) and substituted "computations made under subparagraphs (B) and (C)" for "computation made under subparagraph (B)".

Subsec. (b)(4). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(a)(1)], redesignated par. (3) as (4).

Subsec. (b)(4)(A). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(2)(B)(i)], substituted "subparagraphs (B) and (C) of paragraph (1) or subparagraphs (B) through (D) of paragraph (2), as the case may be, paragraph (3) of this subsection" for "paragraphs (1)(B), (1)(C), and (2) of this subsection".

Subsec. (b)(4)(B). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(2)(B)(ii)], in introductory provisions, inserted "or subparagraph (D) or (E) of paragraph (2), as the case may be," after "paragraph (1)(C)" and substituted "subparagraph (B) or (C) of paragraph (3), as the case may be," for "paragraph (2)(B)".

Subsec. (b)(5). Pub. L. 106–398, §1 [[div. A], title XVIII, §1807], added par. (5).

Subsec. (c)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(3)], substituted "subsections (b)(1)(D), (b)(2), and paragraph (2)" for "paragraph (2) and subsection (f) of this section".

Subsec. (e). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(a)(3)], amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) required the Secretary to pay local education agencies under subsec. (b) of this section certain minimum amounts for fiscal years 1995 to 1999.

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title XVIII, §§1806(c)(4), 1808(b)(1)], redesignated subsec. (h) as (f) and struck out heading and text of former subsec. (f) which required the Secretary to provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

Subsec. (g). Pub. L. 106–398, §1 [[div. A], title XVIII, §1808(a), (b)(1)], redesignated subsec. (i) as (g) and struck out heading and text of former subsec. (g) which related to additional payments for local educational agencies with high concentrations of children with severe disabilities.

Subsec. (h). Pub. L. 106–398, §1 [[div. A], title XVIII, §1808(b)(1)], redesignated subsec. (h) as (f).

Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(5)], substituted "section 386 of the National Defense Authorization Act for Fiscal Year 1993" for "section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994)".

Subsec. (i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1808(b)(1)], redesignated subsec. (i) as (g).

1997—Subsec. (f)(2)(A)(ii)(I). Pub. L. 105–78, which directed the amendment of section 8003(f)(2)(ii)(I) of the Elementary and Secondary Education Act of 1965 by substituting "25 percent of the total student enrollment of such agency. For purposes of this subclause, all students described in subsection (a)(1) of this section are used to determine eligibility, regardless of whether or not a local educational agency receives funds for these children from subsection (b) of this section;" for "35 percent" and all that follows through the semicolon, was executed by making the substitution for "35 percent of the total student enrollment of such agency;" in subsection (f)(2)(A)(ii)(I) of this section, to reflect the probable intent of Congress.

Subsec. (f)(4). Pub. L. 105–18 struck out hyphen after "Secretary" in introductory provisions, redesignated subpar. (A) as entire par. (4), inserted "expenditure," after "revenue,", substituted period for semicolon after "assistance under this subsection", and struck out subpar. (B) which read as follows: "shall derive the per pupil expenditure amount for the fiscal year for which the local educational agency is applying for assistance under this subsection for the local educational agency's comparable school districts by increasing or decreasing the per pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per pupil expenditure data for such second year."

1996—Subsec. (a)(3). Pub. L. 104–201 substituted "1,000 or such number equals or exceeds 10 percent" for "2,000 and such number equals or exceeds 15 percent".

Subsec. (a)(4). Pub. L. 104–195, §3(a), added par. (4).

Subsec. (b)(3). Pub. L. 104–195, §4(a), added par. (3).

Subsec. (f)(2)(A). Pub. L. 104–106, §1074(f)(1)(A), substituted "if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency" for "only if such agency" in introductory provisions.

Subsec. (f)(2)(D). Pub. L. 104–106, §1074(f)(1)(B), added subpar. (D).

Subsec. (f)(3)(A). Pub. L. 104–106, §1074(f)(2)(A)(i), inserted "(other than any amount received under paragraph (2)(B))" after "subsection" in introductory provisions.

Subsec. (f)(3)(A)(i). Pub. L. 104–208, §101(e) [title III, §307(a)(1), (5)], substituted in introductory provisions, "The Secretary, in conjunction with the local educational agency, shall first determine each of the following:" for "The Secretary shall first determine the greater of—" and inserted concluding provisions.

Subsec. (f)(3)(A)(i)(I). Pub. L. 104–208, §101(e) [title III, §307(a)(2), (3)], substituted "The average" for "the average" before "of the State" and substituted period for semicolon at end.

Pub. L. 104–106, §1074(f)(2)(A)(ii), struck out "or the average per-pupil expenditure of all the States" after "is located".

Subsec. (f)(3)(A)(i)(II). Pub. L. 104–208, §101(e) [title III, §307(a)(2)], substituted "The average" for "the average".

Pub. L. 104–208, §101(e) [title III, §307(a)(4)], which directed substitution of period for ": or", was executed by making substitution for "; or" to reflect the probable intent of Congress.

Subsec. (f)(3)(A)(i)(III). Pub. L. 104–208, §101(e) [title III, §307(a)(2)], substituted "The average" for "the average".

Subsec. (f)(3)(A)(ii). Pub. L. 104–106, §1074(f)(2)(A)(iii), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "The Secretary shall next subtract from the amount determined under clause (i) the average amount of State aid per pupil received by the local educational agency."

Subsec. (f)(3)(A)(iii). Pub. L. 104–195, §5(b)(1), inserted ", except as provided in subparagraph (C)," after "but" in introductory provisions.

Pub. L. 104–106, §1074(f)(2)(A)(iv), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: "The Secretary shall next multiply the amount determined under clause (ii) by the total number of students in average daily attendance at the schools of the local educational agency as determined by the Secretary under subsection (a)(1) of this section."

Subsec. (f)(3)(B). Pub. L. 104–106, §1074(f)(2)(B), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: "With respect to payments under this subsection for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of such

payments shall be computed by taking the product of the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State."

Subsec. (f)(3)(C). Pub. L. 104–195, §5(b)(2), added subpar. (C).

Subsec. (f)(4). Pub. L. 104–195, §5(a), substituted "Data" for "Current year data" in heading, amended subpar. (A) generally, substituting present provisions for provisions which read "shall use student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and", and in subpar. (B) substituted "the fiscal year for which the local educational agency is applying for assistance under this subsection" for "such year".

Pub. L. 104–106, §1074(g), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: "The Secretary shall, for purposes of providing assistance under this subsection, use—

"(A) student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

"(B) the most recent data available which is adjusted to such fiscal year."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, §537(b), Nov. 24, 2003, 117 Stat. 1475, provided that: "The amendment made by subsection (a) [amending this section] shall take effect beginning with basic support payments under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) for fiscal year 2003."

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–279, title IV, §406(b), Nov. 5, 2002, 116 Stat. 1987, provided that: "The amendment made by section 406(a) [amending this section] shall be effective on September 30, 2001, and shall apply with respect to fiscal year 2001, and all subsequent fiscal years."

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–375, provided that: "The amendments made by paragraph (1) [amending this section] shall apply with respect to payments to a local educational agency for fiscal years beginning before, on, or after the date of the enactment of this Act [Oct. 30, 2000]."

EFFECTIVE DATE OF 1997 AMENDMENT

Title III of Pub. L. 105–78, Nov. 13, 1997, 111 Stat. 1497, provided in part that: "The amendment made by this proviso [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1996".

Pub. L. 105–18, title VI, §60005(b), June 12, 1997, 111 Stat.215, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years after fiscal year 1997."

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, §101(e) [title III, §307(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1995."

Pub. L. 104–195, §3(b), Sept. 16, 1996, 110 Stat. 2381, provided that: "Paragraph (4) of section 8003(a) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(a)(4)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1995."

Pub. L. 104–195, §4(b), Sept. 16, 1996, 110 Stat. 2381, provided that: "Paragraph (3) of section 8003(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(b)(3)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1994."

Pub. L. 104–195, §5(c), Sept. 16, 1996, 110 Stat. 2382, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to fiscal years after fiscal year 1996."

TRANSITION PROVISIONS

Pub. L. 107–110, title VIII, §802(a)(2), Jan. 8, 2002, 115 Stat. 1949, provided that: "The Secretary shall consider an application for a payment under section 8003(b)(2) [20 U.S.C. 7703(b)(2)] for fiscal year 2002 from a qualified local educational agency described in section 8003(b)(2)(C)(iv), as added by paragraph (1), as meeting the requirements of section 8003(b)(2)(C)(iii), and shall provide a payment under section 8003(b)(2) for fiscal year 2002, if the agency submits to the Secretary an application for payment under such section not later than 30 days after the date of enactment of this Act [Jan. 8, 2002]."

ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES

Pub. L. 102–484, div. A, title III, §386, Oct. 23, 1992, 106 Stat. 2394, as amended by Pub. L. 103–160, div. A, title III, §373(a), (b), Nov. 30, 1993, 107 Stat. 1635, 1636; Pub. L. 103–382, title III, §391(d), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 104–106, div. A, title X, §1074(c)–(e), (h), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L. 105–85, div. A, title III, §381(e), Nov. 18, 1997, 111 Stat. 1709; Pub. L. 106–65, div. A, title III, §351(e), Oct. 5, 1999, 113 Stat. 572, which required the Secretary of Defense, in consultation with the Secretary of Education, to provide financial assistance to certain local educational agencies in States, was repealed by Pub. L. 109–163, div. A, title V, §572(g), Jan. 6, 2006, 119 Stat. 3273. See section 7703b of this title.

NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

For provisions requiring Secretary of Defense to identify local educational agencies that will experience at least a 5-percent increase or 10-percent reduction in enrollment in number of dependent children of members of Armed Forces and of civilian employees of Department of Defense enrolled in schools under jurisdiction of such agencies during next academic year as a result of closure or realignment of a military installation, and to transmit notice of schedule of such closure or realignment to affected local and State educational agencies, see section 2833 of Pub. L. 101–189, set out as a note under section 2687 of Title 10, Armed Forces.

§7703a. Impact aid for children with severe disabilities

(a) Payments

Subject to subsection (f) of this section, the Secretary of Defense shall make a payment for fiscal years after fiscal year 2001, to each local educational agency eligible to receive a payment for a child described in subparagraph (A)(ii) or (B), or clause (i) or (ii) of subparagraph (D), of section 7703(a)(1) [1] of this title that serves two or more such children with severe disabilities, for costs incurred in providing a free appropriate public education to each such child.

(b) Payment amount

The amount of the payment under subsection (a) of this section to a local educational agency for a fiscal year for each child referred to in such subsection with a severe disability shall be—

(1) the payment made on behalf of the child with a severe disability that is in excess of the average per pupil expenditure in the State in which the local educational agency is located; less

(2) the sum of the funds received by the local educational agency—

(A) from the State in which the child resides to defray the educational and related services for such child;

(B) under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to defray the educational and related services for such child; and

(C) from any other source to defray the costs of providing educational and related services to the child which are received due to the presence of a severe disabling condition of such child.

(c) Exclusions

No payment shall be made under subsection (a) of this section on behalf of a child with a severe disability whose individual cost of educational and related services does not exceed—

(1) five times the national or State average per pupil expenditure (whichever is lower), for a child who is provided educational and related services under a program that is located outside the

boundaries of the school district of the local educational agency that pays for the free appropriate public education of the student; or

(2) three times the State average per pupil expenditure, for a child who is provided educational and related services under a program offered by the local educational agency, or within the boundaries of the school district served by the local educational agency.

(d) Ratable reduction

If the amount available for a fiscal year for payments under subsection (a) of this section is insufficient to pay the full amount all local educational agencies are eligible to receive under such subsection, the Secretary of Defense shall ratably reduce the amounts of the payments made under such subsection to all local educational agencies by an equal percentage.

(e) Report

Each local educational agency desiring a payment under subsection (a) of this section shall report to the Secretary of Defense—

(1) the number of severely disabled children for which a payment may be made under this section; and

(2) a breakdown of the average cost, by placement (inside or outside the boundaries of the school district of the local educational agency), of providing education and related services to such children.

(f) Payments subject to appropriation

Payments shall be made for any period in a fiscal year under this section only to the extent that funds are appropriated specifically for making such payments for that fiscal year.

(g) Local educational agency defined

In this section, the term "local educational agency" has the meaning given that term in section 7713 of this title.

(Pub. L. 106–398, §1 [[div. A], title III, §363], Oct. 30, 2000, 114 Stat. 1654, 1654A–77; Pub. L. 114–95, title IX, §9215(kk), Dec. 10, 2015, 129 Stat. 2175.)

REFERENCES IN TEXT

Section 7703(a)(1) of this title, referred to in subsec. (a), was in the original "section 7003(a)(1)" and was translated as meaning section 7003(a)(1) of the Elementary and Secondary Education Act of 1965, which is classified to section 7703(a)(1) of this title, to reflect the probable intent of Congress.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Section was enacted as part of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §9215(kk)(1), substituted "subparagraph (A)(ii) or (B), or clause (i) or (ii) of subparagraph (D), of section 7703(a)(1) of this title" for "subparagraph (A)(ii), (B), (D)(i) or (D)(ii) of section 7703(a)(1) of this title".

Subsec. (g). Pub. L. 114–95, §9215(kk)(2), substituted "section 7713 of this title." for "section 7713(9) of this title."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *See References in Text note below.*

§7703b. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees

(a) Assistance to schools with significant numbers of military dependent students

(1) Assistance authorized

The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the local educational agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) Eligible local educational agencies

A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 7703(a)(1) of this title.

(b) Assistance to schools with enrollment changes due to base closures, force structure changes, or force relocations

(1) Assistance authorized

To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

(2) Eligible local educational agencies

A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) the local educational agency is eligible for assistance under subsection (a) of this section for the same fiscal year, or would have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of the local educational agency is the result of one or more of the following:

(i) The global rebasing plan of the Department of Defense.

(ii) The official creation or activation of one or more new military units.

(iii) The realignment of forces as a result of the base closure process.

(iv) A change in the number of housing units on a military installation.

(3) Calculation of amount of assistance

(A) Pro rata distribution

The amount of the assistance provided under this subsection to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for that fiscal year; by

(ii) the net of the overall increases and reductions in the number of military dependent

students in schools of the local educational agency, as determined under paragraph (1).

(B) Per-student rate

For purposes of subparagraph (A)(i), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the total amount of funds made available for that fiscal year to provide assistance under this subsection; by

(ii) the sum of the overall increases and reductions in the number of military dependent students in schools of all eligible local educational agencies for that fiscal year under this subsection.

(C) Maximum amount of assistance

A local educational agency may not receive more than $1,000,000 in assistance under this subsection for any fiscal year.

(4) Duration

Assistance may not be provided under this subsection after September 30, 2014.

(c) Notification

Not later than June 30, 2006, and June 30 of each fiscal year thereafter for which funds are made available to carry out this section, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for that fiscal year of—

(1) the eligibility of the local educational agency for the assistance, including whether the agency is eligible for assistance under either subsection (a) or (b) of this section or both subsections; and

(2) the amount of the assistance for which the local educational agency is eligible.

(d) Disbursement of funds

The Secretary of Defense shall disburse assistance made available under this section for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) of this section for that fiscal year.

(e) Definitions

In this section:

(1) The term "base closure process" means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after January 6, 2006, under section 2687 of title 10 or any other similar law enacted after January 6, 2006.

(2) The term "local educational agency" has the meaning given that term in section 7713(9) of this title.

(3) The term "military dependent students" refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

(4) The term "State" means each of the 50 States and the District of Columbia.

(Pub. L. 109–163, div. A, title V, §572, Jan. 6, 2006, 119 Stat. 3271; Pub. L. 111–84, div. A, title V, §533, Oct. 28, 2009, 123 Stat. 2292; Pub. L. 112–239, div. A, title V, §561(b)(1), (c), Jan. 2, 2013, 126 Stat. 1743, 1744; Pub. L. 114–95, title IX, §9215(ccc), Dec. 10, 2015, 129 Stat. 2185.)

REFERENCES IN TEXT

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (e)(1), is part A of title XXIX of div. B of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1808, as amended, which is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of section 572 of Pub. L. 109–163. Subsec. (g) of section 572 of Pub. L. 109–163 repealed section 386 of Pub. L. 102–484, formerly set out as a note under section 7703 of this title.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2006, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114–95, §9215(ccc)(1), made technical amendment to reference in original act which appears in text as reference to section 7703(a)(1) of this title.

Subsec. (e)(2). Pub. L. 114–95, §9215(ccc)(2), made technical amendment to reference in original act which appears in text as reference to section 7713(9) of this title.

2013—Subsec. (b)(4). Pub. L. 112–239, §561(b)(1), substituted "September 30, 2014" for "September 30, 2012".

Subsecs. (e), (f). Pub. L. 112–239, §561(c), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: "Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities—

"(1) $30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of this section; and

"(2) $10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of this section."

2009—Subsec. (b)(4). Pub. L. 111–84 substituted "September 30, 2012" for "September 30, 2010".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PLAN AND AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES EXPERIENCING GROWTH IN ENROLLMENT DUE TO FORCE STRUCTURE CHANGES, RELOCATION OF MILITARY UNITS, OR BASE CLOSURES AND REALIGNMENTS

Pub. L. 109–364, div. A, title V, §574, Oct. 17, 2006, 120 Stat. 2226, as amended by Pub. L. 110–181, div. A, title V, §573, Jan. 28, 2008, 122 Stat. 120; Pub. L. 110–417, [div. A], title V, §553, Oct. 14, 2008, 122 Stat. 4469; Pub. L. 112–81, div. A, title V, §573, Dec. 31, 2011, 125 Stat. 1427; Pub. L. 114–92, div. A, title X, §1072(h), Nov. 25, 2015, 129 Stat. 995, provided that:

"(a) PLAN REQUIRED.—Not later than January 1, 2007, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth a plan to provide assistance to local educational agencies that experience growth in the enrollment of military dependent students as a result of any of the following events:

"(1) Force structure changes.

"(2) The relocation of a military unit.

"(3) The closure or realignment of military installations pursuant to defense base closure and realignment under the base closure laws.

"(b) ELEMENTS.—The report required by subsection (a), and each updated report required by [former] subsection (c), shall include the following:

"(1) An identification, current as of the date of the report, of the total number of military dependent students who are anticipated to be arriving at or departing from military installations as a result of any event described in subsection (a), including—

"(A) an identification of the military installations affected by such arrivals and departures;

"(B) an estimate of the number of such students arriving at or departing from each such installation; and

"(C) the anticipated schedule of such arrivals and departures.

"(2) Such recommendations as the Office of Economic Adjustment of the Department of Defense considers appropriate for means of assisting affected local educational agencies in accommodating increases in enrollment of military dependent students as a result of any such event.

"(3) A plan for outreach to be conducted to affected local educational agencies, commanders of military installations, and members of the Armed Forces and civilian personnel of the Department of Defense regarding information on the assistance to be provided under the plan under subsection (a).

"(c) TRANSITION OF MILITARY DEPENDENTS AMONG LOCAL EDUCATIONAL AGENCIES

.—(1) The Secretary of Defense shall work collaboratively with the Secretary of Education in any efforts to ease the transitions of military dependent students from Department of Defense dependent schools to other schools and among schools of local educational agencies.

"(2) The Secretary of Defense may use funds of the Department of Defense Education Activity for the following purposes:

"(A) To share expertise and experience of the Activity with local educational agencies as military dependent students make the transitions described in paragraph (1), including transitions resulting from the closure or realignment of military installations under a base closure law, global rebasing, and force restructuring.

"(B) To provide grant assistance programs for local educational agencies with military dependent students undergoing the transitions described in paragraph (1), including programs on the following:

"(i) Access to virtual and distance learning capabilities and related applications.

"(ii) Training for teachers.

"(iii) Academic strategies to increase academic achievement.

"(iv) Curriculum development.

"(v) Support for practices that minimize the impact of transition and deployment.

"(vi) Other appropriate services to improve the academic achievement of such students.

"(3) The authority provided by this subsection expires September 30, 2016.

"(d) DEFINITIONS.—In this section:

"(1) The term 'base closure law' has the meaning given that term in section 101 of title 10, United States Code.

"(2) The term 'local educational agency' has the meaning given that term in section 8013(9) [now 7013(9)] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

"(3) The term 'military dependent students' refers to—

"(A) elementary and secondary school students who are dependents of members of the Armed Forces;

"(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense; and

"(C) elementary and secondary school students who are dependents of personnel who are not members of the Armed Forces or civilian employees of the Department of Defense but who are employed on Federal property."

§7704. Policies and procedures relating to children residing on Indian lands

(a) In general

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall establish policies and procedures to ensure that—

(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

(b) Records

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a) of this section.

(c) Waiver

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall not be required to comply with the requirements of subsections (a) and (b) of this section for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

(d) Technical assistance and enforcement

The Secretary shall—

(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and

(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

(e) Complaints

(1) In general

(A) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

(B) Within ten working days from receipt of a complaint, the Secretary shall—

(i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

(ii) designate a hearing examiner to conduct the hearing; and

(iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

(2) Hearing

The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

(3) Evidence; recommendations; cost

The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

(4) Findings and recommendations

Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

(5) Written determination

Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

(6) Copies provided

Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

(7) Consolidation

In all actions under this subsection, the Secretary shall have discretion to consolidate complaints involving the same tribe or local educational agency.

(8) Withholding

If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is eligible under section 7703 of this title until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency, except that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that such withholding would substantially disrupt the educational programs of the local educational agency.

(9) Rejection of determination

If the local educational agency rejects the determination of the Secretary and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Education or by contract with the Bureau of Indian Education, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) of this section was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 7703 of this title. In such event, funds under such section shall not be withheld pursuant to paragraph (8) and no further complaints with respect to such students may be filed under paragraph (1).

(f) Construction

This section is based upon the special relationship between the Indian nations and the United States and nothing in this section shall be construed to relieve any State of any duty with respect to any citizens of that State.

(Pub. L. 89–10, title VII, §7004, formerly title VIII, §8004, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3759; renumbered title VII, §7004, and amended Pub. L. 114–95, title VII, §§7001(c)(1), (d)(2), 7005, Dec. 10, 2015, 129 Stat. 2074, 2086.)

REFERENCES IN TEXT

Section 1101(d) of the Education Amendments of 1978, referred to in subsec. (e)(9), is section 1101(d) of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2315, set out below.

AMENDMENTS

2015—Pub. L. 114–95, §7001(d)(2), made technical amendments to references in original act which appear in text as references to section 7703 of this title.

Subsec. (e)(9). Pub. L. 114–95, §7005, substituted "Indian Education" for "Indian Affairs" in two places.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

CONTRACT AUTHORITY OF INDIAN TRIBES IF REMEDIAL ACTION IS NOT TAKEN; ELECTION TO HAVE SERVICES PROVIDED BY BUREAU SCHOOLS; SPECIAL REGULATIONS

Pub. L. 95–561, title XI, §1101(d), Nov. 1, 1978, 92 Stat. 2315, directed Secretary of Health, Education,

and Welfare, in cooperation with Commissioner of Education, within one year of Nov. 1, 1978, to promulgate special regulations which would provide that where a local educational agency had not undertaken the remedial action required by the Commissioner under 20 U.S.C. 240(b)(3)(C)(vi), the affected tribes could elect for the Bureau of Indian Affairs to provide educational services provided by the local educational agency.

§7705. Application for payments under sections 7702 and 7703 of this title

(a) In general

A local educational agency desiring to receive a payment under section 7702 or 7703 of this title shall—

(1) submit an application for such payment to the Secretary; and

(2) provide a copy of such application to the State educational agency.

(b) Contents

Each such application shall be submitted in such form and manner as the Secretary may require, including—

(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

(2) where applicable, an assurance that such agency is in compliance with section 7704 of this title (relating to children residing on Indian lands).

(c) Deadline for submission

The Secretary shall establish deadlines for the submission of applications under this section.

(d) Approval

(1) In general

The Secretary shall approve an application submitted under this section that—

(A) except as provided in paragraph (2), is filed by the deadline established under subsection (c) of this section; and

(B) otherwise meets the requirements of this subchapter.

(2) Reduction in payment

The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c) of this section, or not more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to paragraph (3)(A), as the case may be, that otherwise meets the requirements of this subchapter, except that, notwithstanding section 7703(e) of this title, the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

(3) Late applications

(A) Notice

The Secretary shall, as soon as practicable after the deadline established under subsection (c) of this section, provide to each local educational agency that applied for a payment under section 7702 or 7703 of this title for the prior fiscal year, and with respect to which the Secretary has not received an application for a payment under either such section (as the case may be) for the fiscal year in question, written notice of the failure to comply with the deadline and instruction to ensure that the application is filed not later than 60 days after the date on which the Secretary sends the notice.

(B) Acceptance and approval of late applications

The Secretary shall not accept or approve any application of a local educational agency that is filed more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to subparagraph (A).

(4) State application authority

Notwithstanding any other provision of law, a State educational agency that had been accepted as an applicant for funds under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions by which such agency made application during such fiscal year only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.

(Pub. L. 89–10, title VII, §7005, formerly title VIII, §8005, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3761; amended Pub. L. 106–398, §1 [[div. A], title XVIII, §1809], Oct. 30, 2000, 114 Stat. 1654, 1654A–382; renumbered title VII, §7005, and amended Pub. L. 114–95, title VII, §§7001(c)(1), (d)(1), 7006, Dec. 10, 2015, 129 Stat. 2074, 2086.)

REFERENCES IN TEXT

Section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (d)(4), means section 3 of act Sept. 30, 1950, ch. 1124, which was classified to section 238 of this title prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965.

PRIOR PROVISIONS

A prior section 7706, Pub. L. 89–10, title VIII, §8006, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3762, related to payments for sudden and substantial increases in attendance of military dependents, prior to repeal by Pub. L. 106–398, §1 [[div. A], title XVIII, §1810], Oct. 30, 2000, 114 Stat. 1654, 1654A–383.

AMENDMENTS

2015—Pub. L. 114–95, §7006(1), made technical amendment to reference in original act which appears in section catchline as reference to sections 7702 and 7703 of this title.

Subsec. (a). Pub. L. 114–95, §7006(2), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7703 of this title.

Pub. L. 114–95, §7001(d)(1), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7702 of this title.

Subsec. (b). Pub. L. 114–95, §7006(3), struck out ", and shall contain such information," after "in such form and manner" in introductory provisions.

Subsec. (b)(2). Pub. L. 114–95, §7006(3)(B), made technical amendment to reference in original act which appears in text as reference to section 7704 of this title.

Subsec. (d)(2). Pub. L. 114–95, §7006(4), made technical amendment to reference in original act which appears in text as reference to section 7703(e) of this title.

Subsec. (d)(3)(A). Pub. L. 114–95, §7006(2), made technical amendment to reference in original act which appears in text as reference to section 7703 of this title.

Pub. L. 114–95, §7001(d)(1), made technical amendment to reference in original act which appears in text as reference to section 7702 of this title.

2000—Subsec. (d)(2). Pub. L. 106–398, §1 [[div. A], title XVIII, §1809(1)], inserted ", or not more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to paragraph (3)(A), as the case may be," after "subsection (c) of this section".

Subsec. (d)(3). Pub. L. 106–398, §1 [[div. A], title XVIII, §1809(2)], amended heading and text generally. Prior to amendment, text read as follows: "The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c) of this section."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7707. Construction

(a) Construction payments authorized

(1) In general

From 40 percent of the amount appropriated for each fiscal year under section 7714(d) of this title, the Secretary shall make payments in accordance with this subsection to each local educational agency that receives a basic support payment under section 7703(b) of this title for that fiscal year.

(2) Additional requirements

A local educational agency that receives a basic support payment under section 7703(b)(1) of this title shall also meet at least one of the following requirements:

(A) The number of children determined under section 7703(a)(1)(C) of this title for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

(B) The number of children determined under subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

(3) Amount of payments

(A) Local educational agencies impacted by military dependent children

The amount of a payment to each local educational agency described in this subsection that is impacted by military dependent children for a fiscal year shall be equal to—

(i)(I) 20 percent of the amount appropriated under section 7714(d) of this title for such fiscal year; divided by

(II) the total number of weighted student units of children described in subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for all local educational agencies described in this subsection (as calculated under section 7703(a)(2) of this title), including the number of weighted student units of such children attending a school facility described in section 7708(a) of this title if the Secretary does not provide assistance for the school facility under that section for the prior fiscal year; multiplied by

(ii) the total number of such weighted student units for the agency.

(B) Local educational agencies impacted by children who reside on Indian lands

The amount of a payment to each local educational agency described in this subsection that is impacted by children who reside on Indian lands for a fiscal year shall be equal to—

(i)(I) 20 percent of the amount appropriated under section 7714(d) of this title for such fiscal year; divided by

(II) the total number of weighted student units of children described in section 7703(a)(1)(C) of this title for all local educational agencies described in this subsection (as calculated under section 7703(a)(2) of this title); multiplied by

(ii) the total number of such weighted student units for the agency.

(4) Use of funds

Any local educational agency that receives funds under this subsection shall use such funds for construction, as defined in section 7713(3) of this title.

(b) School facility emergency and modernization grants authorized

(1) In general

From 60 percent of the amount appropriated for each fiscal year under section 7714(d) of this title, the Secretary—

(A) shall award emergency grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out emergency repairs of school facilities; and

(B) shall award modernization grants in accordance with this subsection to eligible local

educational agencies to enable the agencies to carry out the modernization of school facilities.

(2) Priority

In approving applications from local educational agencies for emergency grants and modernization grants under this subsection, the Secretary shall give priority to applications in accordance with the following:

(A) The Secretary shall first give priority to applications for emergency grants from local educational agencies that meet the requirements of paragraph (3)(A) and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency, as determined by the Secretary.

(B) The Secretary shall next give priority to applications for emergency grants from local educational agencies that meet the requirements of subparagraph (C) or (D) of paragraph (3) and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency, as determined by the Secretary.

(C) The Secretary shall next give priority to applications for modernization grants from local educational agencies that meet the requirements of paragraph (3)(B) and, among such applications for modernization grants, shall give priority to those applications of local educational agencies based on the severity of the need for modernization, as determined by the Secretary.

(D) The Secretary shall next give priority to applications for modernization grants from local educational agencies that meet the requirements of subparagraph (C) or (D) of paragraph (3) and, among such applications for modernization grants, shall give priority to those applications of local educational agencies based on the severity of the need for modernization, as determined by the Secretary.

(3) Eligibility requirements

(A) Emergency grants

A local educational agency is eligible to receive an emergency grant under paragraph (2)(A) if—

(i) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent)—

(I) has no practical capacity to issue bonds;

(II) has minimal capacity to issue bonds and is at not less than 75 percent of the agency's limit of bonded indebtedness; or

(III) does not meet the requirements of subclauses (I) and (II) but is eligible to receive funds under section 7703(b)(2) of this title for the fiscal year; and

(ii) the agency is eligible to receive assistance under subsection (a) of this section for the fiscal year and has a school facility emergency, as determined by the Secretary, that poses a health or safety hazard to the students and school personnel assigned to the school facility.

(B) Modernization grants

A local educational agency is eligible to receive a modernization grant under paragraph (2)(C) if—

(i) the agency is eligible to receive assistance under this subchapter for the fiscal year;

(ii) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent) meets the requirements of subclause (I), (II), or (III) of subparagraph (A)(i); and

(iii) the agency has facility needs resulting from the presence of the Federal Government, such as the enrollment of federally connected children, the presence of tax-exempt Federal property, or an increase in enrollment due to the expansion of Federal activities, housing privatization, or the acquisition of Federal property.

(C) Additional eligibility for emergency and modernization grants

(i) A local educational agency is eligible to receive an emergency grant or a modernization grant under subparagraph (B) or (D) of paragraph (2), respectively, if the agency meets the following requirements:

(I) The agency receives a basic support payment under section 7703(b) of this title for the fiscal year and the agency meets at least one of the following requirements:

(aa) The number of children determined under section 7703(a)(1)(C) of this title for the agency for the preceding school year constituted at least 40 percent of the total student enrollment in the schools of the agency during the preceding school year.

(bb) The number of children determined under subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for the agency for the preceding school year constituted at least 40 percent of the total student enrollment in the schools of the agency during the preceding school year.

(cc) Not less than 10 percent of the property acreage in the agency is exempt from State and local taxation under Federal law.

(II) The agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent) is at not less than 75 percent of the agency's limit of bonded indebtedness.

(III) The agency has an assessed value of real property per student that may be taxed for school purposes that is less than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the local educational agency is located.

(ii) A local educational agency is also eligible to receive a modernization grant under this subparagraph if the agency is eligible to receive assistance under section 7702 of this title for the fiscal year and meets the requirements of subclauses (II) and (III) of clause (i).

(D) Special rule

(i) In general

Any school described in clause (ii) that desires to receive an emergency grant or a modernization grant under subparagraph (B) or (D) of paragraph (2), respectively, shall, except as provided in the following sentence, submit an application in accordance with paragraph (6), and shall otherwise be treated as a local educational agency for the purpose of this subsection. The school shall submit an application for the grant to the local educational agency of such school and the agency shall submit the application on behalf of the school to the Secretary.

(ii) School described

A school described in this clause is a school that meets the following requirements:

(I) The school is located within the geographic boundaries of a local educational agency that does not meet the applicable eligibility requirements under subparagraph (A), (B), or (C) for a grant under this subsection.

(II) The school meets at least one of the following requirements:

(aa) The number of children determined under section 7703(a)(1)(C) of this title for the school for the preceding school year constituted at least 40 percent of the total student enrollment in the school during the preceding school year.

(bb) The number of children determined under subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for the school for the preceding school year constituted at least 40 percent of the total student enrollment in the school during the preceding school year.

(III) The school is located within the geographic boundaries of a local educational agency that meets the requirements of subclauses (II) and (III) of subparagraph (C)(i).

(E) Rule of construction

For purposes of subparagraph (A)(i), a local educational agency—

(i) has no practical capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is less than $25,000,000; and

(ii) has minimal capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is at least $25,000,000 but not more than $50,000,000.

(4) Award criteria

In awarding emergency grants and modernization grants under this subsection, the Secretary shall consider the following factors:

(A) The ability of the local educational agency to respond to the emergency, or to pay for the modernization project, as the case may be, as measured by—

(i) the agency's level of bonded indebtedness;

(ii) the assessed value of real property per student that may be taxed for school purposes compared to the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the agency is located;

(iii) the agency's total tax rate for school purposes (or, if applicable, for capital expenditures) compared to the average total tax rate for school purposes (or the average capital expenditure tax rate, if applicable) in the State in which the agency is located; and

(iv) funds that are available to the agency, from any other source, including subsection (a) of this section, that may be used for capital expenditures.

(B) The percentage of property in the agency that is nontaxable due to the presence of the Federal Government.

(C) The number and percentages of children described in subparagraphs (A), (B), (C), and (D) of section 7703(a)(1) of this title served in the school facility with the emergency or served in the school facility proposed for modernization, as the case may be.

(D) In the case of an emergency grant, the severity of the emergency, as measured by the threat that the condition of the school facility poses to the health, safety, and well-being of students.

(E) In the case of a modernization grant—

(i) the severity of the need for modernization, as measured by such factors as—

(I) overcrowding, as evidenced by the use of portable classrooms, or the potential for future overcrowding because of increased enrollment; or

(II) the agency's inability to utilize technology or offer a curriculum in accordance with contemporary State standards due to the physical limitations of the current school facility; and

(ii) the age of the school facility proposed for modernization.

(5) Other award provisions

(A) General provisions

(i) Limitations on amount of funds

(I) In general

The amount of funds provided under an emergency grant or a modernization grant awarded under this subsection to a local educational agency that meets the requirements of subclause (II) or (III) of paragraph (3)(A)(i) for purposes of eligibility under subparagraph (A) or (B) of paragraph (3) or that meets the requirements of clause (i) or (ii) of paragraph (3)(C) for purposes of eligibility under such paragraph (3)(C), or to a school that is eligible under paragraph (3)(D)—

(aa) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection; and

(bb) shall not exceed $4,000,000 during any 4-year period.

(II) In-kind contributions

A local educational agency may use in-kind contributions to meet the matching requirement of subclause (I)(aa).

(ii) Prohibitions on use of funds

A local educational agency may not use funds provided under an emergency grant or modernization grant awarded under this subsection for—

(I) a project for a school facility for which the agency does not have full title or other interest;

(II) stadiums or other school facilities that are primarily used for athletic contests, exhibitions, or other events for which admission is charged to the general public; or

(III) the acquisition of real property.

(iii) Supplement, not supplant

A local educational agency shall use funds provided under an emergency grant or modernization grant awarded under this subsection only to supplement the amount of funds that would, in the absence of the Federal funds provided under the grant, be made available from non-Federal sources to carry out emergency repairs of school facilities or to carry out the modernization of school facilities, as the case may be, and not to supplant such funds.

(iv) Maintenance costs

Nothing in this subsection shall be construed to authorize the payment of maintenance costs in connection with any school facility modernized in whole or in part with Federal funds provided under this subsection.

(v) Environmental safeguards

All projects carried out with Federal funds provided under this subsection shall comply with all relevant Federal, State, and local environmental laws and regulations.

(vi) Carry-over of certain applications

A local educational agency that applies for an emergency grant or a modernization grant under this subsection for a fiscal year and does not receive the grant for the fiscal year shall have the application for the grant considered for the following fiscal year, subject to the priority requirements of paragraph (2) and the award criteria requirements of paragraph (4).

(B) Emergency grants; prohibition on use of funds

A local educational agency that is awarded an emergency grant under this subsection may not use amounts under the grant for the complete or partial replacement of an existing school facility unless such replacement is less expensive or more cost-effective than correcting the identified emergency.

(6) Application

A local educational agency that desires to receive an emergency grant or a modernization grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall contain the following:

(A) A description of how the local educational agency meets the award criteria under paragraph (4), including the information described in clauses (i) through (iv) of paragraph (4)(A) and subparagraphs (B) and (C) of paragraph (4), and containing such additional information as may be necessary to meet any award criteria for a grant under this subsection as provided by any other Act.

(B) In the case of an application for an emergency grant—

(i) a description of the school facility deficiency that poses a health or safety hazard to the occupants of the facility and a description of how the deficiency will be repaired; and

(ii) a signed statement from an appropriate local official certifying that a deficiency in the school facility threatens the health or safety of the occupants of the facility or that prevents the use of all or a portion of the building.

(C) In the case of an application for a modernization grant—

(i) an explanation of the need for the school facility modernization project;

(ii) the date on which original construction of the facility to be modernized was completed;

(iii) a listing of the school facilities to be modernized, including the number and percentage of children determined under section 7703(a)(1) of this title in average daily attendance in each school facility; and

(iv) a description of the ownership of the property on which the current school facility is located or on which the planned school facility will be located.

(D) A description of the project for which a grant under this subsection will be used, including a cost estimate for the project.

(E) A description of the interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement.

(Pub. L. 89–10, title VII, §7007, formerly title VIII, §8007, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3763; amended Pub. L. 104–134, title I, §101(d) [title III, §306(b)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–236; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–398, §1 [[div. A], title XVIII, §1811], Oct. 30, 2000, 114 Stat. 1654, 1654A–383; Pub. L. 107–110, title VIII, §803, Jan. 8, 2002, 115 Stat. 1950; Pub. L. 113–188, title V, §501, Nov. 26, 2014, 128 Stat. 2019; renumbered title VII, §7007, and amended Pub. L. 114–95, title VII, §§7001(c)(2), (d)(1), (3)–(8), (11), 7007, Dec. 10, 2015, 129 Stat. 2074, 2075, 2086.)

AMENDMENTS

2015—Pub. L. 114–95, §7001(d)(11), substituted "section 7714(d) of this title" for "section 7714(e) of this title" wherever appearing.

Pub. L. 114–95, §7001(d)(4), made technical amendment to references in original act which appear in text as references to section 7703(a)(1)(C) of this title wherever appearing.

Pub. L. 114–95, §7001(d)(3), made technical amendment to references in original act which appear in text as references to section 7703(a)(1) of this title wherever appearing.

Subsec. (a)(1). Pub. L. 114–95, §7001(d)(6), made technical amendment to reference in original act which appears in text as reference to section 7703(b) of this title.

Subsec. (a)(2). Pub. L. 114–95, §7001(d)(7), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7703(b)(1) of this title.

Subsec. (a)(3)(A)(i)(I). Pub. L. 114–95, §7007(1)(A)(i), redesignated subcl. (II) relating to 20 percent of the amount appropriated as (I).

Subsec. (a)(3)(A)(i)(II). Pub. L. 114–95, §7007(1)(A)(ii), made technical amendment to reference in original act which appears in text as reference to section 7708(a) of this title.

Pub. L. 114–95, §7007(1)(A)(i), redesignated subcl. (II) relating to 20 percent of the amount appropriated as (I).

Pub. L. 114–95, §7001(d)(5), made technical amendment to reference in original act which appears in text as reference to section 7703(a)(2) of this title.

Subsec. (a)(3)(B)(i)(II). Pub. L. 114–95, §7001(d)(5), made technical amendment to reference in original act which appears in text as reference to section 7703(a)(2) of this title.

Subsec. (a)(4). Pub. L. 114–95, §7007(1)(B), made technical amendment to reference in original act which appears in text as reference to section 7713(3) of this title.

Subsec. (b)(3)(A)(i)(III). Pub. L. 114–95, §7001(d)(8), made technical amendment to reference in original act which appears in text as reference to section 7703(b)(2) of this title.

Subsec. (b)(3)(C)(i)(I). Pub. L. 114–95, §7001(d)(6), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7703(b) of this title.

Subsec. (b)(3)(C)(i)(I)(cc). Pub. L. 114–95, §7007(2)(A), added item (cc).

Subsec. (b)(3)(C)(ii). Pub. L. 114–95, §7001(d)(1), made technical amendment to reference in original act which appears in text as reference to section 7702 of this title.

Subsec. (b)(6). Pub. L. 114–95, §7007(2)(B)(i), in introductory provisions, substituted "and in such manner" for ", in such manner, and accompanied by such information".

Subsec. (b)(6)(A). Pub. L. 114–95, §7007(2)(B)(ii), inserted before period at end ", and containing such additional information as may be necessary to meet any award criteria for a grant under this subsection as

provided by any other Act".

Subsec. (b)(6)(F). Pub. L. 114–95, §7007(2)(B)(iii), struck out subpar. (F) which read as follows: "Such other information and assurances as the Secretary may reasonably require."

2014—Subsec. (b)(7). Pub. L. 113–188 struck out par. (7) which required annual reports containing justifications for each grant awarded under subsec. (b) for the prior fiscal year.

2002—Subsec. (b). Pub. L. 107–110 amended heading and text generally, reorganizing and revising provisions relating to emergency and modernization grants.

2000—Pub. L. 106–398 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) authorizing payments to certain local educational agencies for construction.

1996—Subsec. (a)(2)(B). Pub. L. 104–134 struck out "and in which the agency at any 2 times during the four fiscal years preceding October 20, 1994, was denied by a vote of the agency's eligible voters a bond referendum for the purposes of school construction or renovation" before semicolon at end.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§7708. Facilities

(a) Current facilities

From the amount appropriated for any fiscal year under section 7714(e) of this title, the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

(b) Transfer of facilities

(1) In general

The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950 [1] (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950 [1] (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

(2) Other requirements

Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this subchapter.

(Pub. L. 89–10, title VII, §7008, formerly title VIII, §8008, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3764; renumbered title VII, §7008, and amended Pub. L. 114–95, title VII, §§7001(c)(2), 7008, Dec. 10, 2015, 129 Stat. 2074, 2086.)

REFERENCES IN TEXT

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a), means section 10 of act Sept. 23, 1950, ch. 995, which was classified to section 640 of this title prior to repeal by Pub. L. 103–382, title III, §331(a), Oct. 20, 1994, 108 Stat. 3965.

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably means section 10 of act Sept. 23, 1950, ch. 995, as

added by Pub. L. 85–620, title I, §101, Aug. 12, 1958, 72 Stat. 553, as amended, which was classified to section 640 of this title prior to repeal by Pub. L. 103–382, title III, §331(a), Oct. 20, 1994, 108 Stat. 3965. The act Sept. 23, 1950, did not contain a section 10 on Jan. 1, 1958.

Sections 204 and 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably mean sections 204 and 310 of act Sept. 23, 1950, ch. 995, which were classified to sections 274 and 300, respectively, of this title prior to the general amendment of that Act by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548. The act Sept. 30, 1950, did not contain a section 204 or 310 on Jan. 1, 1958.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §7008, substituted "section 7714(e) of this title" for "section 7714(f) of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *See References in Text note below.*

§7709. State consideration of payments in providing State aid

(a) General prohibition

Except as provided in subsection (b) of this section, a State may not—

(1) consider payments under this subchapter in determining for any fiscal year—

(A) the eligibility of a local educational agency for State aid for free public education; or

(B) the amount of such aid; or

(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

(b) State equalization plans

(1) In general

A State may reduce State aid to a local educational agency that receives a payment under section 7702 or 7703(b) of this title (except the amount calculated in excess of 1.0 under section 7703(a)(2)(B) of this title and, with respect to a local educational agency that receives a payment under section 7703(b)(2) of this title, the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 7703(b)(1) of this title and not section 7703(b)(2) of this title) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A) of this section, that the State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in the State.

(2) Computation

(A) In general

For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second fiscal year preceding the fiscal year for which the determination is made, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than 25 percent.

(B) Other factors

In making a determination under this subsection, the Secretary shall—

(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

(3) Exception

Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

(A) the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in paragraph (2) for the fiscal year for which the determination is made; and

(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for the fiscal year for which the determination is made, the State will pay to each affected local educational agency the amount by which the State reduced State aid to the local educational agency.

(c) Procedures for review of State equalization plans

(1) Written notice

(A) In general

Any State that wishes to consider payments described in subsection (b)(1) of this section in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of such State's intention to do so.

(B) Contents

Such notice shall be in the form that the Secretary requires, including evidence that the State has notified each local educational agency in the State of such State's intention to consider such payments in providing State aid.

(2) Opportunity to present views

Before making a determination under subsection (b) of this section, the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

(3) Qualification procedures

If the Secretary determines that a program of State aid qualifies under subsection (b) of this section, the Secretary shall—

(A) certify the program and so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section 7711(a) of this title, to any local educational agency adversely affected by such certification.

(4) Nonqualification procedures

If the Secretary determines that a program of State aid does not qualify under subsection (b) of this section, the Secretary shall—

(A) so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section 7711(a) of this title, to the State, and to any local educational agency adversely affected by such determination.

(d) Treatment of State aid

(1) In general

If a State has in effect a program of State aid for free public education for any fiscal year, which

is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this subchapter for any fiscal year may be taken into consideration by such State in determining the relative—

(A) financial resources available to local educational agencies in that State; and

(B) financial need of such agencies for the provision of free public education for children served by such agency, except that a State may consider as local resources funds received under this subchapter only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.

(2) Prohibition

A State may not take into consideration payments under this subchapter before such State's program of State aid has been certified by the Secretary under subsection (c)(3) of this section.

(e) Remedies for State violations

(1) In general

The Secretary or any aggrieved local educational agency may, not earlier than 150 days after an adverse determination by the Secretary against a State for violation of subsections (a) or (d)(2) of this section or for failure to carry out an assurance under subsection (b)(3)(B) of this section, and if an administrative proceeding has not been concluded within such time, bring an action in a United States district court against such State for such violations or failure.

(2) Immunity

A State shall not be immune under the 11th amendment to the Constitution of the United States from an action described in paragraph (1).

(3) Relief

The court shall grant such relief as the court determines is appropriate.

(Pub. L. 89–10, title VII, §7009, formerly title VIII, §8009, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3764; amended Pub. L. 104–195, §10, Sept. 16, 1996, 110 Stat. 2384; Pub. L. 106–398, §1 [[div. A], title XVIII, §1812], Oct. 30, 2000, 114 Stat. 1654, 1654A–386; Pub. L. 107–110, title VIII, §804, Jan. 8, 2002, 115 Stat. 1956; renumbered title VII, §7009, and amended Pub. L. 114–95, title VII, §§7001(c)(2), (d)(1), (7), (8), 7009, Dec. 10, 2015, 129 Stat. 2074, 2087.)

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114–95, §7009(2), made technical amendments to references in original act which appear in text as references to sections 7703(b) and 7703(a)(2)(B) of this title.

Pub. L. 114–95, §7001(d)(8), made technical amendment to references in original act which appear in two places in text as references to section 7703(b)(2) of this title.

Pub. L. 114–95, §7001(d)(7), made technical amendment to reference in original act which appears in text as reference to section 7703(b)(1) of this title.

Pub. L. 114–95, §7001(d)(1), made technical amendment to reference in original act which appears in text as reference to section 7702 of this title.

Subsec. (c)(1)(B). Pub. L. 114–95, §7009(3), substituted "that the Secretary requires" for "and contain the information the Secretary requires".

Subsec. (c)(3)(B), (4)(B). Pub. L. 114–95, §7009(1), made technical amendment to reference in original act which appears in text as reference to section 7711(a) of this title.

2002—Subsec. (b)(1). Pub. L. 107–110 inserted "and, with respect to a local educational agency that receives a payment under section 7703(b)(2) of this title, the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 7703(b)(1) of this title and not section 7703(b)(2) of this title" after "section 7703(a)(2)(B) of this title".

2000—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1812(1)], struck out "or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994)" after "under this subchapter" in introductory provisions.

Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1812(2)], amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "A State may reduce State aid to a local educational agency that receives a payment under section 7702 or 7703(b) of this title (except the amount calculated in

excess of 1.0 under subparagraph (B) of section 7703(a)(2) of this title) or under the Act of September 30, 1950 (Public Law 874, 81st Congress) as such Act was in effect on the day preceding October 20, 1994 (other than an increase in payments described in paragraphs (2)(B), (2)(C), (2)(D), or (3)(B)(ii) of section 3(d) of such Act of September 30, 1950) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A) of this section, that such State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in such State."

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title XVIII, §1812(3)], struck out "or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994)" after "under this subchapter" wherever appearing.

1996—Subsec. (b)(2)(A). Pub. L. 104–195 substituted "more than 25 percent" for "more than—

"(i) 25 percent for fiscal year 1995, 1996, or 1997; and

"(ii) 20 percent for fiscal year 1998 or 1999".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§7710. Federal administration

(a) Payments in whole dollar amounts

The Secretary shall round any payments under this subchapter to the nearest whole dollar amount.

(b) Other agencies

Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this subchapter, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this subchapter.

(c) Special rules

(1) Certain children eligible under subparagraphs (A) and (G)(ii) of section 7703(a)(1)

(A) The Secretary shall treat as eligible under subparagraph (A) of section 7703(a)(1) of this title any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (2).

(B) The Secretary shall treat as eligible under subparagraph (G) of section 7703(a)(1) of this title any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (2).

(2) Requirements

A child meets the requirements of this paragraph if—

(A) such child resides—

(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

(B) the schools of such agency are within a more reasonable commuting distance of such child's home than the schools of the local educational agency that serves the school attendance

area where such child resides;

(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child;

(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 7709(b) of this title; and

(E) such agency received a payment for fiscal year 1999 under section 7703(b) of this title on behalf of children described in paragraph (1).

(d) Timely payments

(1) In general

Subject to paragraph (2), the Secretary shall pay a local educational agency the full amount that the agency is eligible to receive under this subchapter for a fiscal year not later than September 30 of the second fiscal year following the fiscal year for which such amount has been appropriated if, not later than 1 calendar year following the fiscal year in which such amount has been appropriated, such local educational agency submits to the Secretary all the data and information necessary for the Secretary to pay the full amount that the agency is eligible to receive under this subchapter for such fiscal year.

(2) Payments with respect of fiscal years in which insufficient funds are appropriated

For a fiscal year in which the amount appropriated under section 7714 of this title is insufficient to pay the full amount a local educational agency is eligible to receive under this subchapter, paragraph (1) shall be applied by substituting "is available to pay the agency" for "the agency is eligible to receive" each place the term appears.

(Pub. L. 89–10, title VII, §7010, formerly title VIII, §8010, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3767; amended Pub. L. 106–398, §1 [[div. A], title XVIII, §1813], Oct. 30, 2000, 114 Stat. 1654, 1654A–387; Pub. L. 112–239, div. A, title V, §563(b)(3), (c)(4), Jan. 2, 2013, 126 Stat. 1747, 1748; renumbered title VII, §7010, and amended Pub. L. 114–95, title VII, §§7001(a)(1), (c)(2), (d)(3), (6), 7010, Dec. 10, 2015, 129 Stat. 2074, 2087.)

AMENDMENTS

2015—Pub. L. 114–95, §7001(a)(1), repealed Pub. L. 112–239, §563(c)(4). See 2013 Amendment notes below.

Subsec. (c)(1). Pub. L. 114–95, §7010(1)(A), made technical amendment to reference in original act which appears in heading as reference to section 7703(a)(1).

Subsec. (c)(1)(A), (B). Pub. L. 114–95, §7001(d)(3), made technical amendment to reference in original act which appears in text as reference to section 7703(a)(1) of this title.

Subsec. (c)(2)(D). Pub. L. 114–95, §7010(1)(B), made technical amendment to reference in original act which appears in text as reference to section 7709(b) of this title.

Subsec. (c)(2)(E). Pub. L. 114–95, §7001(d)(6), made technical amendment to reference in original act which appears in text as reference to section 7703(b) of this title.

Subsec. (d)(2). Pub. L. 114–95, §7010(2), made technical amendment to reference in original act which appears in text as reference to section 7714 of this title.

2013—Pub. L. 112–239, §563(c)(4), which directed repeal of the amendment by Pub. L. 112–239, §563(b)(3)(B), on the day after the 5-year period that began on Jan. 3, 2013, was itself repealed by Pub. L. 114–95, §7001(a)(1).

Subsec. (c)(1). Pub. L. 112–239, §563(b)(3)(A), substituted "paragraph (2)" for "paragraph (3) of this subsection" in subpars. (A) and (B).

Subsec. (d). Pub. L. 112–239, §563(b)(3)(B), added subsec. (d).

2000—Subsec. (c)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(1), (2)], redesignated par. (2) as (1) and struck out heading and text of former par. (1). Text read as follows: "Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such subsection was in effect on the day preceding October 20, 1994), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of

subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection."

Subsec. (c)(2). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(2)], redesignated par. (3) as (2). Former par. (2) redesignated (1).

Subsec. (c)(2)(D). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(3)(A)], struck out "section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) or" after "otherwise permitted under".

Subsec. (c)(2)(E). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(3)(B)], substituted "1999" for "1994", struck out "(or such section's predecessor authority)" after "section 7703(b) of this title", and substituted "paragraph (1)" for "paragraph (2)".

Subsec. (c)(3). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(2)], redesignated par. (3) as (2).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7711. Administrative hearings and judicial review

(a) Administrative hearings

A local educational agency and a State that is adversely affected by any action of the Secretary under this subchapter shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5 if the local educational agency or State, as the case may be, submits to the Secretary a request for the hearing not later than 60 days after the date of the action of the Secretary under this subchapter.

(b) Judicial review of secretarial action

(1) In general

A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) of this section may, within 30 working days (as determined by the local educational agency or State) after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28.

(2) Findings of fact

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Review

The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 89–10, title VII, §7011, formerly title VIII, §8011, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3768; amended Pub. L. 106–398, §1 [[div. A], title XVIII, §1814(a)(1), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–387; renumbered title VII, §7011, and amended Pub. L. 114–95, title VII, §§7001(c)(2), 7011, Dec. 10, 2015, 129 Stat. 2074, 2087.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §7011, struck out "or under the Act of September 30, 1950 (Public Law

874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994)" after "any action of the Secretary under this subchapter".

2000—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title XVIII, §1814(a)(1)], inserted "if the local educational agency or State, as the case may be, submits to the Secretary a request for the hearing not later than 60 days after the date of the action of the Secretary under this subchapter" before period at end.

Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1814(b)], substituted "30 working days (as determined by the local educational agency or State)" for "60 days".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title XVIII, §1814(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–387, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to an action of the Secretary under title VIII [now VII] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) initiated on or after the date of the enactment of this Act [Oct. 30, 2000]."

§7712. Forgiveness of overpayments

Notwithstanding any other provision of law, the Secretary may forgive the obligation of a local educational agency to repay, in whole or in part, the amount of any overpayment received under this subchapter, or under this subchapter's predecessor authorities, if the Secretary determines that the overpayment was made as a result of an error made by—

(1) the Secretary; or

(2) the local educational agency and repayment of the full amount of the overpayment will result in an undue financial hardship on the agency and seriously harm the agency's educational program.

(Pub. L. 89–10, title VII, §7012, formerly title VIII, §8012, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3769; amended Pub. L. 106–398, §1 [[div. A], title XVIII, §1815], Oct. 30, 2000, 114 Stat. 1654, 1654A–387; renumbered title VII, §7012, Pub. L. 114–95, title VII, §7001(c)(2), Dec. 10, 2015, 129 Stat. 2074.)

AMENDMENTS

2000—Pub. L. 106–398 substituted "under this subchapter's predecessor authorities" for "under the Act of September 30, 1950 (Public Law 874, 81st Congress) or the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Acts were in effect on the day preceding October 20, 1994)" in introductory provisions.

§7713. Definitions

For purposes of this subchapter:

(1) Armed Forces

The term "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(2) Average per-pupil expenditure

The term "average per-pupil expenditure" means—

(A) the aggregate current expenditures of all local educational agencies in the State; divided by

(B) the total number of children in average daily attendance for whom such agencies provided free public education.

(3) Construction

The term "construction" means—

(A) the preparation of drawings and specifications for school facilities;

(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

(C) inspecting and supervising the construction of school facilities; and

(D) debt service for such activities.

(4) Current expenditures

The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but does not include expenditures for community services, capital outlay, and debt service, or any expenditures made from funds awarded under part A of subchapter I. The determination of whether an expenditure for the replacement of equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted accounting principles as determined by the State.

(5) Federal property

(A) In general

Except as provided in subparagraphs (B) through (F), the term "Federal property" means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

(i) owned by the United States or leased by the United States from another entity;

(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

(III) conveyed at any time under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] to a Native individual, Native group, or village or regional corporation (including single family occupancy properties that may have been subsequently sold or leased to a third party), except that property that is conveyed under such Act—

(aa) that is not taxed is, for the purposes of this paragraph, considered tax-exempt due to Federal law; and

(bb) is considered Federal property for the purpose of this paragraph if the property is located within a Regional Educational Attendance Area that has no taxing power;

(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

(V) used for low-rent housing, as described in paragraph (10), that is located on land described in subclause (I), (II), (III), or (IV) of this clause or on land that met one of those descriptions immediately before such property's use for such housing;

(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.];

(II) used to provide housing for homeless children at closed military installations pursuant to section 11411 of title 42; or

(III) used for affordable housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(iv) owned by a foreign government or by an international organization.

(B) Schools providing flight training to members of Air Force

The term "Federal property" includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy, any school providing flight training to members of the Air Force under contract with the Air Force at an airport owned by a State or political subdivision of a State.

(C) Non-Federal easements, leases, licenses, permits, improvements, and certain other real property

The term "Federal property" includes, whether or not subject to taxation by a State or a political subdivision of a State—

(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

(ii) any improvement on Federal property as otherwise described in this paragraph; and

(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal property described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

(D) Certain Postal Service property and pipelines and utility lines

Notwithstanding any other provision of this paragraph, the term "Federal property" does not include—

(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

(ii) pipelines and utility lines.

(E) Property with respect to which State or local tax revenues may not be expended, allocated, or available for free public education

Notwithstanding any other provision of this paragraph, "Federal property" does not include any property on which children reside that is otherwise described in this paragraph if—

(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

(ii) no tax revenues of the State are allocated or available for the free public education of such children.

(F) Property located in the State of Oklahoma owned by Indian housing authority for low-income housing

The term "Federal property" includes any real property located in the State of Oklahoma that—

(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under or authorized by the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.]); and

(ii) at any time—

(I) was designated by treaty as tribal land; or

(II) satisfied the definition of Federal property under section 403(1)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

(6) Free public education

The term "free public education" means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

(i) includes preschool education; and

(ii) does not include any education provided beyond grade 12.

(7) Indian lands

The term "Indian lands" means any Federal property described in paragraph (5)(A)(ii) or (5)(F).

(8) Local contribution percentage

(A) In general

The term "local contribution percentage" means the percentage of current expenditures in the State derived from local and intermediate sources, as reported to and verified by the National Center for Education Statistics.

(B) Hawaii and District of Columbia

Notwithstanding subparagraph (A), the local contribution percentage for Hawaii and for the District of Columbia shall be the average local contribution percentage for the 50 States and the District of Columbia.

(9) Local educational agency

(A) In general

Except as provided in subparagraph (B), the term "local educational agency"—

(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

(B) Exception

The term "local educational agency" does not include any agency or school authority that the Secretary determines on a case-by-case basis—

(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this subchapter or the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) or increasing the amount of such assistance; or

(ii) is not constituted or reconstituted for legitimate educational purposes.

(10) Low-rent housing

The term "low-rent housing" means housing located on property that is described in paragraph (5)(A)(iii).

(11) Modernization

The term "modernization" means repair, renovation, alteration, or construction, including—

(A) the concurrent installation of equipment; and

(B) the complete or partial replacement of an existing school facility, but only if such replacement is less expensive and more cost-effective than repair, renovation, or alteration of the school facility.

(12) Revenue derived from local sources

The term "revenue derived from local sources" means—

(A) revenue produced within the boundaries of a local educational agency and available to such agency for such agency's use; or

(B) funds collected by another governmental unit, but distributed back to a local educational agency in the same proportion as such funds were collected as a local revenue source.

(13) School facilities

The term "school facilities" includes—

(A) classrooms and related facilities; and

(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

(Pub. L. 89–10, title VII, §7013, formerly title VIII, §8013, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3769; amended Pub. L. 106–398, §1 [[div. A], title XVIII, §1816], Oct. 30, 2000, 114 Stat. 1654, 1654A–387; renumbered title VII, §7013, and amended Pub. L. 114–95, title VII, §§7001(c)(2), 7012, Dec. 10, 2015, 129 Stat. 2074, 2087.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5)(A)(ii)(III), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The United States Housing Act of 1937, referred to in par. (5)(A)(iii)(I), is act Sept. 1, 1937, ch. 896, as

revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in par. (5)(A)(iii)(III), (F)(i), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in pars. (5)(F)(ii)(II) and (9)(B)(i), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. Section 403 of the Act was classified to section 244 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2015—Par. (1). Pub. L. 114–95, §7012(1), substituted "Marine Corps, and Coast Guard" for "and Marine Corps".

Par. (4). Pub. L. 114–95, §7012(2), struck out "and subchapter VI" after "part A of subchapter I".

Par. (5)(A)(ii)(III). Pub. L. 114–95, §7012(3)(A), added subcl. (III) and struck out former subcl. (III) which read as follows: "conveyed at any time under the Alaska Native Claims Settlement Act to a Native individual, Native group, or village or regional corporation;".

Par. (5)(A)(iii)(II). Pub. L. 114–95, §7012(3)(B)(i), made technical amendment to reference in original act which appears in text as reference to section 11411 of title 42.

Par. (5)(A)(iii)(III). Pub. L. 114–95, §7012(3)(B)(ii), added subcl. (III) and struck out former subcl. (III) which read as follows: "used for affordable housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996; or".

2000—Par. (5)(A)(iii)(III). Pub. L. 106–398, §1 [[div. A], title XVIII, §1816(1)(A)], added subcl. (III).

Par. (5)(F)(i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1816(1)(B)], substituted "or authorized by the Native American Housing Assistance and Self-Determination Act of 1996" for "the mutual help ownership opportunity program under section 202 of the United States Housing Act of 1937".

Par. (8)(B). Pub. L. 106–398, §1 [[div. A], title XVIII, §1816(2)], substituted "the 50 States and the District of Columbia" for "all States".

Pars. (11) to (13). Pub. L. 106–398, §1 [[div. A], title XVIII, §1816(3), (4)], added par. (11) and redesignated former pars. (11) and (12) as (12) and (13), respectively.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7713a. School facilities for children of Government employees and other residents in Indian reservations, national parks, and national monuments

In order to facilitate the providing of educational opportunities for children of Government employees and other residents in Indian reservations, the national parks and national monuments the Secretary of the Interior is hereby authorized in his discretion to make available for elementary school purposes therein, without charge, space in Government-owned buildings, when such space may be available for such purposes without detriment to the official business of such Indian reservations, national parks and national monuments.

(July 16, 1940, ch. 629, 54 Stat. 761.)

CODIFICATION

Section was not enacted as part of the Elementary and Secondary Education Act of 1965, which comprises this chapter.

Section was formerly classified to section 244a of this title. Prior thereto, section was classified to section 76a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§7714. Authorization of appropriations

(a) Payments for Federal acquisition of real property

For the purpose of making payments under section 7702 of this title, there are authorized to be appropriated $66,813,000 for each of fiscal years 2017 through 2019, and $71,997,917 for fiscal year 2020.

(b) Basic payments; payments for heavily impacted local educational agencies

For the purpose of making payments under section 7703(b) of this title, there are authorized to be appropriated $1,151,233,000 for each of fiscal years 2017 through 2019, and $1,240,572,618 for fiscal year 2020.

(c) Payments for children with disabilities

For the purpose of making payments under section 7703(d) of this title, there are authorized to be appropriated $48,316,000 for each of fiscal years 2017 through 2019, and $52,065,487 for fiscal year 2020.

(d) Construction

For the purpose of carrying out section 7707 of this title, there are authorized to be appropriated $17,406,000 for each of fiscal years 2017 through 2019, and $18,756,765 for fiscal year 2020.

(e) Facilities maintenance

For the purpose of carrying out section 7708 of this title, there are authorized to be appropriated $4,835,000 for each of fiscal years 2017 through 2019, and $5,210,213 for fiscal year 2020.

(Pub. L. 89–10, title VII, §7014, formerly title VIII, §8014, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3772; amended Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1498; Pub. L. 106–398, §1 [[div. A], title XVIII, §1817], Oct. 30, 2000, 114 Stat. 1654, 1654A–388; Pub. L. 107–110, title VIII, §805, Jan. 8, 2002, 115 Stat. 1956; renumbered title VII, §7014, and amended Pub. L. 114–95, title VII, §§7001(c)(2), (d)(1), (6), 7013, Dec. 10, 2015, 129 Stat. 2074, 2088.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §7013(1), substituted "$66,813,000 for each of fiscal years 2017 through 2019, and $71,997,917 for fiscal year 2020" for "$32,000,000 for fiscal year 2000 and such sums as may be necessary for each of the seven succeeding fiscal years".

Pub. L. 114–95, §7001(d)(1), made technical amendment to reference in original act which appears in text as reference to section 7702 of this title.

Subsec. (b). Pub. L. 114–95, §7013(2), substituted "$1,151,233,000 for each of fiscal years 2017 through 2019, and $1,240,572,618 for fiscal year 2020" for "$809,400,000 for fiscal year 2000 and such sums as may be necessary for each of the seven succeeding fiscal years".

Pub. L. 114–95, §7001(d)(6), made technical amendment to reference in original act which appears in text as reference to section 7703(b) of this title.

Subsec. (c). Pub. L. 114–95, §7013(3), made technical amendment to reference in original act which appears in text as reference to section 7703(d) of this title and substituted "$48,316,000 for each of fiscal years 2017 through 2019, and $52,065,487 for fiscal year 2020" for "$50,000,000 for fiscal year 2000 and such sums as may be necessary for each of the seven succeeding fiscal years".

Subsec. (d). Pub. L. 114–95, §7013(5), made technical amendment to reference in original act which appears in text as reference to section 7707 of this title and substituted "$17,406,000 for each of fiscal years 2017 through 2019, and $18,756,765 for fiscal year 2020" for "$10,052,000 for fiscal year 2000 and such sums as may be necessary for fiscal year 2001, $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the five succeeding fiscal years".

Pub. L. 114–95, §7013(4), redesignated subsec. (e) as (d).

Subsec. (e). Pub. L. 114–95, §7013(6), made technical amendment to reference in original act which appears in text as reference to section 7708 of this title and substituted "$4,835,000 for each of fiscal years 2017 through 2019, and $5,210,213 for fiscal year 2020" for "$5,000,000 for fiscal year 2000 and such sums as may be necessary for each of the seven succeeding fiscal years".

Pub. L. 114–95, §7013(4), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 114–95, §7013(4), redesignated subsec. (f) as (e).

2002—Subsecs. (a) to (c). Pub. L. 107–110, §805(a), substituted "seven succeeding fiscal years" for "three succeeding fiscal years".

Subsec. (e). Pub. L. 107–110, §805(b), substituted "for fiscal year 2001, $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the five succeeding fiscal years" for "for each of the three succeeding fiscal years".

Subsec. (f). Pub. L. 107–110, §805(a), substituted "seven succeeding fiscal years" for "three succeeding fiscal years".

Subsec. (g). Pub. L. 107–110, §805(c), struck out heading and text of subsec. (g). Text read as follows: "For the purpose of carrying out section 7702(j) of this title there are authorized to be appropriated $1,500,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years."

2000—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title XVIII, §1817(a)], substituted "$32,000,000 for fiscal year 2000" for "$16,750,000 for fiscal year 1995" and "three" for "four".

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title XVIII, §1817(b)], substituted "section 7703(b)" for "subsections (b) and (f) of section 7703", "$809,400,000 for fiscal year 2000" for "$775,000,000 for fiscal year 1995", and "three" for "four" and struck out ", of which 6 percent shall be available, until expended, for each such fiscal year to carry out section 7703(f) of this title" before period at end.

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title XVIII, §1817(c)], substituted "$50,000,000 for fiscal year 2000" for "$45,000,000 for fiscal year 1995" and "three" for "four".

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title XVIII, §1817(d)], struck out heading and text of subsec. (d). Text read as follows: "For the purpose of making payments under section 7706 of this title, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years."

Subsec. (e). Pub. L. 106–398, §1 [[div. A], title XVIII, §1817(e)], substituted "$10,052,000 for fiscal year 2000" for "$25,000,000 for fiscal year 1995" and "three" for "four".

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title XVIII, §1817(f)], substituted "$5,000,000 for fiscal year 2000" for "$2,000,000 for fiscal year 1995" and "three" for "four".

Subsec. (g). Pub. L. 106–398, §1 [[div. A], title XVIII, §1817(g)], amended heading and substituted "$1,500,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years" for "such sums as are necessary beginning in fiscal year 1998 and for each succeeding fiscal year" in text.

1997—Subsec. (g). Pub. L. 105–78 added subsec. (g).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SUBCHAPTER VIII—GENERAL PROVISIONS

CODIFICATION

Pub. L. 114–95, title VIII, §8001(a), Dec. 10, 2015, 129 Stat. 2088, redesignated subchapter IX (§7801 et seq.) of this chapter as this subchapter.

Title VIII of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and subsequently revised, restated, redesignated, and amended by other public laws. Title VIII is shown, herein, as having been added as title IX of Pub. L. 89–10 by Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1956, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. Title IX of Pub. L. 89–10 was subsequently redesignated title VIII by Pub. L. 114–95, title VIII, §8001(a), Dec. 10, 2015, 129 Stat. 2088, and transferred to this subchapter. See Codification note preceding section 6301 of this title.

PRIOR PROVISIONS

A prior title VIII of the Elementary and Secondary Education Act of 1965, comprising former subchapter VIII (§7701 et seq.) of this chapter, was redesignated title VII of the Act by Pub. L. 114–95, title VII, §7001(c), Dec. 10, 2015, 129 Stat. 2074, and transferred to subchapter VII (§7701 et seq.) of this chapter.

PART A—DEFINITIONS

§7801. Definitions

Except as otherwise provided, in this chapter:

(1) Average daily attendance

(A) In general

Except as provided otherwise by State law or this paragraph, the term "average daily attendance" means—

(i) the aggregate number of days of attendance of all students during a school year; divided by

(ii) the number of days school is in session during that year.

(B) Conversion

The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership (or other similar data).

(C) Special rule

If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for the purpose of this chapter—

(i) consider the child to be in attendance at a school of the agency making the payment; and

(ii) not consider the child to be in attendance at a school of the agency receiving the payment.

(D) Children with disabilities

If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 1401 of this title, the Secretary shall, for the purpose of this chapter, consider the child to be in attendance at a school of the agency making the payment.

(2) Average per-pupil expenditure

The term "average per-pupil expenditure" means, in the case of a State or of the United States—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States, for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

(ii) any direct current expenditures by the State for the operation of those agencies; divided by

(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(3) Child

The term "child" means any person within the age limits for which the State provides free public education.

(4) Child with a disability

The term "child with a disability" has the same meaning given that term in section 1401 of this title.

(5) Community-based organization

The term "community-based organization" means a public or private nonprofit organization of demonstrated effectiveness that—

(A) is representative of a community or significant segments of a community; and

(B) provides educational or related services to individuals in the community.

(6) Consolidated local application

The term "consolidated local application" means an application submitted by a local educational agency pursuant to section 7845 of this title.

(7) Consolidated local plan

The term "consolidated local plan" means a plan submitted by a local educational agency pursuant to section 7845 of this title.

(8) Consolidated State application

The term "consolidated State application" means an application submitted by a State educational agency pursuant to section 7842 of this title.

(9) Consolidated State plan

The term "consolidated State plan" means a plan submitted by a State educational agency pursuant to section 7842 of this title.

(10) County

The term "county" means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

(11) Covered program

The term "covered program" means each of the programs authorized by—

(A) part A of subchapter I;

(B) part C of subchapter I;

(C) part D of subchapter I;

(D) part A of subchapter II;

(E) part A of subchapter III;

(F) part A of subchapter IV;

(G) part B of subchapter IV; and

(H) subpart 2 of part B of subchapter V.

(12) Current expenditures

The term "current expenditures" means expenditures for free public education—

(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under subchapter I.

(13) Department

The term "Department" means the Department of Education.

(14) Distance learning

The term "distance learning" means the transmission of educational or instructional

programming to geographically dispersed individuals and groups via telecommunications.

(15) Dual or concurrent enrollment program

The term "dual or concurrent enrollment program" means a program offered by a partnership between at least one institution of higher education and at least one local educational agency through which a secondary school student who has not graduated from high school with a regular high school diploma is able to enroll in one or more postsecondary courses and earn postsecondary credit that—

(A) is transferable to the institutions of higher education in the partnership; and

(B) applies toward completion of a degree or recognized educational credential as described in the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) [and 42 U.S.C. 2751 et seq.].

(16) Early childhood education program

The term "early childhood education program" has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(17) Early college high school

The term "early college high school" means a partnership between at least one local educational agency and at least one institution of higher education that allows participants to simultaneously complete requirements toward earning a regular high school diploma and earn not less than 12 credits that are transferable to the institutions of higher education in the partnership as part of an organized course of study toward a postsecondary degree or credential at no cost to the participant or participant's family.

(18) Educational service agency

The term "educational service agency" means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

(19) Elementary school

The term "elementary school" means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

(20) English learner

The term "English learner", when used with respect to an individual, means an individual—

(A) who is aged 3 through 21;

(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) who was not born in the United States or whose native language is a language other than English;

(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) the ability to meet the challenging State academic standards;

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

(21) Evidence-based

(A) In general

Except as provided in subparagraph (B), the term "evidence-based", when used with respect

to a State, local educational agency, or school activity, means an activity, strategy, or intervention that—

(i) demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—

(I) strong evidence from at least 1 well-designed and well-implemented experimental study;

(II) moderate evidence from at least 1 well-designed and well-implemented quasi-experimental study; or

(III) promising evidence from at least 1 well-designed and well-implemented correlational study with statistical controls for selection bias; or

(ii)(I) demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and

(II) includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

(B) Definition for specific activities funded under this chapter

When used with respect to interventions or improvement activities or strategies funded under section 6303 of this title, the term "evidence-based" means a State, local educational agency, or school activity, strategy, or intervention that meets the requirements of subclause (I), (II), or (III) of subparagraph (A)(i).

(22) Expanded learning time

The term "expanded learning time" means using a longer school day, week, or year schedule to significantly increase the total number of school hours, in order to include additional time for—

(A) activities and instruction for enrichment as part of a well-rounded education; and

(B) instructional and support staff to collaborate, plan, and engage in professional development (including professional development on family and community engagement) within and across grades and subjects.

(23) Extended-year adjusted cohort graduation rate

(A) In general

The term "extended-year adjusted cohort graduation rate" means the fraction—

(i) the denominator of which consists of the number of students who form the original cohort of entering first-time students in grade 9 enrolled in the high school no later than the date by which student membership data must be collected annually by State educational agencies for submission to the National Center for Education Statistics under section 9543 of this title, adjusted by—

(I) adding the students who joined that cohort, after the date of the determination of the original cohort; and

(II) subtracting only those students who left that cohort, after the date of the determination of the original cohort, as described in subparagraph (B); and

(ii) the numerator of which—

(I) consists of the sum of—

(aa) the number of students in the cohort, as adjusted under clause (i), who earned a regular high school diploma before, during, or at the conclusion of—

(AA) one or more additional years beyond the fourth year of high school; or

(BB) a summer session immediately following the additional year of high school; and

(bb) all students with the most significant cognitive disabilities in the cohort, as adjusted under clause (i), assessed using the alternate assessment aligned to alternate

academic achievement standards under section 6311(b)(2)(D) of this title and awarded a State-defined alternate diploma that is—

(AA) standards-based;

(BB) aligned with the State requirements for the regular high school diploma; and

(CC) obtained within the time period for which the State ensures the availability of a free appropriate public education under section 1412(a)(1) of this title; and

(II) shall not include any student awarded a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

(B) Cohort removal

To remove a student from a cohort, a school or local educational agency shall require documentation, or obtain documentation from the State educational agency, to confirm that the student has transferred out, emigrated to another country, or transferred to a prison or juvenile facility, or is deceased.

(C) Transferred out

For purposes of this paragraph, the term "transferred out" has the meaning given the term in clauses (i), (ii), and (iii) of paragraph (25)(C).

(D) Special rules

(i) Schools starting after grade 9

For those high schools that start after grade 9, the original cohort shall be calculated for the earliest high school grade students attend no later than the date by which student membership data is collected annually by State educational agencies for submission to the National Center for Education Statistics pursuant to section 9543 of this title.

(ii) Very small schools

A State educational agency may calculate the extended year adjusted cohort graduation rate described under this paragraph for a high school with an average enrollment over a 4-year period of less than 100 students for the purposes of section 6311(c)(4) of this title by—

(I) averaging the extended-year adjusted cohort graduation rate of the school over a period of three years; or

(II) establishing a minimum number of students that must be included in the cohort described in clause (i) of subparagraph (A) that will provide a valid graduation rate calculation as determined by the Secretary, below which the school shall be exempt from differentiation and identification under such section.

(24) Family literacy services

The term "family literacy services" means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(25) Four-year adjusted cohort graduation rate

(A) In general

The term "four-year adjusted cohort graduation rate" means the fraction—

(i) the denominator of which consists of the number of students who form the original

cohort of entering first-time students in grade 9 enrolled in the high school no later than the date by which student membership data is collected annually by State educational agencies for submission to the National Center for Education Statistics pursuant to section 9543 of this title, adjusted by—

(I) adding the students who joined that cohort, after the date of the determination of the original cohort; and

(II) subtracting only those students who left that cohort, after the date of the determination of the original cohort, as described in subparagraph (B); and

(ii) the numerator of which—

(I) consists of the sum of—

(aa) the number of students in the cohort, as adjusted under clause (i), who earned a regular high school diploma before, during, or at the conclusion of—

(AA) the fourth year of high school; or

(BB) a summer session immediately following the fourth year of high school; and

(bb) all students with the most significant cognitive disabilities in the cohort, as adjusted under clause (i), assessed using the alternate assessment aligned to alternate academic achievement standards under section 6311(b)(2)(D) of this title and awarded a State-defined alternate diploma that is—

(AA) standards-based;

(BB) aligned with the State requirements for the regular high school diploma; and

(CC) obtained within the time period for which the State ensures the availability of a free appropriate public education under section 1412(a)(1) of this title; and

(II) shall not include any student awarded a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

(B) Cohort removal

To remove a student from a cohort, a school or local educational agency shall require documentation, or obtain documentation from the State educational agency, to confirm that the student has transferred out, emigrated to another country, or transferred to a prison or juvenile facility, or is deceased.

(C) Transferred out

(i) In general

For purposes of this paragraph, the term "transferred out" means that a student, as confirmed by the high school or local educational agency in accordance with clause (ii), has transferred to—

(I) another school from which the student is expected to receive a regular high school diploma; or

(II) another educational program from which the student is expected to receive a regular high school diploma or an alternate diploma that meets the requirements of subparagraph (A)(ii)(I)(bb).

(ii) Confirmation requirements

(I) Documentation required

The confirmation of a student's transfer to another school or educational program described in clause (i) requires documentation of such transfer from the receiving school or program in which the student enrolled.

(II) Lack of confirmation

A student who was enrolled in a high school, but for whom there is no confirmation of the student having transferred out, shall remain in the adjusted cohort.

(iii) Programs not providing credit

Except as provided in subparagraph (A)(ii)(I)(bb), a student who is retained in grade or who is enrolled in a program leading to a general equivalency diploma, or other alternative educational program that does not issue or provide credit toward the issuance of a regular high school diploma, shall not be considered transferred out and shall remain in the adjusted cohort.

(D) Special rules

(i) Schools starting after grade 9

For those high schools that start after grade 9, the original cohort shall be calculated for the earliest high school grade students attend no later than the date by which student membership data must be collected annually by State educational agencies for submission to the National Center for Education Statistics pursuant to section 9543 of this title.

(ii) Very small schools

A State educational agency may calculate the four-year adjusted cohort graduation rate described under this paragraph for a high school with an average enrollment over a 4-year period of less than 100 students for the purposes of section 6311(c)(4) of this title by—

(I) averaging the four-year adjusted cohort graduation rate of the school over a period of three years; or

(II) establishing a minimum number of students that must be included in the cohort described in clause (i) of subparagraph (A) that will provide a valid graduation rate calculation as determined by the Secretary, below which the school shall be exempt from differentiation and identification under such section.

(26) Free public education

The term "free public education" means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

(B) as elementary school or secondary school education as determined under applicable State law, except that the term does not include any education provided beyond grade 12.

(27) Gifted and talented

The term "gifted and talented", when used with respect to students, children, or youth, means students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

(28) High school

The term "high school" means a secondary school that—

(A) grants a diploma, as defined by the State; and

(B) includes, at least, grade 12.

(29) Institution of higher education

The term "institution of higher education" has the meaning given that term in section 1001(a) of this title.

(30) Local educational agency

(A) In general

The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(B) Administrative control and direction

The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(C) Bureau of Indian Education schools

The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this chapter with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.

(D) Educational service agencies

The term includes educational service agencies and consortia of those agencies.

(E) State educational agency

The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

(31) Mentoring

The term "mentoring", except when used to refer to teacher mentoring, means a process by which a responsible adult, postsecondary student, or secondary school student works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

(32) Middle grades

The term middle grades means any of grades 5 through 8.

(33) Multi-tier system of supports

The term "multi-tier system of supports" means a comprehensive continuum of evidence-based, systemic practices to support a rapid response to students' needs, with regular observation to facilitate data-based instructional decisionmaking.

(34) Native American and Native American language

The terms "Native American" and "Native American language" have the same meaning given those terms in section 2902 of title 25.

(35) Other staff

The term "other staff" means specialized instructional support personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

(36) Outlying area

The term "outlying area"—

(A) means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands;

(B) means the Republic of Palau, to the extent permitted under section 1921d(f)(1)(B)(ix) of title 48 and until an agreement for the extension of United States education assistance under the Compact of Free Association becomes effective for the Republic of Palau; and

(C) for the purpose of any discretionary grant program under this chapter, includes the Republic of the Marshall Islands and the Federated States of Micronesia, to the extent permitted under section 1921d(f)(1)(B)(viii) of title 48.

(37) Paraprofessional

The term "paraprofessional", also known as a "paraeducator", includes an education assistant

and instructional assistant.

(38) Parent

The term "parent" includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

(39) Parental involvement

The term "parental involvement" means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—

(A) that parents play an integral role in assisting their child's learning;

(B) that parents are encouraged to be actively involved in their child's education at school;

(C) that parents are full partners in their child's education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child; and

(D) the carrying out of other activities, such as those described in section 6318 of this title.

(40) Pay for success initiative

The term "pay for success initiative" means a performance-based grant, contract, or cooperative agreement awarded by a public entity in which a commitment is made to pay for improved outcomes that result in social benefit and direct cost savings or cost avoidance to the public sector. Such an initiative shall include—

(A) a feasibility study on the initiative describing how the proposed intervention is based on evidence of effectiveness;

(B) a rigorous, third-party evaluation that uses experimental or quasi-experimental design or other research methodologies that allow for the strongest possible causal inferences to determine whether the initiative has met its proposed outcomes;

(C) an annual, publicly available report on the progress of the initiative; and

(D) a requirement that payments are made to the recipient of a grant, contract, or cooperative agreement only when agreed upon outcomes are achieved, except that the entity may make payments to the third party conducting the evaluation described in subparagraph (B).

(41) Poverty line

The term "poverty line" means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

(42) Professional development

The term "professional development" means activities that—

(A) are an integral part of school and local educational agency strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging State academic standards; and

(B) are sustained (not stand-alone, 1-day, or short term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused, and may include activities that—

(i) improve and increase teachers'—

(I) knowledge of the academic subjects the teachers teach;

(II) understanding of how students learn; and

(III) ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;

(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

(iii) allow personalized plans for each educator to address the educator's specific needs

identified in observation or other feedback;

(iv) improve classroom management skills;

(v) support the recruitment, hiring, and training of effective teachers, including teachers who became certified through State and local alternative routes to certification;

(vi) advance teacher understanding of—

(I) effective instructional strategies that are evidence-based; and

(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;

(vii) are aligned with, and directly related to, academic goals of the school or local educational agency;

(viii) are developed with extensive participation of teachers, principals, other school leaders, parents, representatives of Indian tribes (as applicable), and administrators of schools to be served under this chapter;

(ix) are designed to give teachers of English learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(x) to the extent appropriate, provide training for teachers, principals, and other school leaders in the use of technology (including education about the harms of copyright piracy), so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;

(xi) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

(xii) are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services, to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;

(xiii) include instruction in the use of data and assessments to inform and instruct classroom practice;

(xiv) include instruction in ways that teachers, principals, other school leaders, specialized instructional support personnel, and school administrators may work more effectively with parents and families;

(xv) involve the forming of partnerships with institutions of higher education, including, as applicable, Tribal Colleges and Universities as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)), to establish school-based teacher, principal, and other school leader training programs that provide prospective teachers, novice teachers, principals, and other school leaders with an opportunity to work under the guidance of experienced teachers, principals, other school leaders, and faculty of such institutions;

(xvi) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of subchapter I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers;

(xvii) provide follow-up training to teachers who have participated in activities described in this paragraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; and

(xviii) where practicable, provide jointly for school staff and other early childhood education program providers, to address the transition to elementary school, including issues related to school readiness.

(43) Regular high school diploma

The term "regular high school diploma"—

(A) means the standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma, except that a regular high

school diploma shall not be aligned to the alternate academic achievement standards described in section 6311(b)(1)(E) of this title; and

(B) does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

(44) School leader

The term "school leader" means a principal, assistant principal, or other individual who is—

(A) an employee or officer of an elementary school or secondary school, local educational agency, or other entity operating an elementary school or secondary school; and

(B) responsible for the daily instructional leadership and managerial operations in the elementary school or secondary school building.

(45) Secondary school

The term "secondary school" means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

(46) Secretary

The term "Secretary" means the Secretary of Education.

(47) Specialized instructional support personnel; specialized instructional support services

(A) Specialized instructional support personnel

The term "specialized instructional support personnel" means—

(i) school counselors, school social workers, and school psychologists; and

(ii) other qualified professional personnel, such as school nurses, speech language pathologists, and school librarians, involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 1401 of this title) as part of a comprehensive program to meet student needs.

(B) Specialized instructional support services

The term "specialized instructional support services" means the services provided by specialized instructional support personnel.

(48) State

The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(49) State educational agency

The term "State educational agency" means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

(50) Technology

The term "technology" means modern information, computer and communication technology products, services, or tools, including, the Internet and other communications networks, computer devices and other computer and communications hardware, software applications, data systems, and other electronic content (including multimedia content) and data storage.

(51) Universal design for learning

The term "universal design for learning" has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(52) Well-rounded education

The term "well-rounded education" means courses, activities, and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as

determined by the State or local educational agency, with the purpose of providing all students access to an enriched curriculum and educational experience.

(Pub. L. 89–10, title VIII, §8101, formerly title IX, §9101, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1956; renumbered title VIII, §8101, and amended Pub. L. 114–95, title VIII, §§8001(a)(1), (b)(2), (3), 8002, Dec. 10, 2015, 129 Stat. 2088, 2089.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in par. (15)(B), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 7801, Pub. L. 89–10, title IX, §9101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3773, set forth findings regarding Indian education, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §8002(19), struck out undesignated par. following par. (47) which defined "State".

Pars. (3) to (6). Pub. L. 114–95, §8002(1), (2), redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which defined "beginning teacher".

Pars. (7), (8). Pub. L. 114–95, §8002(2), redesignated pars. (8) and (9) as (7) and (8), respectively. Former par. (7) redesignated (6).

Pub. L. 114–95, §8001(b)(2), made technical amendment to reference in original act which appears in text as reference to section 7845 of this title.

Pars. (9), (10). Pub. L. 114–95, §8002(2), redesignated pars. (10) and (12) as (9) and (10), respectively. Former par. (9) redesignated (8).

Pub. L. 114–95, §8001(b)(3), made technical amendment to reference in original act which appears in text as reference to section 7842 of this title.

Par. (11). Pub. L. 114–95, §8002(3), added par. (11) and struck out former par. (11) which defined "covered program".

Pub. L. 114–95, §8002(1), (2), redesignated par. (13) as (11) and struck out former par. (11) which defined "core academic subjects".

Par. (12). Pub. L. 114–95, §8002(3), added par. (12) and struck out former par. (12) which defined "current expenditures".

Pub. L. 114–95, §8002(2), redesignated par. (14) as (12). Former par. (12) redesignated (10).

Pars. (13), (14). Pub. L. 114–95, §8002(2), redesignated pars. (15) and (16) as (13) and (14), respectively. Former pars. (13) and (14) redesignated (11) and (12), respectively.

Pars. (15) to (17). Pub. L. 114–95, §8002(4), added pars. (15) to (17). Former pars. (15), (16), and (17) redesignated (13), (14), and (18), respectively.

Par. (18). Pub. L. 114–95, §8002(2), redesignated par. (17) as (18). Former par. (18) redesignated (19).

Par. (19). Pub. L. 114–95, §8002(1), (2), redesignated par. (18) as (19) and struck out former par. (19) which defined "exemplary teacher".

Par. (20). Pub. L. 114–95, §8002(5)(A), (B), substituted "English learner" for "Limited English proficient" in heading and "English learner" for "limited English proficient" in introductory provisions.

Pub. L. 114–95, §8002(2), redesignated par. (25) as (20). Former par. (20) redesignated (24).

Par. (20)(D)(i). Pub. L. 114–95, §8002(5)(C), substituted "challenging State academic standards" for "State's proficient level of achievement on State assessments described in section 6311(b)(3) of this title".

Pars. (21), (22). Pub. L. 114–95, §8002(6), added pars. (21) and (22). Former pars. (21) and (22) redesignated (26) and (27), respectively.

Par. (23). Pub. L. 114–95, §8002(1), (6), added par. (23) and struck out former par. (23) which defined "highly qualified".

Par. (24). Pub. L. 114–95, §8002(2), redesignated par. (20) as (24). Former par. (24) redesignated (29).

Par. (25). Pub. L. 114–95, §8002(7), added par. (25). Former par. (25) redesignated (20).

Pars. (26), (27). Pub. L. 114–95, §8002(2), redesignated pars. (21) and (22) as (26) and (27), respectively. Former pars. (26) and (27) redesignated (30) and (31), respectively.

Par. (28). Pub. L. 114–95, §8002(8), added par. (28). Former par. (28) redesignated (34).

Par. (29). Pub. L. 114–95, §8002(2), redesignated par. (24) as (29). Former par. (29) redesignated (35).

Par. (30). Pub. L. 114–95, §8002(2), (9), redesignated par. (26) as (30) and, in subpar. (C), substituted "Bureau of Indian Education schools" for "BIA schools" in heading and "Indian Education" for "Indian Affairs" in two places in text. Former par. (30) redesignated (36).

Par. (31). Pub. L. 114–95, §8002(2), redesignated par. (27) as (31). Former par. (31) redesignated (38).

Pars. (32), (33). Pub. L. 114–95, §8002(10), added pars. (32) and (33). Former pars. (32) and (33) redesignated (39) and (41), respectively.

Par. (34). Pub. L. 114–95, §8002(2), redesignated par. (28) as (34). Former par. (34) redesignated (42).

Par. (35). Pub. L. 114–95, §8002(1), (2), (11), redesignated par. (29) as (35), substituted "specialized instructional support" for "pupil services", and struck out former par. (35) which defined "public telecommunications entity".

Par. (36). Pub. L. 114–95, §8002(12), added par. (36) and struck out former par. (36) which defined "outlying area".

Pub. L. 114–95, §8002(1), (2), redesignated par. (30) as (36) and struck out former par. (36) which defined "pupil services personnel" and "pupil services".

Par. (37). Pub. L. 114–95, §8002(1), (13), added par. (37) and struck out former par. (37) which defined "scientifically based research".

Par. (38). Pub. L. 114–95, §8002(2), redesignated par. (31) as (38). Former par. (38) redesignated (45).

Par. (39). Pub. L. 114–95, §8002(2), (14), redesignated par. (32) as (39), inserted "and" after semicolon at end of subpar. (C), and made technical amendment to reference in original act which appears in subpar. (D) as reference to section 6318 of this title. Former par. (39) redesignated (46).

Par. (40). Pub. L. 114–95, §8002(15), added par. (40).

Par. (41). Pub. L. 114–95, §8002(2), redesignated par. (33) as (41). Former par. (41) redesignated (49).

Par. (42). Pub. L. 114–95, §8002(16), added par. (42) and struck out former par. (42) which defined "professional development".

Pub. L. 114–95, §8002(1), (2), redesignated par. (34) as (42) and struck out former par. (42) which defined "teacher mentoring".

Pars. (43), (44). Pub. L. 114–95, §8002(17), added pars. (43) and (44). Former par. (43) redesignated (50).

Pars. (45), (46). Pub. L. 114–95, §8002(2), redesignated pars. (38) and (39) as (45) and (46), respectively.

Par. (47). Pub. L. 114–95, §8002(18), added par. (47).

Par. (48). Pub. L. 114–95, §8002(19), added par. (48).

Par. (49). Pub. L. 114–95, §8002(2), redesignated par. (41) as (49).

Par. (50). Pub. L. 114–95, §8002(20), added par. (50) and struck out former par. (50) which defined "technology".

Pub. L. 114–95, §8002(2), redesignated par. (43) as (50).

Pars. (51), (52). Pub. L. 114–95, §8002(21), added pars. (51) and (52).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

HIGHLY QUALIFIED TEACHER

Pub. L. 111–242, §163, as added by Pub. L. 111–322, title I, §1(a)(2), Dec. 22, 2010, 124 Stat. 3521; amended by Pub. L. 112–175, §145, Sept. 28, 2012, 126 Stat. 1322; Pub. L. 113–46, div. A, §144, Oct. 17, 2013, 127 Stat. 565; Pub. L. 114–53, div. B, §140, Sept. 30, 2015, 129 Stat. 510, renumbered div. B, Pub. L. 114–113, §8(3), Dec. 18, 2015, 129 Stat. 2245, provided that:

"(a) A 'highly qualified teacher' includes a teacher who meets the requirements in 34 CFR 200.56(a)(2)(ii), as published in the Federal Register on December 2, 2002.

"(b) This provision is effective on the date of enactment of this provision [Dec. 22, 2010] through the end of the 2016–2017 academic year.

"(c) Not later than December 31, 2013, the Secretary of Education shall submit a report to the Committees on Appropriations and Health, Education, Labor, and Pensions of the Senate and the Committees on Appropriations and Education and the Workforce of the House of Representatives, using data required under existing law (section 1111(h)(6)(A) of Public Law 107–110 [probably meant section 1111(h)(6)(A) of Pub. L. 89–10, as added by Pub. L. 107–110; former 20 U.S.C. 6311(h)(6)(A)]) by State and each local educational agency, regarding the extent to which students in the following categories are taught by teachers who are deemed highly qualified pursuant to 34 CFR 200.56(a)(2)(ii) as published in the Federal Register on December 2, 2002:

"(1) Students with disabilities.

"(2) English Learners.
"(3) Students in rural areas.
"(4) Students from low-income families."

§7802. Applicability of subchapter

Parts B, C, D, E, and F of this subchapter do not apply to subchapter VII of this chapter.

(Pub. L. 89–10, title VIII, §8102, formerly title IX, §9102, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1966; renumbered title VIII, §8102, and amended Pub. L. 114–95, title VIII, §§8001(a)(1), 8003, Dec. 10, 2015, 129 Stat. 2088, 2089, 2099.)

PRIOR PROVISIONS

A prior section 7802, Pub. L. 89–10, title IX, §9102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3774, set out purpose of provisions relating to Indian education, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §8003, substituted "Parts B, C, D, E, and F of this subchapter do not apply to subchapter VII" for "Parts B, C, D, and E of this subchapter do not apply to subchapter VIII".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7803. Applicability to Bureau of Indian Education operated schools

For the purpose of any competitive program under this chapter—

(1) a consortium of schools operated by the Bureau of Indian Education;

(2) a school operated under a contract or grant with the Bureau of Indian Education in consortium with another contract or grant school or a tribal or community organization; or

(3) a Bureau of Indian Education school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,

shall be given the same consideration as a local educational agency.

(Pub. L. 89–10, title VIII, §8103, formerly title IX, §9103, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1966; renumbered title VIII, §8103, and amended Pub. L. 114–95, title VIII, §§8001(a)(1), 8004, Dec. 10, 2015, 129 Stat. 2088, 2089, 2100.)

PRIOR PROVISIONS

Prior sections 7811 to 7818 were omitted in the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

Section 7811, Pub. L. 89–10, title IX, §9111, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3774, set forth purpose of provisions relating to formula grants to local educational agencies.

Section 7812, Pub. L. 89–10, title IX, §9112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3774; amended Pub. L. 104–5, §1, Mar. 23, 1995, 109 Stat. 72, related to grants to local educational agencies.

Section 7813, Pub. L. 89–10, title IX, §9113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3775, related to amount of grants.

Section 7814, Pub. L. 89–10, title IX, §9114, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3776, related to applications for grants.

Section 7815, Pub. L. 89–10, title IX, §9115, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3778; amended Pub. L. 105–332, §3(c)(2), Oct. 31, 1998, 112 Stat. 3125, related to authorized services and activities.

Section 7816, Pub. L. 89–10, title IX, §9116, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108

Stat. 3779, related to student eligibility forms.

Section 7817, Pub. L. 89–10, title IX, §9117, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3781, related to payments.

Section 7818, Pub. L. 89–10, title IX, §9118, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3782, related to State educational agency review.

AMENDMENTS

2015—Pub. L. 114–95, §8004, substituted "Bureau of Indian Education" for "Bureau of Indian Affairs" in section catchline and wherever appearing in text.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

§7821. Consolidation of State administrative funds for elementary and secondary education programs

(a) Consolidation of administrative funds

(1) In general

A State educational agency may consolidate the amounts specifically made available to it for State administration under one or more of the programs under paragraph (2) if the State educational agency can demonstrate that the majority of its resources are derived from non-Federal sources.

(2) Applicability

This section applies to any program under this chapter under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

(b) Use of funds

(1) In general

A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a) of this section.

(2) Additional uses

A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a) of this section, such as—

(A) the coordination of those programs with other Federal and non-Federal programs;

(B) the establishment and operation of peer-review mechanisms under this chapter;

(C) the administration of this subchapter;

(D) the dissemination of information regarding model programs and practices;

(E) technical assistance under any program under this chapter;

(F) State-level activities designed to carry out this subchapter;

(G) training personnel engaged in audit and other monitoring activities;

(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department; and

(I) implementation of fiscal support teams that provide technical fiscal support assistance, which shall include evaluating fiscal, administrative, and staffing functions, and any other key

operational function.

(c) Records

A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a) of this section.

(d) Review

To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of that administration.

(e) Unused administrative funds

If a State educational agency does not use all of the funds available to the agency under this section for administration, the agency may use those funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a) of this section.

(f) Consolidation of funds for standards and assessment development

In order to develop challenging State academic standards and assessments, a State educational agency may consolidate the amounts described in subsection (a) of this section for those purposes under subchapter I of this chapter.

(Pub. L. 89–10, title VIII, §8201, formerly title IX, §9201, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1966; renumbered title VIII, §8201, and amended Pub. L. 114–95, title VIII, §§8001(a)(2), 8005, Dec. 10, 2015, 129 Stat. 2088, 2089, 2100.)

AMENDMENTS

2015—Subsec. (b)(2)(I). Pub. L. 114–95, §8005, added subpar. (I).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7822. Single local educational agency States

A State educational agency that also serves as a local educational agency shall, in its applications or plans under this chapter, describe how the agency will eliminate duplication in conducting administrative functions.

(Pub. L. 89–10, title VIII, §8202, formerly title IX, §9202, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1967; renumbered title VIII, §8202, Pub. L. 114–95, title VIII, §8001(a)(2), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§7823. Consolidation of funds for local administration

(a) General authority

In accordance with regulations of the Secretary and for any fiscal year, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more programs under this chapter (or such other programs as the Secretary shall designate) not more than the percentage, established in each program, of the total available for the local educational agency under those programs.

(b) State procedures

A State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) of this section and for establishing limitations on the amount of funds under those programs that may be used for administration on a consolidated basis.

(c) Conditions

A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

(d) Uses of administrative funds

(1) In general

A local educational agency that consolidates administrative funds under this section may use the consolidated funds for the administration of the programs and for uses, at the school district and school levels, comparable to those described in section 7821(b)(2) of this title.

(2) Fiscal support teams

A local educational agency that uses funds as described in section 7821(b)(2)(I) of this title may contribute State or local funds to expand the reach of such support without violating any supplement, not supplant requirement of any program contributing administrative funds.

(e) Records

A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of the programs included in the consolidation.

(Pub. L. 89–10, title VIII, §8203, formerly title IX, §9203, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1967; renumbered title VIII, §8203, and amended Pub. L. 114–95, title VIII, §§8001(a)(2), 8006, Dec. 10, 2015, 129 Stat. 2088, 2089, 2100.)

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–95, §8006(1), substituted "A State" for "Within 1 year after January 8, 2002, a State".

Subsec. (d). Pub. L. 114–95, §8006(2), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "A local educational agency that consolidates administrative funds under this section may use the consolidated funds for the administration of the programs and for uses, at the school district and school levels, comparable to those described in section 7821(b)(2) of this title."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7824. Consolidated set-aside for Department of the Interior funds

(a) General authority

(1) Transfer

The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of subchapter VI, and the education for homeless children and youth program under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11431 et seq.], the amounts allotted to the Department of the Interior under those programs.

(2) Agreement

(A) In general

The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

(B) Contents

The agreement shall—

(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the achievement measures to assess program effectiveness, including program objectives; and

(ii) be developed in consultation with Indian tribes.

(b) Administration

The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for its costs related to the administration of the funds transferred under this section.

(c) Accountability system

(1) For the purposes of part A of subchapter I, the Secretary of Interior, in consultation with the Secretary, if the Secretary of the Interior requests the consultation, using a negotiated rulemaking process to develop regulations for implementation no later than the 2017-2018 academic year, shall define the standards, assessments, and accountability system consistent with section 6311 of this title, for the schools funded by the Bureau of Indian Education on a national, regional, or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.

(2) The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the requirements established pursuant to paragraph (1) where such requirements are determined by such body or school board to be inappropriate. If such requirements are waived, the tribal governing body or school board shall, within 60 days, submit to the Secretary of Interior a proposal for alternative standards, assessments, and an accountability system, if applicable, consistent with section 6311 of this title, that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior and the Secretary shall approve such standards, assessments, and accountability system unless the Secretary determines that the standards, assessments, and accountability system do not meet the requirements of section 6311 of this title, taking into account the unique circumstances and needs of such school or schools and the students served.

(3) TECHNICAL ASSISTANCE.—The Secretary of Interior and the Secretary shall, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks a waiver under paragraph (2).

(Pub. L. 89–10, title VIII, §8204, formerly title IX, §9204, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1968; renumbered title VIII, §8204, and amended Pub. L. 114–95, title VIII, §§8001(a)(2), 8007, Dec. 10, 2015, 129 Stat. 2088, 2089, 2100.)

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended. Subtitle B of title VII of the Act is classified generally to part B (§11431 et seq.) of subchapter VI of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §8007(1)(A), substituted "part A of subchapter VI" for "part A of subchapter VII".

Subsec. (a)(2)(B). Pub. L. 114–95, §8007(1)(B), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: "The agreement shall—

"(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the achievement measures to assess program effectiveness, including measurable goals and objectives; and

"(ii) be developed in consultation with Indian tribes."

Subsec. (c). Pub. L. 114–95, §8007(2), added subsec. (c).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7825. Department staff

The Secretary shall—

(1) not later than 60 days after December 10, 2015, identify the number of Department full-time equivalent employees who worked on or administered each education program or project authorized under this chapter, as such program or project was in effect on the day before December 10, 2015, and publish such information on the Department's website;

(2) not later than 60 days after December 10, 2015, identify the number of full-time equivalent employees who worked on or administered each program or project authorized under this chapter, as such program or project was in effect on the day before December 10, 2015, that has been eliminated or consolidated since December 10, 2015;

(3) not later than 1 year after December 10, 2015, reduce the workforce of the Department by the number of full-time equivalent employees the Department identified under paragraph (2); and

(4) not later than 1 year after December 10, 2015, report to Congress on—

(A) the number of full-time equivalent employees associated with each program or project authorized under this chapter and administered by the Department;

(B) the number of full-time equivalent employees who were determined to be associated with eliminated or consolidated programs or projects described in paragraph (2);

(C) how the Secretary has reduced the number of full-time equivalent employees as described in paragraph (3);

(D) the average salary of the full-time equivalent employees described in subparagraph (B) whose positions were eliminated; and

(E) the average salary of the full-time equivalent employees who work on or administer a program or project authorized by the Department under this chapter, disaggregated by employee function within each such program or project.

(Pub. L. 89–10, title VIII, §8205, as added Pub. L. 114–95, title VIII, §8008, Dec. 10, 2015, 129 Stat. 2101.)

PRIOR PROVISIONS

Prior sections 7831 to 7835 were omitted in the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

Section 7831, Pub. L. 89–10, title IX, §9121, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3782, related to improvement of educational opportunities for Indian children.

Section 7832, Pub. L. 89–10, title IX, §9122, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3784, related to professional development.

Section 7833, Pub. L. 89–10, title IX, §9123, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3786, authorized fellowships for Indian students.

Section 7834, Pub. L. 89–10, title IX, §9124, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3787; amended Pub. L. 105–244, title IX, §901(d), Oct. 7, 1998, 112 Stat. 1828, related to gifted and talented Indian students.

Section 7835, Pub. L. 89–10, title IX, §9125, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3789, related to grants to tribes for education administrative planning and development.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

§7841. Purposes

The purposes of this part are—

(1) to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery;

(2) to provide greater flexibility to State and local authorities through consolidated plans, applications, and reporting; and

(3) to enhance the integration of programs under this chapter with State and local programs.

(Pub. L. 89–10, title VIII, §8301, formerly title IX, §9301, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1968; renumbered title VIII, §8301, Pub. L. 114–95, title VIII, §8001(a)(3), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§7842. Optional consolidated State plans or applications

(a) General authority

(1) Simplification

In order to simplify application requirements and reduce the burden for State educational agencies under this chapter, the Secretary, in accordance with subsection (b) of this section, shall establish procedures and criteria under which, after consultation with the Governor, a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

(A) each of the covered programs in which the State participates; and

(B) such other programs as the Secretary may designate.

(2) Consolidated applications and plans

After consultation with the Governor, a State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

(b) Collaboration

(1) In general

In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

(2) Contents

Through the collaborative process described in paragraph (1), the Secretary shall establish, for each program under this chapter to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

(3) Necessary materials

The Secretary shall require only descriptions, information, assurances (including assurances of compliance with applicable provisions regarding participation by private school children and teachers), and other materials that are absolutely necessary for the consideration of the

consolidated State plan or consolidated State application.

(Pub. L. 89–10, title VIII, §8302, formerly title IX, §9302, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1968; renumbered title VIII, §8302, and amended Pub. L. 114–95, title VIII, §§8001(a)(3), 8009, Dec. 10, 2015, 129 Stat. 2088, 2089, 2102.)

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114–95, §8009, struck out "nonprofit" after "public and private".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7843. Consolidated reporting

(a) In general

In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the Governor of the State, may submit a consolidated State annual report.

(b) Contents

The report shall contain information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities.

(c) Replacement

The report shall replace separate individual annual reports for the programs included in the consolidated State annual report.

(Pub. L. 89–10, title VIII, §8303, formerly title IX, §9303, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1969; renumbered title VIII, §8303, Pub. L. 114–95, title VIII, §8001(a)(3), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§7844. General applicability of State educational agency assurances

(a) Assurances

A State educational agency, in consultation with the Governor of the State, that submits a consolidated State plan or consolidated State application under this chapter, whether separately or under section 7842 of this title, shall have on file with the Secretary a single set of assurances, applicable to each program for which the plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, a [1] eligible private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and

(B) the public agency, eligible private agency, institution, or organization, or Indian tribe will administer those funds and property to the extent required by the authorizing law;

(3) the State will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

(B) the correction of deficiencies in program operations that are identified through audits,

monitoring, or evaluation; and

(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs;

(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

(6) the State will—

(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

(B) maintain such records, provide such information to the Secretary, and afford such access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

(7) before the plan or application was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on the plan or application and considered such comment.

(b) GEPA provision

Section 441 of the General Education Provisions Act [20 U.S.C. 1232d] shall not apply to programs under this chapter.

(Pub. L. 89–10, title VIII, §8304, formerly title IX, §9304, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1969; renumbered title VIII, §8304, and amended Pub. L. 114–95, title VIII, §§8001(a)(3), (b)(3), 8010, Dec. 10, 2015, 129 Stat. 2088, 2089, 2102.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §8001(b)(3), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7842 of this title.

Subsec. (a)(2). Pub. L. 114–95, §8010, substituted "eligible" for "nonprofit" in subpars. (A) and (B).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be "an".*

§7845. Consolidated local plans or applications

(a) General authority

(1) Consolidated plan

A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under those programs on a consolidated basis.

(2) Availability to Governor

The State educational agency shall make any consolidated local plans and applications available to the Governor.

(b) Required consolidated plans or applications

A State educational agency that has an approved consolidated State plan or application under section 7842 of this title may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under those programs, but may not require those agencies to submit separate plans.

(c) Collaboration

A State educational agency, in consultation with the Governor, shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

(d) Necessary materials

The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

(e) Rural consolidated plan

(1) In general

Two or more eligible local educational agencies, a consortium of eligible local educational service agencies, or an educational service agency on behalf of eligible local educational agencies may submit plans or applications for 1 or more covered programs to the State educational agency on a consolidated basis, if each eligible local educational agency impacted elects to participate in the joint application or elects to allow the educational service agency to apply on its behalf.

(2) Eligible local educational agency

For the purposes of this subsection, the term "eligible local educational agency" means a local educational agency that is an eligible local educational agency under part B of subchapter V.

(Pub. L. 89–10, title VIII, §8305, formerly title IX, §9305, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1970; renumbered title VIII, §8305, and amended Pub. L. 114–95, title VIII, §§8001(a)(3), (b)(3), 8011, Dec. 10, 2015, 129 Stat. 2088, 2089, 2102.)

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–95, §8001(b)(3), made technical amendment to reference in original act which appears in text as reference to section 7842 of this title.

Subsec. (e). Pub. L. 114–95, §8011, added subsec. (e).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7846. Other general assurances

(a) Assurances

Any applicant, other than a State educational agency that submits a plan or application under this chapter, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a [1] eligible private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities; and

(B) the public agency, eligible private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes;

(3) the applicant will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials;

(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program;

(6) the applicant will—

(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and

(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the State educational agency's or the Secretary's duties; and

(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment.

(b) GEPA provision

Section 442 of the General Education Provisions Act [20 U.S.C. 1232e] shall not apply to programs under this chapter.

(Pub. L. 89–10, title VIII, §8306, formerly title IX, §9306, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1971; renumbered title VIII, §8306, and amended Pub. L. 114–95, title VIII, §§8001(a)(3), (b)(2), 8012, Dec. 10, 2015, 129 Stat. 2088, 2089, 2102.)

PRIOR PROVISIONS

A prior section 7851, Pub. L. 89–10, title IX, §9131, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3790, which related to improvement of educational opportunities for adult Indians, was omitted in the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §8012(1), struck out "whether separately or pursuant to section 7845 of this title," before "shall have on file" in introductory provisions.

Pub. L. 114–95, §8001(b)(2), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7845 of this title.

Subsec. (a)(2). Pub. L. 114–95, §8012(2), substituted "eligible" for "nonprofit" in subpars. (A) and (B).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be "an".*

PART D—WAIVERS

§7861. Waivers of statutory and regulatory requirements

(a) In general

(1) Request for waiver by State or Indian tribe

A State educational agency or Indian tribe that receives funds under a program authorized under this chapter may submit a request to the Secretary to waive any statutory or regulatory requirement of this chapter.

(2) Local educational agency and school requests submitted through the State

(A) Request for waiver by local educational agency

A local educational agency that receives funds under a program authorized under this chapter and desires a waiver of any statutory or regulatory requirement of this chapter shall submit a request containing the information described in subsection (b)(1) to the appropriate State educational agency. The State educational agency may then submit the request to the Secretary if the State educational agency determines the waiver appropriate.

(B) Request for waiver by school

An elementary school or secondary school that desires a waiver of any statutory or regulatory requirement of this chapter shall submit a request containing the information described in subsection (b)(1) to the local educational agency serving the school. The local educational agency may then submit the request to the State educational agency in accordance with subparagraph (A) if the local educational agency determines the waiver appropriate.

(3) Receipt of waiver

Except as provided in subsection (b)(4) or (c), the Secretary may waive any statutory or regulatory requirement of this chapter for which a waiver request is submitted to the Secretary pursuant to this subsection.

(b) Request for waiver

(1) In general

A State educational agency, acting on its own behalf or on behalf of a local educational agency in accordance with subsection (a)(2), or Indian tribe that desires a waiver shall submit a waiver request to the Secretary, which shall include a plan that—

(A) identifies the Federal programs affected by the requested waiver;

(B) describes which Federal statutory or regulatory requirements are to be waived;

(C) describes how the waiving of such requirements will advance student academic achievement;

(D) describes the methods the State educational agency, local educational agency, school, or Indian tribe will use to monitor and regularly evaluate the effectiveness of the implementation of the plan;

(E) includes only information directly related to the waiver request; and

(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested and, if the waiver relates to provisions of subsections (b) or (h) of section 6311 of this title, describes how the State educational agency, local educational agency, school, or Indian tribe will maintain or improve transparency in reporting to parents and the public on student achievement and school performance, including the achievement of the subgroups of students identified in section 6311(b)(2)(B)(xi) of this title.

(2) Additional information

Such requests—

(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) shall be developed and submitted—

(i)(I) by local educational agencies (on behalf of those agencies and schools) to State educational agencies; and

(II) by State educational agencies (on behalf of those agencies or on behalf of, and based on the requests of, local educational agencies in the State) to the Secretary; or

(ii) by Indian tribes (on behalf of schools operated by the tribes) to the Secretary.

(3) General requirements

(A) State educational agencies

In the case of a waiver request submitted by a State educational agency acting on its own behalf, or on behalf of local educational agencies in the State under subsection (a)(2), the State educational agency shall—

(i) provide the public and any interested local educational agency in the State with notice and a reasonable opportunity to comment and provide input on the request, to the extent that the request impacts the local educational agency;

(ii) submit the comments and input to the Secretary, with a description of how the State addressed the comments and input; and

(iii) provide notice and a reasonable time to comment to the public and local educational agencies in the manner in which the applying agency customarily provides similar notice and opportunity to comment to the public.

(B) Local educational agencies

In the case of a waiver request submitted by a local educational agency that receives funds under this chapter—

(i) the request shall be reviewed and approved by the State educational agency in accordance with subsection (a)(2) before being submitted to the Secretary and be accompanied by the comments, if any, of the State educational agency and the public; and

(ii) notice and a reasonable opportunity to comment regarding the waiver request shall be provided to the State educational agency and the public by the agency requesting the waiver in the manner in which that agency customarily provides similar notice and opportunity to comment to the public.

(4) Waiver determination, demonstration, and revision

(A) In general

The Secretary shall issue a written determination regarding the initial approval or disapproval of a waiver request not more than 120 days after the date on which such request is submitted. Initial disapproval of such request shall be based on the determination of the Secretary that—

(i) the waiver request does not meet the requirements of this section;

(ii) the waiver is not permitted under subsection (c);

(iii) the description required under paragraph (1)(C) in the plan provides insufficient information to demonstrate that the waiving of such requirements will advance student academic achievement consistent with the purposes of this chapter; or

(iv) the waiver request does not provide for adequate evaluation to ensure review and continuous improvement of the plan.

(B) Waiver determination and revision

Upon the initial determination of disapproval under subparagraph (A), the Secretary shall—

(i) immediately—

(I) notify the State educational agency, local educational agency (through the State educational agency), school (through the local educational agency), or Indian tribe, as applicable, of such determination; and

(II) provide detailed reasons for such determination in writing to the applicable entity under subclause (I) to the public, such as posting in a clear and easily accessible format to the Department's website;

(ii) offer the State educational agency, local educational agency (through the State educational agency), school (through the local educational agency), or Indian tribe an opportunity to revise and resubmit the waiver request by a date that is not more than 60 days after the date of such determination; and

(iii) if the Secretary determines that the resubmission under clause (ii) does not meet the

requirements of this section, at the request of the State educational agency, local educational agency, school, or Indian tribe, conduct a hearing not more than 30 days after the date of such resubmission.

(C) Waiver disapproval

The Secretary may ultimately disapprove a waiver request if—

(i) the State educational agency, local educational agency, school, or Indian tribe has been notified and offered an opportunity to revise and resubmit the waiver request, as described under clauses (i) and (ii) of subparagraph (B); and

(ii) the State educational agency, local educational agency (through the State educational agency), school (through the local educational agency), or Indian tribe—

(I) does not revise and resubmit the waiver request; or

(II) revises and resubmits the waiver request, and the Secretary determines that such waiver request does not meet the requirements of this section after a hearing conducted under subparagraph (B)(iii), if such a hearing is requested.

(D) External conditions

The Secretary shall not disapprove a waiver request under this section based on conditions outside the scope of the waiver request.

(c) Restrictions

The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

(1) the allocation or distribution of funds to States, local educational agencies, Indian tribes, or other recipients of funds under this chapter;

(2) maintenance of effort;

(3) comparability of services;

(4) use of Federal funds to supplement, not supplant, non-Federal funds;

(5) equitable participation of private school students and teachers;

(6) parental participation and involvement;

(7) applicable civil rights requirements;

(8) the requirement for a charter school under part C of subchapter IV;

(9) the prohibitions—

(A) in subpart 2 of part F;

(B) regarding use of funds for religious worship or instruction in section 7885 of this title; and

(C) regarding activities in section 7906 of this title; or

(10) the selection of a school attendance area or school under subsections (a) and (b) of section 6313 of this title, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under part A of subchapter I of this chapter if the percentage of children from low-income families in the school attendance area or who attend the school is not more than 10 percentage points below the lowest percentage of those children for any school attendance area or school of the local educational agency that meets the requirements of subsections (a) and (b) of section 6313 of this title.

(d) Duration and extension of waiver; limitations

(1) In general

Except as provided in paragraph (2), a waiver approved by the Secretary under this section may be for a period not to exceed 4 years.

(2) Extension

The Secretary may extend the period described in paragraph (1) if the State demonstrates that—

(A) the waiver has been effective in enabling the State or affected recipient to carry out the activities for which the waiver was requested and the waiver has contributed to improved

student achievement; and

(B) the extension is in the public interest.

(3) Specific limitations

The Secretary shall not require a State educational agency, local educational agency, school, or Indian tribe, as a condition of approval of a waiver request, to—

(A) include in, or delete from, such request, specific academic standards, such as the Common Core State Standards developed under the Common Core State Standards Initiative or any other standards common to a significant number of States;

(B) use specific academic assessment instruments or items, including assessments aligned to the standards described in subparagraph (A); or

(C) include in, or delete from, such waiver request any specific elements of—

(i) State academic standards;

(ii) academic assessments;

(iii) State accountability systems; or

(iv) teacher and school leader evaluation systems.

(e) Reports

A State educational agency, local educational agency, school, or Indian tribe receiving a waiver under this section shall describe, as part of, and pursuant to, the required annual reporting under section 6311(h) of this title—

(1) the progress of schools covered under the provisions of such waiver toward improving student academic achievement; and

(2) how the use of the waiver has contributed to such progress.

(f) Termination of waivers

The Secretary shall terminate a waiver under this section if, after notice and an opportunity for a hearing, the Secretary—

(A) presents a rationale and supporting information that clearly demonstrates that the waiver is not contributing to the progress of schools described in subsection (e)(1); or

(B) determines that the waiver is no longer necessary to achieve its original purposes.

(g) Publication

A notice of the Secretary's decision to grant each waiver under subsection (a) of this section shall be published in the Federal Register and the Secretary shall provide for the dissemination of the notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

(Pub. L. 89–10, title VIII, §8401, formerly title IX, §9401, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1972; renumbered title VIII, §8401, and amended Pub. L. 114–95, title VIII, §§8001(a)(4), 8013, Dec. 10, 2015, 129 Stat. 2088, 2089, 2103.)

PRIOR PROVISIONS

A prior section 7861, Pub. L. 89–10, title IX, §9141, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3792, related to national activities, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §8013(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "Except as provided in subsection (c) of this section, the Secretary may waive any statutory or regulatory requirement of this chapter for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

"(1) receives funds under a program authorized by this chapter; and

"(2) requests a waiver under subsection (b) of this section."

Subsec. (b)(1). Pub. L. 114–95, §8013(2)(A)(i), in introductory provisions, substituted "acting on its own behalf or on behalf of a local educational agency in accordance with subsection (a)(2)," for "local educational agency," and inserted ", which shall include a plan" after "to the Secretary".

Subsec. (b)(1)(B) to (E). Pub. L. 114–95, §8013(2)(A)(iii), added subpars. (B) to (E) and struck out former subpars. (B) to (D) which required a waiver request to contain a description of the Federal statutory or regulatory requirements to be waived, a description of the measurable educational goals for each school year affected by the waiver, and an explanation of how the waiver would provide assistance. Former subpar. (E) redesignated (F).

Subsec. (b)(1)(F). Pub. L. 114–95, §8013(2)(A)(ii), (iv), redesignated subpar. (E) as (F) and inserted "and, if the waiver relates to provisions of subsections (b) or (h) of section 6311 of this title, describes how the State educational agency, local educational agency, school, or Indian tribe will maintain or improve transparency in reporting to parents and the public on student achievement and school performance, including the achievement of the subgroups of students identified in section 6311(b)(2)(B)(xi) of this title" after "waivers are requested".

Subsec. (b)(2)(B)(i)(II). Pub. L. 114–95, §8013(2)(B), substituted "(on behalf of those agencies or on behalf of, and based on the requests of, local educational agencies in the State)" for "(on behalf of, and based on the requests of, local educational agencies)".

Subsec. (b)(3)(A). Pub. L. 114–95, §8013(2)(C)(i), inserted "or on behalf of local educational agencies in the State under subsection (a)(2)," after "acting on its own behalf," in introductory provisions, added cls. (i) to (iii), and struck out former cls. (i) to (iii) which read as follows:

"(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

"(ii) submit the comments to the Secretary; and

"(iii) provide notice and information to the public regarding the waiver request in the manner in which the applying agency customarily provides similar notices and information to the public."

Subsec. (b)(3)(B). Pub. L. 114–95, §8013(2)(C)(ii), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

"(i) the request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of the State educational agency; and

"(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner in which that agency customarily provides similar notices and information to the public."

Subsec. (b)(4). Pub. L. 114–95, §8013(2)(D), added par. (4).

Subsec. (c)(1). Pub. L. 114–95, §8013(3)(A), inserted ", Indian tribes" after "local educational agencies".

Subsec. (c)(8). Pub. L. 114–95, §8013(3)(B), substituted "part C of subchapter IV" for "subpart 1 of part B of subchapter V".

Subsec. (c)(9). Pub. L. 114–95, §8013(3)(C), added par. (9) and struck out former par. (9) which read as follows: "the prohibitions regarding—

"(A) State aid in section 7902 of this title;

"(B) use of funds for religious worship or instruction in section 7885 of this title; and

"(C) activities in section 7906 of this title; or".

Subsec. (d). Pub. L. 114–95, §8013(4)(A), inserted "; limitations" after "waiver" in heading.

Subsec. (d)(2). Pub. L. 114–95, §8013(4)(B), substituted "State demonstrates" for "Secretary determines" in introductory provisions.

Subsec. (d)(3). Pub. L. 114–95, §8013(4)(C), added par. (3).

Subsec. (e). Pub. L. 114–95, §8013(5), added subsec. (e) and struck out former subsec. (e) which required certain reports to State educational agencies, the Secretary, and Congress concerning waivers under this section.

Subsec. (f). Pub. L. 114–95, §8013(6), substituted "if, after notice and an opportunity for a hearing, the Secretary—" for "if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes." and added pars. (A) and (B).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART E—APPROVAL AND DISAPPROVAL OF STATE PLANS AND LOCAL APPLICATIONS

§7871. Approval and disapproval of State plans

(a) Approval

A plan submitted by a State pursuant to section 6611(d), 7113(c), 7173, or 7842 of this title shall be approved by the Secretary unless the Secretary makes a written determination (which shall include the supporting information and rationale supporting such determination), prior to the expiration of the 120-day period beginning on the date on which the Secretary received the plan, that the plan is not in compliance with section 6611(d), 7113(c), or 7173 of this title, or part C, respectively.

(b) Disapproval process

(1) In general

The Secretary shall not finally disapprove a plan submitted under section 6611(d), 7113(c), 7173, or 7842 of this title, except after giving the State educational agency notice and an opportunity for a hearing.

(2) Notifications

If the Secretary finds that the plan is not in compliance, in whole or in part, with section 6611(d), 7113(c), or 7173 of this title, or part C, as applicable, the Secretary shall—

(A) immediately notify the State of such determination;

(B) provide a detailed description of the specific provisions of the plan that the Secretary determines fail to meet the requirements, in whole or in part, of such section or part, as applicable;

(C) offer the State an opportunity to revise and resubmit its plan within 45 days of such determination, including the chance for the State to present supporting information to clearly demonstrate that the State plan meets the requirements of such section or part, as applicable;

(D) provide technical assistance, upon request of the State, in order to assist the State to meet the requirements of such section or part, as applicable;

(E) conduct a hearing within 30 days of the plan's resubmission under subparagraph (C), unless a State declines the opportunity for such hearing; and

(F) request additional information, only as to the noncompliant provisions, needed to make the plan compliant.

(3) Response

If the State educational agency responds to the Secretary's notification described in paragraph (2)(A) prior to the expiration of the 45-day period beginning on the date on which the State educational agency received the notification, and resubmits the plan as described in paragraph (2)(C), the Secretary shall approve such plan unless the Secretary determines the plan does not meet the requirements of section 6611(d), 7113(c), or 7173 of this title, or part C, as applicable.

(4) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in paragraph (2)(A) prior to the expiration of the 45-day period beginning on the date on which the State educational agency received the notification, such plan shall be deemed to be disapproved.

(c) Limitation

A plan submitted under section 6611(d), 7113(c), 7173, or 7842 of this title shall not be approved or disapproved based upon the nature of the activities proposed within such plan if such proposed activities meet the applicable program requirements.

(d) Peer-review requirements

Notwithstanding any other requirements of this part, the Secretary shall ensure that any portion of a consolidated State plan that is related to part A of subchapter I is subject to the peer-review process described in section 6311(a)(4) of this title.

(Pub. L. 89–10, title VIII, §8451, as added Pub. L. 114–95, title VIII, §8014, Dec. 10, 2015, 129 Stat. 2107.)

PRIOR PROVISIONS

A prior section 7871, Pub. L. 89–10, title IX, §9151, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3792, established the National Advisory Council on Indian Education, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7872. Approval and disapproval of local educational agency applications

(a) Approval

An application submitted by a local educational agency pursuant to section 6612(b), 7116, 7174(b) or 7845 of this title, shall be approved by the State educational agency unless the State educational agency makes a written determination (which shall include the supporting information and rationale for such determination), prior to the expiration of the 120-day period beginning on the date on which the State educational agency received the application, that the application is not in compliance with section 6612(b), 7116, or 7174(b) of this title, or part C, respectively.

(b) Disapproval process

(1) In general

The State educational agency shall not finally disapprove an application submitted under section 6612(b), 7116, 7174(b) or 7845 of this title except after giving the local educational agency notice and opportunity for a hearing.

(2) Notifications

If the State educational agency finds that the application submitted under section 6612(b), 7116, 7174(b) or 7845 of this title is not in compliance, in whole or in part, with section 6612(b), 7116, or 7174(b) of this title, or part C, respectively, the State educational agency shall—

(A) immediately notify the local educational agency of such determination;

(B) provide a detailed description of the specific provisions of the application that the State determines fail to meet the requirements, in whole or in part, of such section or part, as applicable;

(C) offer the local educational agency an opportunity to revise and resubmit its application within 45 days of such determination, including the chance for the local educational agency to present supporting information to clearly demonstrate that the application meets the requirements of such section or part;

(D) provide technical assistance, upon request of the local educational agency, in order to assist the local educational agency to meet the requirements of such section or part, as applicable;

(E) conduct a hearing within 30 days of the application's resubmission under subparagraph (C), unless a local educational agency declines the opportunity for such a hearing; and

(F) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(3) Response

If the local educational agency responds to the State educational agency's notification described

in paragraph (2)(A) prior to the expiration of the 45-day period beginning on the date on which the local educational agency received the notification, and resubmits the application as described in paragraph (2)(C), the State educational agency shall approve such application unless the State educational agency determines the application does not meet the requirements of this part.

(4) Failure to respond

If the local educational agency does not respond to the State educational agency's notification described in paragraph (2)(A) prior to the expiration of the 45-day period beginning on the date on which the local educational agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title VIII, §8452, as added Pub. L. 114–95, title VIII, §8014, Dec. 10, 2015, 129 Stat. 2108.)

PRIOR PROVISIONS

Prior sections 7872 to 7874 were omitted in the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

Section 7872, Pub. L. 89–10, title IX, §9152, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3793, related to peer review of applications.

Section 7873, Pub. L. 89–10, title IX, §9153, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3793, related to preference for Indian applicants for grants.

Section 7874, Pub. L. 89–10, title IX, §9154, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3793, related to minimum grant criteria.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART F—UNIFORM PROVISIONS

CODIFICATION

Pub. L. 114–95, title VIII, §8001(b)(1), Dec. 10, 2015, 129 Stat. 2089, redesignated part E (§7881 et seq.) of subchapter IX of this chapter as part F of this subchapter.

SUBPART 1—PRIVATE SCHOOLS

§7881. Participation by private school children and teachers

(a) Private school participation

(1) In general

Except as otherwise provided in this chapter, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b) of this section, who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

(2) Secular, neutral, and nonideological services or benefits

Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

(3) Special rule

(A) In general

Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

(B) Ombudsman

To help ensure equitable services are provided to private school children, teachers, and other educational personnel under this section, the State educational agency involved shall direct the ombudsman designated by the agency under section 6320 of this title to monitor and enforce the requirements of this section.

(4) Expenditures

(A) In general

Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

(B) Obligation of funds

Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the agency.

(C) Notice of allocation

Each State educational agency shall provide notice in a timely manner to the appropriate private school officials in the State of the allocation of funds for educational services and other benefits under this subpart that the local educational agencies have determined are available for eligible private school children.

(5) Provision of services

An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

(b) Applicability

(1) In general

This section applies to programs under—

(A) part C of subchapter I;
(B) part A of subchapter II;
(C) part A of subchapter III;
(D) part A of subchapter IV; and
(E) part B of subchapter IV.

(2) Definition

For the purpose of this section, the term "eligible children" means children eligible for services under a program described in paragraph (1).

(c) Consultation

(1) In general

To ensure timely and meaningful consultation, a State educational agency, local educational

agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials. Such agency and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, on issues such as—

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how, where, and by whom the services will be provided;

(D) how the services will be assessed and how the results of the assessment will be used to improve those services;

(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel, the amount of funds available for those services, and how that amount is determined;

(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of services through potential third-party providers; and

(G) whether the agency, consortium, or entity shall provide services directly or through a separate government agency, consortium, or entity, or through a third-party contractor; and

(H) whether to provide equitable services to eligible private school children—

(i) by creating a pool or pools of funds with all of the funds allocated under subsection (a)(4)(C) based on all the children from low-income families in a participating school attendance area who attend private schools; or

(ii) in the agency's participating school attendance area who attend private schools with the proportion of funds allocated under subsection (a)(4)(C) based on the number of children from low-income families who attend private schools.

(2) Disagreement

If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.

(3) Timing

The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this chapter, and shall continue throughout the implementation and assessment of activities under this section.

(4) Discussion required

The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(5) Documentation

Each local educational agency shall maintain in the agency's records, and provide to the State educational agency involved, a written affirmation signed by officials of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.

(6) Compliance

(A) In general

If the consultation required under this section is with a local educational agency or educational service agency, a private school official shall have the right to file a complaint with the State educational agency that the consultation required under this section was not meaningful and timely, did not give due consideration to the views of the private school official, or did not make a decision that treats the private school or its students equitably as required by this section.

(B) Procedure

If the private school official wishes to file a complaint, the private school official shall provide the basis of the noncompliance and all parties shall provide the appropriate documentation to the appropriate officials.

(C) Services

A State educational agency shall provide services under this section directly or through contracts with public and private agencies, organizations, and institutions, if the appropriate private school officials have—

(i) requested that the State educational agency provide such services directly; and

(ii) demonstrated that the local educational agency involved has not met the requirements of this section in accordance with the procedures for making such a request, as prescribed by the State educational agency.

(d) Public control of funds

(1) In general

The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer the funds and property.

(2) Provision of services

(A) In general

The provision of services under this section shall be provided—

(i) by employees of a public agency; or

(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

(B) Independence; public agency

In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

(C) Commingling of funds prohibited

Funds used to provide services under this section shall not be commingled with non-Federal funds.

(Pub. L. 89–10, title VIII, §8501, formerly title IX, §9501, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1975; renumbered title VIII, §8501, and amended Pub. L. 114–95, title VIII, §§8001(a)(5), 8015, Dec. 10, 2015, 129 Stat. 2088, 2089, 2109.)

PRIOR PROVISIONS

A prior section 7881, Pub. L. 89–10, title IX, §9161, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3793; amended Pub. L. 105–220, title II, §251(b)(2)(E), Aug. 7, 1998, 112 Stat. 1080, defined terms, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114–95, §8015(1)(A), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "Educational services and other benefits provided under this section for

private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner."

Subsec. (a)(4). Pub. L. 114–95, §8015(1)(B), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children."

Subsec. (b)(1). Pub. L. 114–95, §8015(2)(A), added subpars. (A) to (E) and struck out former subpars. (A) to (H) which read as follows:

"(A) subparts 1 and 3 of part B of subchapter I of this chapter;

"(B) part C of subchapter I of this chapter;

"(C) part A of subchapter II of this chapter, to the extent provided in paragraph (3);

"(D) part B of subchapter II of this chapter;

"(E) part D of subchapter II of this chapter;

"(F) part A of subchapter III of this chapter;

"(G) part A of subchapter IV of this chapter; and

"(H) part B of subchapter IV of this chapter."

Subsec. (b)(3). Pub. L. 114–95, §8015(2)(B), struck out par. (3) which related to application of this subpart to funds awarded to a local educational agency under part A of former subchapter II of this chapter.

Subsec. (c)(1). Pub. L. 114–95, §8015(3)(A), in introductory provisions, substituted "To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials. Such agency and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, on issues such as" for "To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this chapter, on issues such as".

Subsec. (c)(1)(E). Pub. L. 114–95, §8015(3)(B)(i), substituted ", the amount" for "and the amount" and "services, and how that amount is determined;" for "services; and".

Subsec. (c)(1)(F). Pub. L. 114–95, §8015(3)(B)(ii), struck out "contract" after "provision of" and substituted "; and" for period at end.

Subsec. (c)(1)(G), (H). Pub. L. 114–95, §8015(3)(B)(iii), added subpars. (G) and (H).

Subsec. (c)(5), (6). Pub. L. 114–95, §8015(4), which directed amendment of this section by adding pars. (5) and (6) at the end, was executed by adding pars. (5) and (6) at the end of subsec. (c), to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7882. Standards for by-pass

(a) In general

If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 7881 of this title, the Secretary shall—

(1) waive the requirements of that section for the agency, consortium, or entity; and

(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 7881, 7883, and 7884 of this title.

(b) Determination

In making the determination under subsection (a) of this section, the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

(Pub. L. 89–10, title VIII, §8502, formerly title IX, §9502, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1977; renumbered title VIII, §8502, and amended Pub. L. 114–95, title VIII, §§8001(a)(5), (b)(4), 8016, Dec. 10, 2015, 129 Stat. 2088, 2089, 2111.)

PRIOR PROVISIONS

A prior section 7882, Pub. L. 89–10, title IX, §9162, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3794, authorized appropriations, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §8001(b)(4), made technical amendment to reference in original act which appears in two places in text as reference to section 7881 of this title.

Subsec. (a)(2). Pub. L. 114–95, §8016, made technical amendment to reference in original act which appears in text as reference to sections 7883 and 7884 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7883. Complaint process for participation of private school children

(a) Procedures for complaints

The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 7881 of this title by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within 45 days.

(b) Appeals to Secretary

The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within the 45-day time limit. The appeal shall be accompanied by a copy of the State educational agency's resolution, and, if there is one, a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 90 days after receipt of the appeal.

(Pub. L. 89–10, title VIII, §8503, formerly title IX, §9503, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1977; renumbered title VIII, §8503, and amended Pub. L. 114–95, title VIII, §§8001(a)(5), 8017, Dec. 10, 2015, 129 Stat. 2088, 2089, 2111.)

AMENDMENTS

2015—Pub. L. 114–95, §8017, added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to procedures for complaints and appeals to Secretary, respectively.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7884. By-pass determination process

(a) Review

(1) In general

(A) Written objections

The Secretary shall not take any final action under section 7882 of this title until the State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity affected by the action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

(B) Prior to reduction

Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

(2) Petition for review

(A) Petition

If the affected agency, consortium, or entity is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), the agency, consortium, or entity may, within 60 days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action.

(B) Transmission

A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

(C) Filing

The Secretary, upon receipt of the copy of the petition, shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28.

(3) Findings of fact

(A) In general

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

(B) New or modified findings

Any new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Jurisdiction

(A) In general

Upon the filing of a petition, the court shall have jurisdiction to affirm the action of the Secretary or to set the action aside, in whole or in part.

(B) Judgment

The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(b) Determination

Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with that agency, consortium, or entity and representatives of the affected

private school children, teachers, or other educational personnel, that there will no longer be any failure or inability on the part of the agency, consortium, or entity to meet the applicable requirements of section 7881 of this title or any other provision of this chapter.

(c) Payment from State allotment

When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of those services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this chapter.

(d) Prior determination

Any by-pass determination by the Secretary under this chapter as in effect on the day preceding January 8, 2002, shall remain in effect to the extent the Secretary determines that that determination is consistent with the purpose of this section.

(Pub. L. 89–10, title VIII, §8504, formerly title IX, §9504, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1978; renumbered title VIII, §8504, and amended Pub. L. 114–95, title VIII, §§8001(a)(5), (b)(4), 8018, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

AMENDMENTS

2015—Subsec. (a)(1)(A). Pub. L. 114–95, §8018, made technical amendment to reference in original act which appears in text as reference to section 7882 of this title.

Subsec. (b). Pub. L. 114–95, §8001(b)(4), made technical amendment to reference in original act which appears in text as reference to section 7881 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7885. Prohibition against funds for religious worship or instruction

Nothing contained in this chapter shall be construed to authorize the making of any payment under this chapter for religious worship or instruction.

(Pub. L. 89–10, title VIII, §8505, formerly title IX, §9505, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1979; renumbered title VIII, §8505, Pub. L. 114–95, title VIII, §8001(a)(5), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§7886. Private, religious, and home schools

(a) Applicability to nonrecipient private schools

Nothing in this chapter shall be construed to affect any private school that does not receive funds or services under this chapter, nor shall any student who attends a private school that does not receive funds or services under this chapter be required to participate in any assessment referenced in this chapter.

(b) Applicability to home schools

Nothing in this chapter shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this chapter.

(c) Rule of construction on prohibition of Federal control over nonpublic schools

Nothing in this chapter shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar

private, religious, or home schools from participation in programs or services under this chapter.

(d) Rule of construction on State and local educational agency mandates

Nothing in this chapter shall be construed to require any State educational agency or local educational agency that receives funds under this chapter to mandate, direct, or control the curriculum of a private or home school, regardless or [1] whether or not a home school is treated as a private school under state [2] law, nor shall any funds under this chapter be used for this purpose.

(Pub. L. 89–10, title VIII, §8506, formerly title IX, §9506, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1979; renumbered title VIII, §8506, Pub. L. 114–95, title VIII, §8001(a)(5), Dec. 10, 2015, 129 Stat. 2088, 2089.)

[1] So in original. Probably should be "of".

[2] So in original. Probably should be capitalized.

SUBPART 2—OTHER PROVISIONS

§7901. Maintenance of effort

(a) In general

A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year, subject to the requirements of subsection (b).

(b) Reduction in case of failure to meet

(1) In general

The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion by which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the local agency), if such local educational agency has also failed to meet such requirement (as determined using the measure most favorable to the local agency) for 1 or more of the 5 immediately preceding fiscal years.

(2) Special rule

No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

(c) Waiver

The Secretary may waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

(1) exceptional or uncontrollable circumstances, such as a natural disaster or a change in the organizational structure of the local educational agency; or

(2) a precipitous decline in the financial resources of the local educational agency.

(Pub. L. 89–10, title VIII, §8521, formerly title IX, §9521, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, §8521, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8019, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

PRIOR PROVISIONS

A prior section 7901, Pub. L. 89–10, title IX, §9201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3794, set forth short title of the Native Hawaiian Education Act, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §8019(1), inserted ", subject to the requirements of subsection (b)" after "for the second preceding fiscal year".

Subsec. (b)(1). Pub. L. 114–95, §8019(2), inserted before period at end ", if such local educational agency has also failed to meet such requirement (as determined using the measure most favorable to the local agency) for 1 or more of the 5 immediately preceding fiscal years".

Subsec. (c)(1). Pub. L. 114–95, §8019(3), inserted "or a change in the organizational structure of the local educational agency" after "such as a natural disaster".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7902. Prohibition regarding State aid

A State shall not take into consideration payments under this chapter (other than under subchapter VII) in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

(Pub. L. 89–10, title VIII, §8522, formerly title IX, §9522, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, §8522, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8020, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

PRIOR PROVISIONS

A prior section 7902, Pub. L. 89–10, title IX, §9202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3794, set forth findings, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §8020, substituted "subchapter VII" for "subchapter VIII".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7903. Privacy of assessment results

Any results from an individual assessment referred to in this chapter of a student that become part of the education records of the student shall have the protections provided in section 1232g of this title.

(Pub. L. 89–10, title VIII, §8523, formerly title IX, §9523, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, §8523, Pub. L. 114–95, title VIII, §8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

PRIOR PROVISIONS

A prior section 7903, Pub. L. 89–10, title IX, §9203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3798, set forth purpose of provisions relating to Native Hawaiian educational programs, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

§7904. School prayer

(a) Guidance

The Secretary shall provide and revise guidance, not later than September 1, 2002, and of every second year thereafter, to State educational agencies, local educational agencies, and the public on constitutionally protected prayer in public elementary schools and secondary schools, including making the guidance available by electronic means, including by posting the guidance on the Department's website in a clear and easily accessible manner. The guidance shall be reviewed, prior to distribution, by the Office of Legal Counsel of the Department of Justice for verification that the guidance represents the current state of the law concerning constitutionally protected prayer in public elementary schools and secondary schools.

(b) Certification

As a condition of receiving funds under this chapter, a local educational agency shall certify in writing to the State educational agency involved that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools, as detailed in the guidance required under subsection (a) of this section. The certification shall be provided by October 1 of each year. The State educational agency shall report to the Secretary by November 1 of each year a list of those local educational agencies that have not filed the certification or against which complaints have been made to the State educational agency that the local educational agencies are not in compliance with this section.

(c) Enforcement

The Secretary is authorized and directed to effectuate subsection (b) of this section by issuing, and securing compliance with, rules or orders with respect to a local educational agency that fails to certify, or is found to have certified in bad faith, that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools.

(Pub. L. 89–10, title VIII, §8524, formerly title IX, §9524, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, §8524, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8021, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

PRIOR PROVISIONS

A prior section 7904, Pub. L. 89–10, title IX, §9204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3798, established the Native Hawaiian Education Council and island councils, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §8021, substituted "by electronic means, including by posting the guidance on the Department's website in a clear and easily accessible manner" for "on the Internet".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7905. Equal access to public school facilities

(a) Short title

This section may be cited as the "Boy Scouts of America Equal Access Act".

(b) In general

(1) Equal access

Notwithstanding any other provision of law, no public elementary school, public secondary

school, local educational agency, or State educational agency that has a designated open forum or a limited public forum and that receives funds made available through the Department shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society), that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 (as a patriotic society).

(2) Voluntary sponsorship

Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society).

(c) Termination of assistance and other action

(1) Departmental action

The Secretary is authorized and directed to effectuate subsection (b) of this section by issuing and securing compliance with rules or orders with respect to a public elementary school, public secondary school, local educational agency, or State educational agency that receives funds made available through the Department and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (b) of this section.

(2) Procedure

The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), through the Office for Civil Rights and in a manner consistent with the procedure used by a Federal department or agency under section 2000d–1 of title 42. If the public school or agency does not comply with the rules or orders, then notwithstanding any other provision of law, no funds made available through the Department shall be provided to a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders.

(3) Judicial review

Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 2000d–2 of title 42. Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 2000d–2 of title 42.

(d) Definition and rule

(1) Definition

In this section, the term "youth group" means any group or organization intended to serve young people under the age of 21.

(2) Rule

For the purpose of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

(Pub. L. 89–10, title VIII, §8525, formerly title IX, §9525, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1981; renumbered title VIII, §8525, Pub. L. 114–95, title VIII, §8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

PRIOR PROVISIONS

A prior section 7905, Pub. L. 89–10, title IX, §9205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3800, related to Native Hawaiian Family-Based Education Centers, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

§7906. Prohibited uses of funds

No funds under this chapter may be used—

(1) for construction, renovation, or repair of any school facility, except as authorized under this chapter;

(2) for transportation unless otherwise authorized under this chapter;

(3) to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;

(4) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

(5) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or

(6) to operate a program of contraceptive distribution in schools.

(Pub. L. 89–10, title VIII, §8526, formerly title IX, §9526, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1982; renumbered title VIII, §8526, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8022, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

PRIOR PROVISIONS

A prior section 7906, Pub. L. 89–10, title IX, §9206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3800, authorized grants for a Native Hawaiian higher education program, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §8022, substituted "Prohibited uses of funds" for "General prohibitions" in section catchline, in subsec. (a), struck out "(a) Prohibition" before introductory provisions, substituted "No funds under this chapter may be used" for "None of the funds authorized under this chapter shall be used" in introductory provisions, added pars. (1) and (2) and redesignated former pars. (1) to (4) as (3) to (6), respectively, and struck out subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "Nothing in this section shall be construed to—

"(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or school's instructional content, curriculum, and related activities;

"(2) limit the application of the General Education Provisions Act;

"(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) create any legally enforceable right."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7906a. Prohibition against Federal mandates, direction, or control

(a) In general

No officer or employee of the Federal Government shall, through grants, contracts, or other cooperative agreements, mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic standards and assessments, curricula, or program of instruction developed and implemented to meet the requirements of this chapter (including any requirement, direction, or mandate to adopt the Common Core State Standards developed under the Common Core State Standards Initiative, any other academic standards common to a significant number of States, or any assessment, instructional content, or curriculum aligned to such standards), nor shall anything in this chapter be construed to authorize such officer or employee to do so.

(b) Financial support

No officer or employee of the Federal Government shall condition or incentivize the receipt of any grant, contract, or cooperative agreement, the receipt of any priority or preference under such grant, contract, or cooperative agreement, or the receipt of a waiver under section 7861 of this title upon a State, local educational agency, or school's adoption or implementation of specific instructional content, academic standards and assessments, curricula, or program of instruction developed and implemented to meet the requirements of this chapter (including any condition, priority, or preference to adopt the Common Core State Standards developed under the Common Core State Standards Initiative, any other academic standards common to a significant number of States, or any assessment, instructional content, or curriculum aligned to such standards).

(Pub. L. 89–10, title VIII, §8526A, as added Pub. L. 114–95, title VIII, §8023, Dec. 10, 2015, 129 Stat. 2113.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7907. Prohibitions on Federal Government and use of Federal funds

(a) General prohibition

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government, including through a grant, contract, or cooperative agreement, to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(b) Prohibition on endorsement of curriculum

Notwithstanding any other provision of Federal law, no funds provided to the Department under this chapter may be used by the Department, whether through a grant, contract, or cooperative agreement, to endorse, approve, develop, require, or sanction any curriculum, including any curriculum aligned to the Common Core State Standards developed under the Common Core State Standards Initiative or any other academic standards common to a significant number of States, designed to be used in an elementary school or secondary school.

(c) Local control

Nothing in this section shall be construed to—

(1) authorize an officer or employee of the Federal Government, whether through a grant, contract, or cooperative agreement to mandate, direct, review, or control a State, local educational agency, or school's instructional content, curriculum, and related activities;

(2) limit the application of the General Education Provisions Act (20 U.S.C. 1221 et seq.);

(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

(4) create any legally enforceable right.

(d) Prohibition on requiring Federal approval or certification of standards

(1) In general

Notwithstanding any other provision of Federal law, no State shall be required to have academic standards approved or certified by the Federal Government, in order to receive assistance under this chapter.

(2) Rule of construction

Nothing in this chapter shall be construed to prohibit a State, local educational agency, or school from using funds provided under this chapter for the development or implementation of any instructional content, academic standards, academic assessments, curriculum, or program of

instruction that a State, local educational agency, or school chooses, as permitted under State and local law, as long as the use of such funds is consistent with the terms of the grant, contract, or cooperative agreement providing such funds.

(3) Building standards

Nothing in this chapter shall be construed to mandate national school building standards for a State, local educational agency, or school.

(Pub. L. 89–10, title VIII, §8527, formerly title IX, §9527, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1983; renumbered title VIII, §8527, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8024, Dec. 10, 2015, 129 Stat. 2088, 2089, 2113.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (c)(2), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

A prior section 7907, Pub. L. 89–10, title IX, §9207, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3801, related to Native Hawaiian gifted and talented program, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §8024, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to prohibitions on Federal Government and use of Federal funds.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7908. Armed Forces recruiter access to students and student recruiting information

(a) Policy

(1) Access to student recruiting information

Notwithstanding section 1232g(a)(5)(B) of this title, each local educational agency receiving assistance under this chapter shall provide, upon a request made by a military recruiter or an institution of higher education, access to the name, address, and telephone listing of each secondary school student served by the local educational agency, unless the parent of such student has submitted the prior consent request under paragraph (2).

(2) Consent

(A) Opt-out process

A parent of a secondary school student may submit a written request, to the local educational agency, that the student's name, address, and telephone listing not be released for purposes of paragraph (1) without prior written consent of the parent. Upon receiving such request, the local educational agency may not release the student's name, address, and telephone listing for such purposes without the prior written consent of the parent.

(B) Notification of opt-out process

Each local educational agency shall notify the parents of the students served by the agency of the option to make a request described in subparagraph (A).

(3) Same access to students

Each local educational agency receiving assistance under this chapter shall provide military

recruiters the same access to secondary school students as is provided to institutions of higher education or to prospective employers of those students.

(4) Rule of construction prohibiting opt-in processes

Nothing in this subsection shall be construed to allow a local educational agency to withhold access to a student's name, address, and telephone listing from a military recruiter or institution of higher education by implementing an opt-in process or any other process other than the written consent request process under paragraph (2)(A).

(5) Parental consent

For purposes of this subsection, whenever a student has attained 18 years of age, the permission or consent required of and the rights accorded to the parents of the student shall only be required of and accorded to the student.

(b) Notification

The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after December 10, 2015, notify school leaders, school administrators, and other educators about the requirements of this section.

(c) Exception

The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.

(Pub. L. 89–10, title VIII, §8528, formerly title IX, §9528, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1983; renumbered title VIII, §8528, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8025, Dec. 10, 2015, 129 Stat. 2088, 2089, 2114.)

PRIOR PROVISIONS

A prior section 7908, Pub. L. 89–10, title IX, §9208, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3802, related to Native Hawaiian special education programs, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §8025, added subsecs. (a) to (c) and struck out former subsecs. (a) to (d) which related to policy regarding access to student recruiting information, notification of requirements of this section, exception for a private secondary school that maintains a religious objection to service in the Armed Forces, and special rule regarding Connecticut State law, respectively.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7909. Prohibition on federally sponsored testing

(a) General prohibition

Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided under this chapter to the Secretary or to the recipient of any award may be used to develop, incentivize, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law, including any assessment or testing materials aligned to the Common Core State Standards developed under the Common Core State Standards Initiative or any other academic standards common to a significant number of States.

(b) Exceptions

Subsection (a) shall not apply to international comparative assessments developed under the

authority of section 9543(a)(6) of this title and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 89–10, title VIII, §8529, formerly title IX, §9529, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1984; amended Pub. L. 107–279, title IV, §404(d)(9), Nov. 5, 2002, 116 Stat. 1986; renumbered title VIII, §8529, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8026, Dec. 10, 2015, 129 Stat. 2088, 2089, 2115.)

PRIOR PROVISIONS

A prior section 7909, Pub. L. 89–10, title IX, §9209, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3803, related to Native Hawaiian curriculum development and teacher training and recruitment programs, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §8026, amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating to general prohibition on federally sponsored testing and exceptions, respectively.

2002—Subsec. (b). Pub. L. 107–279 substituted "section 9543(a)(5) of this title" for "section 9003(a)(6) of this title".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7910. Limitations on national testing or certification for teachers, principals, or other school leaders

(a) Mandatory national testing or certification of teachers, principals, or other school leaders

Notwithstanding any other provision of this chapter or any other provision of law, no funds available to the Department or otherwise available under this chapter may be used for any purpose relating to a mandatory nationwide test or certification of teachers, principals, other school leaders, or education paraprofessionals, including any planning, development, implementation, or administration of, or incentive regarding, such test or certification.

(b) Prohibition on withholding funds

The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

(Pub. L. 89–10, title VIII, §8530, formerly title IX, §9530, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1984; renumbered title VIII, §8530, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8027, Dec. 10, 2015, 129 Stat. 2088, 2089, 2116.)

PRIOR PROVISIONS

A prior section 7910, Pub. L. 89–10, title IX, §9210, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3804, related to Native Hawaiian community-based education learning centers, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, §8027(1), inserted ", principals, or other school leaders" after "teachers" in section catchline.

Subsec. (a). Pub. L. 114–95, §8027(3), inserted ", principals, other school leaders," after "teachers" and ", or incentive regarding," after "administration of".

Pub. L. 114–95, §8027(2), which directed amendment of subsection heading by inserting ", principals, or other school leaders" after "teachers", was executed by making the insertion in the heading of subsec. (a) to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7910a. Prohibition on requiring State participation

Any State that opts out of receiving funds, or that has not been awarded funds, under one or more programs under this chapter shall not be required to carry out any of the requirements of such program or programs, and nothing in this chapter shall be construed to require a State to participate in any program under this chapter.

(Pub. L. 89–10, title VIII, §8530A, as added Pub. L. 114–95, title VIII, §8028, Dec. 10, 2015, 129 Stat. 2116.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7911. Prohibition on nationwide database

Nothing in this chapter (other than section 6398(b) of this title) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this chapter.

(Pub. L. 89–10, title VIII, §8531, formerly title IX, §9531, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1984; renumbered title VIII, §8531, Pub. L. 114–95, title VIII, §8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

PRIOR PROVISIONS

A prior section 7911, Pub. L. 89–10, title IX, §9211, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3804, set out administrative provisions, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

§7912. Unsafe school choice option

(a) Unsafe school choice policy

Each State receiving funds under this chapter shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary school or secondary school within the local educational agency, including a public charter school.

(b) Certification

As a condition of receiving funds under this chapter, a State shall certify in writing to the Secretary that the State is in compliance with this section.

(Pub. L. 89–10, title VIII, §8532, formerly title IX, §9532, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1984; renumbered title VIII, §8532, Pub. L. 114–95, title VIII, §8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

PRIOR PROVISIONS

A prior section 7912, Pub. L. 89–10, title IX, §9212, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3805, defined terms, prior to the general amendment of former subchapter IX of this chapter by Pub.

L. 107–110.

§7913. Prohibition on discrimination

Nothing in this chapter shall be construed to require, authorize, or permit, the Secretary, or a State educational agency, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.

(Pub. L. 89–10, title VIII, §8533, formerly title IX, §9533, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1985; renumbered title VIII, §8533, Pub. L. 114–95, title VIII, §8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§7914. Civil rights

(a) In general

Nothing in this chapter shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), national origin, or disability in any program funded under this chapter.

(b) Rule of construction

Nothing in this chapter shall be construed to require the disruption of services to a child or the displacement of a child enrolled in or participating in a program administered by an eligible entity, as defined in section 6311(d) of this title and part C of subchapter IV, at the commencement of the entity's participation in a grant under section 6311(d) of this title or part C of subchapter IV.

(Pub. L. 89–10, title VIII, §8534, formerly title IX, §9534, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1985; renumbered title VIII, §8534, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8029, Dec. 10, 2015, 129 Stat. 2088, 2089, 2116.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (a), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–95, §8029, substituted "as defined in section 6311(d) of this title and part C of subchapter IV" for "as defined in section 6316 of this title and part B of subchapter V" and "grant under section 6311(d) of this title or part C of subchapter IV" for "grant under section 6316 of this title or part B of subchapter V".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7915. Rulemaking

The Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

(Pub. L. 89–10, title VIII, §8535, formerly title IX, §9535, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1985; renumbered title VIII, §8535, Pub. L. 114–95, title VIII, §8001(a)(6),

Dec. 10, 2015, 129 Stat. 2088, 2089.)

§7916. Severability

If any provision of this chapter is held invalid, the remainder of this chapter shall be unaffected thereby.

(Pub. L. 89–10, title VIII, §8536, formerly title IX, §9536, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1985; renumbered title VIII, §8536, Pub. L. 114–95, title VIII, §8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§7917. Transfer of school disciplinary records

(a) Nonapplication of provisions

This section shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level.

(b) Disciplinary records

In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), not later than 2 years after January 8, 2002, each State receiving Federal funds under this chapter shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.

(Pub. L. 89–10, title VIII, §8537, formerly title IV, §4155, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1765; renumbered title IX, §9537, renumbered title VIII, §8537, Pub. L. 114–95, title IV, §4001(a)(3), title VIII, §8001(a)(6), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

REFERENCES IN TEXT

The Family Educational Rights and Privacy Act of 1974, referred to in subsec. (b), is section 513 of Pub. L. 93–380, title V, Aug. 21, 1974, 88 Stat. 571, which enacted section 1232g of this title and provisions set out as notes under sections 1221 and 1232g of this title. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 1221 of this title and Tables.

CODIFICATION

Section was classified to section 7165 of this title prior to renumbering by Pub. L. 114–95.

§7918. Consultation with Indian tribes and tribal organizations

(a) In general

To ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students, an affected local educational agency shall consult with appropriate officials from Indian tribes or tribal organizations approved by the tribes located in the area served by the local educational agency prior to the affected local educational agency's submission of a required plan or application for a covered program under this chapter or for a program under subchapter VI of this chapter. Such consultation shall be done in a manner and in such time that provides the opportunity for such appropriate officials from Indian tribes or tribal organizations to meaningfully and substantively contribute to such plan.

(b) Documentation

Each affected local educational agency shall maintain in the agency's records and provide to the State educational agency a written affirmation signed by the appropriate officials of the participating

tribes or tribal organizations approved by the tribes that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the affected local educational agency shall forward documentation that such consultation has taken place to the State educational agency.

(c) Definitions

In this section:

(1) Affected local educational agency

The term "affected local educational agency" means a local educational agency—

(A) with an enrollment of American Indian or Alaska Native students that is not less than 50 percent of the total enrollment of the local educational agency; or

(B) that—

(i) for fiscal year 2017, received a grant in the previous year under subpart 1 of part A of title VII [1] (as such subpart was in effect on the day before December 10, 2015) that exceeded $40,000; or

(ii) for any fiscal year following fiscal year 2017, received a grant in the previous fiscal year under subpart 1 of part A of subchapter VI that exceeded $40,000.

(2) Appropriate officials

The term "appropriate officials" means—

(A) tribal officials who are elected; or

(B) appointed tribal leaders or officials designated in writing by an Indian tribe for the specific consultation purpose under this section.

(d) Rule of construction

Nothing in this section shall be construed—

(1) to require the local educational agency to determine who are the appropriate officials; or

(2) to make the local educational agency liable for consultation with appropriate officials that the tribe determines not to be the correct appropriate officials.

(e) Limitation

Consultation required under this section shall not interfere with the timely submission of the plans or applications required under this chapter.

(Pub. L. 89–10, title VIII, §8538, as added Pub. L. 114–95, title VIII, §8030, Dec. 10, 2015, 129 Stat. 2116.)

REFERENCES IN TEXT

Subpart 1 of part A of title VII (as such subpart was in effect on the day before December 10, 2015), referred to in subsec. (c)(1)(B)(i), means subpart 1 of part A of title VII of Pub. L. 89–10, which was classified generally to subpart 1 (§7421 et seq.) of part A of subchapter VII of this chapter prior to being redesignated as subpart 1 of part A of title VI of Pub. L. 89–10 and amended by Pub. L. 114–95, title VI, §§6001(a), 6002(c)–(j), Dec. 10, 2015, 129 Stat. 2046–2049, 2052–2054, and transferred to subpart 1 (§7421 et seq.) of part A of subchapter VI of this chapter.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

[1] *See References in Text note below.*

§7919. Outreach and technical assistance for rural local educational agencies

(a) Outreach

The Secretary shall engage in outreach to rural local educational agencies regarding opportunities to apply for competitive grant programs under this chapter.

(b) Technical assistance

If requested to do so, the Secretary shall provide technical assistance to rural local educational agencies with locale codes 32, 33, 41, 42, or 43, or an educational service agency representing rural local educational agencies with locale codes 32, 33, 41, 42, or 43 on applications or pre-applications for any competitive grant program under this chapter. No rural local educational agency or educational service agency shall be required to request technical assistance or include any technical assistance provided by the Secretary in any application.

(Pub. L. 89–10, title VIII, §8539, as added Pub. L. 114–95, title VIII, §8031, Dec. 10, 2015, 129 Stat. 2117.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7920. Consultation with the Governor

(a) In general

A State educational agency shall consult in a timely and meaningful manner with the Governor, or appropriate officials from the Governor's office, in the development of State plans under subchapters I and II and section 7842 of this title.

(b) Timing

The consultation described in subsection (a) shall include meetings of officials from the State educational agency and the Governor's office and shall occur—

(1) during the development of such plan; and

(2) prior to submission of the plan to the Secretary.

(c) Joint signature authority

A Governor shall have 30 days prior to the State educational agency submitting the State plan under subchapter I or II or section 7842 of this title to the Secretary to sign such plan. If the Governor has not signed the plan within 30 days of delivery by the State educational agency to the Governor, the State educational agency shall submit the plan to the Secretary without such signature.

(Pub. L. 89–10, title VIII, §8540, as added Pub. L. 114–95, title VIII, §8032, Dec. 10, 2015, 129 Stat. 2118.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7921. Local governance

(a) Rule of construction

Nothing in this chapter shall be construed to allow the Secretary to—

(1) exercise any governance or authority over school administration, including the development and expenditure of school budgets, unless otherwise authorized under this chapter;

(2) issue any regulation without first complying with the rulemaking requirements of section 553 of title 5; or

(3) issue any nonregulatory guidance without first, to the extent feasible, considering input from

stakeholders.

(b) Authority under other law

Nothing in subsection (a) shall be construed to affect any authority the Secretary has under any other Federal law.

(Pub. L. 89–10, title VIII, §8541, as added Pub. L. 114–95, title VIII, §8033, Dec. 10, 2015, 129 Stat. 2118.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7922. Rule of construction regarding travel to and from school

(a) In general

Subject to subsection (b), nothing in this chapter shall authorize the Secretary to, or shall be construed to—

(1) prohibit a child from traveling to and from school on foot or by car, bus, or bike when the parents of the child have given permission; or

(2) expose parents to civil or criminal charges for allowing their child to responsibly and safely travel to and from school by a means the parents believe is age appropriate.

(b) No preemption of State or local laws

Notwithstanding subsection (a), nothing in this section shall be construed to preempt State or local laws.

(Pub. L. 89–10, title VIII, §8542, as added Pub. L. 114–95, title VIII, §8034, Dec. 10, 2015, 129 Stat. 2118.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7923. Limitations on school-based health centers

Notwithstanding section 7802 of this title, funds used for activities under this chapter shall be carried out in accordance with the provision of section 280h–5(a)(3)(C) of title 42.

(Pub. L. 89–10, title VIII, §8543, as added Pub. L. 114–95, title VIII, §8035, Dec. 10, 2015, 129 Stat. 2119.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7924. State control over standards

(a) In general

Nothing in this chapter shall be construed to prohibit a State from withdrawing from the Common Core State Standards or from otherwise revising their standards.

(b) Prohibition

No officer or employee of the Federal Government shall, directly or indirectly, through grants, contracts or other cooperative agreements, through waiver granted under section 7861 of this title or through any other authority, take any action against a State that exercises its rights under subsection (a).

(Pub. L. 89–10, title VIII, §8544, as added Pub. L. 114–95, title VIII, §8036, Dec. 10, 2015, 129 Stat. 2119.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7925. Sense of Congress on protecting student privacy

(a) Findings

The Congress finds as follows:

(1) Students' personally identifiable information is important to protect.

(2) Students' information should not be shared with individuals other than school officials in charge of educating those students without clear notice to parents.

(3) With the use of more technology, and more research about student learning, the responsibility to protect students' personally identifiable information is more important than ever.

(4) Regulations allowing more access to students' personal information could allow that information to be shared or sold by individuals who do not have the best interest of the students in mind.

(5) The Secretary has the responsibility to ensure every entity that receives funding under this chapter holds any personally identifiable information in strict confidence.

(b) Sense of Congress

It is the sense of the Congress that the Secretary should review all regulations addressing issues of student privacy, including those under this chapter, and ensure that students' personally identifiable information is protected.

(Pub. L. 89–10, title VIII, §8545, as added Pub. L. 114–95, title VIII, §8037, Dec. 10, 2015, 129 Stat. 2119.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7926. Prohibition on aiding and abetting sexual abuse

(a) In general

A State, State educational agency, or local educational agency in the case of a local educational agency that receives Federal funds under this chapter shall have laws, regulations, or policies that prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

(b) Exception

The requirements of subsection (a) shall not apply if the information giving rise to probable cause—

(1)(A) has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and

(B) has been properly reported to any other authorities as required by Federal, State, or local law, including title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under part 106 of title 34, Code of Federal Regulations, or any succeeding regulations; and

(2)(A) the matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law;

(B) the school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of the alleged misconduct; or

(C) the case or investigation remains open and there have been no charges filed against, or indictment of, the school employee, contractor, or agent within 4 years of the date on which the information was reported to a law enforcement agency.

(c) Prohibition

The Secretary shall not have the authority to mandate, direct, or control the specific measures adopted by a State, State educational agency, or local educational agency under this section.

(d) Construction

Nothing in this section shall be construed to prevent a State from adopting, or to override a State law, regulation, or policy that provides, greater or additional protections to prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee who engaged in sexual misconduct regarding a minor or student in violation of the law in obtaining a new job.

(Pub. L. 89–10, title VIII, §8546, as added Pub. L. 114–95, title VIII, §8038, Dec. 10, 2015, 129 Stat. 2120.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (b)(1)(B), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7927. Sense of Congress on restoration of State sovereignty over public education

It is the Sense of Congress that State and local officials should be consulted and made aware of the requirements that accompany participation in activities authorized under this chapter prior to a State or local educational agency's request to participate in such activities.

(Pub. L. 89–10, title VIII, §8547, as added Pub. L. 114–95, title VIII, §8039, Dec. 10, 2015, 129 Stat. 2121.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7928. Privacy

The Secretary shall require an assurance that each grantee receiving funds under this chapter understands the importance of privacy protections for students and is aware of the responsibilities of the grantee under section 1232g of this title (commonly known as the "Family Education Rights and Privacy Act of 1974").

(Pub. L. 89–10, title VIII, §8548, as added Pub. L. 114–95, title VIII, §8040, Dec. 10, 2015, 129 Stat. 2121.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7929. Analysis and periodic review of departmental guidance

The Secretary shall develop procedures for the approval and periodic review of significant guidance documents that include—

(1) appropriate approval processes within the Department;

(2) appropriate identification of the agency or office issuing the documents, the activities to which and the persons to whom the documents apply, and the date of issuance;

(3) a publicly available list to identify those significant guidance documents that were issued, revised, or withdrawn within the past year; and

(4) an opportunity for the public to request that an agency modify or rescind an existing significant guidance document.

(Pub. L. 89–10, title VIII, §8549, as added Pub. L. 114–95, title VIII, §8041, Dec. 10, 2015, 129 Stat. 2121.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7930. Sense of Congress

(a) Findings

The Congress finds as follows:

(1) This chapter prohibits the Federal Government from mandating, directing, or controlling a State, local educational agency, or school's curriculum, program of instruction, or allocation of State and local resources, and from mandating a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(2) This chapter prohibits the Federal Government from funding the development, pilot testing, field testing, implementation, administration, or distribution of any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(b) Sense of Congress

It is the sense of the Congress that States and local educational agencies retain the rights and responsibilities of determining educational curriculum, programs of instruction, and assessments for elementary and secondary education.

(Pub. L. 89–10, title VIII, §8549A, as added Pub. L. 114–95, title VIII, §8041, Dec. 10, 2015, 129 Stat. 2121.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7931. Sense of Congress on early learning and child care

It is the Sense of the Congress that a State retains the right to make decisions, free from Federal intrusion, concerning its system of early learning and child care, and whether or not to use funding under this chapter to offer early childhood education programs. Such systems should continue to include robust choice for parents through a mixed delivery system of services so parents can determine the right early learning and child care option for their children. States, while protecting the rights of early learning and child care providers, retain the right to make decisions that shall include the age at which to set compulsory attendance in school, the content of a State's early learning guidelines, and how to determine quality in programs.

(Pub. L. 89–10, title VIII, §8549B, as added Pub. L. 114–95, title VIII, §8041, Dec. 10, 2015, 129 Stat. 2122.)

PRIOR PROVISIONS

A prior section 7931, Pub. L. 89–10, title IX, §9301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3805, set forth short title of the Alaska Native Educational Equity, Support and Assistance Act, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7932. Technical assistance

If requested by a State or local educational agency, a regional educational laboratory under part D of the Education Sciences Reform Act of 2002 (20 U.S.C. 9561 et seq.) shall provide technical assistance to such State or local educational agency in meeting the requirements of section 7801(21) of this title.

(Pub. L. 89–10, title VIII, §8549C, as added Pub. L. 114–95, title VIII, §8041, Dec. 10, 2015, 129 Stat. 2122.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in text, is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941. Part D of the Act is classified generally to part D (§9561 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

PRIOR PROVISIONS

A prior section 7932, Pub. L. 89–10, title IX, §9302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3805, set forth findings, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7933. Preventing improper use of taxpayer funds

To address the misuse of taxpayer funds, the Secretary of Education shall—

(1) require that each recipient of a grant or subgrant under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) display, in a public place, the hotline contact information of the Office of Inspector General of the Department of Education so that any individual who observes, detects, or suspects improper use of taxpayer funds can easily report such improper use;

(2) annually notify employees of the Department of Education of their responsibility to report fraud; and

(3) require any applicant—

(A) for a grant under such Act to provide an assurance to the Secretary that any information submitted when applying for such grant and responding to monitoring and compliance reviews is truthful and accurate; and

(B) for a subgrant under such Act to provide the assurance described in subparagraph (A) to the entity awarding the subgrant.

(Pub. L. 114–95, title IX, §9203, Dec. 10, 2015, 129 Stat. 2138.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965 and such Act, referred to in pars. (1) and (3), are Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Every Student Succeeds Act, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

PRIOR PROVISIONS

A prior section 7933, Pub. L. 89–10, title IX, §9303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3806, stated purpose of former part C of subchapter IX of this chapter, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§7934. Accountability to taxpayers through monitoring and oversight

To improve monitoring and oversight of taxpayer funds authorized for appropriation under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and to deter and prohibit waste, fraud, and abuse with respect to such funds, the Secretary of Education shall—

(1) notify each recipient of a grant under such Act (and, if applicable, require the grantee to inform each subgrantee) of its responsibility to—

(A) comply with all monitoring requirements under the applicable program or programs; and

(B) monitor properly any subgrantee under the applicable program or programs;

(2) review and analyze the results of monitoring and compliance reviews—

(A) to understand trends and identify common issues; and

(B) to issue guidance to help grantees address such issues before the loss or misuse of taxpayer funding occurs;

(3) publicly report the work undertaken by the Secretary to prevent fraud, waste, and abuse with respect to such taxpayer funds; and

(4) work with the Office of Inspector General of the Department of Education, as needed, to help ensure that employees of the Department understand how to adequately monitor grantees and to help grantees adequately monitor any subgrantees.

(Pub. L. 114–95, title IX, §9204, Dec. 10, 2015, 129 Stat. 2138.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965 and such Act, referred to in text, are Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Every Student Succeeds Act, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

PRIOR PROVISIONS

Prior sections 7934 to 7938 were omitted in the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

Section 7934, Pub. L. 89–10, title IX, §9304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3806, related to Alaska Native educational planning, curriculum development, and teacher training and recruitment programs.

Section 7935, Pub. L. 89–10, title IX, §9305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3807, related to Alaska Native home based education for preschool children.

Section 7936, Pub. L. 89–10, title IX, §9306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3808, related to Alaska Native student enrichment programs.

Section 7937, Pub. L. 89–10, title IX, §9307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3809, set forth administrative provisions.

Section 7938, Pub. L. 89–10, title IX, §9308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3809, defined terms.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 3—TEACHER LIABILITY PROTECTION

CODIFICATION

Pub. L. 114–95, title II, §2001(a)(3)(A)–(C), title VIII, §8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, redesignated subpart 5 (§6731 et seq.) of part C of subchapter II of this chapter as subpart 3 of part F of this subchapter.

§7941. Short title

This subpart may be cited as the "Paul D. Coverdell Teacher Protection Act of 2001".

(Pub. L. 89–10, title VIII, §8551, formerly title II, §2361, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667; renumbered title IX, §9541, renumbered title VIII, §8551, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

CODIFICATION

Section was classified to section 6731 of this title prior to renumbering by Pub. L. 114–95.

PRIOR PROVISIONS

A prior section 7941, Pub. L. 89–10, title IX, §9601, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1985, which related to evaluations, was renumbered section 8601 of title VIII of Pub. L. 89–10 by Pub. L. 114–95, title VIII, §8001(a)(10), Dec. 10, 2015, 129 Stat. 2088, 2089, and transferred to section 7981 of this title.

§7942. Purpose

The purpose of this subpart is to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

(Pub. L. 89–10, title VIII, §8552, formerly title II, §2362, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667; renumbered title IX, §9542, renumbered title VIII, §8552, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

CODIFICATION

Section was classified to section 6732 of this title prior to renumbering by Pub. L. 114–95.

§7943. Definitions

For purposes of this subpart:

(1) Economic loss

The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) Harm

The term "harm" includes physical, nonphysical, economic, and noneconomic losses.

(3) Noneconomic loss

The term "noneconomic loss" means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society or companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, or any other nonpecuniary loss of any kind or nature.

(4) School

The term "school" means a public or private kindergarten, a public or private elementary school or secondary school, or a home school.

(5) State

The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) Teacher

The term "teacher" means—

(A) a teacher, instructor, principal, or administrator;

(B) another educational professional who works in a school;

(C) a professional or nonprofessional employee who—

(i) works in a school; and

(ii)(I) in the employee's job, maintains discipline or ensures safety; or

(II) in an emergency, is called on to maintain discipline or ensure safety; or

(D) an individual member of a school board (as distinct from the board).

(Pub. L. 89–10, title VIII, §8553, formerly title II, §2363, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667; renumbered title IX, §9543, renumbered title VIII, §8553, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913,

2088, 2089.)

CODIFICATION

Section was classified to section 6733 of this title prior to renumbering by Pub. L. 114–95.

§7944. Applicability

This subpart shall only apply to States that receive funds under this chapter, and shall apply to such a State as a condition of receiving such funds.

(Pub. L. 89–10, title VIII, §8554, formerly title II, §2364, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1668; renumbered title IX, §9544, renumbered title VIII, §8554, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

CODIFICATION

Section was classified to section 6734 of this title prior to renumbering by Pub. L. 114–95.

§7945. Preemption and election of State nonapplicability

(a) Preemption

This subpart preempts the laws of any State to the extent that such laws are inconsistent with this subpart, except that this subpart shall not preempt any State law that provides additional protection from liability relating to teachers.

(b) Election of State regarding nonapplicability

This subpart shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this subpart shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

(Pub. L. 89–10, title VIII, §8555, formerly title II, §2365, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1668; renumbered title IX, §9545, renumbered title VIII, §8555, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

CODIFICATION

Section was classified to section 6735 of this title prior to renumbering by Pub. L. 114–95.

§7946. Limitation on liability for teachers

(a) Liability protection for teachers

Except as provided in subsection (b) of this section, no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

(1) the teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;

(2) the actions of the teacher were carried out in conformity with Federal, State, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the State in which the harm

occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) Exceptions to teacher liability protection

If the laws of a State limit teacher liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(c) Limitation on punitive damages based on the actions of teachers

(1) General rule

Punitive damages may not be awarded against a teacher in an action brought for harm based on the act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act or omission of such teacher that constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(d) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a teacher under this subpart shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Hiring

The limitations on the liability of a teacher under this subpart shall not apply to misconduct during background investigations, or during other actions, involved in the hiring of a teacher.

(e) Rules of construction

(1) Concerning responsibility of teachers to schools and governmental entities

Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

(2) Concerning corporal punishment

Nothing in this subpart shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

(Pub. L. 89–10, title VIII, §8556, formerly title II, §2366, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1668; renumbered title IX, §9546, renumbered title VIII, §8556, and amended Pub. L. 114–95, title II, §2001(a)(1), (3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

CODIFICATION

Section was classified to section 6736 of this title prior to renumbering by Pub. L. 114–95.

AMENDMENTS

2015—Pub. L. 114–95, §2001(a)(1), struck out undesignated par. following par. (2) which read as follows: "ate law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law."

Subsec. (b)(3). Pub. L. 114–95, §2001(a)(1), added par. (3).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7947. Allocation of responsibility for noneconomic loss

(a) General rule

In any civil action against a teacher, based on an act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b) of this section.

(b) Amount of liability

(1) In general

(A) Liability

Each defendant who is a teacher shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable.

(B) Separate judgment

The court shall render a separate judgment against each defendant in an amount determined pursuant to subparagraph (A).

(2) Percentage of responsibility

For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

(c) Rule of construction

Nothing in this section shall be construed to preempt or supersede any Federal or State law that further limits the application of joint liability in a civil action described in subsection (a) of this section, beyond the limitations established in this section.

(Pub. L. 89–10, title VIII, §8557, formerly title II, §2367, as added Pub. L. 107–110, title II, §201,

Jan. 8, 2002, 115 Stat. 1670; renumbered title IX, §9547, renumbered title VIII, §8557, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

CODIFICATION

Section was classified to section 6737 of this title prior to renumbering by Pub. L. 114–95.

§7948. Effective date

(a) In general

This subpart shall take effect 90 days after January 8, 2002.

(b) Application

This subpart applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the No Child Left Behind Act of 2001 without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

(Pub. L. 89–10, title VIII, §8558, formerly title II, §2368, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1670; renumbered title IX, §9548, renumbered title VIII, §8558, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

REFERENCES IN TEXT

For the effective date of the No Child Left Behind Act of 2001, referred to in subsec. (b), see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

CODIFICATION

Section was classified to section 6738 of this title prior to renumbering by Pub. L. 114–95.

SUBPART 4—GUN POSSESSION

CODIFICATION

Pub. L. 114–95, title IV, §4001(a)(2)(A)–(C), title VIII, §8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, redesignated subpart 3 (§7151) of part A of subchapter IV of this chapter as subpart 4 of part F of this subchapter.

§7961. Gun-free requirements

(a) Short title

This subpart may be cited as the "Gun-Free Schools Act".

(b) Requirements

(1) In general

Each State receiving Federal funds under any subchapter of this chapter shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

(2) Construction

Nothing in this subpart shall be construed to prevent a State from allowing a local educational

agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

(3) Definition

For the purpose of this section, the term "firearm" has the same meaning given such term in section 921(a) of title 18.

(c) Special rule

The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(d) Report to State

Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any subchapter of this chapter shall provide to the State, in the application requesting such assistance—

(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b) of this section; and

(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b) of this section, including—

(A) the name of the school concerned;

(B) the number of students expelled from such school; and

(C) the type of firearms concerned.

(e) Reporting

Each State shall report the information described in subsection (d) of this section to the Secretary on an annual basis.

(f) Definition

For the purpose of subsection (d) of this section, the term "school" means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

(g) Exception

Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

(h) Policy regarding criminal justice system referral

(1) In general

No funds shall be made available under any subchapter of this chapter to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

(2) Definition

For the purpose of this subsection, the term "school" has the same meaning given to such term by section 921(a) of title 18.

(Pub. L. 89–10, title VIII, §8561, formerly title IV, §4141, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1762; renumbered title IX, §9551, renumbered title VIII, §8561, Pub. L. 114–95, title IV, §4001(a)(2)(A), (B), (D), title VIII, §8001(a)(8), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Section was classified to section 7151 of this title prior to renumbering by Pub. L. 114–95.

SUBPART 5—ENVIRONMENTAL TOBACCO SMOKE

CODIFICATION

Pub. L. 114–95, title IV, § 4001(a)(4)(A)–(C)(i), title VIII, §8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, redesignated part C (§7181 et seq.) of subchapter IV of this chapter as subpart 5 of part F of this subchapter.

Similar provisions relating to environmental tobacco smoke are contained in part B (§6081 et seq.) of subchapter X of chapter 68 of this title.

§7971. Short title

This subpart [1] may be cited as the "Pro-Children Act of 2001".

(Pub. L. 89–10, title VIII, §8571, formerly title IV, §4301, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1773; renumbered title IX, §9561, renumbered title VIII, §8571, Pub. L. 114–95, title IV, §4001(a)(4)(A), (B), (C)(ii), title VIII, §8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

REFERENCES IN TEXT

This subpart, referred to in text, was in the original "this part", and was translated as reading "this subpart", to reflect the probable intent of Congress. Pub. L. 114–95 redesignated part C of title IV of Pub. L. 89–10 as subpart 5 of part F of title VIII of Pub. L. 89–10, which is classified to this subpart.

CODIFICATION

Section was classified to section 7181 of this title prior to renumbering by Pub. L. 114–95.

[1] *See References in Text note below.*

§7972. Definitions

As used in this subpart: [1]

(1) Children

The term "children" means individuals who have not attained the age of 18.

(2) Children's services

The term "children's services" means the provision on a routine or regular basis of health, day care, education, or library services—

(A) that are funded, after January 8, 2002, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.]); or

(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in part 246.2 of title 7, Code of Federal Regulations (or any corresponding similar regulation or ruling)) under section 17(b)(6) of the Child Nutrition Act of 1966 [42 U.S.C. 1786(b)(6)]; or

(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate head of a Federal agency in any

enforcement action carried out under this subpart,[1]

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(3) Indoor facility

The term "indoor facility" means a building that is enclosed.

(4) Person

The term "person" means any State or local subdivision of a State, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

(5) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(Pub. L. 89–10, title VIII, §8572, formerly title IV, §4302, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1773; renumbered title IX, §9562, renumbered title VIII, §8572, Pub. L. 114–95, title IV, §4001(a)(4)(A), (B), (C)(ii), title VIII, §8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

REFERENCES IN TEXT

This subpart, referred to in text, was in the original "this part", and was translated as reading "this subpart", to reflect the probable intent of Congress. Pub. L. 114–95 redesignated part C of title IV of Pub. L. 89–10 as subpart 5 of part F of title VIII of Pub. L. 89–10, which is classified to this subpart.

The Child Nutrition Act of 1966, referred to in par. (2), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Social Security Act, referred to in par. (2)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

Section was classified to section 7182 of this title prior to renumbering by Pub. L. 114–95.

[1] *See References in Text note below.*

§7973. Nonsmoking policy for children's services

(a) Prohibition

After January 8, 2002, no person shall permit smoking within any indoor facility owned or leased or contracted for, and utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) Additional prohibition

(1) In general

After January 8, 2002, no person shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood education programs.

(2) Exception

Paragraph (1) shall not apply to—

(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) any private residence.

(c) Federal agencies

(1) Kindergarten, elementary, or secondary education or library services

After January 8, 2002, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) Health or day care or early childhood education programs

(A) In general

After January 8, 2002, no Federal agency shall permit smoking within any indoor facility (or portion of such facility) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood education programs to children.

(B) Exception

Subparagraph (A) shall not apply to—

(i) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(ii) any private residence.

(3) Application of provisions

The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

(d) Notice

The prohibitions in subsections (a) through (c) of this section shall be published in a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after January 8, 2002, whichever occurs first.

(e) Civil penalties

(1) In general

Any failure to comply with a prohibition in this section shall be considered to be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty assessed under this section, the total amount shall not exceed 50 percent of the amount of Federal funds received under any subchapter of this chapter by such person for the fiscal year in which the continuing violation occurred. For the purpose of the prohibition in subsection (c) of this section, the term "person", as used in this paragraph, shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

(2) Administrative proceeding

A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued under paragraph (1), by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5. Before making such assessment or issuing such order, or both, the Secretary shall give written notice of the assessment or order to such person by certified mail with return receipt and provide information in the notice of an opportunity to request in writing, not later than 30 days after the date of receipt of such notice, such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing

and a simple form that may be used to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing, which shall be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

(3) Circumstances affecting penalty or order

In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C) such other matters as justice may require.

(4) Modification

The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or the agencies or instrumentalities of the United States owe to the person against whom the penalty is assessed.

(5) Petition for review

Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy of the petition to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

(6) Failure to comply

If a person fails to pay an assessment of a civil penalty or comply with an order, after the assessment or order, or both, are final under this section, or after a court has entered a final judgment under paragraph (5) in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at prevailing rates from the day the assessment or order, or both, are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

(Pub. L. 89–10, title VIII, §8573, formerly title IV, §4303, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1774; renumbered title IX, §9563, renumbered title VIII, §8573, and amended Pub. L. 114–95, title IV, §4001(a)(1), (4)(A), (B), (C)(ii), title VIII, §8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

CODIFICATION

Section was classified to section 7183 of this title prior to renumbering by Pub. L. 114–95.

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114–95, §4001(a)(1)(A), substituted "early childhood education programs" for "early childhood development (Head Start) services".

Subsec. (c)(2). Pub. L. 114–95, §4001(a)(1)(B)(i), substituted "education programs" for "development services" in heading.

Subsec. (c)(2)(A). Pub. L. 114–95, §4001(a)(1)(B)(ii), substituted "education programs" for "development

(Head Start) services".

Subsec. (e)(3)(C). Pub. L. 114–95, §4001(a)(1)(C), added subpar. (C) and struck out former subpar. (C) which was missing an opening parenthesis before the subpar. designation and read as follows: "such other matters as justice may require."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§7974. Preemption

Nothing in this subpart [1] is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this subpart.[1]

(Pub. L. 89–10, title VIII, §8574, formerly title IV, §4304, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1776; renumbered title IX, §9564, renumbered title VIII, §8574, Pub. L. 114–95, title IV, §4001(a)(4)(A), (B), (C)(ii), title VIII, §8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

REFERENCES IN TEXT

This subpart, referred to in text, was in the original "this part", and was translated as reading "this subpart", to reflect the probable intent of Congress. Pub. L. 114–95 redesignated part C of title IV of Pub. L. 89–10 as subpart 5 of part F of title VIII of Pub. L. 89–10, which is classified to this subpart.

CODIFICATION

Section was classified to section 7184 of this title prior to renumbering by Pub. L. 114–95.

[1] *See References in Text note below.*

PART G—EVALUATIONS

CODIFICATION

Pub. L. 114–95, title VIII, §8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2088, 2089, redesignated part F (§7941) of subchapter IX of this chapter as part G of this subchapter.

§7981. Evaluations

(a) Reservation of funds

Except as provided in subsection [1] (b) and (e), the Secretary, in consultation with the Director of the Institute of Education Sciences, may reserve not more than 0.5 percent of the amount appropriated for each program authorized under this chapter to carry out activities under this section. If the Secretary elects to make a reservation under this subsection, the reserved amounts—

(1) shall first be used by the Secretary, acting through the Director of the Institute of Education Sciences, to—

(A) conduct comprehensive, high-quality evaluations of the programs that—

(i) are consistent with the evaluation plan under subsection (d); and

(ii) primarily include impact evaluations that use experimental or quasi-experimental designs, where practicable and appropriate, and other rigorous methodologies that permit the strongest possible causal inferences;

(B) conduct studies of the effectiveness of the programs and the administrative impact of the

programs on schools and local educational agencies; and

(C) widely disseminate evaluation findings under this section related to programs authorized under this chapter—

(i) in a timely fashion;

(ii) in forms that are understandable, easily accessible, usable, and adaptable for use in the improvement of educational practice;

(iii) through electronic transfer and other means, such as posting, as available, to the websites of State educational agencies, local educational agencies, the Institute of Education Sciences, or the Department, or in another relevant place; and

(iv) in a manner that promotes the utilization of such findings; and

(2) may be used by the Secretary, acting through the Director of the Institute of Education Sciences—

(A) to evaluate the aggregate short- and long-term effects and cost efficiencies across—

(i) Federal programs assisted or authorized under this chapter; and

(ii) related Federal early childhood education programs, preschool programs, elementary school programs, and secondary school programs, under any other Federal law;

(B) to increase the usefulness of the evaluations conducted under this section by improving the quality, timeliness, efficiency, and use of information relating to performance to promote continuous improvement of programs assisted or authorized under this chapter; and

(C) to assist recipients of grants under such programs in collecting and analyzing data and other activities related to conducting high-quality evaluations under paragraph (1).

(b) Subchapter I

The Secretary, acting through the Director of the Institute of Education Sciences, shall use funds authorized under section 6302(e) of this title to carry out evaluation activities under this section related to subchapter I, and shall not reserve any other money from such subchapter for evaluation.

(c) Consolidation

Notwithstanding any other provision of this section or section 6302(e) of this title, the Secretary, in consultation with the Director of the Institute of Education Sciences—

(1) may consolidate the funds reserved under subsections (a) and (b) for purposes of carrying out the activities under subsection (a)(1); and

(2) shall not be required to evaluate under subsection (a)(1) each program authorized under this chapter each year.

(d) Evaluation plan

The Director of the Institute of Education Sciences, shall, on a biennial basis, develop, submit to Congress, and make publicly available an evaluation plan, that—

(1) describes the specific activities that will be carried out under subsection (a) for the 2-year period applicable to the plan, and the timelines of such activities;

(2) contains the results of the activities carried out under subsection (a) for the most recent 2-year period; and

(3) describes how programs authorized under this chapter will be regularly evaluated.

(e) Evaluation activities authorized elsewhere

If, under any other provision of this chapter, funds are authorized to be reserved or used for evaluation activities with respect to a program, the Secretary may not reserve additional funds under this section for the evaluation of that program.

(Pub. L. 89–10, title VIII, §8601, formerly title IX, §9601, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1985; renumbered title VIII, §8601, and amended Pub. L. 114–95, title VIII, §§8001(a)(10), 8042, Dec. 10, 2015, 129 Stat. 2088, 2089, 2122.)

CODIFICATION

Section was formerly classified to section 7941 of this title.

AMENDMENTS

2015—Pub. L. 114–95, §8042, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to reservation of funds for evaluations, exclusion of subchapters I and III, and evaluation activities authorized elsewhere, respectively.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be "subsections".*

SUBCHAPTER X—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

§§8001 to 8007. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8001, Pub. L. 89–10, title X, §10101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3809; amended Pub. L. 104–134, title I, §101(d) [title VII, §703(b)(4)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to fund for the improvement of education.

Section 8002, Pub. L. 89–10, title X, §10102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3812, related to elementary school counseling demonstration.

Section 8003, Pub. L. 89–10, title X, §10103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3815, related to partnerships in character education pilot project.

Section 8004, Pub. L. 89–10, title X, §10104, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3818; amended Pub. L. 105–332, §2, Oct. 31, 1998, 112 Stat. 3125, related to promotion of scholar-athlete competitions.

Section 8005, Pub. L. 89–10, title X, §10105, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3818, related to development and implementation of smaller learning communities.

Section 8006, Pub. L. 89–10, title X, §10106, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3820, related to national student and parent mock election.

Section 8007, Pub. L. 89–10, title X, §10107, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3820, related to model projects of outreach activities for at-risk children.

PART B—GIFTED AND TALENTED CHILDREN

§§8031 to 8037. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8031, Pub. L. 89–10, title X, §10201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3820, set forth short title of the Jacob K. Javits Gifted and Talented Students Education Act of 1994.

Section 8032, Pub. L. 89–10, title X, §10202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3820, set forth findings and purposes.

Section 8033, Pub. L. 89–10, title X, §10203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108

Stat. 3822, related to construction of provisions.

Section 8034, Pub. L. 89–10, title X, §10204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3822, related to authorized programs.

Section 8035, Pub. L. 89–10, title X, §10205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3823, set forth program priorities.

Section 8036, Pub. L. 89–10, title X, §10206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3824, set forth general provisions.

Section 8037, Pub. L. 89–10, title X, §10207, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3824, authorized appropriations.

PART C—PUBLIC CHARTER SCHOOLS

SUBPART 1—BASIC CHARTER SCHOOL GRANT PROGRAM

§§8061 to 8067. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8061, Pub. L. 89–10, title X, §10301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3824; amended Pub. L. 105–278, §3(a), Oct. 22, 1998, 112 Stat. 2682; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, set forth findings and purpose.

Section 8062, Pub. L. 89–10, title X, §10302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3825; amended Pub. L. 105–278, §3(b), Oct. 22, 1998, 112 Stat. 2682; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, authorized charter school grant program.

Section 8063, Pub. L. 89–10, title X, §10303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3826; amended Pub. L. 105–278, §3(c), Oct. 22, 1998, 112 Stat. 2684; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to applications.

Section 8064, Pub. L. 89–10, title X, §10304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3827; amended Pub. L. 105–78, title III, §315, Nov. 13, 1997, 111 Stat. 1508; Pub. L. 105–278, §3(d), (k), Oct. 22, 1998, 112 Stat. 2685, 2689; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to administration.

Section 8065, Pub. L. 89–10, title X, §10305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3829; amended Pub. L. 105–278, §3(f), Oct. 22, 1998, 112 Stat. 2686; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to national activities.

Section 8065a, Pub. L. 89–10, title X, §10306, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2687, related to Federal formula allocation during first year and for successive enrollment expansions.

Section 8065b, Pub. L. 89–10, title X, §10307, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2688; amended Pub. L. 106–554, §1(a)(1) [title III, §322(b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to solicitation of input from charter school operators.

Section 8065c, Pub. L. 89–10, title X, §10308, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2688, related to records transfer.

Section 8065d, Pub. L. 89–10, title X, §10309, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2688; amended Pub. L. 106–554, §1(a)(1) [title III, §322(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to paperwork reduction.

Section 8066, Pub. L. 89–10, title X, §10310, formerly §10306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3829; renumbered §10310 and amended, Pub. L. 105–278, §3(g)(1), (h), Oct. 22, 1998, 112 Stat. 2687, 2688; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, defined terms.

Section 8067, Pub. L. 89–10, title X, §10311, formerly §10307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3830; renumbered §10311 and amended, Pub. L. 105–278, §3(g)(1), (i), Oct. 22, 1998, 112 Stat. 2687, 2688; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, authorized appropriations.

SUBPART 2—CREDIT ENHANCEMENT INITIATIVES TO ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

§§8071 to 8071j. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8071, Pub. L. 89–10, title X, §10321, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–57, set forth purpose.

Section 8071a, Pub. L. 89–10, title X, §10322, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–57, related to grants to eligible entities.

Section 8071b, Pub. L. 89–10, title X, §10323, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–58, related to applications.

Section 8071c, Pub. L. 89–10, title X, §10324, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59, set forth charter school objectives.

Section 8071d, Pub. L. 89–10, title X, §10325, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59, related to reserve account.

Section 8071e, Pub. L. 89–10, title X, §10326, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59, related to limitation on administrative costs.

Section 8071f, Pub. L. 89–10, title X, §10327, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59, related to audits and reports.

Section 8071g, Pub. L. 89–10, title X, §10328, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–60, related to full faith and credit for grantee obligations.

Section 8071h, Pub. L. 89–10, title X, §10329, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–60, related to recovery of funds.

Section 8071i, Pub. L. 89–10, title X, §10330, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, defined terms.

Section 8071j, Pub. L. 89–10, title X, §10331, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, authorized appropriations.

PART D—ARTS IN EDUCATION

SUBPART 1—ARTS EDUCATION

§8091. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title X, §10401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3830; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to support for arts education.

SUBPART 2—CULTURAL PARTNERSHIPS FOR AT-RISK CHILDREN AND YOUTH

§§8101 to 8105. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115

Stat. 1986

Section 8101, Pub. L. 89–10, title X, §10411, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3832, set forth findings and purpose of subpart.

Section 8102, Pub. L. 89–10, title X, §10412, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3833; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(B)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, authorized program.

Section 8103, Pub. L. 89–10, title X, §10413, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3835, related to authorized activities.

Section 8104, Pub. L. 89–10, title X, §10414, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3836; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(C)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to payments, amounts of award, cost share, and limitations.

Section 8105, Pub. L. 89–10, title X, §10415, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3837, authorized appropriations.

PART E—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

§8131. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title X, §10501, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3837, related to inexpensive book distribution program for reading motivation.

PART F—CIVIC EDUCATION

§§8141 to 8143. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8141, Pub. L. 89–10, title X, §10601, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3838, related to instruction on history and principles of democracy in the United States.

Section 8142, Pub. L. 89–10, title X, §10602, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3839, related to instruction in civics, government, and the law.

Section 8143, Pub. L. 89–10, title X, §10603, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3840, related to report and authorization of appropriations.

PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

§8161. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title X, §10701, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3841, set forth findings.

SUBPART 1—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL STUDENTS

§§8171, 8172. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8171, Pub. L. 89–10, title X, §10711, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3841, authorized grants for fellowships.

Section 8172, Pub. L. 89–10, title X, §10712, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3841, related to applications.

SUBPART 2—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL TEACHERS

§§8181, 8182. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8181, Pub. L. 89–10, title X, §10721, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3842, authorized grants for fellowships.

Section 8182, Pub. L. 89–10, title X, §10722, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3842, related to applications.

SUBPART 3—PROGRAMS FOR RECENT IMMIGRANTS, STUDENTS OF MIGRANT PARENTS AND OLDER AMERICANS

§§8191, 8192. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8191, Pub. L. 89–10, title X, §10731, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3842, authorized grants for fellowships.

Section 8192, Pub. L. 89–10, title X, §10732, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3843, related to applications.

SUBPART 4—GENERAL PROVISIONS

§§8201, 8202. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8201, Pub. L. 89–10, title X, §10741, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3843, set forth administrative provisions.

Section 8202, Pub. L. 89–10, title X, §10742, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3843, authorized appropriations.

PART H—DE LUGO TERRITORIAL EDUCATION IMPROVEMENT PROGRAM

§§8221 to 8224. Repealed. Pub. L. 105–277, div. A, §101(f) [title VIII, §301(c)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410

Section 8221, Pub. L. 89–10, title X, §10801, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, related to findings and purposes.

Section 8222, Pub. L. 89–10, title X, §10802, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, related to grant authorization.

Section 8223, Pub. L. 89–10, title X, §10803, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, prohibited use of grant funds for construction.

Section 8224, Pub. L. 89–10, title X, §10804, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, related to authorization of appropriations.

PART I—21ST CENTURY COMMUNITY LEARNING CENTERS

§§8241 to 8247. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8241, Pub. L. 89–10, title X, §10901, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, set forth short title of the 21st Century Community Learning Centers Act.

Section 8242, Pub. L. 89–10, title X, §10902, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, set forth findings.

Section 8243, Pub. L. 89–10, title X, §10903, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3845, authorized program.

Section 8244, Pub. L. 89–10, title X, §10904, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3845, required application.

Section 8245, Pub. L. 89–10, title X, §10905, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3846, related to uses of funds.

Section 8246, Pub. L. 89–10, title X, §10906, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3846, defined "Community learning center".

Section 8247, Pub. L. 89–10, title X, §10907, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3846, authorized appropriations.

PART J—URBAN AND RURAL EDUCATION ASSISTANCE

§§8271, 8272. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8271, Pub. L. 89–10, title X, §10951, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3847, authorized appropriations.

Section 8272, Pub. L. 89–10, title X, §10952, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3847, defined terms.

SUBPART 1—URBAN EDUCATION DEMONSTRATION GRANTS

§§8281 to 8284. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8281, Pub. L. 89–10, title X, §10961, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3848, set forth findings.

Section 8282, Pub. L. 89–10, title X, §10962, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3849, set forth purpose of subpart.

Section 8283, Pub. L. 89–10, title X, §10963, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3849, authorized urban school grants.

Section 8284, Pub. L. 89–10, title X, §10964, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3852, set forth special rules.

SUBPART 2—RURAL EDUCATION INITIATIVE

§§8291 to 8297. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8291, Pub. L. 89–10, title X, §10972, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, set out purpose of this subpart.

A prior section 8291, Pub. L. 89–10, title X, §10971, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3852, set out findings, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8292, Pub. L. 89–10, title X, §10973, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, authorized appropriations.

A prior section 8292, Pub. L. 89–10, title X, §10972, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3853, related to the purpose of this subpart, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8293, Pub. L. 89–10, title X, §10974, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, authorized formula grant program.

A prior section 8293, Pub. L. 89–10, title X, §10973, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3854, authorized rural school grants, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8294, Pub. L. 89–10, title X, §10975, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–90, authorized competitive grant program.

A prior section 8294, Pub. L. 89–10, title X, §10974, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3854, related to fund usage, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8295, Pub. L. 89–10, title X, §10976, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–91, related to accountability.

A prior section 8295, Pub. L. 89–10, title X, §10975, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3857, related to higher education grants, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8296, Pub. L. 89–10, title X, §10977, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–92, related to ratable reductions in case of insufficient appropriations.

Section 8297, Pub. L. 89–10, title X, §10978, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–92, related to applicability of former sections 8271 and 8272 of this title.

SUBPART 3—WHITE HOUSE CONFERENCES

§§8311, 8312. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8311, Pub. L. 89–10, title X, §10981, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3857, related to White House Conference on Urban Education.

Section 8312, Pub. L. 89–10, title X, §10982, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3858, related to White House Conference on Rural Education.

PART K—NATIONAL WRITING PROJECT

§§8331, 8332. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8331, Pub. L. 89–10, title X, §10991, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3859, set forth findings.

Section 8332, Pub. L. 89–10, title X, §10992, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3861, related to National Writing Project.

PART L—PHYSICAL EDUCATION FOR PROGRESS

§§8351 to 8361. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8351, Pub. L. 89–10, title X, §10999B, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–76, set forth purpose of part.

A prior section 8351, Pub. L. 89–10, title X, §10993, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3863, related to extended time for learning and longer school year, prior to repeal by Pub. L. 105–277, div. A, §101(f) [title VIII, §301(c)(3)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

Section 8352, Pub. L. 89–10, title X, §10999C, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–77, set forth findings.

Section 8353, Pub. L. 89–10, title X, §10999D, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–77, authorized program.

Section 8354, Pub. L. 89–10, title X, §10999E, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, related to applications and program elements.

Section 8355, Pub. L. 89–10, title X, §10999F, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, related to proportionality.

Section 8356, Pub. L. 89–10, title X, §10999G, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, related to participation of private school students and home-schooled students.

Section 8357, Pub. L. 89–10, title X, §10999H, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, required report for continued funding.

Section 8358, Pub. L. 89–10, title X, §10999I, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, required report to Congress.

Section 8359, Pub. L. 89–10, title X, §10999J, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–79, related to administrative costs.

Section 8360, Pub. L. 89–10, title X, §10999K, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–79, related to Federal share and supplementing, not supplanting, funds.

Section 8361, Pub. L. 89–10, title X, §10999L, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–79, authorized appropriations.

PART M—TERRITORIAL ASSISTANCE

§8371. Repealed. Pub. L. 105–277, div. A, §101(f) [title VIII, §301(c)(4)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410

Section, Pub. L. 89–10, title X, §10995, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3867, related to general assistance to improve public education in the Virgin Islands.

SUBCHAPTER XI—COORDINATED SERVICES

§§8401 to 8407. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8401, Pub. L. 89–10, title XI, §11001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3867, set forth findings and purpose.

Section 8402, Pub. L. 89–10, title XI, §11002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3868, defined terms.

Section 8403, Pub. L. 89–10, title XI, §11003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3868, related to authority to use funds.

Section 8404, Pub. L. 89–10, title XI, §11004, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3868, related to project development and implementation.

Section 8405, Pub. L. 89–10, title XI, §11005, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3869, related to uses of funds.

Section 8406, Pub. L. 89–10, title XI, §11006, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3870, related to continuing authority to use funds.

Section 8407, Pub. L. 89–10, title XI, §11007, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3870, related to identification of barriers to service coordination.

SUBCHAPTER XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT

§§8501 to 8513. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8501, Pub. L. 89–10, title XII, §12001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3870, set out short title of the Education Infrastructure Act of 1994.

Section 8502, Pub. L. 89–10, title XII, §12002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3870, set forth findings.

Section 8503, Pub. L. 89–10, title XII, §12003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3871, set forth purpose.

Section 8504, Pub. L. 89–10, title XII, §12004, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3871, authorized program for improvement of public elementary and secondary education facilities.

Section 8505, Pub. L. 89–10, title XII, §12005, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3871, related to award of grants.

Section 8506, Pub. L. 89–10, title XII, §12006, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3872, related to applications.

Section 8507, Pub. L. 89–10, title XII, §12007, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3872, related to authorized activities.

Section 8508, Pub. L. 89–10, title XII, §12008, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3873, related to budget and accounting, use of funds, powers of Secretary, contracts for supplies or services, and applicability of provisions of title 31.

Section 8509, Pub. L. 89–10, title XII, §12009, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3874, related to payment of fair wages.

Section 8510, Pub. L. 89–10, title XII, §12010, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3874, set forth special rules and general limitations.

Section 8511, Pub. L. 89–10, title XII, §12011, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108

Stat. 3875, related to Federal assessment.

Section 8512, Pub. L. 89–10, title XII, §12012, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3875, defined terms.

Section 8513, Pub. L. 89–10, title XII, §12013, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3875, authorized appropriations.

SUBCHAPTER XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION

§§8601, 8602. Repealed. Pub. L. 107–110, title X, §1011(5)(B), Jan. 8, 2002, 115 Stat. 1986

Section 8601, Pub. L. 89–10, title XIII, §13001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3876, set forth findings.

Section 8602, Pub. L. 89–10, title XIII, §13002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3876, set forth purpose of subchapter.

PART A—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

CODIFICATION

Part A of title XIII of Pub. L. 89–10, comprising this part, was renumbered part K of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, §1021(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part G (§6053 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§§8621 to 8625. Transferred

CODIFICATION

Section 8621, Pub. L. 89–10, title XIII, §13101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3877, which authorized grant program for comprehensive regional assistance centers, was renumbered section 1001 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053 of this title, and subsequently repealed.

Section 8622, Pub. L. 89–10, title XIII, §13102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3878, which set forth requirements of comprehensive regional assistance centers, was renumbered section 1002 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053a of this title, and subsequently repealed.

Section 8623, Pub. L. 89–10, title XIII, §13103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3879, which related to maintenance of service and application requirements, was renumbered section 1003 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053b of this title, and subsequently repealed.

Section 8624, Pub. L. 89–10, title XIII, §13104, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3880, which related to transition and phase in, was renumbered section 1004 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053c of this title, and subsequently repealed.

Section 8625, Pub. L. 89–10, title XIII, §13105, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3880, which authorized appropriations, was renumbered section 1005 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053d of this title, and subsequently repealed.

PART B—NATIONAL DIFFUSION NETWORK

CODIFICATION

Part B of title XIII of Pub. L. 89–10, comprising this part, was renumbered part L of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, §1022(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part H (§6054 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§§8651, 8652. Transferred

CODIFICATION

Section 8651, Pub. L. 89–10, title XIII, §13201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3880, which authorized National Diffusion Network program, was renumbered section 1011 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1022(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6054 of this title, and subsequently repealed.

Section 8652, Pub. L. 89–10, title XIII, §13202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3882, which authorized appropriations, was renumbered section 1012 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1022(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6054a of this title, and subsequently repealed.

PART C—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

CODIFICATION

Part C of title XIII of Pub. L. 89–10, comprising this part, was renumbered part M of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, §1023(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part I (§6055 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§§8671 to 8678. Transferred

CODIFICATION

Section 8671, Pub. L. 89–10, title XIII, §13301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3882, which established regional mathematics and science education consortia program, was renumbered section 1021 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055 of this title, and subsequently repealed.

Section 8672, Pub. L. 89–10, title XIII, §13302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3883, which related to use of funds, was renumbered section 1022 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055a of this title, and subsequently repealed.

Section 8673, Pub. L. 89–10, title XIII, §13303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3884, which related to application and review, was renumbered section 1023 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055b of this title, and subsequently repealed.

Section 8674, Pub. L. 89–10, title XIII, §13304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3885, which directed the establishment of regional boards, was renumbered section 1024 of the

Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055c of this title, and subsequently repealed.

Section 8675, Pub. L. 89–10, title XIII, §13305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3885, which authorized payments and described Federal and non-Federal shares, was renumbered section 1025 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055d of this title, and subsequently repealed.

Section 8676, Pub. L. 89–10, title XIII, §13306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3885, which required evaluation of regional consortia, was renumbered section 1026 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055e of this title, and subsequently repealed.

Section 8677, Pub. L. 89–10, title XIII, §13307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3886, which defined terms, was renumbered section 1027 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055f of this title, and subsequently repealed.

Section 8678, Pub. L. 89–10, title XIII, §13308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3886, which authorized appropriations, was renumbered section 1028 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055g of this title, and subsequently repealed.

PART D—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

CODIFICATION

Part D of title XIII of Pub. L. 89–10, comprising this part, was renumbered part N of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, §1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part J (§6056 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§8701. Transferred

CODIFICATION

Section, Pub. L. 89–10, title XIII, §13401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3886, which authorized technology-based technical assistance, was renumbered section 1031 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1024(a), (b), Jan. 8, 2002, 115 Stat. 1987, 1988, transferred to section 6056 of this title, and subsequently repealed.

SUBCHAPTER XIV—GENERAL PROVISIONS

PART A—DEFINITIONS

§§8801 to 8803. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8801, Pub. L. 89–10, title XIV, §14101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3887; amended Pub. L. 105–244, title I, §102(a)(6)(K), Oct. 7, 1998, 112 Stat. 1619; Pub. L. 105–277,

div. A, §101(f) [title VIII, §101(b)(5)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407; Pub. L. 105–278, §3(j), Oct. 22, 1998, 112 Stat. 2688; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1606(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–334, defined terms.

Section 8802, Pub. L. 89–10, title XIV, §14102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3890, related to applicability of subchapter.

Section 8803, Pub. L. 89–10, title XIV, §14103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3890, related to applicability of chapter to Bureau of Indian Affairs operated schools.

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

§§8821 to 8826. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8821, Pub. L. 89–10, title XIV, §14201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3890, related to consolidation of State administrative funds for elementary and secondary education programs.

Section 8822, Pub. L. 89–10, title XIV, §14202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3891, related to single local educational agency States.

Section 8823, Pub. L. 89–10, title XIV, §14203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3892, related to consolidation of funds for local administration.

Section 8824, Pub. L. 89–10, title XIV, §14204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3892, related to administrative funds studies.

Section 8825, Pub. L. 89–10, title XIV, §14205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3893; amended Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675, related to consolidated set-aside for Department of the Interior funds.

Section 8826, Pub. L. 89–10, title XIV, §14206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3894, related to availability of unneeded program funds.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

§§8851 to 8857. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8851, Pub. L. 89–10, title XIV, §14301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3894, set forth purpose of part.

Section 8852, Pub. L. 89–10, title XIV, §14302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3894; amended Pub. L. 105–332, §3(c)(3), Oct. 31, 1998, 112 Stat. 3125, related to optional consolidated State plans or applications.

Section 8853, Pub. L. 89–10, title XIV, §14303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3895, related to general applicability of State educational agency assurances.

Section 8854, Pub. L. 89–10, title XIV, §14304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3896, required report on additional coordination.

Section 8855, Pub. L. 89–10, title XIV, §14305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3896, related to consolidated local plans or applications.

Section 8856, Pub. L. 89–10, title XIV, §14306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3897, related to other general assurances.

Section 8857, Pub. L. 89–10, title XIV, §14307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3898; amended Pub. L. 105–332, §3(c)(4), Oct. 31, 1998, 112 Stat. 3126, related to relationship of State and local plans to plans under Goals 2000: Educate America Act.

PART D—WAIVERS

§8881. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title XIV, §14401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3899, related to waivers of statutory and regulatory requirements.

PART E—UNIFORM PROVISIONS

§§8891 to 8904. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8891, Pub. L. 89–10, title XIV, §14501, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3901, related to maintenance of effort.

Section 8892, Pub. L. 89–10, title XIV, §14502, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3902, related to prohibition regarding State aid.

Section 8893, Pub. L. 89–10, title XIV, §14503, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3902; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §101(b)(6)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407, related to participation by private school children and teachers.

Section 8894, Pub. L. 89–10, title XIV, §14504, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3903, set forth standards for by-pass of requirements.

Section 8895, Pub. L. 89–10, title XIV, §14505, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3904, related to complaint process for participation of private school children.

Section 8896, Pub. L. 89–10, title XIV, §14506, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3904, related to by-pass determination process.

Section 8897, Pub. L. 89–10, title XIV, §14507, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3905, prohibited payments for religious worship or instruction.

Section 8898, Pub. L. 89–10, title XIV, §14508, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3905, related to applicability of chapter to home schools.

Section 8899, Pub. L. 89–10, title XIV, §14509, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3905, related to construction of provisions prohibiting Federal control of nonrecipient nonpublic schools.

Section 8900, Pub. L. 89–10, title XIV, §14510, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3906, related to school prayer.

Section 8901, Pub. L. 89–10, title XIV, §14511, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3906, set forth general prohibitions.

Section 8902, Pub. L. 89–10, title XIV, §14512, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3906, contained prohibition on Federal mandates, direction, and control.

Section 8903, Pub. L. 89–10, title XIV, §14513, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3906, required report on changes made by the Improving America's Schools Act of 1994.

Section 8904, Pub. L. 89–10, title XIV, §14514, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3907, related to participation in Goals 2000: Educate America Act programs.

PART F—GUN POSSESSION

§§8921 to 8923. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115

Stat. 1986

Section 8921, Pub. L. 89–10, title XIV, §14601, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3907, known as the Gun-Free Schools Act of 1994, related to gun-free requirements.

Section 8922, Pub. L. 89–10, title XIV, §14602, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3908, related to policy regarding criminal justice system referral.

Section 8923, Pub. L. 89–10, title XIV, §14603, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3908, related to data and policy dissemination under the Individuals with Disabilities Education Act.

PART G—EVALUATIONS

§8941. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title XIV, §14701, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3908; amended Pub. L. 104–134, title I, §101(d) [title VII, §703(b)(5)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to evaluations.

PART H—SENSE OF CONGRESS

§§8961, 8962. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8961, Pub. L. 89–10, title XIV, §14801, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3911, expressed sense of Congress to increase total share of Federal spending on education.

Section 8962, Pub. L. 89–10, title XIV, §14802, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3912, expressed sense of Congress regarding purchase of American-made equipment and products.

CHAPTER 71—NATIONAL EDUCATION STATISTICS

Sec.

9001 to 9012. Repealed or Transferred.

§§9001 to 9009. Repealed. Pub. L. 107–279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985

Section 9001, Pub. L. 103–382, title IV, §402, Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105–244, title I, §102(a)(6)(L), Oct. 7, 1998, 112 Stat. 1619; Pub. L. 107–110, title X, §1076(r), Jan. 8, 2002, 115 Stat. 2092, set forth findings and purpose and defined terms.

Section 9002, Pub. L. 103–382, title IV, §403, Oct. 20, 1994, 108 Stat. 4030, established National Center for Education Statistics, to be headed by Commissioner of Education Statistics. See sections 9541 and 9542 of this title.

Section 9003, Pub. L. 103–382, title IV, §404, Oct. 20, 1994, 108 Stat. 4031, set forth duties of Center. See section 9543 of this title.

Section 9004, Pub. L. 103–382, title IV, §405, Oct. 20, 1994, 108 Stat. 4032, related to performance of duties. See section 9544 of this title.

Section 9005, Pub. L. 103–382, title IV, §406, Oct. 20, 1994, 108 Stat. 4033, related to reports. See section 9545 of this title.

Section 9006, Pub. L. 103–382, title IV, §407, Oct. 20, 1994, 108 Stat. 4033, established Advisory Council on Education Statistics.

Section 9007, Pub. L. 103–382, title IV, §408, Oct. 20, 1994, 108 Stat. 4034; Pub. L. 107–56, title V, §508, Oct. 26, 2001, 115 Stat. 368; Pub. L. 107–279, title IV, §401(a), Nov. 5, 2002, 116 Stat. 1982, related to confidentiality of persons in collection, reporting, and publication of data. See section 9573 of this title.

Section 9008, Pub. L. 103–382, title IV, §409, Oct. 20, 1994, 108 Stat. 4035, related to dissemination of statistical records and making of statistical compilations and surveys. See section 9546 of this title.

Section 9009, Pub. L. 103–382, title IV, §410, Oct. 20, 1994, 108 Stat. 4036, authorized establishment of national cooperative education statistics systems. See section 9547 of this title.

SHORT TITLE

Pub. L. 103–382, title IV, §401, Oct. 20, 1994, 108 Stat. 4029, which provided that title IV of Pub. L. 103–382, enacting this chapter, could be cited as the "National Education Statistics Act of 1994", was repealed by Pub. L. 107–279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985.

§§9010, 9011. Transferred

CODIFICATION

Section 9010, Pub. L. 103–382, title IV, §411, Oct. 20, 1994, 108 Stat. 4036; Pub. L. 107–110, title VI, §602(a), Jan. 8, 2002, 115 Stat. 1898; Pub. L. 107–279, title IV, §401(d)(1)–(7), Nov. 5, 2002, 116 Stat. 1984, was renumbered Pub. L. 107–279, title III, §303, by Pub. L. 107–279, title IV, §401(d)(8), Nov. 5, 2002, 116 Stat. 1984, and transferred to section 9622 of this title.

Section 9011, Pub. L. 103–382, title IV, §412, Oct. 20, 1994, 108 Stat. 4039; Pub. L. 106–554, §1(a)(1) [title III, §307], Dec. 21, 2000, 114 Stat. 2763, 2763A–44; Pub. L. 107–110, title VI, §602(b), Jan. 8, 2002, 115 Stat. 1904; Pub. L. 107–279, title IV, §401(c)(1)–(5), Nov. 5, 2002, 116 Stat. 1983, was renumbered Pub. L. 107–279, title III, §302, by Pub. L. 107–279, title IV, §401(c)(6), Nov. 5, 2002, 116 Stat. 1984, and transferred to section 9621 of this title.

§9012. Repealed. Pub. L. 107–279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–382, title IV, §413, Oct. 20, 1994, 108 Stat. 4041, authorized appropriations.

CHAPTER 72—MUSEUM AND LIBRARY SERVICES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
9101. General definitions.
9102. Institute of Museum and Library Services.
9103. Director of Institute.
9104. Deputy Directors.
9105. Personnel.
9105a. National Museum and Library Services Board.
9106. Contributions.
9107. Awards and medals.
9108. Policy research, analysis, data collection, and dissemination.
9109. Prohibition on use of funds for construction.
9110. Hearings.
9111. Administrative funds.

SUBCHAPTER II—LIBRARY SERVICES AND TECHNOLOGY

9121. Purpose.
9122. Definitions.
9123. Authorization of appropriations.

PART 1—BASIC PROGRAM REQUIREMENTS

9131. Reservations and allotments.

9132. Administration.
9133. Payments; Federal share; and maintenance of effort requirements.
9134. State plans.

PART 2—LIBRARY PROGRAMS

9141. Grants to States.

PART 3—ADMINISTRATIVE PROVISIONS

SUBPART A—STATE REQUIREMENTS

9151. State advisory councils.

SUBPART B—FEDERAL REQUIREMENTS

9161. Services for Native Americans.
9162. National leadership grants, contracts, or cooperative agreements.
9163. State and local initiatives.

PART 4—LAURA BUSH 21ST CENTURY LIBRARIANS

9165. Laura Bush 21st Century Librarian Program.

SUBCHAPTER III—MUSEUM SERVICES

9171. Purpose.
9172. Definitions.
9173. Museum services activities.
9174, 9175. Repealed.
9176. Authorization of appropriations.

CODIFICATION

Title II of Pub. L. 94–462, comprising this chapter, was originally enacted as Pub. L. 94–462, title II, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96–496, title II, §201, Dec. 4, 1980, 94 Stat. 2591; Pub. L. 98–306, §§8–11, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, §318 [title II, §§201, 202(a)(1), (b), 203–205], Nov. 5, 1990, 104 Stat. 1960, 1974, 1975, known as the Museum Services Act, and classified to section 961 et seq. of this title. Title II is shown, herein, however, as having been added by Pub. L. 104–208 without reference to such intervening amendments because of the extensive amendments to the provisions of title II by Pub. L. 104–208.

SUBCHAPTER I—GENERAL PROVISIONS

§9101. General definitions

As used in this chapter:

(1) Determined to be obscene

The term "determined to be obscene" means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

(2) Digital literacy skills

The term "digital literacy skills" means the skills associated with using technology to enable users to find, evaluate, organize, create, and communicate information.

(3) Director

The term "Director" means the Director of the Institute appointed under section 9103 of this title.

(4) Final judgment

The term "final judgment" means a judgment that is—

(A) not reviewed by any other court that has authority to review such judgment; or

(B) not reviewable by any other court.

(5) Indian tribe

The term "Indian tribe" means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(6) Institute

The term "Institute" means the Institute of Museum and Library Services established under section 9102 of this title.

(7) Museum and Library Services Board

The term "Museum and Library Services Board" means the National Museum and Library Services Board established under section 9105a of this title.

(8) Obscene

The term "obscene" means, with respect to a project, that—

(A) the average person, applying contemporary community standards, would find that such project, when taken as a whole, appeals to the prurient interest;

(B) such project depicts or describes sexual conduct in a patently offensive way; and

(C) such project, when taken as a whole, lacks serious literary, artistic, political, or scientific value.

(Pub. L. 94–462, title II, §202, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294; amended Pub. L. 108–81, title I, §101, Sept. 25, 2003, 117 Stat. 992; Pub. L. 111–340, title I, §101, Dec. 22, 2010, 124 Stat. 3595.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 202 of Pub. L. 94–462 was classified to section 961 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

2010—Pars. (2) to (8). Pub. L. 111–340 added par. (2) and redesignated former pars. (2) to (7) as (3) to (8), respectively.

2003—Par. (1). Pub. L. 108–81, §101(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "The term 'Commission' means the National Commission on Libraries and Information Science established under section 1502 of this title."

Pars. (3) to (5). Pub. L. 108–81, §101(2)–(4), added pars. (3) and (4), redesignated former par. (3) as (5), and struck out heading and text of former par. (4). Text read as follows: "The term 'Museum Board' means the National Museum Services Board established under section 9175 of this title."

Pars. (6), (7). Pub. L. 108–81, §101(5), added pars. (6) and (7).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–81, title V, §506, Sept. 25, 2003, 117 Stat. 1005, provided that: "The amendments made by this Act [enacting sections 9105a and 9107 to 9109 of this title, amending this section, sections 956a, 974, 1503 to 1505, 9102, 9103, 9106, 9121 to 9123, 9131, 9134, 9141, 9162, 9171 to 9173, and 9176 of this title, and section 170 of Title 26, Internal Revenue Code, repealing sections 9174 and 9175 of this title, enacting provisions set out as a note under this section, and repealing provisions set out as notes under sections 9102, 9103, and 9105 of this title] shall take effect on the date of enactment of this Act [Sept. 25, 2003], except that the amendments made by sections 203, 204, and 305 of this Act [amending sections 9123, 9131, and 9176 of this title] shall take effect on October 1, 2003."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–340, §1(a), Dec. 22, 2010, 124 Stat. 3594, provided that: "This Act [enacting part 4 of subchapter II of this chapter and sections 9110 and 9111 of this title, amending this section and sections 953, 958, 9103, 9105, 9105a, 9107, 9108, 9121, 9123, 9131, 9134, 9141, 9162, 9171 to 9173, and 9176 of this title, repealing chapter 34 of this title, and enacting provisions set out as notes under section 9102 of this title] may be cited as the 'Museum and Library Services Act of 2010'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–81, §1, Sept. 25, 2003, 117 Stat. 991, provided that: "This Act [enacting sections 9105a and 9107 to 9109 of this title, amending this section, sections 956a, 974, 1503 to 1505, 9102, 9103, 9106, 9121 to 9123, 9131, 9134, 9141, 9162, 9171 to 9173, and 9176 of this title, and section 170 of Title 26, Internal Revenue Code, repealing sections 9174 and 9175 of this title, enacting provisions set out as notes under this section and section 956a of this title, and repealing provisions set out as notes under sections 9102, 9103, and 9105 of this title] may be cited as the 'Museum and Library Services Act of 2003'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–128, §1, Dec. 1, 1997, 111 Stat. 2548, provided that: "This Act [amending sections 9105, 9122, 9131, 9133, 9161, and 9162 of this title] may be cited as the 'Museum and Library Services Technical and Conforming Amendments of 1997'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, §101(e) [title VII, §701], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, provided that: "This title [enacting this chapter, amending sections 1069b, 1504, 1505, 3441, 3473, 3489, 6621, 6645, 6648, 6649, 6813, 8091, 8102, and 8104 of this title, section 5315 of Title 5, Government Organization and Employees, section 276d–3 of former Title 40, Public Buildings, Property, and Works, section 214 of former Title 40, Appendix, section 3338 of Title 42, The Public Health and Welfare, section 254 of Title 47, Telecommunications, and section 1666 of Title 48, Territories and Insular Possessions, repealing sections 351 to 386g, 1021 to 1047, 1221i, and 7001 to 7005 of this title, enacting provisions set out under this section and sections 9102, 9103, and 9105 of this title, and repealing provisions set out as notes under sections 351 and 1029 of this title] may be cited as the 'Museum and Library Services Act of 1996'."

SHORT TITLE

Pub. L. 94–462, title II, §201, as added by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, provided that: "This title [enacting this chapter] may be cited as the 'Museum and Library Services Act'."

Pub. L. 94–462, title II, §211, as added by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295, provided that: "This subtitle [subtitle B (§§211–263) of title II of Pub. L. 94–462, enacting subchapter II of this chapter] may be cited as the 'Library Services and Technology Act'."

Pub. L. 94–462, title II, §271, as added by Pub. L. 108–81, title III, §306(2), Sept. 25, 2003, 117 Stat. 1002, provided that: "This subtitle [subtitle C (§§271–276) of title II of Pub. L. 94–462, enacting subchapter III of this chapter] may be cited as the 'Museum Services Act'."

§9102. Institute of Museum and Library Services

(a) Establishment

There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

(b) Offices

The Institute shall consist of an Office of Museum Services and an Office of Library Services.

(c) Museum and Library Services Board

There shall be a National Museum and Library Services Board within the Institute, as provided under section 9105a of this title.

(Pub. L. 94–462, title II, §203, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294; amended Pub. L. 108–81, title I, §102, Sept. 25,

2003, 117 Stat. 992.)

PRIOR PROVISIONS

A prior section 203 of Pub. L. 94–462 was classified to section 962 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–81, §102(1), struck out at end "There shall be a National Museum Services Board in the Office of Museum Services."

Subsec. (c). Pub. L. 108–81, §102(2), added subsec. (c).

TRANSFER OF FUNCTIONS

Pub. L. 111–340, title IV, §401(b), (c), Dec. 22, 2010, 124 Stat. 3604, provided that:

"(b) TRANSFER OF FUNCTIONS.—The functions that the National Commission on Libraries and Information Science exercised before the date of enactment of this Act [Dec. 22, 2010] shall be transferred to the Institute of Museum and Library Services established under section 203 of the Museum and Library Services Act (20 U.S.C. 9102).

"(c) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel and the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available for the functions and activities vested by law in the National Commission on Libraries and Information Science shall be transferred to the Institute of Museum and Library Services upon the date of enactment of this Act [Dec. 22, 2010]."

Pub. L. 104–208, div. A, title I, §101(e) [title VII, §704], Sept. 30, 1996, 110 Stat. 3009–233, 3009–307, provided for transfer of functions from the Institute of Museum Services and the Library Program Office to Director of Institute of Museum and Library Services, prior to repeal by Pub. L. 108–81, title V, §505(b), Sept. 25, 2003, 117 Stat. 1004.

REFERENCES TO NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE CONSTRUED TO BE REFERENCES TO INSTITUTE OF MUSEUM AND LIBRARY SERVICES

Pub. L. 111–340, title IV, §401(d), Dec. 22, 2010, 124 Stat. 3605, provided that: "Any reference to the National Commission on Libraries and Information Science in any Federal law, Executive Order, rule, delegation of authority, or document shall be construed to refer to the Institute of Museum and Library Services when the reference regards functions transferred under subsection (b) [set out as a note above]."

TRANSITION AND TRANSFER OF FUNDS

Pub. L. 104–208, div. A, title I, §101(e) [title VII, §707], Sept. 30, 1996, 110 Stat. 3009–233, 3009–311, required Director of the Office of Management and Budget to take appropriate measures to ensure orderly transition from activities previously administered by Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services, prior to repeal by Pub. L. 108–81, title V, §505(b), Sept. 25, 2003, 117 Stat. 1004.

§9103. Director of Institute

(a) Appointment

(1) In general

The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

(2) Term

The Director shall serve for a term of 4 years.

(3) Qualifications

Beginning with the first individual appointed to the position of Director after September 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second

individual appointed to the position of Director after September 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

(b) Compensation

The Director may be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

(c) Duties and powers

(1) Primary responsibility

The Director shall have primary responsibility for the development and implementation of policy to ensure the availability of museum, library, and information services adequate to meet the essential information, education, research, economic, cultural, and civic needs of the people of the United States.

(2) Duties

In carrying out the responsibility described in paragraph (1), the Director shall—

(A) advise the President, Congress, and other Federal agencies and offices on museum, library, and information services in order to ensure the creation, preservation, organization, and dissemination of knowledge;

(B) engage Federal, State, and local governmental agencies and private entities in assessing the museum, library, and information services needs of the people of the United States, and coordinate the development of plans, policies, and activities to meet such needs effectively;

(C) carry out programs of research and development, data collection, and financial assistance to extend and improve the museum, library, and information services of the people of the United States; and

(D) ensure that museum, library, and information services are fully integrated into the information and education infrastructures of the United States.

(d) Nondelegation

The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

(e) Interagency agreements

The Director may—

(1) enter into interagency agreements to promote or assist with the museum, library, and information services-related activities of other Federal agencies, on either a reimbursable or non-reimbursable basis; and

(2) use funds appropriated under this chapter for the costs of such activities.

(f) Coordination

The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services. Where appropriate, the Director shall ensure that such policies and activities are coordinated with—

(1) activities under section 6646 of this title;

(2) programs and activities under the Head Start Act (42 U.S.C. 9831 et seq.) (including programs and activities under subparagraphs (H)(vii) and (J)(iii) of section 641(d)(2) of such Act) (42 U.S.C. 9836(d)(2)); [1]

(3) activities under the Workforce Innovation and Opportunity Act [29 U.S.C. 3101 et seq.] (including activities under section 121(e) of such Act [29 U.S.C. 3151(e)])); [2] and

(4) Federal programs and activities that increase the capacity of libraries and museums to act as partners in economic and community development, education and research, improving digital literacy skills, and disseminating health information.

(g) Interagency collaboration

The Director shall work jointly with the individuals heading relevant Federal departments and agencies, including the Secretary of Labor, the Secretary of Education, the Administrator of the Small Business Administration, the Chairman of the Federal Communications Commission, the Director of the National Science Foundation, the Secretary of Health and Human Services, the Secretary of State, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Secretary of Housing and Urban Development, the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment of the Humanities, and the Director of the Office of Management and Budget, or the designees of such individuals, on—

(1) initiatives, materials, or technology to support workforce development activities undertaken by libraries;

(2) resource and policy approaches to eliminate barriers to fully leveraging the role of libraries and museums in supporting the early learning, literacy, lifelong learning, digital literacy, workforce development, and education needs of the people of the United States; and

(3) initiatives, materials, or technology to support educational, cultural, historical, scientific, environmental, and other activities undertaken by museums.

(h) Regulatory authority

The Director may promulgate such rules and regulations as are necessary and appropriate to implement the provisions of this chapter.

(i) Application procedures

(1) In general

In order to be eligible to receive financial assistance under this chapter, a person or agency shall submit an application in accordance with procedures established by the Director by regulation.

(2) Review and evaluation

The Director shall establish procedures for reviewing and evaluating applications submitted under this chapter. Actions of the Institute and the Director in the establishment, modification, and revocation of such procedures under this chapter are vested in the discretion of the Institute and the Director. In establishing such procedures, the Director shall ensure that the criteria by which applications are evaluated are consistent with the purposes of this chapter, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

(3) Treatment of projects determined to be obscene

(A) In general

The procedures described in paragraph (2) shall include provisions that clearly specify that obscenity is without serious literary, artistic, political, or scientific merit, and is not protected speech.

(B) Prohibition

No financial assistance may be provided under this chapter with respect to any project that is determined to be obscene.

(C) Treatment of application disapproval

The disapproval of an application by the Director shall not be construed to mean, and shall not be considered as evidence that, the project for which the applicant requested financial assistance is or is not obscene.

(Pub. L. 94–462, title II, §204, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294; amended Pub. L. 108–81, title I, §103, Sept. 25, 2003, 117 Stat. 992; Pub. L. 111–340, title I, §102, Dec. 22, 2010, 124 Stat. 3595; Pub. L. 113–128, title V, §512(t)(1), July 22, 2014, 128 Stat. 1712; Pub. L. 114–95, title IX, §9215(aaa)(1), Dec. 10, 2015, 129 Stat. 2184.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(2) and the second place it appears in subsec. (i)(2), was in the original "this Act" and was translated as reading "this title", meaning title II of Pub. L. 94–462, known as the Museum and Library Services Act, to reflect the probable intent of Congress.

The Head Start Act, referred to in subsec. (f)(2), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. Cl. (vii) of section 641(d)(2)(H) of that Act was redesignated cl. (vi) by Pub. L. 114–95, title IX, §9215(nn)(2)(A)(ii), Dec. 10, 2015, 129 Stat. 2176, and is now classified to section 9836(d)(2)(H)(vi) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (f)(3), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of this title, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 204 of Pub. L. 94–462 was classified to section 963 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

2015—Subsec. (f)(1). Pub. L. 114–95 added par. (1) and struck out former par. (1) which read as follows: "activities under section 6383 of this title;".

2014—Subsec. (f)(3). Pub. L. 113–128 substituted "activities under the Workforce Innovation and Opportunity Act (including activities under section 121(e) of such Act))" for "activities under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) (including activities under section 134(c) of such Act) (29 U.S.C. 2864(c))".

2010—Subsec. (c). Pub. L. 111–340, §102(1), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this chapter."

Subsecs. (e) to (g). Pub. L. 111–340, §102(3), added subsecs. (e) to (g) and struck out former subsec. (e). Prior to amendment, text of subsec. (e) read as follows: "The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services. Where appropriate, the Director shall ensure that activities under subchapter II of this chapter are coordinated with activities under section 6383 of this title." Former subsecs. (f) and (g) redesignated (h) and (i), respectively.

Subsecs. (h), (i). Pub. L. 111–340, §102(2), redesignated subsecs. (f) and (g) as (h) and (i), respectively.

2003—Subsec. (e). Pub. L. 108–81, §103(1), inserted at end "Where appropriate, the Director shall ensure that activities under subchapter II of this chapter are coordinated with activities under section 6383 of this title."

Subsecs. (f), (g). Pub. L. 108–81, §103(2), added subsecs. (f) and (g).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

SERVICE OF INDIVIDUALS SERVING ON SEPTEMBER 30, 1996

Pub. L. 104–208, div. A, title I, §101(e) [title VII, §705], Sept. 30, 1996, 110 Stat. 3009–233, 3009–311, which provided that the individual who was appointed to the position of Director of the Institute of Museum Services and was serving in such position on the day before Sept. 30, 1996, would serve, at the pleasure of the President, as the first Director of the Institute of Museum and Library Services, was repealed by Pub. L. 108–81, title V, §505(b), Sept. 25, 2003, 117 Stat. 1004.

[1] *See References in Text note below.*

[2] *So in original. The second closing parenthesis probably should not appear.*

§9104. Deputy Directors

The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have expertise in museum services.

(Pub. L. 94–462, title II, §205, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295.)

PRIOR PROVISIONS

A prior section 205 of Pub. L. 94–462 was classified to section 964 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

§9105. Personnel

(a) In general

The Director may, in accordance with applicable provisions of title 5, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

(b) Appointment and compensation of technical and professional employees

(1) In general

Subject to paragraph (2), the Director may appoint without regard to the provisions of title 5 governing the appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title (relating to the classification and General Schedule pay rates), such technical and professional employees as the Director determines to be necessary to carry out the duties of the Institute.

(2) Number and compensation

(A) In general

The number of employees appointed and compensated under paragraph (1) shall not exceed 1/5 of the number of full-time regular or professional employees of the Institute.

(B) Rate of compensation

(i) In general

Except as provided in clause (ii), the rate of basic compensation for the employees appointed and compensated under paragraph (1) may not exceed the rate prescribed for level GS–15 of the General Schedule under section 5332 of title 5.

(ii) Exception

The Director may appoint not more than 3 employees under paragraph (1) at a rate of basic compensation that exceeds the rate described in clause (i) but does not exceed the rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5.

(c) Voluntary services

The Director may accept and utilize the voluntary services of individuals and reimburse the

individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5 for persons employed intermittently in Federal Government service.

(d) Experts and consultants

The Director may use experts and consultants, including panels of experts, who may be employed as authorized under section 3109 of title 5.

(Pub. L. 94–462, title II, §206, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295; amended Pub. L. 105–128, §2, Dec. 1, 1997, 111 Stat. 2548; Pub. L. 111–340, title I, §103, Dec. 22, 2010, 124 Stat. 3596.)

PRIOR PROVISIONS

A prior section 206 of Pub. L. 94–462 was classified to section 965 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111–340, §103(1), added par.(2) and struck out heading and text of former par. (2). Prior to amendment, text read as follows: "The number of employees appointed and compensated under paragraph (1) shall not exceed 1/5 of the number of full-time regular or professional employees of the Institute. The rate of basic compensation for the employees appointed and compensated under paragraph (1) may not exceed the rate prescribed for level GS–15 of the General Schedule under section 5332 of title 5."

Subsec. (d). Pub. L. 111–340, §103(2), added subsec. (d).

1997—Subsecs. (b), (c). Pub. L. 105–128 added subsec. (b) and redesignated former subsec. (b) as (c).

CONSIDERATION GIVEN TO INDIVIDUALS WITH EXPERIENCE

Pub. L. 104–208, div. A, title I, §101(e) [title VII, §706], Sept. 30, 1996, 110 Stat. 3009–233, 3009–311, required Director of the Institute of Museum and Library Services to give strong consideration to individuals with experience in administering State-based and national library and information services programs when appointing employees of the Office of Library Services, prior to repeal by Pub. L. 108–81, title V, §505(b), Sept. 25, 2003, 117 Stat. 1004.

§9105a. National Museum and Library Services Board

(a) Establishment

There is established within the Institute a board to be known as the "National Museum and Library Services Board".

(b) Membership

(1) Number and appointment

The Museum and Library Services Board shall be composed of the following:

(A) The Director.

(B) The Deputy Director for the Office of Library Services.

(C) The Deputy Director for the Office of Museum Services.

(D) Ten members appointed by the President, from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of library services, or their commitment to libraries.

(E) Ten members appointed by the President, from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of museum services, or their commitment to museums.

(2) Special qualifications

(A) Library members

Of the members of the Museum and Library Services Board appointed under paragraph (1)(D)—

(i) five shall be professional librarians or information specialists, of whom—

(I) not less than one shall be knowledgeable about electronic information and technical aspects of library and information services and sciences; and

(II) not less than one other shall be knowledgeable about the library and information service needs of underserved communities; and

(ii) the remainder shall have special competence in, or knowledge of, the needs for library and information services in the United States.

(B) Museum members

Of the members of the Museum and Library Services Board appointed under paragraph (1)(E)—

(i) five shall be museum professionals who are or have been affiliated with—

(I) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

(II) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, botanical gardens, and museums designed for children; and

(ii) the remainder shall be individuals recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

(3) Geographic and other representation

Members of the Museum and Library Services Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum and Library Services Board may not include, at any time, more than three appointive members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums and libraries.

(4) Voting

The Director, the Deputy Director of the Office of Library Services, and the Deputy Director of the Office of Museum Services shall be nonvoting members of the Museum and Library Services Board.

(c) Terms

(1) In general

Each member of the Museum and Library Services Board appointed under subparagraph (D) or (E) of subsection (b)(1) of this section shall serve for a term of 5 years.

(2) Authority to adjust terms

The terms of the members appointed to the Museum and Library Service Board shall be adjusted by the President as necessary to ensure that the terms of not more than four members expire in the same year. Such adjustments shall be carried out through designation of the adjusted term at the time of appointment.

(3) Vacancies

Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(4) Reappointment

No appointive member of the Museum and Library Services Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

(5) Service until successor takes office

Notwithstanding any other provision of this subsection, an appointive member of the Museum and Library Services Board shall serve after the expiration of the term of the member until the successor to the member takes office.

(d) Duties and powers

(1) In general

The Museum and Library Services Board shall advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum, library, and information services.

(2) National awards and medals

The Museum and Library Services Board shall advise the Director in awarding national awards and medals under section 9107 of this title.

(e) Chairperson

The Director shall serve as Chairperson of the Museum and Library Services Board.

(f) Meetings

(1) In general

The Museum and Library Services Board shall meet not less than 2 times each year and at the call of the Director.

(2) Vote

All decisions by the Museum and Library Services Board with respect to the exercise of its duties and powers shall be made by a majority vote of the members of the Board who are present and authorized to vote.

(g) Quorum

A majority of the voting members of the Museum and Library Services Board shall constitute a quorum for the conduct of business at official meetings, but a lesser number of members may hold hearings.

(h) Compensation and travel expenses

(1) Compensation

Each member of the Museum and Library Services Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum annual rate of pay authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum and Library Services Board. Members of the Museum and Libraries Services Board who are full-time officers or employees of the Federal Government may not receive additional pay, allowances, or benefits by reason of their service on the Museum and Library Services Board.

(2) Travel expenses

Each member of the Museum and Library Services Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5.

(i) Coordination

The Director, with the advice of the Museum and Library Services Board, shall coordinate the development and implementation of policies and activities as described in subsections (f) and (g) of section 9103 of this title.

(Pub. L. 94–462, title II, §207, as added Pub. L. 108–81, title I, §104(2), Sept. 25, 2003, 117 Stat. 993; amended Pub. L. 111–340, title I, §104, Dec. 22, 2010, 124 Stat. 3597; Pub. L. 112–166, §2(r), Aug. 10, 2012, 126 Stat. 1288.)

PRIOR PROVISIONS

A prior section 207 of Pub. L. 94–462 was renumbered section 208 and is classified to section 9106 of this title.

Another prior section 207 of Pub. L. 94–462 was classified to section 966 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

2012—Subsec. (b)(1)(D), (E). Pub. L. 112–166 struck out ", by and with the advice and consent of the Senate" after "President".

2010—Subsec. (b)(1)(D) to (F). Pub. L. 111–340, §104(1)(A), redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: "The Chairman of the National Commission on Libraries and Information Science."

Subsec. (b)(2)(A). Pub. L. 111–340, §104(1)(B)(i), substituted "(1)(D)" for "(1)(E)" in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 111–340, §104(1)(B)(ii), substituted "(1)(E)" for "(1)(F)" in introductory provisions.

Subsec. (b)(4). Pub. L. 111–340, §104(1)(C), inserted "and" after "Library Services," and struck out ", and the Chairman of the National Commission on Library and Information Science" before "shall".

Subsec. (c)(1). Pub. L. 111–340, §104(2)(A), substituted "Each" for "Except as otherwise provided in this subsection, each" and "(D) or (E)" for "(E) or (F)".

Subsec. (c)(2). Pub. L. 111–340, §104(2)(B), substituted "Authority to adjust terms" for "Initial Board appointments" in heading, struck out subpars. (A) and (B) related to treatment of members serving on effective date and first appointments and subpar. (C) designation and heading, and substituted "The terms of the members" for "The terms of the first members".

Subsec. (d)(1). Pub. L. 111–340, §104(3)(A), substituted "relating to museum, library, and information services" for "relating to museum and library services, including financial assistance awarded under this chapter".

Subsec. (d)(2). Pub. L. 111–340, §104(3)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The Museum and Library Services Board shall advise the Director in making awards under section 9107 of this title."

Subsec. (i). Pub. L. 111–340, §104(4), substituted "coordinate the development and implementation of policies and activities as described in subsections (f) and (g) of section 9103 of this title" for "take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government".

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

§9106. Contributions

The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special-interest bearing account to the credit of the Institute for the purposes specified in each case.

(Pub. L. 94–462, title II, §208, formerly §207, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295; renumbered §208 and amended Pub. L. 108–81, title I, §104(1), title V, §504(e), Sept. 25, 2003, 117 Stat. 993, 1004.)

AMENDMENTS

2003—Pub. L. 108–81, §504(e), which directed substitution of "property or services" for "property of services", could not be executed because the words "property of services" did not appear in text.

§9107. Awards and medals

The Director, with the advice of the Museum and Library Services Board, may annually award

national awards and medals for library and museum services to outstanding libraries and museums that have made significant contributions in service to their communities.

(Pub. L. 94–462, title II, §209, as added Pub. L. 108–81, title I, §105, Sept. 25, 2003, 117 Stat. 996; amended Pub. L. 111–340, title I, §105, Dec. 22, 2010, 124 Stat. 3598.)

AMENDMENTS

2010—Pub. L. 111–340 amended section catchline and text generally. Prior to amendment, text read as follows: "The Director, with the advice of the Museum and Library Services Board, may annually award National Awards for Library Service and National Awards for Museum Service to outstanding libraries and outstanding museums, respectively, that have made significant contributions in service to their communities."

§9108. Policy research, analysis, data collection, and dissemination

(a) In general

The Director shall annually conduct policy research, analysis, and data collection to extend and improve the Nation's museum, library, and information services.

(b) Requirements

The policy research, analysis, and data collection shall be conducted in ongoing collaboration (as determined appropriate by the Director), and in consultation, with—

(1) State library administrative agencies;

(2) national, State, and regional library and museum organizations; and

(3) other relevant agencies and organizations.

(c) Objectives

The policy research, analysis, and data collection shall be used to—

(1) identify national needs for and trends in museum, library, and information services;

(2) measure and report on the impact and effectiveness of museum, library, and information services throughout the United States, including the impact of Federal programs authorized under this chapter;

(3) identify best practices; and

(4) develop plans to improve museum, library, and information services of the United States and to strengthen national, State, local, regional, and international communications and cooperative networks.

(d) Dissemination

Each year, the Director shall widely disseminate, as appropriate to accomplish the objectives under subsection (c), the results of the policy research, analysis, and data collection carried out under this section.

(e) Authority to contract

The Director is authorized—

(1) to enter into contracts, grants, cooperative agreements, and other arrangements with Federal agencies and other public and private organizations to carry out the objectives under subsection (c); and

(2) to publish and disseminate, in a form determined appropriate by the Director, the reports, findings, studies, and other materials prepared under paragraph (1).

(f) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section $3,500,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 through 2016.

(2) Availability of funds

Sums appropriated under paragraph (1) for any fiscal year shall remain available for obligation

until expended.

(Pub. L. 94–462, title II, §210, as added Pub. L. 108–81, title I, §105, Sept. 25, 2003, 117 Stat. 996; amended Pub. L. 111–340, title I, §106, Dec. 22, 2010, 124 Stat. 3598.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2), was in the original "this Act" and was translated as reading "this title", meaning title II of Pub. L. 94–462, known as the Museum and Library Services Act, to reflect the probable intent of Congress.

AMENDMENTS

2010—Pub. L. 111–340 amended section catchline and text generally. Prior to amendment, text read as follows: "From amounts described in sections 9123(c) and 9176(b) of this title, the Director shall carry out and publish analyses of the impact of museum and library services. Such analyses—

"(1) shall be conducted in ongoing consultation with—

"(A) State library administrative agencies;

"(B) State, regional, and national library and museum organizations; and

"(C) other relevant agencies and organizations;

"(2) shall identify national needs for, and trends of, museum and library services provided with funds made available under subchapters II and III of this chapter;

"(3) shall report on the impact and effectiveness of programs conducted with funds made available by the Institute in addressing such needs; and

"(4) shall identify, and disseminate information on, the best practices of such programs to the agencies and entities described in paragraph (1)."

§9109. Prohibition on use of funds for construction

No funds appropriated to carry out this chapter, subchapter II of this chapter, or subchapter III of this chapter may be used for construction expenses.

(Pub. L. 94–462, title II, §210A, as added Pub. L. 108–81, title I, §105, Sept. 25, 2003, 117 Stat. 997.)

§9110. Hearings

The Director is authorized to conduct hearings at such times and places as the Director determines appropriate for carrying out the purposes of this subchapter.

(Pub. L. 94–462, title II, §210B, as added Pub. L. 111–340, title I, §107, Dec. 22, 2010, 124 Stat. 3599.)

§9111. Administrative funds

Notwithstanding any other provision of this chapter, the Director shall establish one account to be used to pay the Federal administrative costs of carrying out this chapter, and not more than a total of 7 percent of the funds appropriated under sections 9108(f), 9123, and 9176 of this title shall be placed in such account.

(Pub. L. 94–462, title II, §210C, as added Pub. L. 111–340, title I, §108, Dec. 22, 2010, 124 Stat. 3599.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act" and was translated as reading "this title", meaning title II of Pub. L. 94–462, known as the Museum and Library Services Act, to reflect the probable intent of Congress.

SUBCHAPTER II—LIBRARY SERVICES AND TECHNOLOGY

§9121. Purpose

It is the purpose of this subchapter—

(1) to enhance coordination among Federal programs that relate to library and information services;

(2) to promote continuous improvement in library services in all types of libraries in order to better serve the people of the United States;

(3) to facilitate access to resources in all types of libraries for the purpose of cultivating an educated and informed citizenry;

(4) to encourage resource sharing among all types of libraries for the purpose of achieving economical and efficient delivery of library services to the public;

(5) to promote literacy, education, and lifelong learning and to enhance and expand the services and resources provided by libraries, including those services and resources relating to workforce development, 21st century skills, and digital literacy skills;

(6) to enhance the skills of the current library workforce and to recruit future professionals to the field of library and information services;

(7) to ensure the preservation of knowledge and library collections in all formats and to enable libraries to serve their communities during disasters;

(8) to enhance the role of libraries within the information infrastructure of the United States in order to support research, education, and innovation; and

(9) to promote library services that provide users with access to information through national, State, local, regional, and international collaborations and networks.

(Pub. L. 94–462, title II, §212, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295; amended Pub. L. 108–81, title II, §201, Sept. 25, 2003, 117 Stat. 997; Pub. L. 111–340, title II, §201, Dec. 22, 2010, 124 Stat. 3599.)

AMENDMENTS

2010—Par. (1). Pub. L. 111–340, §201(1), added par. (1) and struck out former par. (1) which read as follows: "to consolidate Federal library service programs;".

Par. (2). Pub. L. 111–340, §201(2), inserted "continuous" after "promote".

Pars. (5) to (9). Pub. L. 111–340, §201(3)–(5), added pars. (5) to (9).

2003—Pars. (2) to (5). Pub. L. 108–81 added pars. (2) to (4) and struck out former pars. (2) to (5) which read as follows:

"(2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

"(3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;

"(4) to provide linkages among and between libraries; and

"(5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills."

§9122. Definitions

As used in this subchapter:

(1) Library

The term "library" includes—

(A) a public library;

(B) a public elementary school or secondary school library;

(C) an academic library;

(D) a research library, which for the purposes of this subchapter means a library that—

(i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

(ii) is not an integral part of an institution of higher education; and

(E) a private library or other special library, but only if the State in which such private or special library is located determines that the library should be considered a library for purposes of this subchapter.

(2) Library consortium

The term "library consortium" means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

(3) State

The term "State", unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(4) State library administrative agency

The term "State library administrative agency" means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

(5) State plan

The term "State plan" means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subchapter, provides assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subchapter, submits copies for approval as required by regulations promulgated by the Director, identifies a State's library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subchapter.

(Pub. L. 94–462, title II, §213, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–296; amended Pub. L. 105–128, §3, Dec. 1, 1997, 111 Stat. 2548; Pub. L. 108–81, title II, §202, Sept. 25, 2003, 117 Stat. 997.)

AMENDMENTS

2003—Pars. (1) to (6). Pub. L. 108–81 redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out heading and text of former par. (1). Text read as follows: "The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

1997—Par. (2)(E). Pub. L. 105–128 inserted "or other special library" after "a private library" and "or special" after "such private".

§9123. Authorization of appropriations

(a) In general

There are authorized to be appropriated—

(1) to carry out parts 1, 2, and 3, $232,000,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 through 2016; and

(2) to carry out part 4, $24,500,000 for fiscal year 2011 and such sums as may be necessary for

each of the fiscal years 2012 through 2016.

(b) Forward funding

(1) In general

To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants, contracts, or other payments under any program under this subchapter are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

(2) Additional authorization of appropriations

In order to effect a transition to the timing of appropriation action authorized by subsection (a) of this section, the application of this section may result in the enactment, in a fiscal year, of separate appropriations for a program under this subchapter (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

(Pub. L. 94–462, title II, §214, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–296; amended Pub. L. 108–81, title II, §203, Sept. 25, 2003, 117 Stat. 997; Pub. L. 111–340, title II, §202, Dec. 22, 2010, 124 Stat. 3599.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–340, §202(a), added subsec. (a) and struck out heading and text of former subsec. (a). Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this subchapter $232,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009."

Subsec. (c). Pub. L. 111–340, §202(b), struck out heading and text of subsec. (c). Text read as follows: "Not more than 3.5 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subchapter."

2003—Subsec. (a). Pub. L. 108–81, §203(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated $150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subchapter.

"(2) TRANSFER.—The Secretary of Education shall—

"(A) transfer promptly to the Director any funds appropriated under the authority of paragraph (1), to enable the Director to carry out this subchapter; and

"(B) not exercise any authority concerning the administration of this chapter other than the transfer described in subparagraph (A)."

Subsec. (c). Pub. L. 108–81, §203(2), substituted "3.5 percent" for "3 percent".

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–81 effective Oct. 1, 2003, see section 506 of Pub. L. 108–81, set out as a note under section 9101 of this title.

PART 1—BASIC PROGRAM REQUIREMENTS

§9131. Reservations and allotments

(a) Reservations

(1) In general

From the amount appropriated under the authority of section 9123 of this title for any fiscal year, the Director—

(A) shall reserve 1.75 percent to award grants in accordance with section 9161 of this title; and

(B) shall reserve 3.75 percent to award national leadership grants or contracts in accordance with section 9162 of this title.

(2) Special rule

If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) of this section for the fiscal year succeeding the fiscal year for which the funds were so reserved.

(b) Allotments

(1) In general

From the sums appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

(2) Remainder

From the remainder of any sums appropriated under the authority of section 9123 of this title that are not reserved under subsection (a) of this section and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

(3) Minimum allotments

(A) In general

For purposes of this subsection, the minimum allotment for each State shall be $680,000, except that the minimum allotment shall be $60,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) Ratable reductions

Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year is insufficient to fully satisfy the requirement of subparagraph (A), each of the minimum allotments under such subparagraph shall be reduced ratably.

(C) Special rule

(i) In general

Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subchapter in accordance with the provisions of this subchapter that the Director determines are not inconsistent with this subparagraph.

(ii) Award basis

The Director shall award grants pursuant to clause (i) on a competitive basis and after taking into consideration available recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(iii) Administrative costs

The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

(4) Data

The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

(Pub. L. 94–462, title II, §221, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–297; amended Pub. L. 105–128, §4, Dec. 1, 1997, 111 Stat. 2548; Pub. L. 108–81, title II, §204, Sept. 25, 2003, 117 Stat. 997; Pub. L. 111–340, title II, §203, Dec. 22, 2010, 124 Stat. 3600.)

AMENDMENTS

2010—Subsec. (b)(3)(A). Pub. L. 111–340, §203(1), substituted "$680,000" for "$340,000" and "$60,000" for "$40,000".

Subsec. (b)(3)(C), (D). Pub. L. 111–340, §203(2), (3), redesignated subpar. (D) as (C) and struck out former subpar. (C), which related to the minimum allotments for States when the appropriated sums exceed the aggregate of allotments for all States for fiscal year 2003.

2003—Subsec. (b)(3). Pub. L. 108–81 amended heading and text of par. (3) generally. Prior to amendment, text read as follows:

"(A) IN GENERAL.—For the purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(B) RATABLE REDUCTIONS.—If the sum appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

"(C) SPECIAL RULE.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subchapter in accordance with the provisions of this subchapter that the Director determines are not inconsistent with this subparagraph.

"(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

"(iii) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subchapter for any fiscal year that begins after September 30, 2001.

"(iv) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph."

1997—Subsec. (a)(1)(A). Pub. L. 105–128, §4(1), substituted "1.75 percent" for "1½ percent".

Subsec. (a)(1)(B). Pub. L. 105–128, §4(2), substituted "3.75 percent" for "4 percent".

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–81 effective Oct. 1, 2003, see section 506 of Pub. L. 108–81, set out as a note under section 9101 of this title.

§9132. Administration

(a) In general

Not more than 4 percent of the total amount of funds received under this subchapter for any fiscal year by a State may be used for administrative costs.

(b) Construction

Nothing in this section shall be construed to limit spending for evaluation costs under section 9134(c) of this title from sources other than this subchapter.

(Pub. L. 94–462, title II, §222, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–298.)

§9133. Payments; Federal share; and maintenance of effort requirements

(a) Payments

Subject to appropriations provided pursuant to section 9123 of this title, the Director shall pay to each State library administrative agency having a State plan approved under section 9134 of this title the Federal share of the cost of the activities described in the State plan.

(b) Federal share

(1) In general

The Federal share shall be 66 percent.

(2) Non-Federal share

The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

(c) Maintenance of effort

(1) State expenditures

(A) Requirement

(i) In general

The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this part shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in the allotment for any fiscal year shall be equal to the allotment multiplied by a fraction—

(I) the numerator of which is the result obtained by subtracting the level of such State expenditures for the fiscal year for which the determination is made, from the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made; and

(II) the denominator of which is the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

(ii) Calculation

Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

(B) Decrease in Federal support

If the amount made available under this subchapter for a fiscal year is less than the amount made available under this subchapter for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(2) Level of State expenditures

The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subchapter. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

(3) Waiver

The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(Pub. L. 94–462, title II, §223, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–299; amended Pub. L. 105–128, §5, Dec. 1, 1997, 111 Stat. 2549.)

AMENDMENTS

1997—Subsec. (c)(1)(A)(i). Pub. L. 105–128 amended second sentence generally. Prior to amendment, second sentence read as follows: "The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made."

§9134. State plans

(a) State plan required

(1) In general

In order to be eligible to receive a grant under this subchapter, a State library administrative agency shall submit a State plan to the Director once every 5 years, as determined by the Director.

(2) Duration

The State plan shall cover a period of 5 fiscal years.

(3) Revisions

If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

(b) Contents

The State plan shall—

(1) establish goals, and specify priorities, for the State consistent with the purposes of this subchapter;

(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subchapter, and section 9141 of this title, that the State library administrative agency will carry out during such year using such grant;

(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subchapter;

(6) describe how the State library administrative agency will work with other State agencies and offices where appropriate to coordinate resources, programs, and activities and leverage, but not replace, the Federal and State investment in—

(A) elementary and secondary education, including coordination with the activities within the State that are supported by a grant under section 6646 of this title;

(B) early childhood education, including coordination with—

(i) the State's activities carried out under subsections (b)(4) and (e)(1) of section 9837 of title 42; and

(ii) the activities described in the State's strategic plan in accordance with section 9837b(a)(4)(B)(i) of title 42;

(C) workforce development, including coordination with—

(i) the activities carried out by the State workforce development board under section 3111

of title 29; and

(ii) the State's one-stop delivery system established under section 3151(e) of title 29; and

(D) other Federal programs and activities that relate to library services, including economic and community development and health information;

(7) provide assurances that the State will comply with subsection (f) of this section; and

(8) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subchapter and to determine the extent to which funds provided under this subchapter have been effective in carrying out the purposes of this subchapter.

(c) Evaluation and report

Each State library administrative agency receiving a grant under this subchapter shall independently evaluate, and report to the Director regarding, the activities assisted under this subchapter, prior to the end of the 5-year plan.

(d) Information

Each library receiving assistance under this subchapter shall submit to the State library administrative agency such information as such agency may require to meet the requirements of subsection (c) of this section.

(e) Approval

(1) In general

The Director shall approve any State plan under this subchapter that meets the requirements of this subchapter and provides satisfactory assurances that the provisions of such plan will be carried out.

(2) Public availability

Each State library administrative agency receiving a grant under this subchapter shall make the State plan available to the public, including through electronic means.

(3) Administration

If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

(B) offer the State library administrative agency the opportunity to revise its State plan;

(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

(D) provide the State library administrative agency the opportunity for a hearing.

(f) Internet safety

(1) In general

No funds made available under this subchapter for a library described in section 9122(1)(A) or (B) of this title that does not receive services at discount rates under section 254(h)(6) of title 47 may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such library unless—

(A) such library—

(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene;

(II) child pornography; or

(III) harmful to minors; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(B) such library—

(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene; or

(II) child pornography; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers.

(2) Access to other materials

Nothing in this subsection shall be construed to prohibit a library from limiting Internet access to or otherwise protecting against materials other than those referred to in subclauses (I), (II), and (III) of paragraph (1)(A)(i).

(3) Disabling during certain use

An administrator, supervisor, or other authority may disable a technology protection measure under paragraph (1) to enable access for bona fide research or other lawful purposes.

(4) Timing and applicability of implementation

(A) In general

A library covered by paragraph (1) shall certify the compliance of such library with the requirements of paragraph (1) as part of the application process for the next program funding year under this subchapter following the effective date of this subsection, and for each subsequent program funding year thereafter.

(B) Process

(i) Libraries with Internet safety policies and technology protection measures in place

A library covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this subchapter.

(ii) Libraries without Internet safety policies and technology protection measures in place

A library covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

(I) for the first program year after the effective date of this subsection in which the library applies for funds under this subchapter, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

(II) for the second program year after the effective date of this subsection in which the library applies for funds under this subchapter, shall certify that such library is in compliance with such requirements.

Any library covered by paragraph (1) that is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this subchapter for such second program year and all subsequent program years until such time as such library comes into compliance with such requirements.

(iii) Waivers

Any library subject to a certification under clause (ii)(II) that cannot make the certification

otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The library shall notify the Director of the Institute of Museum and Library Services of the applicability of that clause to the library. Such notice shall certify that the library will comply with the requirements in paragraph (1) before the start of the third program year after the effective date of this subsection for which the library is applying for funds under this subchapter.

(5) Noncompliance

(A) Use of General Education Provisions Act remedies

Whenever the Director of the Institute of Museum and Library Services has reason to believe that any recipient of funds this [1] subchapter is failing to comply substantially with the requirements of this subsection, the Director may—

(i) withhold further payments to the recipient under this subchapter,

(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements.

(B) Recovery of funds prohibited

The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a library to comply substantially with a provision of this subsection, and the Director shall not seek a recovery of funds from the recipient for such failure.

(C) Recommencement of payments

Whenever the Director determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Director shall cease the withholding of payments to the recipient under that subparagraph.

(6) Separability

If any provision of this subsection is held invalid, the remainder of this subsection shall not be affected thereby.

(7) Definitions

In this subsection:

(A) Child pornography

The term "child pornography" has the meaning given such term in section 2256 of title 18.

(B) Harmful to minors

The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(C) Minor

The term "minor" means an individual who has not attained the age of 17.

(D) Obscene

The term "obscene" has the meaning applicable to such term in section 1460 of title 18.

(E) Sexual act; sexual contact

The terms "sexual act" and "sexual contact" have the meanings given such terms in section 2246 of title 18.

(Pub. L. 94–462, title II, §224, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–300; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVII, §1712(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–340; Pub. L. 108–81, title II, §205, title V, §504(f), Sept. 25, 2003, 117 Stat. 999, 1004; Pub. L. 111–340, title II, §204, Dec. 22, 2010, 124 Stat. 3600; Pub. L. 113–128, title V, §512(t)(2), July 22, 2014, 128 Stat. 1712; Pub. L. 114–95, title IX, §9215(aaa)(2), Dec. 10, 2015, 129 Stat. 2184.)

REFERENCES IN TEXT

For the effective date of this subsection, referred to in subsec. (f)(4), as 120 days after Dec. 21, 2000, see §1(a)(4) [div. B, title XVII, §1712(b)] of Pub. L. 106–554, set out as an Effective Date of 2000 Amendment note below.

The General Education Provisions Act, referred to in subsec. (f)(5)(A), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

AMENDMENTS

2015—Subsec. (b)(6)(A). Pub. L. 114–95 substituted "including coordination with the activities within the State that are supported by a grant under section 6646 of this title" for "including coordination with the activities within the State that are supported by a grant under section 6383 of this title".

2014—Subsec. (b)(6)(C)(i). Pub. L. 113–128, §512(t)(2)(A), substituted "the activities carried out by the State workforce development board under section 3111 of title 29" for "the activities carried out by the State workforce investment board under section 2821(d) of title 29".

Subsec. (b)(6)(C)(ii). Pub. L. 113–128, §512(t)(2)(B), substituted "the State's one-stop delivery system established under section 3151(e) of title 29" for "the State's one-stop delivery system established under section 2864(c) of title 29".

2010—Subsec. (b)(6) to (8). Pub. L. 111–340, §204(1), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

Subsec. (e)(2). Pub. L. 111–340, §204(2), inserted ", including through electronic means" before period at end.

2003—Subsec. (a)(1). Pub. L. 108–81, §205(1), substituted "once every 5 years, as determined by the Director." for "not later than April 1, 1997."

Subsec. (b)(5). Pub. L. 108–81, §504(f), struck out "and" at end.

Subsec. (f). Pub. L. 108–81, §205(2)(A), substituted "this subchapter" for "this chapter" wherever appearing.

Subsec. (f)(1). Pub. L. 108–81, §205(2)(B), substituted "section 9122(1)(A) or (B)" for "9122(2)(A) or (B)" and made technical amendment to reference in original act which appears in text as reference to section 254(h)(6) of title 47.

Subsec. (f)(7). Pub. L. 108–81, §205(2)(C)(i), substituted "subsection:" for "section:" in introductory provisions.

Subsec. (f)(7)(D). Pub. L. 108–81, §205(2)(C)(ii), substituted "applicable to" for "given".

2000—Subsec. (b)(6), (7). Pub. L. 106–554, §1(a)(4) [div. B, title XVII, §1712(a)(1)], added par. (6) and redesignated former par. (6) as (7).

Subsec. (f). Pub. L. 106–554, §1(a)(4) [div. B, title XVII, §1712(a)(2)], added subsec. (f).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(4) [div. B, title XVII, §1712(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–343, provided that: "The amendment made by this section [amending this section] shall take effect 120 days after the date of the enactment of this Act [Dec. 21, 2000]."

AVAILABILITY OF CERTAIN FUNDS FOR ACQUISITION OF TECHNOLOGY PROTECTION MEASURES

Pub. L. 106–554, §1(a)(4) [div. B, title XVII, §1721(g)], Dec. 21, 2000, 114 Stat. 2763, 2763A–350, as amended by Pub. L. 114–95, title IX, §9215(q), Dec. 10, 2015, 129 Stat. 2171, provided that:

"(1) IN GENERAL.—Notwithstanding any other provision of law, funds available under part B of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6361 et seq.], or under section 231 of the Library Services and Technology Act [20 U.S.C. 9141], may be used for the purchase or acquisition of technology protection measures that are necessary to meet the requirements of this title [see Short Title of 2000 Amendments note set out under section 6301 of this title] and the amendments made by this title. No other sources of funds for the purchase or acquisition of such measures are authorized by this title, or the amendments made by this title.

"(2) TECHNOLOGY PROTECTION MEASURE DEFINED.—In this section, the term 'technology protection measure' has the meaning given that term in section 1703 [set out as a note under section 902 of Title 47, Telecommunications]."

[1] *So in original. Probably should be preceded by "under".*

PART 2—LIBRARY PROGRAMS

§9141. Grants to States

(a) In general

Of the funds provided to a State library administrative agency under section 9123 of this title, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

(1) expanding services for learning and access to information and educational resources in a variety of formats, in all types of libraries, for individuals of all ages in order to support such individuals' needs for education, lifelong learning, workforce development, and digital literacy skills;

(2) establishing or enhancing electronic and other linkages and improved coordination among and between libraries and entities, as described in section 9134(b)(6) of this title, for the purpose of improving the quality of and access to library and information services;

(3)(A) providing training and professional development, including continuing education, to enhance the skills of the current library workforce and leadership, and advance the delivery of library and information services; and

(B) enhancing efforts to recruit future professionals to the field of library and information services;

(4) developing public and private partnerships with other agencies and community-based organizations;

(5) targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills;

(6) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved;

(7) developing library services that provide all users access to information through local, State,

regional, national, and international collaborations and networks; and

(8) carrying out other activities consistent with the purposes set forth in section 9121 of this title, as described in the State library administrative agency's plan.

(b) Special rule

Each State library administrative agency receiving funds under this part may apportion the funds available for the priorities described in subsection (a) as appropriate to meet the needs of the individual State.

(Pub. L. 94–462, title II, §231, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–301; amended Pub. L. 108–81, title II, §206, Sept. 25, 2003, 117 Stat. 999; Pub. L. 111–340, title II, §205, Dec. 22, 2010, 124 Stat. 3600.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–340, §205(1), inserted "in order to support such individuals' needs for education, lifelong learning, workforce development, and digital literacy skills" before semicolon at end in par. (1), added pars. (2) and (3), redesignated former par. (2) as (7) and substituted "collaborations and networks; and" for "electronic networks;", struck out former par. (3) which read "providing electronic and other linkages among and between all types of libraries;", and added par. (8).

Subsec. (b). Pub. L. 111–340, §205(2), added subsec. (b) and struck out heading and text of former subsec. (b). Prior to amendment, text read as follows: "Each State library administrative agency receiving funds under this part may apportion the funds available for the purposes described in subsection (a) of this section among such purposes, as appropriate, to meet the needs of the individual State."

2003—Subsec. (a)(1) to (6). Pub. L. 108–81, §206(1), added pars. (1) to (6) and struck out former pars. (1) and (2) which read as follows:

"(1)(A) establishing or enhancing electronic linkages among or between libraries;

"(B) electronically linking libraries with educational, social, or information services;

"(C) assisting libraries in accessing information through electronic networks;

"(D) encouraging libraries in different areas, and encouraging different types of libraries, to establish consortia and share resources; or

"(E) paying costs for libraries to acquire or share computer systems and telecommunications technologies; and

"(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved."

Subsec. (b). Pub. L. 108–81, §206(2), substituted "among such purposes," for "between the two purposes described in paragraphs (1) and (2) of such subsection,".

PART 3—ADMINISTRATIVE PROVISIONS

SUBPART A—STATE REQUIREMENTS

§9151. State advisory councils

Each State desiring assistance under this subchapter may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic, special, and institutional libraries, and libraries serving individuals with disabilities.

(Pub. L. 94–462, title II, §251, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–301.)

SUBPART B—FEDERAL REQUIREMENTS

§9161. Services for Native Americans

From amounts reserved under section 9131(a)(1)(A) of this title for any fiscal year the Director shall award grants to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 7517 of this title) to enable such tribes and organizations to carry out the activities described in section 9141 of this title.

(Pub. L. 94–462, title II, §261, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302; amended Pub. L. 105–128, §6, Dec. 1, 1997, 111 Stat. 2549; Pub. L. 107–110, title VII, §702(d), Jan. 8, 2002, 115 Stat. 1947; Pub. L. 114–95, title IX, §9215(aaa)(3), Dec. 10, 2015, 129 Stat. 2184.)

AMENDMENTS

2015—Pub. L. 114–95 substituted "represent Native Hawaiians (as the term is defined in section 7517 of this title)" for "represent Native Hawaiians (as the term is defined in section 7517 of this title".

2002—Pub. L. 107–110 substituted "7517" for "7912".

1997—Pub. L. 105–128 substituted "Native Americans" for "Indian tribes" in section catchline and in text substituted "to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 7912 of this title to enable such tribes and organizations" for "to organizations primarily serving and representing Indian tribes to enable such organizations".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§9162. National leadership grants, contracts, or cooperative agreements

(a) In general

From the amounts reserved under section 9131(a)(1)(B) of this title for any fiscal year the Director shall establish and carry out a program of awarding grants or entering into contracts or cooperative agreements to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants, contracts, and cooperative agreements shall be used for activities that may include—

(1) building workforce and institutional capacity for managing the national information infrastructure and serving the information and education needs of the public;

(2)(A) research and demonstration projects related to the improvement of libraries or the enhancement of library and information services through effective and efficient use of new technologies, including projects that enable library users to acquire digital literacy skills and that make information resources more accessible and available; and

(B) dissemination of information derived from such projects;

(3) preserving or digitizing of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project, including the development of national, regional, statewide, or local emergency plans that would ensure the preservation of knowledge and library collections in the event of a disaster; and

(4) model programs demonstrating cooperative efforts between libraries and museums.

(b) Grants, contracts, or cooperative agreements

(1) In general

The Director may carry out the activities described in subsection (a) of this section by awarding grants to, or entering into contracts or cooperative agreements with, libraries, agencies, institutions of higher education, or museums, where appropriate.

(2) Competitive basis

Grants, contracts, and cooperative agreements under this section shall be awarded on a competitive basis.

(c) Special rule

The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

(Pub. L. 94–462, title II, §262, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302; amended Pub. L. 105–128, §§7, 8, Dec. 1, 1997, 111 Stat. 2549, 2550; Pub. L. 108–81, title II, §207, title V, §504(g), Sept. 25, 2003, 117 Stat. 1000, 1004; Pub. L. 111–340, title II, §206, Dec. 22, 2010, 124 Stat. 3601.)

AMENDMENTS

2010—Subsec. (a)(1), (2). Pub. L. 111–340, §206(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) education, recruitment, and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

"(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;".

Subsec. (a)(3). Pub. L. 111–340, §206(2), substituted "digitizing" for "digitization" and inserted ", including the development of national, regional, statewide, or local emergency plans that would ensure the preservation of knowledge and library collections in the event of a disaster" before "; and".

2003—Subsec. (a)(1). Pub. L. 108–81, §207, substituted "education, recruitment, and training" for "education and training".

Subsec. (b)(1). Pub. L. 108–81, §504(g), substituted "cooperative agreements with," for "cooperative agreements, with,".

1997—Pub. L. 105–128, §7(1), substituted section catchline for former catchline which read as follows: "National leadership grants or contracts".

Subsec. (a). Pub. L. 105–128, §7(2), in introductory provisions, substituted "program of awarding grants or entering into contracts or cooperative agreements" for "program awarding national leadership grants or contracts" and "Such grants, contracts, and cooperative agreements" for "Such grants or contracts".

Subsec. (a)(3). Pub. L. 105–128, §8, substituted "preserving or digitization" for "preservation of digitization".

Subsec. (b). Pub. L. 105–128, §7(3)(A), substituted heading for former heading which read as follows: "Grants or contracts".

Subsec. (b)(1). Pub. L. 105–128, §7(3)(B), inserted "or cooperative agreements," after "contracts".

Subsec. (b)(2). Pub. L. 105–128, §7(3)(C), substituted "Grants, contracts, and cooperative agreements" for "Grants and contracts".

§9163. State and local initiatives

Nothing in this subchapter shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subchapter, the determination of the best uses of the funds provided under this subchapter, shall be reserved for the States and their local subdivisions.

(Pub. L. 94–462, title II, §263, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702],

Sept. 30, 1996, 110 Stat. 3009–233, 3009–302.)

PART 4—LAURA BUSH 21ST CENTURY LIBRARIANS

§9165. Laura Bush 21st Century Librarian Program

(a) Purpose

It is the purpose of this part to develop a diverse workforce of librarians by—

(1) recruiting and educating the next generation of librarians, including by encouraging middle or high school students and postsecondary students to pursue careers in library and information science;

(2) developing faculty and library leaders, including by increasing the institutional capacity of graduate schools of library and information science; and

(3) enhancing the training and professional development of librarians and the library workforce to meet the needs of their communities, including those needs relating to literacy and education, workforce development, lifelong learning, and digital literacy.

(b) Activities

From the amounts provided under section 9123(a)(2) of this title, the Director may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance, with libraries, library consortia and associations, institutions of higher education (as defined in section 1001 of this title), and other entities that the Director determines appropriate, for projects that further the purpose of this part, such as projects that—

(1) increase the number of students enrolled in nationally accredited graduate library and information science programs and preparing for careers of service in libraries;

(2) recruit future professionals, including efforts to attract promising middle school, high school, or postsecondary students to consider careers in library and information science;

(3) develop or enhance professional development programs for librarians and the library workforce;

(4) enhance curricula within nationally accredited graduate library and information science programs;

(5) enhance doctoral education in order to develop faculty to educate the future generation of library professionals and develop the future generation of library leaders; and

(6) conduct research, including research to support the successful recruitment and education of the next generation of librarians.

(c) Evaluation

The Director shall establish procedures for reviewing and evaluating projects supported under this part.

(Pub. L. 94–462, title II, §264, as added Pub. L. 111–340, title II, §207, Dec. 22, 2010, 124 Stat. 3602.)

SUBCHAPTER III—MUSEUM SERVICES

§9171. Purpose

It is the purpose of this subchapter—

(1) to encourage and support museums in carrying out their public service role of connecting the

whole of society to the cultural, artistic, historical, natural, and scientific understandings that constitute our heritage;

(2) to encourage and support museums in carrying out their educational role, as core providers of learning and in conjunction with schools, families, and communities;

(3) to encourage leadership, innovation, and applications of the most current technologies and practices to enhance museum services through international, national, regional, State, and local networks and partnerships;

(4) to assist, encourage, and support museums in carrying out their stewardship responsibilities to achieve the highest standards in conservation and care of the cultural, historic, natural, and scientific heritage of the United States to benefit future generations;

(5) to assist, encourage, and support museums in achieving the highest standards of management and service to the public, and to ease the financial burden borne by museums as a result of their increasing use by the public;

(6) to support resource sharing and partnerships among museums, libraries, schools, and other community organizations;

(7) to encourage and support museums as a part of economic development and revitalization in communities;

(8) to ensure museums of various types and sizes in diverse geographic regions of the United States are afforded attention and support; and

(9) to support efforts at the State level to leverage museum resources and maximize museum services.

(Pub. L. 94–462, title II, §272, formerly §271, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302; renumbered §272 and amended Pub. L. 108–81, title III, §§301, 306(1), Sept. 25, 2003, 117 Stat. 1000, 1002; Pub. L. 111–340, title III, §301, Dec. 22, 2010, 124 Stat. 3603.)

PRIOR PROVISIONS

A prior section 272 of Pub. L. 94–462 was renumbered section 273 and is classified to section 9172 of this title.

AMENDMENTS

2010—Par. (3). Pub. L. 111–340, §301(1), inserted "through international, national, regional, State, and local networks and partnerships" after "services".

Pars. (7) to (9). Pub. L. 111–340, §301(2)–(4), added pars. (7) to (9).

2003—Pub. L. 108–81, §301, amended section catchline and text generally. Prior to amendment, text read as follows: "It is the purpose of this subchapter—

"(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups;

"(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

"(3) to ease the financial burden borne by museums as a result of their increasing use by the public."

§9172. Definitions

As used in this subchapter:

(1) Museum

The term "museum" means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis. Such term includes museums that have tangible and digital collections and includes aquariums, arboretums, botanical gardens, art museums, children's

museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.

(2) State

The term "State" means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(Pub. L. 94–462, title II, §273, formerly §272, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–303; renumbered §273 and amended Pub. L. 108–81, title III, §§302, 306(1), Sept. 25, 2003, 117 Stat. 1000, 1002; Pub. L. 111–340, title III, §302, Dec. 22, 2010, 124 Stat. 3603.)

PRIOR PROVISIONS

A prior section 273 of Pub. L. 94–462 was renumbered section 274 and is classified to section 9173 of this title.

AMENDMENTS

2010—Par. (1). Pub. L. 111–340 inserted "includes museums that have tangible and digital collections and" after "Such term".

2003—Par. (1). Pub. L. 108–81, §302, inserted at end: "Such term includes aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks."

§9173. Museum services activities

(a) In general

The Director, subject to the policy advice of the Museum and Library Services Board, may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance, with museums, States, local governments, and other entities as the Director considers appropriate, to pay the Federal share of the cost of—

(1) supporting museums in providing learning and access to collections, information, and educational resources in a variety of formats (including exhibitions, programs, publications, and websites) for individuals of all ages;

(2) supporting museums in building learning partnerships with the Nation's schools and developing museum resources and programs in support of State and local school curricula;

(3) supporting the conservation and preservation of museum collections, including efforts to—

(A) provide optimal conditions for storage, exhibition, and use;

(B) prepare for and respond to disasters and emergency situations;

(C) establish endowments for conservation; and

(D) train museum staff in collections care;

(4) supporting efforts at the State level to leverage museum resources, including statewide assessments of museum services and needs and development of State plans to improve and maximize museum services through the State;

(5) stimulating greater collaboration, in order to share resources and strengthen communities, among museums and—

(A) libraries;

(B) schools;

(C) international, Federal, State, regional, and local agencies or organizations;

(D) nongovernmental organizations; and

(E) other community organizations;

(6) encouraging the use of new technologies and media, including new ways to disseminate information, to enhance access to museum collections, programs, and services;

(7) supporting museums in providing services to people of diverse geographic, cultural, and socioeconomic backgrounds and to individuals with disabilities;

(8) supporting museums in developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and State institutions;

(9) supporting professional development and technical assistance programs to enhance museum operations, and the skills of museum staff, at all levels, and to support the development of the next generation of museum leaders and professionals, in order to ensure the highest standards in all aspects of museum operations;

(10) supporting museums in research, program evaluation, and the collection and dissemination of information to museum professionals and the public; and

(11) encouraging, supporting, and disseminating model programs of museum and library collaboration.

(b) Federal share

(1) 50 percent

Except as provided in paragraph (2), the Federal share described in subsection (a) of this section shall be not more than 50 percent.

(2) Greater than 50 percent

The Director may use not more than 20 percent of the funds made available under this subchapter for a fiscal year to enter into arrangements under subsection (a) of this section for which the Federal share may be greater than 50 percent.

(3) Operational expenses

No funds for operational expenses may be provided under this section to any entity that is not a museum.

(c) Review and evaluation

(1) In general

The Director shall establish procedures for reviewing and evaluating arrangements described in subsection (a) of this section entered into under this subchapter.

(2) Grant distribution

In awarding grants, the Director shall take into consideration the equitable distribution of grants to museums of various types and sizes and to different geographic areas of the United States [1]

(3) Applications for technical assistance

(A) In general

The Director may use not more than 10 percent of the funds appropriated to carry out this subchapter for technical assistance.

(B) Individual museums

Individual museums may receive not more than 3 technical assistance awards under subparagraph (A). Subsequent awards for technical assistance shall be subject to review outside the Institute.

(d) Services for Native Americans

From amounts appropriated under section 9176 of this title, the Director shall reserve 1.75 percent to award grants to, or enter into contracts or cooperative agreements with, Indian tribes and

organizations that primarily serve and represent Native Hawaiians (as defined in section 7517 of this title), to enable such tribes and organizations to carry out the activities described in subsection (a) of this section.

(Pub. L. 94–462, title II, §274, formerly §273, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–303; renumbered §274 and amended Pub. L. 108–81, title III, §§303, 306(1), Sept. 25, 2003, 117 Stat. 1000, 1002; Pub. L. 111–340, title III, §303, Dec. 22, 2010, 124 Stat. 3603; Pub. L. 114–95, title IX, §9215(aaa)(4), Dec. 10, 2015, 129 Stat. 2184.)

PRIOR PROVISIONS

A prior section 274 of Pub. L. 94–462 was classified to section 9174 of this title, prior to repeal by Pub. L. 108–81.

AMENDMENTS

2015—Subsec. (d). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7517 of this title.

2010—Subsec. (a). Pub. L. 111–340, §303(1)(A), inserted ", States, local governments," after "with museums" in introductory provisions.

Subsec. (a)(3) to (5). Pub. L. 111–340, §303(1)(B), (C), added pars. (3) to (5), redesignated former par. (5) as (6), and struck out former pars. (3) and (4) which read as follows:

"(3) supporting museums in assessing, conserving, researching, maintaining, and exhibiting their collections, and in providing educational programs to the public through the use of their collections;

"(4) stimulating greater collaboration among museums, libraries, schools, and other community organizations in order to share resources and strengthen communities;".

Subsec. (a)(6). Pub. L. 111–340, §303(1)(B), (D), redesignated par. (5) as (6) and substituted "media, including new ways to disseminate information," for "broadcast media". Former par. (6) redesignated (7).

Subsec. (a)(7), (8). Pub. L. 111–340, §303(1)(B), redesignated pars. (6) and (7) as (7) and (8), respectively. Former par. (8) redesignated (9).

Subsec. (a)(9). Pub. L. 111–340, §303(1)(B), (E), redesignated par. (8) as (9) and substituted ", and the skills of museum staff, at all levels, and to support the development of the next generation of museum leaders and professionals," for "at all levels,". Former par. (9) redesignated (10).

Subsec. (a)(10), (11). Pub. L. 111–340, §303(1)(B), redesignated pars. (9) and (10) as (10) and (11), respectively.

Subsec. (c)(2), (3). Pub. L. 111–340, §303(2)(A), (B), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c)(3)(A). Pub. L. 111–340, §303(2)(C)(i), which directed that "awards" be struck out after "assistance" in subpar. (A) of par. (2), was executed by making the amendment in subpar. (A) of par. (3) to reflect the probable intent of Congress and the intervening redesignation of par. (2) as (3). See above.

Subsec. (c)(3)(B). Pub. L. 111–340, §303(2)(C)(ii), which directed the substitution of ". Subsequent" for ", but subsequent" in subpar. (B) of par. (2), was executed by making the amendment in subpar. (B) of par. (3) to reflect the probable intent of Congress and the intervening redesignation of par. (2) as (3). See above.

2003—Pub. L. 108–81, §303, amended section catchline and text generally. Prior to amendment, section contained provisions which in subsec. (a) authorized the Director to make grants to museums to pay for the Federal share of the cost of increasing and improving museum services, in subsec. (b) authorized the Director to enter into contracts and cooperative agreements with appropriate entities to pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, in subsec. (c) established the Federal share, and in subsec. (d) required the Director to establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements entered into under this subchapter.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be followed by a period.*

§§9174, 9175. Repealed. Pub. L. 108–81, title III, §304, Sept. 25, 2003, 117 Stat. 1002

Section 9174, Pub. L. 94–462, title II, §274, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–304, related to National Award for Museum Service.

Section 9175, Pub. L. 94–462, title II, §275, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–304, related to National Museum Services Board.

§9176. Authorization of appropriations

(a) Grants

For the purpose of carrying out this subchapter, there are authorized to be appropriated to the Director $38,600,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 through 2016.

(b) Sums remaining available

Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for obligation until expended.

(c) Funding rules

Notwithstanding any other provision of this subchapter, if the amount appropriated under subsection (a) for a fiscal year is greater than the amount appropriated under such subsection for fiscal year 2011 by more than $10,000,000, then an amount of not less than 30 percent but not more than 50 percent of the increase in appropriated funds shall be available, from the funds appropriated under such subsection for the fiscal year, to enter into arrangements under section 9173 of this title to carry out the State assessments described in section 9173(a)(4) of this title and to assist States in the implementation of such plans.

(Pub. L. 94–462, title II, §275, formerly §276, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–306; renumbered §275 and amended Pub. L. 108–81, title III, §305, Sept. 25, 2003, 117 Stat. 1002; Pub. L. 111–340, title III, §304, Dec. 22, 2010, 124 Stat. 3604.)

PRIOR PROVISIONS

A prior section 275 of Pub. L. 94–462 was classified to section 9175 of this title, prior to repeal by Pub. L. 108–81.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–340, §304(1), added subsec. (a) and struck out heading and text of former subsec. (a). Prior to amendment, text read as follows: "For the purpose of carrying out this subchapter, there are authorized to be appropriated to the Director $38,600,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009."

Subsec. (b). Pub. L. 111–340, §304(2), (3), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Prior to amendment, text of former subsec. (b) read as follows: "Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subchapter."

Subsec. (c). Pub. L. 111–340, §304(4), added subsec. (c). Former subsec. (c) redesignated (b).

2003—Subsec. (a). Pub. L. 108–81, §305(1), substituted "$38,600,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009." for "$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–81 effective Oct. 1, 2003, see section 506 of Pub. L. 108–81, set out as a note under section 9101 of this title.

CHAPTER 73—ADULT EDUCATION AND LITERACY

SUBCHAPTER I—ADULT EDUCATION AND FAMILY LITERACY

§§9201 to 9204. Repealed. Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat. 1705

Section 9201, Pub. L. 105–220, title II, §202, Aug. 7, 1998, 112 Stat. 1059, related to the purpose of this subchapter.

Section 9202, Pub. L. 105–220, title II, §203, Aug. 7, 1998, 112 Stat. 1060; Pub. L. 105–244, title I, §102(d)(2), Oct. 7, 1998, 112 Stat. 1622; Pub. L. 105–277, div. A, §101(f) [title VIII, §404(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416; Pub. L. 107–110, title X, §1076(s), Jan. 8, 2002, 115 Stat. 2092, provided the definitions of this subchapter.

Section 9203, Pub. L. 105–220, title II, §204, Aug. 7, 1998, 112 Stat. 1062; Pub. L. 105–277, div. A, §101(f) [title VIII, §404(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416, related to the effect of this subchapter on home schools.

Section 9204, Pub. L. 105–220, title II, §205, Aug. 7, 1998, 112 Stat. 1062; Pub. L. 105–277, div. A, §101(f) [title VIII, §404(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416, authorized appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE

Pub. L. 105–220, title V, §507, Aug. 7, 1998, 112 Stat. 1247, which provided that Pub. L. 105–220, and the amendments made by Pub. L. 105–220, would take effect on Aug. 7, 1998, except as otherwise provided, was repealed by Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat. 1705.

SHORT TITLE

Pub. L. 105–220, §1(a), Aug. 7, 1998, 112 Stat. 936, which provided that Pub. L. 105–220 could be cited as the "Workforce Investment Act of 1998", was repealed by Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat. 1705.

Pub. L. 105–220, title II, §201, Aug. 7, 1998, 112 Stat. 1059, which provided that title II of Pub. L. 105–220 could be cited as the "Adult Education and Family Literacy Act", was repealed by Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat. 1705.

PART A—ADULT EDUCATION AND LITERACY PROGRAMS

CODIFICATION

This part was, in the original, designated subtitle A of title II of Pub. L. 105–220 and was redesignated part A of this subchapter for purposes of codification, prior to repeal of Pub. L. 105–220 by Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat. 1705. This subchapter did not contain a part B, because subtitle B (§251) of title II of Pub. L. 105–220 repealed numerous sections of the Code and was executed to those sections, see Tables.

SUBPART 1—FEDERAL PROVISIONS

§§9211, 9212. Repealed. Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat.

Section 9211, Pub. L. 105–220, title II, §211, Aug. 7, 1998, 112 Stat. 1062; Pub. L. 105–277, div. A, §101(f) [title VIII, §404(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416, related to reservation of appropriated funds and grants and allotment of funds to eligible agencies.

Section 9212, Pub. L. 105–220, title II, §212, Aug. 7, 1998, 112 Stat. 1064; Pub. L. 105–277, div. A, §101(f) [title VIII, §404(c)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416, related to performance accountability system.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

SUBPART 2—STATE PROVISIONS

§§9221 to 9225. Repealed. Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat. 1705

Section 9221, Pub. L. 105–220, title II, §221, Aug. 7, 1998, 112 Stat. 1066, related to State administration of activities under this part.

Section 9222, Pub. L. 105–220, title II, §222, Aug. 7, 1998, 112 Stat. 1066, related to State distribution of funds and matching requirement.

Section 9223, Pub. L. 105–220, title II, §223, Aug. 7, 1998, 112 Stat. 1067, related to State leadership activities.

Section 9224, Pub. L. 105–220, title II, §224, Aug. 7, 1998, 112 Stat. 1068; Pub. L. 105–332, §4(1), Oct. 31, 1998, 112 Stat. 3126, provided for the requirement of a 5-year State plan.

Section 9225, Pub. L. 105–220, title II, §225, Aug. 7, 1998, 112 Stat. 1069; Pub. L. 105–277, div. A, §101(f) [title VIII, §404(d)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–417, related to programs for corrections education and other institutionalized individuals.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

SUBPART 3—LOCAL PROVISIONS

§§9241 to 9243. Repealed. Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat. 1705

Section 9241, Pub. L. 105–220, title II, §231, Aug. 7, 1998, 112 Stat. 1070, related to grants and contracts for eligible providers.

Section 9242, Pub. L. 105–220, title II, §232, Aug. 7, 1998, 112 Stat. 1072, related to submission of applications by eligible providers.

Section 9243, Pub. L. 105–220, title II, §233, Aug. 7, 1998, 112 Stat. 1072, related to local administrative cost limits.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

SUBPART 4—GENERAL PROVISIONS

§§9251 to 9253. Repealed. Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat. 1705

Section 9251, Pub. L. 105–220, title II, §241, Aug. 7, 1998, 112 Stat. 1072, related to administrative provisions.

Section 9252, Pub. L. 105–220, title II, §242, Aug. 7, 1998, 112 Stat. 1073; Pub. L. 110–154, §1(c)(2), Dec. 21, 2007, 121 Stat. 1827; Pub. L. 112–166, §2(dd), Aug. 10, 2012, 126 Stat. 1290, established the National Institute for Literacy.

Section 9253, Pub. L. 105–220, title II, §243, Aug. 7, 1998, 112 Stat. 1078; Pub. L. 105–277, div. A, §101(f) [title VIII, §404(e)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–417; Pub. L. 110–154, §1(c)(2), Dec. 21, 2007, 121 Stat. 1827, related to national leadership activities.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

SUBCHAPTER II—GENERAL PROVISIONS

§§9271 to 9276. Repealed. Pub. L. 113–128, title V, §511(a), July 22, 2014, 128 Stat. 1705

Section 9271, Pub. L. 105–220, title V, §501, Aug. 7, 1998, 112 Stat. 1242; Pub. L. 105–277, div. A, §101(f) [title VIII, §401(17)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412; Pub. L. 109–270, §2(h)(7)–(9), Aug. 12, 2006, 120 Stat. 748; Pub. L. 110–234, title IV, §4002(b)(1)(B), (2)(R), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (2)(R), June 18, 2008, 122 Stat. 1664, 1857, 1858, related to State unified plan.

Section 9272, Pub. L. 105–220, title V, §502, Aug. 7, 1998, 112 Stat. 1244, related to definitions for indicators of performance.

Section 9273, Pub. L. 105–220, title V, §503, Aug. 7, 1998, 112 Stat. 1244; Pub. L. 105–277, div. A, §101(f) [title VIII, §404(f)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–417; Pub. L. 106–246, div. B, title II, §2403(a)(1), July 13, 2000, 114 Stat. 555, related to incentive grants.

Section 9274, Pub. L. 105–220, title V, §504, Aug. 7, 1998, 112 Stat. 1245, related to privacy.

Section 9275, Pub. L. 105–220, title V, §505, Aug. 7, 1998, 112 Stat. 1245; Pub. L. 105–277, div. A, §101(f) [title VIII, §401(18)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412, related to buy-American requirements.

Section 9276, Pub. L. 105–220, title V, §506, Aug. 7, 1998, 112 Stat. 1246; Pub. L. 105–277, div. A, §101(f) [title VIII, §401(19)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412; Pub. L. 105–332, §4(2), Oct. 31, 1998, 112 Stat. 3126, related to transition provisions.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

CHAPTER 74—TROOPS-TO-TEACHERS PROGRAM

§§9301 to 9309. Repealed. Pub. L. 107–110, title X, §1011(6), Jan. 8, 2002, 115 Stat. 1986

Section 9301, Pub. L. 106–65, div. A, title XVII, §1701, Oct. 5, 1999, 113 Stat. 817, set forth short title of the Troops-to-Teachers Program Act of 1999 and defined terms.

Section 9302, Pub. L. 106–65, div. A, title XVII, §1702, Oct. 5, 1999, 113 Stat. 818, authorized program.

Section 9303, Pub. L. 106–65, div. A, title XVII, §1703, Oct. 5, 1999, 113 Stat. 818, related to eligibility to participate in program.

Section 9304, Pub. L. 106–65, div. A, title XVII, §1704, Oct. 5, 1999, 113 Stat. 819, related to selection of participants.

Section 9305, Pub. L. 106–65, div. A, title XVII, §1705, Oct. 5, 1999, 113 Stat. 821, related to stipend and bonus for participants.

Section 9306, Pub. L. 106–65, div. A, title XVII, §1706, Oct. 5, 1999, 113 Stat. 822, related to participation by States.

Section 9307, Pub. L. 106–65, div. A, title XVII, §1707, Oct. 5, 1999, 113 Stat. 823, related to termination of original program and transfer of functions.

Section 9308, Pub. L. 106–65, div. A, title XVII, §1708, Oct. 5, 1999, 113 Stat. 823, set forth reporting requirements.

Section 9309, Pub. L. 106–65, div. A, title XVII, §1709, Oct. 5, 1999, 113 Stat. 824, related to funds for fiscal year 2000.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

CHAPTER 75—EARLY LEARNING OPPORTUNITIES

Sec.

9401. Purposes.
9402. Definitions.
9403. Prohibitions.
9404. Authorization and appropriation of funds.
9405. Coordination of Federal programs.
9406. Program authorized.
9407. Uses of funds.
9408. Reservations and allotments.
9409. Grant administration.
9410. State requirements.
9411. Local allocations.
9412. Local applications.
9413. Local administration.

§9401. Purposes

The purposes of this chapter are—

(1) to increase the availability of voluntary programs, services, and activities that support early childhood development, increase parent effectiveness, and promote the learning readiness of young children so that young children enter school ready to learn;

(2) to support parents, child care providers, and caregivers who want to incorporate early learning activities into the daily lives of young children;

(3) to remove barriers to the provision of an accessible system of early childhood learning programs in communities throughout the United States;

(4) to increase the availability and affordability of professional development activities and compensation for caregivers and child care providers; and

(5) to facilitate the development of community-based systems of collaborative service delivery models characterized by resource sharing, linkages between appropriate supports, and local planning for services.

(Pub. L. 106–554, §1(a)(1) [title VIII, §802], Dec. 21, 2000, 114 Stat. 2763, 2763A–80.)

SHORT TITLE; FINDINGS

Pub. L. 106–554, §1(a)(1) [title VIII, §801], Dec. 21, 2000, 114 Stat. 2763, 2763A–79, provided that:

"(a) SHORT TITLE.—This title [enacting this chapter] may be cited as the 'Early Learning Opportunities Act'.

"(b) FINDINGS.—Congress finds that—

"(1) medical research demonstrates that adequate stimulation of a young child's brain between birth and age 5 is critical to the physical development of the young child's brain;

"(2) parents are the most significant and effective teachers of their children, and they alone are responsible for choosing the best early learning opportunities for their child;

"(3) parent education and parent involvement are critical to the success of any early learning program or activity;

"(4) the more intensively parents are involved in their child's early learning, the greater the cognitive and noncognitive benefits to their children;

"(5) many parents have difficulty finding the information and support the parents seek to help their children grow to their full potential;

"(6) each day approximately 13,000,000 young children, including 6,000,000 infants or toddlers, spend some or all of their day being cared for by someone other than their parents;

"(7) quality early learning programs, including those designed to promote effective parenting, can increase the literacy rate, the secondary school graduation rate, the employment rate, and the college enrollment rate for children who have participated in voluntary early learning programs and activities;

"(8) early childhood interventions can yield substantial advantages to participants in terms of emotional and cognitive development, education, economic well-being, and health, with the latter two advantages applying to the children's families as well;

"(9) participation in quality early learning programs, including those designed to promote effective parenting, can decrease the future incidence of teenage pregnancy, welfare dependency, at-risk behaviors, and juvenile delinquency for children;

"(10) several cost-benefit analysis studies indicate that for each $1 invested in quality early learning programs, the Federal Government can save over $5 by reducing the number of children and families who participate in Federal Government programs like special education and welfare;

"(11) for children placed in the care of others during the workday, the low salaries paid to the child care staff, the lack of career progression for the staff, and the lack of child development specialists involved in early learning and child care programs, make it difficult to attract and retain the quality of staff necessary for a positive early learning experience;

"(12) Federal Government support for early learning has primarily focused on out-of-home care programs like those established under the Head Start Act [42 U.S.C. 9831 et seq.], the Child Care and Development Block Grant [Act] of 1990 [42 U.S.C. 9857 et seq.], and part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.], and these programs—

"(A) serve far fewer than half of all eligible children;

"(B) are not primarily designed to provide support for parents who care for their young children in the home; and

"(C) lack a means of coordinating early learning opportunities in each community; and

"(13) by helping communities increase, expand, and better coordinate early learning opportunities for children and their families, the productivity and creativity of future generations will be improved, and the Nation will be prepared for continued leadership in the 21st century."

§9402. Definitions

In this chapter:

(1) Caregiver

The term "caregiver" means an individual, including a relative, neighbor, or family friend, who regularly or frequently provides care, with or without compensation, for a child for whom the individual is not the parent.

(2) Child care provider

The term "child care provider" means a provider of non-residential child care services

(including center-based, family-based, and in-home child care services) for compensation who or that is legally operating under State law, and complies with applicable State and local requirements for the provision of child care services.

(3) Early learning

The term "early learning", used with respect to a program or activity, means learning designed to facilitate the development of cognitive, language, motor, and social-emotional skills for, and to promote learning readiness in, young children.

(4) Early learning program

The term "early learning program" means—

(A) a program of services or activities that helps parents, caregivers, and child care providers incorporate early learning into the daily lives of young children; or

(B) a program that directly provides early learning to young children.

(5) Indian tribe

The term "Indian tribe" has the meaning given the term in section 450b of title 25.

(6) Local Council

The term "Local Council" means a Local Council established or designated under section 9413(a) of this title that serves one or more localities.

(7) Locality

The term "locality" means a city, county, borough, township, or area served by another general purpose unit of local government, an Indian tribe, a Regional Corporation, or a Native Hawaiian entity.

(8) Parent

The term "parent" means a biological parent, an adoptive parent, a stepparent, a foster parent, or a legal guardian of, or a person standing in loco parentis to, a child.

(9) Poverty line

The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

(10) Regional Corporation

The term "Regional Corporation" means an entity listed in section 619(4)(B) of title 42.

(11) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(12) State

The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(13) Training

The term "training" means instruction in early learning that—

(A) is required for certification under State and local laws, regulations, and policies;

(B) is required to receive a nationally or State recognized credential or its equivalent;

(C) is received in a postsecondary education program focused on early learning or early childhood development in which the individual is enrolled; or

(D) is provided, certified, or sponsored by an organization that is recognized for its expertise in promoting early learning or early childhood development.

(14) Young child

The term "young child" means any child from birth to the age of mandatory school attendance in the State where the child resides.

(Pub. L. 106–554, §1(a)(1) [title VIII, §803], Dec. 21, 2000, 114 Stat. 2763, 2763A–81.)

§9403. Prohibitions

(a) Participation not required

No person, including a parent, shall be required to participate in any program of early childhood education, early learning, parent education, or developmental screening pursuant to the provisions of this chapter.

(b) Rights of parents

Nothing in this chapter shall be construed to affect the rights of parents otherwise established in Federal, State, or local law.

(c) Particular methods or settings

No entity that receives funds under this chapter shall be required to provide services under this chapter through a particular instructional method or in a particular instructional setting to comply with this chapter.

(d) Nonduplication

No funds provided under this chapter shall be used to carry out an activity funded under another provision of law providing for Federal child care or early learning programs, unless an expansion of such activity is identified in the local needs assessment and performance goals under this chapter.

(Pub. L. 106–554, §1(a)(1) [title VIII, §804], Dec. 21, 2000, 114 Stat. 2763, 2763A–82.)

§9404. Authorization and appropriation of funds

There are authorized to be appropriated to the Department of Health and Human Services to carry out this chapter—

(1) $750,000,000 for fiscal year 2001;
(2) $1,000,000,000 for fiscal year 2002;
(3) $1,500,000,000 for fiscal year 2003; and
(4) such sums as may be necessary for each of the fiscal years 2004 and 2005.

(Pub. L. 106–554, §1(a)(1) [title VIII, §805], Dec. 21, 2000, 114 Stat. 2763, 2763A–82.)

§9405. Coordination of Federal programs

(a) Coordination

The Secretary and the Secretary of Education shall develop mechanisms to resolve administrative and programmatic conflicts between Federal programs that would be a barrier to parents, caregivers, service providers, or children related to the coordination of services and funding for early learning programs.

(b) Use of equipment and supplies

In the case of a collaborative activity funded under this chapter and another provision of law providing for Federal child care or early learning programs, the use of equipment and nonconsumable supplies purchased with funds made available under this chapter or such provision shall not be restricted to children enrolled or otherwise participating in the program carried out under this chapter or such provision, during a period in which the activity is predominately funded under this chapter or such provision.

(Pub. L. 106–554, §1(a)(1) [title VIII, §806], Dec. 21, 2000, 114 Stat. 2763, 2763A–82.)

§9406. Program authorized

(a) Grants

From amounts appropriated under section 9404 of this title the Secretary shall award grants to States to enable the States to award grants to Local Councils to pay the Federal share of the cost of carrying out early learning programs in the locality served by the Local Council.

(b) Federal share

(1) In general

The Federal share of the cost described in subsections (a) and (e) of this section shall be 85 percent for the first and second years of the grant, 80 percent for the third and fourth years of the grant, and 75 percent for the fifth and subsequent years of the grant.

(2) Non-Federal share

The non-Federal share of the cost described in subsections (a) and (e) of this section may be contributed in cash or in kind, fairly evaluated, including facilities, equipment, or services, which may be provided from State or local public sources, or through donations from private entities. For the purposes of this paragraph the term "facilities" includes the use of facilities, but the term "equipment" means donated equipment and not the use of equipment.

(c) Maintenance of effort

The Secretary shall not award a grant under this chapter to any State unless the Secretary first determines that the total expenditures by the State and its political subdivisions to support early learning programs (other than funds used to pay the non-Federal share under subsection (b)(2) of this section) for the fiscal year for which the determination is made is equal to or greater than such expenditures for the preceding fiscal year.

(d) Supplement not supplant

Amounts received under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to promote early learning.

(e) Special rule

If funds appropriated to carry out this chapter are less than $150,000,000 for any fiscal year, the Secretary shall award grants for the fiscal year directly to Local Councils, on a competitive basis, to pay the Federal share of the cost of carrying out early learning programs in the locality served by the Local Council. In carrying out the preceding sentence—

(1) subsection (c) of this section, subsections (b) and (c) of section 9409 of this title, and paragraphs (1), (2), and (3) of section 9410(a) of this title shall not apply;

(2) State responsibilities described in section 9410(d) of this title shall be carried out by the Local Council with regard to the locality;

(3) the Secretary shall provide such technical assistance and monitoring as necessary to ensure that the use of the funds by Local Councils and the distribution of the funds to Local Councils are consistent with this chapter; and

(4) subject to paragraph (1), the Secretary shall assume the responsibilities of the Lead State Agency under this chapter, as appropriate.

(Pub. L. 106–554, §1(a)(1) [title VIII, §807], Dec. 21, 2000, 114 Stat. 2763, 2763A–82.)

§9407. Uses of funds

(a) In general

Subject to section 9409 of this title, grant funds under this chapter shall be used to pay for developing, operating, or enhancing voluntary early learning programs that are likely to produce sustained gains in early learning.

(b) Limited uses

Subject to section 9409 of this title, Lead State Agencies and Local Councils shall ensure that funds made available under this chapter to the agencies and Local Councils are used for three or more of the following activities:

(1) Helping parents, caregivers, child care providers, and educators increase their capacity to facilitate the development of cognitive, language comprehension, expressive language, social-emotional, and motor skills, and promote learning readiness.

(2) Promoting effective parenting.

(3) Enhancing early childhood literacy.

(4) Developing linkages among early learning programs within a community and between early learning programs and health care services for young children.

(5) Increasing access to early learning opportunities for young children with special needs, including developmental delays, by facilitating coordination with other programs serving such young children.

(6) Increasing access to existing early learning programs by expanding the days or times that the young children are served, by expanding the number of young children served, or by improving the affordability of the programs for low-income families.

(7) Improving the quality of early learning programs through professional development and training activities, increased compensation, and recruitment and retention incentives, for early learning providers.

(8) Removing ancillary barriers to early learning, including transportation difficulties and absence of programs during nontraditional work times.

(c) Requirements

Each Lead State Agency designated under section 9409(c) of this title and Local Councils receiving a grant under this chapter shall ensure—

(1) that Local Councils described in section 9413 of this title work with local educational agencies to identify cognitive, social, emotional, and motor developmental abilities which are necessary to support children's readiness for school;

(2) that the programs, services, and activities assisted under this chapter will represent developmentally appropriate steps toward the acquisition of those abilities; and

(3) that the programs, services, and activities assisted under this chapter collectively provide benefits for children cared for in their own homes as well as children placed in the care of others.

(d) Sliding scale payments

States and Local Councils receiving assistance under this chapter shall ensure that programs, services, and activities assisted under this chapter which customarily require a payment for such programs, services, or activities, adjust the cost of such programs, services, and activities provided to the individual or the individual's child based on the individual's ability to pay.

(Pub. L. 106–554, §1(a)(1) [title VIII, §808], Dec. 21, 2000, 114 Stat. 2763, 2763A–83.)

§9408. Reservations and allotments

(a) Reservation for Indian tribes, Alaska Natives, and Native Hawaiians

The Secretary shall reserve 1 percent of the total amount appropriated under section 9404 of this title for each fiscal year, to be allotted to Indian tribes, Regional Corporations, and Native Hawaiian entities, of which—

(1) 0.5 percent shall be available to Indian tribes; and

(2) 0.5 percent shall be available to Regional Corporations and Native Hawaiian entities.

(b) Allotments

From the funds appropriated under this chapter for each fiscal year that are not reserved under subsection (a) of this section, the Secretary shall allot to each State the sum of—

(1) an amount that bears the same ratio to 50 percent of such funds as the number of children 4 years of age and younger in the State bears to the number of such children in all States; and

(2) an amount that bears the same ratio to 50 percent of such funds as the number of children 4 years of age and younger living in families with incomes below the poverty line in the State bears to the number of such children in all States.

(c) Minimum allotment

No State shall receive an allotment under subsection (b) of this section for a fiscal year in an amount that is less than .40 percent of the total amount appropriated for the fiscal year under this chapter.

(d) Availability of funds

Any portion of the allotment to a State that is not expended for activities under this chapter in the fiscal year for which the allotment is made shall remain available to the State for two additional years, after which any unexpended funds shall be returned to the Secretary. The Secretary shall use the returned funds to carry out a discretionary grant program for research-based early learning demonstration projects.

(e) Data

The Secretary shall make allotments under this chapter on the basis of the most recent data available to the Secretary.

(Pub. L. 106–554, §1(a)(1) [title VIII, §809], Dec. 21, 2000, 114 Stat. 2763, 2763A–84.)

§9409. Grant administration

(a) Federal administrative costs

The Secretary may use not more than 3 percent of the amount appropriated under section 9404 of this title for a fiscal year to pay for the administrative costs of carrying out this chapter, including the monitoring and evaluation of State and local efforts.

(b) State administrative costs

A State that receives a grant under this chapter may use—

(1) not more than 2 percent of the funds made available through the grant to carry out activities designed to coordinate early learning programs on the State level, including programs funded or operated by the State educational agency, health, children and family, and human service agencies, and any State-level collaboration or coordination council involving early learning and education, such as the entities funded under section 9835(a)(2)(B)(vi) of title 42;

(2) not more than 2 percent of the funds made available through the grant for the administrative costs of carrying out the grant program and the costs of reporting State and local efforts to the Secretary; and

(3) not more than 3 percent of the funds made available through the grant for training, technical assistance, and wage incentives provided by the State to Local Councils.

(c) Lead State Agency

(1) In general

To be eligible to receive an allotment under this chapter, the Governor of a State shall appoint, after consultation with the leadership of the State legislature, a Lead State Agency to carry out the functions described in paragraph (2).

(2) Lead State Agency

(A) Allocation of funds

The Lead State Agency described in paragraph (1) shall allocate funds to Local Councils as described in section 9411 of this title.

(B) Functions of agency

In addition to allocating funds pursuant to subparagraph (A), the Lead State Agency shall—

(i) advise and assist Local Councils in the performance of their duties under this chapter;

(ii) develop and submit the State application;

(iii) evaluate and approve applications submitted by Local Councils under section 9412 of this title;

(iv) ensure collaboration with respect to assistance provided under this chapter between the State agency responsible for education and the State agency responsible for children and family services;

(v) prepare and submit to the Secretary, an annual report on the activities carried out in the State under this chapter, which shall include a statement describing how all funds received under this chapter are expended and documentation of the effects that resources under this chapter have had on—

(I) parental capacity to improve learning readiness in their young children;

(II) early childhood literacy;

(III) linkages among early learning programs;

(IV) linkages between early learning programs and health care services for young children;

(V) access to early learning activities for young children with special needs;

(VI) access to existing early learning programs through expansion of the days or times that children are served;

(VII) access to existing early learning programs through expansion of the number of young children served;

(VIII) access to and affordability of existing early learning programs for low-income families;

(IX) the quality of early learning programs resulting from professional development, and recruitment and retention incentives for caregivers; and

(X) removal of ancillary barriers to early learning, including transportation difficulties and absence of programs during nontraditional work times; and

(vi) ensure that training and research is made available to Local Councils and that such training and research reflects the latest available brain development and early childhood development research related to early learning.

(Pub. L. 106–554, §1(a)(1) [title VIII, §810], Dec. 21, 2000, 114 Stat. 2763, 2763A–85; Pub. L. 110–134, §29(b), Dec. 12, 2007, 121 Stat. 1449.)

AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110–134 substituted "entities funded under section 9835(a)(2)(B)(vi) of title 42" for "entities funded under section 9835(a)(5) of title 42".

§9410. State requirements

(a) Eligibility

To be eligible for a grant under this chapter, a State shall—

(1) ensure that funds received by the State under this chapter shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under State law;

(2) designate a Lead State Agency under section 9409(c) of this title to administer and monitor the grant and ensure State-level coordination of early learning programs;

(3) submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require;

(4) ensure that funds made available under this chapter are distributed on a competitive basis throughout the State to Local Councils serving rural, urban, and suburban areas of the State; and

(5) assist the Secretary in developing mechanisms to ensure that Local Councils receiving funds under this chapter comply with the requirements of this chapter.

(b) State preference

In awarding grants to Local Councils under this chapter, the State, to the maximum extent possible, shall ensure that a broad variety of early learning programs that provide a continuity of services across the age spectrum assisted under this chapter are funded under this chapter, and shall give preference to supporting—

(1) a Local Council that meets criteria, that are specified by the State and approved by the Secretary, for qualifying as serving an area of greatest need for early learning programs; and

(2) a Local Council that demonstrates, in the application submitted under section 9412 of this title, the Local Council's potential to increase collaboration as a means of maximizing use of resources provided under this chapter with other resources available for early learning programs.

(c) Local preference

In awarding grants under this chapter, Local Councils shall give preference to supporting—

(1) projects that demonstrate their potential to collaborate as a means of maximizing use of resources provided under this chapter with other resources available for early learning programs;

(2) programs that provide a continuity of services for young children across the age spectrum, individually, or through community-based networks or cooperative agreements; and

(3) programs that help parents and other caregivers promote early learning with their young children.

(d) Performance goals

(1) Assessments

Based on information and data received from Local Councils, and information and data available through State resources, the State shall biennially assess the needs and available resources related to the provision of early learning programs within the State.

(2) Performance goals

Based on the analysis of information described in paragraph (1), the State shall establish measurable performance goals to be achieved through activities assisted under this chapter.

(3) Requirement

The State shall award grants to Local Councils only for purposes that are consistent with the performance goals established under paragraph (2).

(4) Report

The State shall report to the Secretary annually regarding the State's progress toward achieving the performance goals established in paragraph (2) and any necessary modifications to those goals, including the rationale for the modifications.

(5) Improvement plans

If the Secretary determines, based on the State report submitted under paragraph (4), that the State is not making progress toward achieving the performance goals described in paragraph (2), then the State shall submit a performance improvement plan to the Secretary, and demonstrate reasonable progress in implementing such plan, in order to remain eligible for funding under this chapter.

(Pub. L. 106–554, §1(a)(1) [title VIII, §811], Dec. 21, 2000, 114 Stat. 2763, 2763A–86.)

§9411. Local allocations

(a) In general

The Lead State Agency shall allocate to Local Councils in the State not less than 93 percent of the

funds provided to the State under this chapter for a fiscal year.

(b) Limitation

The Lead State Agency shall allocate funds provided under this chapter on the basis of the population of the locality served by the Local Council.

(Pub. L. 106–554, §1(a)(1) [title VIII, §812], Dec. 21, 2000, 114 Stat. 2763, 2763A–88.)

§9412. Local applications

(a) In general

To be eligible to receive assistance under this chapter, the Local Council shall submit an application to the Lead State Agency at such time, in such manner, and containing such information as the Lead State Agency may require.

(b) Contents

Each application submitted pursuant to subsection (a) of this section shall include a statement ensuring that the local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity has established or designated a Local Council under section 9413 of this title, and the Local Council has developed a local plan for carrying out early learning programs under this chapter that includes—

(1) a needs and resources assessment concerning early learning services and a statement describing how early learning programs will be funded consistent with the assessment;

(2) a statement of how the Local Council will ensure that early learning programs will meet the performance goals reported by the Lead State Agency under this chapter; and

(3) a description of how the Local Council will form collaboratives among local youth, social service, and educational providers to maximize resources and concentrate efforts on areas of greatest need.

(Pub. L. 106–554, §1(a)(1) [title VIII, §813], Dec. 21, 2000, 114 Stat. 2763, 2763A–88.)

§9413. Local administration

(a) Local Council

(1) In general

To be eligible to receive funds under this chapter, a local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity, as appropriate, shall establish or designate a Local Council, which shall be composed of—

(A) representatives of local agencies directly affected by early learning programs assisted under this chapter;

(B) parents;

(C) other individuals concerned with early learning issues in the locality, such as representative entities providing elementary education, child care resource and referral services, early learning opportunities, child care, and health services; and

(D) other key community leaders.

(2) Designating existing entity

If a local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity has, before December 21, 2000, a Local Council or a regional entity that is comparable to the Local Council described in paragraph (1), the entity, tribe, or corporation may designate the council or entity as a Local Council under this chapter, and shall be considered to have established a Local Council in compliance with this subsection.

(3) Functions

The Local Council shall be responsible for preparing and submitting the application described in section 9412 of this title.

(b) Administration

(1) Administrative costs

Not more than 3 percent of the funds received by a Local Council under this chapter shall be used to pay for the administrative costs of the Local Council in carrying out this chapter.

(2) Fiscal agent

A Local Council may designate any entity, with a demonstrated capacity for administering grants, that is affected by, or concerned with, early learning issues, including the State, to serve as fiscal agent for the administration of grant funds received by the Local Council under this chapter.

(Pub. L. 106–554, §1(a)(1) [title VIII, §814], Dec. 21, 2000, 114 Stat. 2763, 2763A–88.)

CHAPTER 76—EDUCATION RESEARCH, STATISTICS, EVALUATION, INFORMATION, AND DISSEMINATION

SUBCHAPTER I—EDUCATION SCIENCES REFORM

Sec.
9501. Definitions.

PART A—THE INSTITUTE OF EDUCATION SCIENCES

9511. Establishment.
9512. Functions.
9513. Delegation.
9514. Office of the Director.
9515. Priorities.
9516. National Board for Education Sciences.
9517. Commissioners of the National Education Centers.
9518. Agreements.
9519. Biennial report.
9520. Competitive awards.

PART B—NATIONAL CENTER FOR EDUCATION RESEARCH

9531. Establishment.
9532. Commissioner for Education Research.
9533. Duties.
9534. Standards for conduct and evaluation of research.

PART C—NATIONAL CENTER FOR EDUCATION STATISTICS

9541. Establishment.
9542. Commissioner for Education Statistics.
9543. Duties.
9544. Performance of duties.
9545. Reports.
9546. Dissemination.
9547. Cooperative education statistics systems.
9548. State defined.

PART D—NATIONAL CENTER FOR EDUCATION EVALUATION AND REGIONAL ASSISTANCE

9561. Establishment.
9562. Commissioner for Education Evaluation and Regional Assistance.
9563. Evaluations.
9564. Regional educational laboratories for research, development, dissemination, and

technical assistance.
PART E—NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH
9567. Establishment.
9567a. Commissioner for Special Education Research.
9567b. Duties.
PART F—GENERAL PROVISIONS
9571. Interagency data sources and formats.
9572. Prohibitions.
9573. Confidentiality.
9574. Availability of data.
9575. Performance management.
9576. Authority to publish.
9577. Vacancies.
9578. Scientific or technical employees.
9579. Fellowships.
9580. Voluntary service.
9581. Rulemaking.
9582. Copyright.
9583. Removal.
9584. Authorization of appropriations.
SUBCHAPTER II—EDUCATIONAL TECHNICAL ASSISTANCE
9601. Definitions.
9602. Comprehensive centers.
9603. Evaluations.
9604. Existing technical assistance providers.
9605. Regional advisory committees.
9606. Priorities.
9607. Grant program for statewide, longitudinal data systems.
9608. Authorization of appropriations.
SUBCHAPTER III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS
9621. National Assessment Governing Board.
9622. National Assessment of Educational Progress.
9623. Definitions.
9624. Authorization of appropriations.
SUBCHAPTER IV—NATIONAL CENTER FOR RESEARCH IN ADVANCED INFORMATION AND DIGITAL TECHNOLOGIES
9631. National Center for Research in Advanced Information and Digital Technologies.

SUBCHAPTER I—EDUCATION SCIENCES REFORM

§9501. Definitions

In this subchapter:

(1)(A) In general

The terms "elementary school", "secondary school", "local educational agency", and "State educational agency" have the meanings given those terms in section 7801 of this title.

(B) Outlying areas

The term "outlying areas" has the meaning given such term in section 6331(c) of this title.

(C) Freely associated states

The term "freely associated states" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(2) Applied research

The term "applied research" means research—

(A) to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met; and

(B) that is specifically directed to the advancement of practice in the field of education.

(3) Basic research

The term "basic research" means research—

(A) to gain fundamental knowledge or understanding of phenomena and observable facts, without specific application toward processes or products; and

(B) for the advancement of knowledge in the field of education.

(4) Board

The term "Board" means the National Board for Education Sciences established under section 9516 of this title.

(5) Bureau

The term "Bureau" means the Bureau of Indian Affairs.

(6) Comprehensive center

The term "comprehensive center" means an entity established under section 9602 of this title.

(7) Department

The term "Department" means the Department of Education.

(8) Development

The term "development" means the systematic use of knowledge or understanding gained from the findings of scientifically valid research and the shaping of that knowledge or understanding into products or processes that can be applied and evaluated and may prove useful in areas such as the preparation of materials and new methods of instruction and practices in teaching, that lead to the improvement of the academic skills of students, and that are replicable in different educational settings.

(9) Director

The term "Director" means the Director of the Institute of Education Sciences.

(10) Dissemination

The term "dissemination" means the communication and transfer of the results of scientifically valid research, statistics, and evaluations, in forms that are understandable, easily accessible, and usable, or adaptable for use in, the improvement of educational practice by teachers, administrators, librarians, other practitioners, researchers, parents, policymakers, and the public, through technical assistance, publications, electronic transfer, and other means.

(11) Early childhood educator

The term "early childhood educator" means a person providing, or employed by a provider of, nonresidential child care services (including center-based, family-based, and in-home child care services) that is legally operating under State law, and that complies with applicable State and local requirements for the provision of child care services to children at any age from birth through the age at which a child may start kindergarten in that State.

(12) Field-initiated research

The term "field-initiated research" means basic research or applied research in which specific questions and methods of study are generated by investigators (including teachers and other practitioners) and that conforms to standards of scientifically valid research.

(13) Historically Black college or university

The term "historically Black college or university" means a part B institution as defined in section 1061 of this title.

(14) Institute

The term "Institute" means the Institute of Education Sciences established under section 9511 of this title.

(15) Institution of higher education

The term "institution of higher education" has the meaning given that term in section 1001(a) of this title.

(16) National research and development center

The term "national research and development center" means a research and development center supported under section 9533(c) of this title.

(17) Provider of early childhood services

The term "provider of early childhood services" means a public or private entity that serves young children, including—

(A) child care providers;

(B) Head Start agencies operating Head Start programs, and entities carrying out Early Head Start programs, under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschools;

(D) kindergartens; and

(E) libraries.

(18) Scientifically based research standards

(A) The term "scientifically based research standards" means research standards that—

(i) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs; and

(ii) present findings and make claims that are appropriate to and supported by the methods that have been employed.

(B) The term includes, appropriate to the research being conducted—

(i) employing systematic, empirical methods that draw on observation or experiment;

(ii) involving data analyses that are adequate to support the general findings;

(iii) relying on measurements or observational methods that provide reliable data;

(iv) making claims of causal relationships only in random assignment experiments or other designs (to the extent such designs substantially eliminate plausible competing explanations for the obtained results);

(v) ensuring that studies and methods are presented in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(vi) obtaining acceptance by a peer-reviewed journal or approval by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

(vii) using research designs and methods appropriate to the research question posed.

(19) Scientifically valid education evaluation

The term "scientifically valid education evaluation" means an evaluation that—

(A) adheres to the highest possible standards of quality with respect to research design and statistical analysis;

(B) provides an adequate description of the programs evaluated and, to the extent possible, examines the relationship between program implementation and program impacts;

(C) provides an analysis of the results achieved by the program with respect to its projected effects;

(D) employs experimental designs using random assignment, when feasible, and other research methodologies that allow for the strongest possible causal inferences when random assignment is not feasible; and

(E) may study program implementation through a combination of scientifically valid and reliable methods.

(20) Scientifically valid research

The term "scientifically valid research" includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with scientifically based research standards.

(21) Secretary

The term "Secretary" means the Secretary of Education.

(22) State

The term "State" includes (except as provided in section 9548 of this title) each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the freely associated states, and the outlying areas.

(23) Technical assistance

The term "technical assistance" means—

(A) assistance in identifying, selecting, or designing solutions based on research, including professional development and high-quality training to implement solutions leading to—

(i) improved educational and other practices and classroom instruction based on scientifically valid research; and

(ii) improved planning, design, and administration of programs;

(B) assistance in interpreting, analyzing, and utilizing statistics and evaluations; and

(C) other assistance necessary to encourage the improvement of teaching and learning through the applications of techniques supported by scientifically valid research.

(Pub. L. 107–279, title I, §102, Nov. 5, 2002, 116 Stat. 1941; Pub. L. 114–95, title IX, §9215(ff)(1), Dec. 10, 2015, 129 Stat. 2174.)

REFERENCES IN TEXT

The Head Start Act, referred to in par. (17)(B), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this Title 42 and Tables.

AMENDMENTS

2015—Par. (1). Pub. L. 114–95 amended par. (1) generally. Prior to amendment, text read as follows: "The terms 'elementary school', 'secondary school', 'local educational agency', and 'State educational agency' have the meanings given those terms in section 7801 of this title and the terms 'freely associated states' and 'outlying area' have the meanings given those terms in section 6331(c) of this title."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SHORT TITLE

Pub. L. 107–279, title I, §101, Nov. 5, 2002, 116 Stat. 1941, provided that: "This title [enacting this subchapter] may be cited as the 'Education Sciences Reform Act of 2002'."

Pub. L. 107–279, title II, §201, Nov. 5, 2002, 116 Stat. 1975, provided that: "This title [enacting subchapter II of this chapter] may be cited as the 'Educational Technical Assistance Act of 2002'."

Pub. L. 107–279, title III, §301, Nov. 5, 2002, 116 Stat. 1982, provided that: "This title [enacting subchapter III of this chapter] may be referred to as the 'National Assessment of Educational Progress

Authorization Act'."

ORDERLY TRANSITION

Pub. L. 107–279, title IV, §405, Nov. 5, 2002, 116 Stat. 1986, provided that: "The Secretary of Education shall take such steps as are necessary to provide for the orderly transition to, and implementation of, the offices, boards, committees, and centers (and their various functions and responsibilities) established or authorized by this Act [enacting this chapter and section 3419 of this title, amending sections 1232j, 3412, 3461, 6194, 6311, 6312, 7013, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 and former sections 6317, 6491, 6932, 7253c, 7283b, and 7283d of this title and section 5315 of Title 5, Government Organization and Employees, transferring sections 9010 and 9011 of this title to sections 9622 and 9621 of this title, respectively, repealing sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacting provisions set out as notes under this section and section 7703 of this title, and repealing provisions set out as notes under sections 1221e and 9001 of this title], and by the amendments made by this Act, from those established or authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6001 et seq.) and the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.)."

PART A—THE INSTITUTE OF EDUCATION SCIENCES

§9511. Establishment

(a) Establishment

There shall be in the Department the Institute of Education Sciences, to be administered by a Director (as described in section 9514 of this title) and, to the extent set forth in section 9516 of this title, a board of directors.

(b) Mission

(1) In general

The mission of the Institute is to provide national leadership in expanding fundamental knowledge and understanding of education from early childhood through postsecondary study, in order to provide parents, educators, students, researchers, policymakers, and the general public with reliable information about—

(A) the condition and progress of education in the United States, including early childhood education and special education;

(B) educational practices that support learning and improve academic achievement and access to educational opportunities for all students; and

(C) the effectiveness of Federal and other education programs.

(2) Carrying out mission

In carrying out the mission described in paragraph (1), the Institute shall compile statistics, develop products, and conduct research, evaluations, and wide dissemination activities in areas of demonstrated national need (including in technology areas) that are supported by Federal funds appropriated to the Institute and ensure that such activities—

(A) conform to high standards of quality, integrity, and accuracy; and

(B) are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(c) Organization

The Institute shall consist of the following:

(1) The Office of the Director (as described in section 9514 of this title).

(2) The National Board for Education Sciences (as described in section 9516 of this title).

(3) The National Education Centers, which include—

(A) the National Center for Education Research (as described in part B of this subchapter);

(B) the National Center for Education Statistics (as described in part C of this subchapter);

(C) the National Center for Education Evaluation and Regional Assistance (as described in part D of this subchapter); and

(D) the National Center for Special Education Research (as described in part E of this subchapter).

(Pub. L. 107–279, title I, §111, Nov. 5, 2002, 116 Stat. 1944; Pub. L. 108–446, title II, §201(b)(2)(A), (B), Dec. 3, 2004, 118 Stat. 2802.)

AMENDMENTS

2004—Subsec. (b)(1)(A). Pub. L. 108–446, §201(b)(2)(A), inserted "and special education" after "early childhood education".

Subsec. (c)(3)(D). Pub. L. 108–446, §201(b)(2)(B), added subpar. (D).

§9512. Functions

From funds appropriated under section 9584 of this title, the Institute, directly or through grants, contracts, or cooperative agreements, shall—

(1) conduct and support scientifically valid research activities, including basic research and applied research, statistics activities, scientifically valid education evaluation, development, and wide dissemination;

(2) widely disseminate the findings and results of scientifically valid research in education;

(3) promote the use, development, and application of knowledge gained from scientifically valid research activities;

(4) strengthen the national capacity to conduct, develop, and widely disseminate scientifically valid research in education;

(5) promote the coordination, development, and dissemination of scientifically valid research in education within the Department and the Federal Government; and

(6) promote the use and application of research and development to improve practice in the classroom.

(Pub. L. 107–279, title I, §112, Nov. 5, 2002, 116 Stat. 1945.)

§9513. Delegation

(a) Delegation of authority

Notwithstanding section 3472 of this title, the Secretary shall delegate to the Director all functions for carrying out this subchapter (other than administrative and support functions), except that—

(1) nothing in this subchapter or in subchapter III of this chapter (except section 9621(e)(1)(J) of this title) shall be construed to alter or diminish the role, responsibilities, or authority of the National Assessment Governing Board with respect to the National Assessment of Educational Progress (including with respect to the methodologies of the National Assessment of Educational Progress described in section 9621(e)(1)(E) of this title) from those authorized by the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.) on the day before November 5, 2002;

(2) members of the National Assessment Governing Board shall continue to be appointed by the Secretary;

(3) section 9621(f)(1) of this title shall apply to the National Assessment Governing Board in the exercise of its responsibilities under this Act;

(4) sections 9515 and 9516 of this title shall not apply to the National Assessment of Educational Progress; and

(5) sections 9515 and 9516 of this title shall not apply to the National Assessment Governing Board.

(b) Other activities

The Secretary may assign the Institute responsibility for administering other activities, if those activities are consistent with—

(1) the Institute's priorities, as approved by the National Board for Education Sciences under section 9516 of this title, and the Institute's mission, as described in section 9511(b) of this title; or

(2) the Institute's mission, but only if those activities do not divert the Institute from its priorities.

(Pub. L. 107–279, title I, §113, Nov. 5, 2002, 116 Stat. 1945.)

REFERENCES IN TEXT

The National Education Statistics Act of 1994, referred to in subsec. (a)(1), is title IV of Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 4029, as amended, which was classified generally to chapter 71 (§9001 et seq.) of this title, prior to repeal by Pub. L. 107–279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985. Provisions relating to education statistics are now contained in part C (§9541 et seq.) of this subchapter.

This Act, referred to in subsec. (a)(3), means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 7013, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 and former sections 6317, 6491, 6932, 7253c, 7283b, and 7283d of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

§9514. Office of the Director

(a) Appointment

Except as provided in subsection (b)(2) of this section, the President, by and with the advice and consent of the Senate, shall appoint the Director of the Institute.

(b) Term

(1) In general

The Director shall serve for a term of 6 years, beginning on the date of appointment of the Director.

(2) First Director

The President, without the advice and consent of the Senate, may appoint the Assistant Secretary for the Office of Educational Research and Improvement (as such office existed on the day before November 5, 2002) to serve as the first Director of the Institute.

(3) Subsequent Directors

The Board may make recommendations to the President with respect to the appointment of a Director under subsection (a) of this section, other than a Director appointed under paragraph (2).

(c) Pay

The Director shall receive the rate of basic pay for level II of the Executive Schedule.

(d) Qualifications

The Director shall be selected from individuals who are highly qualified authorities in the fields of scientifically valid research, statistics, or evaluation in education, as well as management within such areas, and have a demonstrated capacity for sustained productivity and leadership in these areas.

(e) Administration

The Director shall—

(1) administer, oversee, and coordinate the activities carried out under the Institute, including the activities of the National Education Centers; and

(2) coordinate and approve budgets and operating plans for each of the National Education Centers for submission to the Secretary.

(f) Duties

The duties of the Director shall include the following:

(1) To propose to the Board priorities for the Institute, in accordance with section 9515(a) of this title.

(2) To ensure the methodology applied in conducting research, development, evaluation, and statistical analysis is consistent with the standards for such activities under this subchapter.

(3) To coordinate education research and related activities carried out by the Institute with such research and activities carried out by other agencies within the Department and the Federal Government.

(4) To advise the Secretary on research, evaluation, and statistics activities relevant to the activities of the Department.

(5) To establish necessary procedures for technical and scientific peer review of the activities of the Institute, consistent with section 9516(b)(3) of this title.

(6) To ensure that all participants in research conducted or supported by the Institute are afforded their privacy rights and other relevant protections as research subjects, in accordance with section 9573 of this title, section 552a of title 5, and sections 1232g and 1232h of this title.

(7) To ensure that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(8) To undertake initiatives and programs to increase the participation of researchers and institutions that have been historically underutilized in Federal education research activities of the Institute, including historically Black colleges or universities or other institutions of higher education with large numbers of minority students.

(9) To coordinate with the Secretary to promote and provide for the coordination of research and development activities and technical assistance activities between the Institute and comprehensive centers.

(10) To solicit and consider the recommendations of education stakeholders, in order to ensure that there is broad and regular public and professional input from the educational field in the planning and carrying out of the Institute's activities.

(11) To coordinate the wide dissemination of information on scientifically valid research.

(12) To carry out and support other activities consistent with the priorities and mission of the Institute.

(g) Expert guidance and assistance

The Director may establish technical and scientific peer-review groups and scientific program advisory committees for research and evaluations that the Director determines are necessary to carry out the requirements of this subchapter. The Director shall appoint such personnel, except that officers and employees of the United States shall comprise no more than ¼ of the members of any such group or committee and shall not receive additional compensation for their service as members of such a group or committee. The Director shall ensure that reviewers are highly qualified and capable to appraise education research and development projects. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a peer-review group or an advisory committee established under this subsection.

(h) Review

The Director may, when requested by other officers of the Department, and shall, when directed by the Secretary, review the products and publications of other offices of the Department to certify that evidence-based claims about those products and publications are scientifically valid.

(Pub. L. 107–279, title I, §114, Nov. 5, 2002, 116 Stat. 1946.)

REFERENCES IN TEXT

Level II of the Executive Schedule, referred to in subsec. (c), is set out in section 5313 of Title 5,

Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§9515. Priorities

(a) Proposal

The Director shall propose to the Board priorities for the Institute (taking into consideration long-term research and development on core issues conducted through the national research and development centers). The Director shall identify topics that may require long-term research and topics that are focused on understanding and solving particular education problems and issues, including those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) [and 42 U.S.C. 2751 et seq.], such as—

(1) closing the achievement gap between high-performing and low-performing children, especially achievement gaps between minority and nonminority children and between disadvantaged children and such children's more advantaged peers; and

(2) ensuring—

(A) that all children have the ability to obtain a high-quality education (from early childhood through postsecondary education) and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments, particularly in mathematics, science, and reading or language arts;

(B) access to, and opportunities for, postsecondary education; and

(C) the efficacy, impact on academic achievement, and cost-effectiveness of technology use within the Nation's schools.

(b) Approval

The Board shall approve or disapprove the priorities for the Institute proposed by the Director, including any necessary revision of those priorities. The Board shall transmit any priorities so approved to the appropriate congressional committees.

(c) Consistency

The Board shall ensure that priorities of the Institute and the National Education Centers are consistent with the mission of the Institute.

(d) Public availability and comment

(1) Priorities

Before submitting to the Board proposed priorities for the Institute, the Director shall make such priorities available to the public for comment for not less than 60 days (including by means of the Internet and through publishing such priorities in the Federal Register). The Director shall provide to the Board a copy of each such comment submitted.

(2) Plan

Upon approval of such priorities, the Director shall make the Institute's plan for addressing such priorities available for public comment in the same manner as under paragraph (1).

(Pub. L. 107–279, title I, §115, Nov. 5, 2002, 116 Stat. 1948; Pub. L. 108–446, title II, §201(b)(2)(C), Dec. 3, 2004, 118 Stat. 2802.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91–230,

Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–446, in introductory provisions, substituted "including those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as" for "including those associated with the goals and requirements established in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as".

§9516. National Board for Education Sciences

(a) Establishment

The Institute shall have a board of directors, which shall be known as the National Board for Education Sciences.

(b) Duties

The duties of the Board shall be the following:

(1) To advise and consult with the Director on the policies of the Institute.

(2) To consider and approve priorities proposed by the Director under section 9515 of this title to guide the work of the Institute.

(3) To review and approve procedures for technical and scientific peer review of the activities of the Institute.

(4) To advise the Director on the establishment of activities to be supported by the Institute, including the general areas of research to be carried out by the National Center for Education Research.

(5) To present to the Director such recommendations as it may find appropriate for—

(A) the strengthening of education research; and

(B) the funding of the Institute.

(6) To advise the Director on the funding of applications for grants, contracts, and cooperative agreements for research, after the completion of peer review.

(7) To review and regularly evaluate the work of the Institute, to ensure that scientifically valid research, development, evaluation, and statistical analysis are consistent with the standards for such activities under this subchapter.

(8) To advise the Director on ensuring that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(9) To solicit advice and information from those in the educational field, particularly practitioners and researchers, to recommend to the Director topics that require long-term, sustained, systematic, programmatic, and integrated research efforts, including knowledge utilization and wide dissemination of research, consistent with the priorities and mission of the Institute.

(10) To advise the Director on opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education research, statistics, and evaluation activities of the Institute.

(11) To recommend to the Director ways to enhance strategic partnerships and collaborative efforts among other Federal and State research agencies.

(12) To recommend to the Director individuals to serve as Commissioners of the National

Education Centers.

(c) Composition

(1) Voting members

The Board shall have 15 voting members appointed by the President.

(2) Advice

The President shall solicit advice regarding individuals to serve on the Board from the National Academy of Sciences, the National Science Board, and the National Science Advisor.

(3) Nonvoting ex officio members

The Board shall have the following nonvoting ex officio members:

(A) The Director of the Institute of Education Sciences.

(B) Each of the Commissioners of the National Education Centers.

(C) The Director of the Eunice Kennedy Shriver National Institute of Child Health and Human Development.

(D) The Director of the Census.

(E) The Commissioner of Labor Statistics.

(F) The Director of the National Science Foundation.

(4) Appointed membership

(A) Qualifications

Members appointed under paragraph (1) shall be highly qualified to appraise education research, statistics, evaluations, or development, and shall include the following individuals:

(i) Not fewer than 8 researchers in the field of statistics, evaluation, social sciences, or physical and biological sciences, which may include those researchers recommended by the National Academy of Sciences.

(ii) Individuals who are knowledgeable about the educational needs of the United States, who may include school-based professional educators, parents (including parents with experience in promoting parental involvement in education), Chief State School Officers, State postsecondary education executives, presidents of institutions of higher education, local educational agency superintendents, early childhood experts, special education experts, principals, members of State or local boards of education or Bureau-funded school boards, and individuals from business and industry with experience in promoting private sector involvement in education.

(B) Terms

Each member appointed under paragraph (1) shall serve for a term of 4 years, except that—

(i) the terms of the initial members appointed under such paragraph shall (as determined by a random selection process at the time of appointment) be for staggered terms of—

(I) 4 years for each of 5 members;

(II) 3 years for each of 5 members; and

(III) 2 years for each of 5 members; and

(ii) no member appointed under such paragraph shall serve for more than 2 consecutive terms.

(C) Unexpired terms

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(D) Conflict of interest

A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

(5) Chair

The Board shall elect a chair from among the members of the Board.

(6) Compensation

Members of the Board shall serve without pay for such service. Members of the Board who are officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(7) Travel expenses

The members of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5.

(8) Powers of the Board

(A) Executive Director

The Board shall have an Executive Director who shall be appointed by the Board.

(B) Additional staff

The Board shall utilize such additional staff as may be appointed or assigned by the Director, in consultation with the Chair and the Executive Director.

(C) Detail of personnel

The Board may use the services and facilities of any department or agency of the Federal Government. Upon the request of the Board, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Board to assist the Board in carrying out this Act.

(D) Contracts

The Board may enter into contracts or make other arrangements as may be necessary to carry out its functions.

(E) Information

The Board may, to the extent otherwise permitted by law, obtain directly from any executive department or agency of the Federal Government such information as the Board determines necessary to carry out its functions.

(9) Meetings

The Board shall meet not less than 3 times each year. The Board shall hold additional meetings at the call of the Chair or upon the written request of not less than 6 voting members of the Board. Meetings of the Board are subject to section 552b of title 5 (commonly referred to as the Government in the Sunshine Act).

(10) Quorum

A majority of the voting members of the Board serving at the time of the meeting shall constitute a quorum.

(d) Standing committees

(1) Establishment

The Board may establish standing committees—

(A) that will each serve 1 of the National Education Centers; and

(B) to advise, consult with, and make recommendations to the Director and the Commissioner of the appropriate National Education Center.

(2) Membership

A majority of the members of each standing committee shall be voting members of the Board whose expertise is needed for the functioning of the committee. In addition, the membership of each standing committee may include, as appropriate—

(A) experts and scientists in research, statistics, evaluation, or development who are recognized in their discipline as highly qualified to represent such discipline and who are not

members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board;

(B) ex officio members of the Board; and

(C) policymakers and expert practitioners with knowledge of, and experience using, the results of research, evaluation, and statistics who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board.

(3) Duties

Each standing committee shall—

(A) review and comment, at the discretion of the Board or the standing committee, on any grant, contract, or cooperative agreement entered into (or proposed to be entered into) by the applicable National Education Center;

(B) prepare for, and submit to, the Board an annual evaluation of the operations of the applicable National Education Center;

(C) review and comment on the relevant plan for activities to be undertaken by the applicable National Education Center for each fiscal year; and

(D) report periodically to the Board regarding the activities of the committee and the applicable National Education Center.

(e) Annual report

The Board shall submit to the Director, the Secretary, and the appropriate congressional committees, not later than July 1 of each year, a report that assesses the effectiveness of the Institute in carrying out its priorities and mission, especially as such priorities and mission relate to carrying out scientifically valid research, conducting unbiased evaluations, collecting and reporting accurate education statistics, and translating research into practice.

(f) Recommendations

The Board shall submit to the Director, the Secretary, and the appropriate congressional committees a report that includes any recommendations regarding any actions that may be taken to enhance the ability of the Institute to carry out its priorities and mission. The Board shall submit an interim report not later than 3 years after November 5, 2002, and a final report not later than 5 years after such date.

(Pub. L. 107–279, title I, §116, Nov. 5, 2002, 116 Stat. 1948; Pub. L. 108–446, title II, §§201(b)(2)(D), 202, Dec. 3, 2004, 118 Stat. 2802; Pub. L. 110–154, §1(d), Dec. 21, 2007, 121 Stat. 1828; Pub. L. 112–166, §2(cc), Aug. 10, 2012, 126 Stat. 1290.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (c)(4)(D), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5, Government Organization and Employees, and Tables.

This Act, referred to in subsec. (c)(8)(C), means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 7013, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 and former sections 6317, 6491, 6932, 7253c, 7283b, and 7283d of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2012—Subsec. (c)(1). Pub. L. 112–166 struck out ", by and with the advice and consent of the Senate" before period at end.

2004—Subsec. (c)(4)(A)(ii). Pub. L. 108–446, §201(b)(2)(D), inserted "special education experts," after

"early childhood experts,".

Subsec. (c)(9). Pub. L. 108–446, §202, substituted "Meetings of the Board are subject to section 552b of title 5 (commonly referred to as the Government in the Sunshine Act)." for "Meetings of the Board shall be open to the public."

CHANGE OF NAME

"Eunice Kennedy Shriver National Institute of Child Health and Human Development" substituted for "National Institute of Child Health and Human Development" in subsec. (c)(3)(C), on authority of section 1(d) of Pub. L. 110–154, set out as a note under section 285g of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

§9517. Commissioners of the National Education Centers

(a) Appointment of Commissioners

(1) In general

Except as provided in subsection (b) of this section, each of the National Education Centers shall be headed by a Commissioner appointed by the Director. In appointing Commissioners, the Director shall seek to promote continuity in leadership of the National Education Centers and shall consider individuals recommended by the Board. The Director may appoint a Commissioner to carry out the functions of a National Education Center without regard to the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Pay and qualifications

Except as provided in subsection (b) of this section, each Commissioner shall—

(A) receive the rate of basic pay for level IV of the Executive Schedule; and

(B) be highly qualified in the field of education research or evaluation.

(3) Service

Except as provided in subsection (b) of this section, each Commissioner shall report to the Director. A Commissioner shall serve for a period of not more than 6 years, except that a Commissioner—

(A) may be reappointed by the Director; and

(B) may serve after the expiration of that Commissioner's term, until a successor has been appointed, for a period not to exceed 1 additional year.

(b) Appointment of Commissioner for Education Statistics

The National Center for Education Statistics shall be headed by a Commissioner for Education Statistics who shall be appointed by the President and who shall—

(1) have substantial knowledge of programs assisted by the National Center for Education Statistics;

(2) receive the rate of basic pay for level IV of the Executive Schedule; and

(3) serve for a term of 6 years, with the term to expire every sixth June 21, beginning in 2003.

(c) Coordination

Each Commissioner of a National Education Center shall coordinate with each of the other Commissioners of the National Education Centers in carrying out such Commissioner's duties under this subchapter.

(d) Supervision and approval

Each Commissioner, except the Commissioner for Education Statistics, shall carry out such

Commissioner's duties under this subchapter under the supervision and subject to the approval of the Director.

(Pub. L. 107–279, title I, §117, Nov. 5, 2002, 116 Stat. 1952; Pub. L. 112–166, §2(d)(2), Aug. 10, 2012, 126 Stat. 1284.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsecs. (a)(2)(A) and (b)(2), is set out in section 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112–166 struck out ", by and with the advice and consent of the Senate," after "President" in introductory provisions.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

§9518. Agreements

The Institute may carry out research projects of common interest with entities such as the National Science Foundation and the Eunice Kennedy Shriver National Institute of Child Health and Human Development through agreements with such entities that are in accordance with section 1231 of this title.

(Pub. L. 107–279, title I, §118, Nov. 5, 2002, 116 Stat. 1953; Pub. L. 110–154, §1(d), Dec. 21, 2007, 121 Stat. 1828.)

CHANGE OF NAME

"Eunice Kennedy Shriver National Institute of Child Health and Human Development" substituted for "National Institute of Child Health and Human Development" in text, on authority of section 1(d) of Pub. L. 110–154, set out as a note under section 285g of Title 42, The Public Health and Welfare.

§9519. Biennial report

The Director shall, on a biennial basis, transmit to the President, the Board, and the appropriate congressional committees, and make widely available to the public (including by means of the Internet), a report containing the following:

(1) A description of the activities carried out by and through the National Education Centers during the prior fiscal years.

(2) A summary of each grant, contract, and cooperative agreement in excess of $100,000 funded through the National Education Centers during the prior fiscal years, including, at a minimum, the amount, duration, recipient, purpose of the award, and the relationship, if any, to the priorities and mission of the Institute, which shall be available in a user-friendly electronic database.

(3) A description of how the activities of the National Education Centers are consistent with the principles of scientifically valid research and the priorities and mission of the Institute.

(4) Such additional comments, recommendations, and materials as the Director considers appropriate.

(Pub. L. 107–279, title I, §119, Nov. 5, 2002, 116 Stat. 1953.)

§9520. Competitive awards

Activities carried out under this Act through grants, contracts, or cooperative agreements, at a minimum, shall be awarded on a competitive basis and, when practicable, through a process of peer

review.

(Pub. L. 107–279, title I, §120, Nov. 5, 2002, 116 Stat. 1953.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 7013, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 and former sections 6317, 6491, 6932, 7253c, 7283b, and 7283d of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

PART B—NATIONAL CENTER FOR EDUCATION RESEARCH

§9531. Establishment

(a) Establishment

There is established in the Institute a National Center for Education Research (in this part referred to as the "Research Center").

(b) Mission

The mission of the Research Center is—

(1) to sponsor sustained research that will lead to the accumulation of knowledge and understanding of education, to—

(A) ensure that all children have access to a high-quality education;

(B) improve student academic achievement, including through the use of educational technology;

(C) close the achievement gap between high-performing and low-performing students through the improvement of teaching and learning of reading, writing, mathematics, science, and other academic subjects; and

(D) improve access to, and opportunity for, postsecondary education;

(2) to support the synthesis and, as appropriate, the integration of education research;

(3) to promote quality and integrity through the use of accepted practices of scientific inquiry to obtain knowledge and understanding of the validity of education theories, practices, or conditions; and

(4) to promote scientifically valid research findings that can provide the basis for improving academic instruction and lifelong learning.

(Pub. L. 107–279, title I, §131, Nov. 5, 2002, 116 Stat. 1954.)

§9532. Commissioner for Education Research

The Research Center shall be headed by a Commissioner for Education Research (in this part referred to as the "Research Commissioner") who shall have substantial knowledge of the activities of the Research Center, including a high level of expertise in the fields of research and research management.

(Pub. L. 107–279, title I, §132, Nov. 5, 2002, 116 Stat. 1954.)

§9533. Duties

(a) General duties

The Research Center shall—

(1) maintain published peer-review standards and standards for the conduct and evaluation of all research and development carried out under the auspices of the Research Center in accordance with this part;

(2) propose to the Director a research plan that—

(A) is consistent with the priorities and mission of the Institute and the mission of the Research Center and includes the activities described in paragraph (3); and

(B) shall be carried out pursuant to paragraph (4) and, as appropriate, be updated and modified;

(3) carry out specific, long-term research activities that are consistent with the priorities and mission of the Institute, and are approved by the Director;

(4) implement the plan proposed under paragraph (2) to carry out scientifically valid research that—

(A) uses objective and measurable indicators, including timelines, that are used to assess the progress and results of such research;

(B) meets the procedures for peer review established by the Director under section 9514(f)(5) of this title and the standards of research described in section 9534 of this title; and

(C) includes both basic research and applied research, which shall include research conducted through field-initiated research and ongoing research initiatives;

(5) promote the use of scientifically valid research within the Federal Government, including active participation in interagency research projects described in section 9518 of this title;

(6) ensure that research conducted under the direction of the Research Center is relevant to education practice and policy;

(7) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of education research conducted or supported by the Research Center;

(8) assist the Director in the preparation of a biennial report, as described in section 9519 of this title;

(9) carry out research on successful State and local education reform activities, including those that result in increased academic achievement and in closing the achievement gap, as approved by the Director;

(10) carry out research initiatives regarding the impact of technology, including—

(A) research into how technology affects student achievement;

(B) long-term research into cognition and learning issues as they relate to the uses of technology;

(C) rigorous, peer-reviewed, large-scale, long-term, and broadly applicable empirical research that is designed to determine which approaches to the use of technology are most effective and cost-efficient in practice and under what conditions; and

(D) field-based research on how teachers implement technology and Internet-based resources in the classroom, including an understanding [1] how these resources are being accessed, put to use, and the effectiveness of such resources; and

(11) carry out research that is rigorous, peer-reviewed, and large scale to determine which methods of mathematics and science teaching are most effective, cost efficient, and able to be applied, duplicated, and scaled up for use in elementary and secondary classrooms, including in low-performing schools, to improve the teaching of, and student achievement in, mathematics and science as required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) Eligibility

Research carried out under subsection (a) of this section through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

(c) National research and development centers

(1) Support

In carrying out activities under subsection (a)(3) of this section, the Research Commissioner shall support not less than 8 national research and development centers. The Research Commissioner shall assign each of the 8 national research and development centers not less than 1 of the topics described in paragraph (2). In addition, the Research Commissioner may assign each of the 8 national research and development centers additional topics of research consistent with the mission and priorities of the Institute and the mission of the Research Center.

(2) Topics of research

The Research Commissioner shall support the following topics of research, through national research and development centers or through other means:

(A) Adult literacy.
(B) Assessment, standards, and accountability research.
(C) Early childhood development and education.
(D) English language learners research.
(E) Improving low achieving schools.
(F) Innovation in education reform.
(G) State and local policy.
(H) Postsecondary education and training.
(I) Rural education.
(J) Teacher quality.
(K) Reading and literacy.

(3) Duties of centers

The national research and development centers shall address areas of national need, including in educational technology areas. The Research Commissioner may support additional national research and development centers to address topics of research not described in paragraph (2) if such topics are consistent with the priorities and mission of the Institute and the mission of the Research Center. The research carried out by the centers shall incorporate the potential or existing role of educational technology, where appropriate, in achieving the goals of each center.

(4) Scope

Support for a national research and development center shall be for a period of not more than 5 years, shall be of sufficient size and scope to be effective, and notwithstanding section 9534(b) of this title, may be renewed without competition for not more than 5 additional years if the Director, in consultation with the Research Commissioner and the Board, determines that the research of the national research and development center—

(A) continues to address priorities of the Institute; and

(B) merits renewal (applying the procedures and standards established in section 9534 of this title).

(5) Limit

No national research and development center may be supported under this subsection for a period of more than 10 years without submitting to a competitive process for the award of the support.

(6) Continuation of awards

The Director shall continue awards made to the national research and development centers that are in effect on the day before November 5, 2002, in accordance with the terms of those awards

and may renew them in accordance with paragraphs (4) and (5).

(7) Disaggregation

To the extent feasible, research conducted under this subsection shall be disaggregated by age, race, gender, and socioeconomic background.

(Pub. L. 107–279, title I, §133, Nov. 5, 2002, 116 Stat. 1954.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(11), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

[1] So in original. Probably should be "understanding of".

§9534. Standards for conduct and evaluation of research

(a) In general

In carrying out this part, the Research Commissioner shall—

(1) ensure that all research conducted under the direction of the Research Center follows scientifically based research standards;

(2) develop such other standards as may be necessary to govern the conduct and evaluation of all research, development, and wide dissemination activities carried out by the Research Center to assure that such activities meet the highest standards of professional excellence;

(3) review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal departments or agencies engaged in research and development, and actively solicit recommendations from research organizations and members of the general public in the development of the standards described in paragraph (2); and

(4) ensure that all research complies with Federal guidelines relating to research misconduct.

(b) Peer review

(1) In general

The Director shall establish a peer review system, involving highly qualified individuals with an in-depth knowledge of the subject to be investigated, for reviewing and evaluating all applications for grants and cooperative agreements that exceed $100,000, and for evaluating and assessing the products of research by all recipients of grants and cooperative agreements under this Act.

(2) Evaluation

The Research Commissioner shall—

(A) develop the procedures to be used in evaluating applications for research grants, cooperative agreements, and contracts, and specify the criteria and factors (including, as applicable, the use of longitudinal data linking test scores, enrollment, and graduation rates over time) which shall be considered in making such evaluations; and

(B) evaluate the performance of each recipient of an award of a research grant, contract, or cooperative agreement at the conclusion of the award.

(c) Long-term research

The Research Commissioner shall ensure that not less than 50 percent of the funds made available for research for each fiscal year shall be used to fund long-term research programs of not less than 5 years, which support the priorities and mission of the Institute and the mission of the Research Center.

(Pub. L. 107–279, title I, §134, Nov. 5, 2002, 116 Stat. 1957.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 7013, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 and former sections 6317, 6491, 6932, 7253c, 7283b, and 7283d of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

PART C—NATIONAL CENTER FOR EDUCATION STATISTICS

PRIOR PROVISIONS

Provisions similar to those in this part were contained in chapter 71 (§9001 et seq.) of this title prior to repeal by Pub. L. 107–279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985.

§9541. Establishment

(a) Establishment

There is established in the Institute a National Center for Education Statistics (in this part referred to as the "Statistics Center").

(b) Mission

The mission of the Statistics Center shall be—

(1) to collect and analyze education information and statistics in a manner that meets the highest methodological standards;

(2) to report education information and statistics in a timely manner; and

(3) to collect, analyze, and report education information and statistics in a manner that—

(A) is objective, secular, neutral, and nonideological and is free of partisan political influence and racial, cultural, gender, or regional bias; and

(B) is relevant and useful to practitioners, researchers, policymakers, and the public.

(Pub. L. 107–279, title I, §151, Nov. 5, 2002, 116 Stat. 1957.)

§9542. Commissioner for Education Statistics

The Statistics Center shall be headed by a Commissioner for Education Statistics (in this part referred to as the "Statistics Commissioner") who shall be highly qualified and have substantial knowledge of statistical methodologies and activities undertaken by the Statistics Center.

(Pub. L. 107–279, title I, §152, Nov. 5, 2002, 116 Stat. 1958.)

§9543. Duties

(a) General duties

The Statistics Center shall collect, report, analyze, and disseminate statistical data related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State-by-State basis), and disseminating full and complete statistics (disaggregated by the population characteristics described in paragraph (3)) on the condition and progress of education, at the preschool, elementary, secondary, postsecondary, and adult levels in the United States, including data on—

(A) State and local education reform activities;

(B) State and local early childhood school readiness activities;

(C) student achievement in, at a minimum, the core academic areas of reading, mathematics, and science at all levels of education;

(D) secondary school completions, dropouts, and adult literacy and reading skills;

(E) access to, and opportunity for, postsecondary education, including data on financial aid to postsecondary students;

(F) teaching, including—

(i) data on in-service professional development, including a comparison of courses taken in the core academic areas of reading, mathematics, and science with courses in noncore academic areas, including technology courses; and

(ii) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title.[1] in each State and, where feasible, in each local educational agency and school;

(G) instruction, the conditions of the education workplace, and the supply of, and demand for, teachers;

(H) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety, including information regarding—

(i) the relationship between victims and perpetrators;

(ii) demographic characteristics of the victims and perpetrators; and

(iii) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation;

(I) the financing and management of education, including data on revenues and expenditures;

(J) the social and economic status of children, including their academic achievement;

(K) the existence and use of educational technology and access to the Internet by students and teachers in elementary schools and secondary schools;

(L) access to, and opportunity for, early childhood education;

(M) the availability of, and access to, before-school and after-school programs (including such programs during school recesses);

(N) student participation in and completion of secondary and postsecondary vocational and technical education programs by specific program area; and

(O) the existence and use of school libraries;

(2) conducting and publishing reports on the meaning and significance of the statistics described in paragraph (1);

(3) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, information by gender, race, ethnicity, socioeconomic status, limited English proficiency, mobility, disability, urban, rural, suburban districts, and other population characteristics, when such disaggregated information will facilitate educational and policy decisionmaking;

(4) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities, which may include assisting State educational agencies and local educational agencies with the disaggregation of data and with the development of longitudinal student data systems;

(5) determining voluntary standards and guidelines to assist State educational agencies in developing statewide longitudinal data systems that link individual student data consistent with the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 9573 of this title, to improve student academic achievement and close achievement gaps;

(6) acquiring and disseminating data on educational activities and student achievement (such as

the Third International Math and Science Study) in the United States compared with foreign nations;

(7) conducting longitudinal and special data collections necessary to report on the condition and progress of education;

(8) assisting the Director in the preparation of a biennial report, as described in section 9519 of this title; and

(9) determining, in consultation with the National Research Council of the National Academies, methodology by which States may accurately measure graduation rates (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years), school completion rates, and dropout rates.

(b) Training program

The Statistics Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of standard statistical procedures and concepts, and may establish a fellowship program to appoint such employees as temporary fellows at the Statistics Center, in order to assist the Statistics Center in carrying out its duties.

(Pub. L. 107–279, title I, §153, Nov. 5, 2002, 116 Stat. 1958; Pub. L. 114–95, title IX, §9214(b), Dec. 10, 2015, 129 Stat. 2161.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(5), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

2015—Subsec. (a)(1)(F)(ii). Pub. L. 114–95 substituted "teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 1412(a)(14)(C) of this title." for "teachers who are highly qualified (as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801))".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

STUDY BY NATIONAL CENTER FOR EDUCATION STATISTICS RESPECTING CONDITION OF EDUCATION FOR HISPANIC AMERICANS

Pub. L. 98–211, §24(b), Dec. 8, 1983, 97 Stat. 1419, provided that: "The National Center for Education Statistics shall not terminate the study of the condition of education for Hispanic Americans unless specifically required or authorized to do so by law."

[1] *So in original. The period probably should not appear.*

§9544. Performance of duties

(a) Grants, contracts, and cooperative agreements

In carrying out the duties under this part, the Statistics Commissioner,[1] may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

(b) Gathering information

(1) Sampling

The Statistics Commissioner may use the statistical method known as sampling (including random sampling) to carry out this part.

(2) Source of information

The Statistics Commissioner may, as appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, vocational and adult education programs, libraries, administrators, teachers, students, the general public, and other individuals, organizations, agencies, and institutions (including information collected by States and local educational agencies for their own use); and

(B) by other offices within the Institute and by other Federal departments, agencies, and instrumentalities.

(3) Collection

The Statistics Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Statistics Center to any such agency, organization, or institution to assist in such collection.

(4) Technical assistance and coordination

In order to maximize the effectiveness of Department efforts to serve the educational needs of children and youth, the Statistics Commissioner shall—

(A) provide technical assistance to the Department offices that gather data for statistical purposes; and

(B) coordinate with other Department offices in the collection of data.

(c) Duration

Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than 5 years, and may be renewed at the discretion of the Statistics Commissioner for an additional period of not more than 5 years.

(Pub. L. 107–279, title I, §154, Nov. 5, 2002, 116 Stat. 1960.)

[1] *So in original. The comma probably should not appear.*

§9545. Reports

(a) Procedures for issuance of reports

The Statistics Commissioner,[1] shall establish procedures, in accordance with section 9576 of this title, to ensure that the reports issued under this section are relevant, of high quality, useful to customers, subject to rigorous peer review, produced in a timely fashion, and free from any partisan political influence.

(b) Report on condition and progress of education

Not later than June 1, 2003, and each June 1 thereafter, the Statistics Commissioner,[1] shall submit to the President and the appropriate congressional committees a statistical report on the condition and progress of education in the United States.

(c) Statistical reports

The Statistics Commissioner shall issue regular and, as necessary, special statistical reports on education topics, particularly in the core academic areas of reading, mathematics, and science, consistent with the priorities and the mission of the Statistics Center.

(Pub. L. 107–279, title I, §155, Nov. 5, 2002, 116 Stat. 1960.)

[1] *So in original. The comma probably should not appear.*

§9546. Dissemination

(a) General requests

(1) In general

The Statistics Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) Compilations

The Statistics Center shall provide State educational agencies, local educational agencies, and institutions of higher education with opportunities to suggest the establishment of particular compilations of statistics, surveys, and analyses that will assist those educational agencies.

(b) Congressional requests

The Statistics Center shall furnish such special statistical compilations and surveys as the relevant congressional committees may request.

(c) Joint statistical projects

The Statistics Center may engage in joint statistical projects related to the mission of the Center, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) Fees

(1) In general

Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c) of this section, may be made subject to the payment of the actual or estimated cost of such work.

(2) Funds received

All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) Access

(1) Other agencies

The Statistics Center shall, consistent with section 9573 of this title, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Statistics Center.

(2) Interested parties

The Statistics Center shall, in accordance with such terms and conditions as the Center may prescribe, provide all interested parties, including public and private agencies, parents, and other individuals, direct access, in the most appropriate form (including, where possible, electronically), to data collected by the Statistics Center for the purposes of research and acquiring statistical information.

(Pub. L. 107–279, title I, §156, Nov. 5, 2002, 116 Stat. 1961.)

§9547. Cooperative education statistics systems

The Statistics Center may establish 1 or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on early childhood education, elementary and secondary education,

postsecondary education, adult education, and libraries, that are useful for policymaking at the Federal, State, and local levels.

(Pub. L. 107–279, title I, §157, Nov. 5, 2002, 116 Stat. 1962.)

§9548. State defined

In this part, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 107–279, title I, §158, Nov. 5, 2002, 116 Stat. 1962.)

PART D—NATIONAL CENTER FOR EDUCATION EVALUATION AND REGIONAL ASSISTANCE

§9561. Establishment

(a) Establishment

There is established in the Institute a National Center for Education Evaluation and Regional Assistance.

(b) Mission

The mission of the National Center for Education Evaluation and Regional Assistance shall be—

(1) to provide technical assistance;

(2) to conduct evaluations of Federal education programs administered by the Secretary (and as time and resources allow, other education programs) to determine the impact of such programs (especially on student academic achievement in the core academic areas of reading, mathematics, and science);

(3) to support synthesis and wide dissemination of results of evaluation, research, and products developed; and

(4) to encourage the use of scientifically valid education research and evaluation throughout the United States.

(c) Grants, contracts, and cooperative agreements

In carrying out the duties under this part, the Director may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

(Pub. L. 107–279, title I, §171, Nov. 5, 2002, 116 Stat. 1962.)

§9562. Commissioner for Education Evaluation and Regional Assistance

(a) In general

The National Center for Education Evaluation and Regional Assistance shall be headed by a Commissioner for Education Evaluation and Regional Assistance (in this part referred to as the "Evaluation and Regional Assistance Commissioner") who is highly qualified and has demonstrated a capacity to carry out the mission of the Center and shall—

(1) conduct evaluations pursuant to section 9563 of this title;

(2) widely disseminate information on scientifically valid research, statistics, and evaluation on education, particularly to State educational agencies and local educational agencies, to institutions of higher education, to the public, the media, voluntary organizations, professional associations, and other constituencies, especially with respect to information relating to, at a minimum—

(A) the core academic areas of reading, mathematics, and science;

(B) closing the achievement gap between high-performing students and low-performing students;

(C) educational practices that improve academic achievement and promote learning;

(D) education technology, including software; and

(E) those topics covered by the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before November 5, 2002);

(3) make such information accessible in a user-friendly, timely, and efficient manner (including through use of a searchable Internet-based online database that shall include all topics covered in paragraph (2)(E)) to schools, institutions of higher education, educators (including early childhood educators), parents, administrators, policymakers, researchers, public and private entities (including providers of early childhood services), entities responsible for carrying out technical assistance through the Department, and the general public;

(4) support the regional educational laboratories in conducting applied research, the development and dissemination of educational research, products and processes, the provision of technical assistance, and other activities to serve the educational needs of such laboratories' regions;

(5) manage the National Library of Education described in subsection (d) of this section, and other sources of digital information on education research;

(6) assist the Director in the preparation of a biennial report, described in section 9519 of this title; and

(7) award a contract for a prekindergarten through grade 12 mathematics and science teacher clearinghouse.

(b) Additional duties

In carrying out subsection (a) of this section, the Evaluation and Regional Assistance Commissioner shall—

(1) ensure that information disseminated under this section is provided in a cost-effective, nonduplicative manner that includes the most current research findings, which may include through the continuation of individual clearinghouses authorized under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (title IX of the Goals 2000: Educate America Act; 20 U.S.C. 6001 et seq.) (as such Act existed on the day before November 5, 2002);

(2) describe prominently the type of scientific evidence that is used to support the findings that are disseminated;

(3) explain clearly the scientifically appropriate and inappropriate uses of—

(A) the findings that are disseminated; and

(B) the types of evidence used to support those findings; and

(4) respond, as appropriate, to inquiries from schools, educators, parents, administrators, policymakers, researchers, public and private entities, and entities responsible for carrying out technical assistance.

(c) Continuation

The Director shall continue awards for the support of the Educational Resources Information Center Clearinghouses and contracts for regional educational laboratories (established under subsections (f) and (h) of section 941 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f) and (h)) (as such awards were in effect on the day before November 5, 2002)) for the duration of those awards, in accordance with the terms and agreements of such awards.

(d) National Library of Education

(1) Establishment

There is established within the National Center for Education Evaluation and Regional Assistance a National Library of Education that shall—

(A) be headed by an individual who is highly qualified in library science;

(B) collect and archive information;

(C) provide a central location within the Federal Government for information about education;

(D) provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

(E) promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

(2) Information

The information collected and archived by the National Library of Education shall include—

(A) products and publications developed through, or supported by, the Institute; and

(B) other relevant and useful education-related research, statistics, and evaluation materials and other information, projects, and publications that are—

(i) consistent with—

(I) scientifically valid research; or

(II) the priorities and mission of the Institute; and

(ii) developed by the Department, other Federal agencies, or entities (including entities supported under subchapter II of this chapter and the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before November 5, 2002))).[1]

(Pub. L. 107–279, title I, §172, Nov. 5, 2002, 116 Stat. 1962.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in subsecs. (a)(1)(E), (b)(1), (c), and (d)(2)(B)(ii), is title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, as amended, which was classified principally to subchapter IX (§6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985. Section 941 of the Act was classified to section 6041 of this title prior to repeal. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

[1] So in original. The third closing parenthesis probably should not appear.

§9563. Evaluations

(a) In general

(1) Requirements

In carrying out its missions, the National Center for Education Evaluation and Regional Assistance may—

(A) conduct or support evaluations consistent with the Center's mission as described in section 9561(b) of this title;

(B) evaluate programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(C) to the extent practicable, examine evaluations conducted or supported by others in order to determine the quality and relevance of the evidence of effectiveness generated by those evaluations, with the approval of the Director;

(D) coordinate the activities of the National Center for Education Evaluation and Regional Assistance with other evaluation activities in the Department;

(E) review and, where feasible, supplement Federal education program evaluations, particularly those by the Department, to determine or enhance the quality and relevance of the evidence generated by those evaluations;

(F) establish evaluation methodology; and

(G) assist the Director in the preparation of the biennial report, as described in section 9519 of this title.

(2) Additional requirements

Each evaluation conducted by the National Center for Education Evaluation and Regional Assistance pursuant to paragraph (1) shall—

(A) adhere to the highest possible standards of quality for conducting scientifically valid education evaluation; and

(B) be subject to rigorous peer-review.

(b) Administration of evaluations under the Elementary and Secondary Education Act of 1965

The Evaluation and Regional Assistance Commissioner, consistent with the mission of the National Center for Education Evaluation and Regional Assistance under section 9561(b) of this title, shall administer all operations and contracts associated with evaluations authorized by section 8601 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7981] and administered by the Department as of November 5, 2002.

(Pub. L. 107–279, title I, §173, Nov. 5, 2002, 116 Stat. 1964; Pub. L. 114–95, title IX, §9215(ff)(2), Dec. 10, 2015, 129 Stat. 2174.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(1)(B), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–95 substituted "section 8601 of the Elementary and Secondary Education Act of 1965" for "part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.)".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§9564. Regional educational laboratories for research, development, dissemination, and technical assistance

(a) Regional educational laboratories

The Director shall enter into contracts with entities to establish a networked system of 10 regional educational laboratories that serve the needs of each region of the United States in accordance with the provisions of this section. The amount of assistance allocated to each laboratory by the Evaluation and Regional Assistance Commissioner shall reflect the number of local educational agencies and the number of school-age children within the region served by such laboratory, as well as the cost of providing services within the geographic area encompassed by the region.

(b) Regions

The regions served by the regional educational laboratories shall be the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational

Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before November 5, 2002).

(c) Eligible applicants

The Director may enter into contracts under this section with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this section, including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002).

(d) Applications

(1) Submission

Each applicant desiring a contract under this section shall submit an application at such time, in such manner, and containing such information as the Director may reasonably require.

(2) Plan

Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 9606 of this title and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the regional educational laboratory, on an ongoing basis.

(e) Entering into contracts

(1) In general

In entering into contracts under this section, the Director shall—

(A) enter into contracts for a 5-year period; and

(B) ensure that regional educational laboratories established under this section have strong and effective governance, organization, management, and administration, and employ qualified staff.

(2) Coordination

In order to ensure coordination and prevent unnecessary duplication of activities among the regions, the Evaluation and Regional Assistance Commissioner shall—

(A) share information about the activities of each regional educational laboratory awarded a contract under this section with each other regional educational laboratory awarded a contract under this section and with the Department of Education, including the Director and the Board;

(B) oversee a strategic plan for ensuring that each regional educational laboratory awarded a contract under this section increases collaboration and resource-sharing in such activities;

(C) ensure, where appropriate, that the activities of each regional educational laboratory awarded a contract under this section also serve national interests; and

(D) ensure that each regional educational laboratory awarded a contract under this section coordinates such laboratory's activities with the activities of each other regional technical assistance provider.

(3) Outreach

In conducting competitions for contracts under this section, the Director shall—

(A) actively encourage eligible entities to compete for such awards by making information and technical assistance relating to the competition widely available; and

(B) seek input from the chief executive officers of States, chief State school officers, educators, and parents regarding the need for applied research, wide dissemination, training, technical assistance, and development activities authorized by this subchapter in the regions to be served by the regional educational laboratories and how those educational needs could be addressed most effectively.

(4) Objectives and indicators

Before entering into a contract under this section, the Director shall design specific objectives and measurable indicators to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional educational laboratories, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(5) Standards

The Evaluation and Regional Assistance Commissioner shall establish a system for technical and peer review to ensure that applied research activities, research-based reports, and products of the regional educational laboratories are consistent with the research standards described in section 9534 of this title and the evaluation standards adhered to pursuant to section 9563(a)(2)(A) of this title.

(f) Central mission and primary function

Each regional educational laboratory awarded a contract under this section shall support applied research, development, wide dissemination, and technical assistance activities by—

(1) providing training (which may include supporting internships and fellowships and providing stipends) and technical assistance to State educational agencies, local educational agencies, school boards, schools funded by the Bureau as appropriate, and State boards of education regarding, at a minimum—

(A) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(B) scientifically valid research in education on teaching methods, assessment tools, and high quality, challenging curriculum frameworks for use by teachers and administrators in, at a minimum—

(i) the core academic subjects of mathematics, science, and reading;

(ii) English language acquisition;

(iii) education technology; and

(iv) the replication and adaption of exemplary and promising practices and new educational methods, including professional development strategies and the use of educational technology to improve teaching and learning; and

(C) the facilitation of communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the State education goals;

(2) developing and widely disseminating, including through Internet-based means, scientifically valid research, information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement, to—

(A) schools, districts, institutions of higher education, educators (including early childhood educators and librarians), parents, policymakers, and other constituencies, as appropriate, within the region in which the regional educational laboratory is located; and

(B) the National Center for Education Evaluation and Regional Assistance;

(3) developing a plan for identifying and serving the needs of the region by conducting a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

(4) in the event such quality applied research does not exist as determined by the regional educational laboratory or the Department, carrying out applied research projects that are designed to serve the particular educational needs (in prekindergarten through grade 16) of the region in which the regional educational laboratory is located, that reflect findings from scientifically valid

research, and that result in user-friendly, replicable school-based classroom applications geared toward promoting increased student achievement, including using applied research to assist in solving site-specific problems and assisting in development activities (including high-quality and on-going professional development and effective parental involvement strategies);

(5) supporting and serving the educational development activities and needs of the region by providing educational applied research in usable forms to promote school-improvement, academic achievement, and the closing of achievement gaps and contributing to the current base of education knowledge by addressing enduring problems in elementary and secondary education and access to postsecondary education;

(6) collaborating and coordinating services with other technical assistance providers funded by the Department of Education;

(7) assisting in gathering information on school finance systems to promote improved access to educational opportunities and to better serve all public school students;

(8) assisting in gathering information on alternative administrative structures that are more conducive to planning, implementing, and sustaining school reform and improved academic achievement;

(9) bringing teams of experts together to develop and implement school improvement plans and strategies, especially in low-performing or high poverty schools; and

(10) developing innovative approaches to the application of technology in education that are unlikely to originate from within the private sector, but which could result in the development of new forms of education software, education content, and technology-enabled pedagogy.

(g) Activities

Each regional educational laboratory awarded a contract under this section shall carry out the following activities:

(1) Collaborate with the National Education Centers in order to—

(A) maximize the use of research conducted through the National Education Centers in the work of such laboratory;

(B) keep the National Education Centers apprised of the work of the regional educational laboratory in the field; and

(C) inform the National Education Centers about additional research needs identified in the field.

(2) Consult with the State educational agencies and local educational agencies in the region in developing the plan for serving the region.

(3) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

(4) Report and disseminate information on overcoming the obstacles faced by educators and schools in high poverty, urban, and rural areas.

(5) Identify successful educational programs that have either been developed by such laboratory in carrying out such laboratory's functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional educational laboratories so that such programs may be considered for inclusion in the national education dissemination system.

(h) Governing board and allocation

(1) In general

In carrying out its responsibilities, each regional educational laboratory awarded a contract under this section, in keeping with the terms and conditions of such laboratory's contract, shall—

(A) establish a governing board that—

(i) reflects a balanced representation of—

(I) the States in the region;

(II) the interests and concerns of regional constituencies; and

(III) technical expertise;

(ii) includes the chief State school officer or such officer's designee of each State represented in such board's region;

(iii) includes—

(I) representatives nominated by chief executive officers of States and State organizations of superintendents, principals, institutions of higher education, teachers, parents, businesses, and researchers; or

(II) other representatives of the organizations described in subclause (I), as required by State law in effect on the day before November 5, 2002;

(iv) is the sole entity that—

(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

(II) determines the regional agenda of the laboratory;

(III) engages in an ongoing dialogue with the Evaluation and Regional Assistance Commissioner concerning the laboratory's goals, activities, and priorities; and

(IV) determines at the start of the contract period, subject to the requirements of this section and in consultation with the Evaluation and Regional Assistance Commissioner, the mission of the regional educational laboratory for the duration of the contract period;

(v) ensures that the regional educational laboratory attains and maintains a high level of quality in the laboratory's work and products;

(vi) establishes standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration, and employs qualified staff;

(vii) directs the regional educational laboratory to carry out the laboratory's duties in a manner that will make progress toward achieving the State education goals and reforming schools and educational systems; and

(viii) conducts a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools and teachers; and

(B) allocate the regional educational laboratory's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the laboratory.

(2) Special rule

If a regional educational laboratory needs flexibility in order to meet the requirements of paragraph (1)(A)(i), the regional educational laboratory may select not more than 10 percent of the governing board from individuals outside those representatives nominated in accordance with paragraph (1)(A)(iii).

(i) Duties of governing board

In order to improve the efficiency and effectiveness of the regional educational laboratories, the governing boards of the regional educational laboratories shall establish and maintain a network to—

(1) share information about the activities each laboratory is carrying out;

(2) plan joint activities that would meet the needs of multiple regions;

(3) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

(4) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

(j) Evaluations

The Evaluation and Regional Assistance Commissioner shall provide for independent evaluations of each of the regional educational laboratories in carrying out the duties described in this section in the third year that such laboratory receives assistance under this section in accordance with the standards developed by the Evaluation and Regional Assistance Commissioner and approved by the Board and shall transmit the results of such evaluations to the relevant committees of Congress, the Board, and the appropriate regional educational laboratory governing board.

(k) Rule of construction

No regional educational laboratory receiving assistance under this section shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department of Education as authorized by law or be prohibited from engaging in activities involving international projects or endeavors.

(l) Advance payment system

Each regional educational laboratory awarded a contract under this section shall participate in the advance payment system at the Department of Education.

(m) Additional projects

In addition to activities authorized under this section, the Director is authorized to enter into contracts or agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve State education goals and for other purposes.

(n) Annual report and plan

Not later than July 1 of each year, each regional educational laboratory awarded a contract under this section shall submit to the Evaluation and Regional Assistance Commissioner—

(1) a plan covering the succeeding fiscal year, in which such laboratory's mission, activities, and scope of work are described, including a general description of the plans such laboratory expects to submit in the remaining years of such laboratory's contract; and

(2) a report of how well such laboratory is meeting the needs of the region, including a summary of activities during the preceding year, a list of entities served, a list of products, and any other information that the regional educational laboratory may consider relevant or the Evaluation and Regional Assistance Commissioner may require.

(o) Construction

Nothing in this section shall be construed to require any modifications in a regional educational laboratory contract in effect on the day before November 5, 2002.

(Pub. L. 107–279, title I, §174, Nov. 5, 2002, 116 Stat. 1965.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in subsecs. (b) and (c), is title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, as amended, which was classified principally to subchapter IX (§6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985. Section 941 of the Act was classified to section 6041 of this title prior to repeal. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

Title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002), referred to in subsec. (c), means title XIII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3876, which was classified generally to subchapter XIII (§8601 et seq.) of chapter 70 of this title, prior to amendment by Pub. L. 107–110. Parts A to D of title XIII of Pub. L. 89–10, were classified to parts A (§8621 et seq.), B (§8651 et seq.), C (§8671 et seq.), and D (§8701 et seq.), respectively, of subchapter XIII of chapter 70 of this title, and were redesignated as parts K to N of title IX of Pub. L. 103–227, by Pub. L. 107–110, title X, §§1021(a), 1022(a), 1023(a), 1024(a), Jan. 8, 2002, 115 Stat.

1987, transferred to parts G (§6053 et seq.), H (§6054 et seq.), I (§6055 et seq.), and J (§6056 et seq.), respectively, of subchapter IX of chapter 68 of this title, and subsequently repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (f)(1)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PART E—NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH

PRIOR PROVISIONS

A prior part E, consisting of sections 9571 to 9584, was redesignated part F of this subchapter by Pub. L. 108–446, title II, §201(a)(1), Dec. 3, 2004, 118 Stat 2799.

§9567. Establishment

(a) Establishment

There is established in the Institute a National Center for Special Education Research (in this part referred to as the "Special Education Research Center").

(b) Mission

The mission of the Special Education Research Center is—

(1) to sponsor research to expand knowledge and understanding of the needs of infants, toddlers, and children with disabilities in order to improve the developmental, educational, and transitional results of such individuals;

(2) to sponsor research to improve services provided under, and support the implementation of, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

(3) to evaluate the implementation and effectiveness of the Individuals with Disabilities Education Act in coordination with the National Center for Education Evaluation and Regional Assistance.

(c) Applicability of this subchapter

Parts A and F of this subchapter, and the standards for peer review of applications and for the conduct and evaluation of research under sections 9533(a) and 9534 of this title, respectively, shall apply to the Secretary, the Director, and the Commissioner in carrying out this part.

(Pub. L. 107–279, title I, §175, as added Pub. L. 108–446, title II, §201(a)(2), Dec. 3, 2004, 118 Stat. 2799.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2), (3), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§9567a. Commissioner for Special Education Research

The Special Education Research Center shall be headed by a Commissioner for Special Education Research (in this part referred to as the "Special Education Research Commissioner") who shall have substantial knowledge of the Special Education Research Center's activities, including a high level of expertise in the fields of research, research management, and the education of children with disabilities.

(Pub. L. 107–279, title I, §176, as added Pub. L. 108–446, title II, §201(a)(2), Dec. 3, 2004, 118 Stat. 2799.)

§9567b. Duties

(a) General duties

The Special Education Research Center shall carry out research activities under this part consistent with the mission described in section 9567(b) of this title, such as activities that—

(1) improve services provided under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] in order to improve—

(A) academic achievement, functional outcomes, and educational results for children with disabilities; and

(B) developmental outcomes for infants or toddlers with disabilities;

(2) identify scientifically based educational practices that support learning and improve academic achievement, functional outcomes, and educational results for all students with disabilities;

(3) examine the special needs of preschool aged children, infants, and toddlers with disabilities, including factors that may result in developmental delays;

(4) identify scientifically based related services and interventions that promote participation and progress in the general education curriculum and general education settings;

(5) improve the alignment, compatibility, and development of valid and reliable assessments, including alternate assessments, as required by section 6311(b) of this title;

(6) examine State content standards and alternate assessments for students with significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate education settings, and improved post-school results;

(7) examine the educational, developmental, and transitional needs of children with high incidence and low incidence disabilities;

(8) examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;

(9) improve reading and literacy skills of children with disabilities;

(10) examine and improve secondary and postsecondary education and transitional outcomes and results for children with disabilities;

(11) examine methods of early intervention for children with disabilities, including children with multiple or complex developmental delays;

(12) examine and incorporate universal design concepts in the development of standards, assessments, curricula, and instructional methods to improve educational and transitional results for children with disabilities;

(13) improve the preparation of personnel, including early intervention personnel, who provide educational and related services to children with disabilities to increase the academic achievement and functional performance of students with disabilities;

(14) examine the excess costs of educating a child with a disability and expenses associated with high cost special education and related services;

(15) help parents improve educational results for their children, particularly related to transition issues;

(16) address the unique needs of children with significant cognitive disabilities; and

(17) examine the special needs of limited English proficient children with disabilities.

(b) Standards

The Special Education Research Commissioner shall ensure that activities assisted under this section—

(1) conform to high standards of quality, integrity, accuracy, validity, and reliability;

(2) are carried out in accordance with the standards for the conduct and evaluation of all research and development established by the National Center for Education Research; and

(3) are objective, secular, neutral, and nonideological, and are free of partisan political

influence, and racial, cultural, gender, regional, or disability bias.

(c) Plan

The Special Education Research Commissioner shall propose to the Director a research plan, developed in collaboration with the Assistant Secretary for Special Education and Rehabilitative Services, that—

(1) is consistent with the priorities and mission of the Institute and the mission of the Special Education Research Center;

(2) is carried out, updated, and modified, as appropriate;

(3) is consistent with the purposes of the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(4) contains an appropriate balance across all age ranges and types of children with disabilities;

(5) provides for research that is objective and uses measurable indicators to assess its progress and results; and

(6) is coordinated with the comprehensive plan developed under section 681 of the Individuals with Disabilities Education Act [20 U.S.C. 1481].

(d) Grants, contracts, and cooperative agreements

(1) In general

In carrying out the duties under this section, the Director may award grants to, or enter into contracts or cooperative agreements with, eligible applicants.

(2) Eligible applicants

Activities carried out under this subsection through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

(3) Applications

An eligible applicant that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

(e) Dissemination

The Special Education Research Center shall—

(1) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of special education research conducted or supported by the Special Education Research Center; and

(2) assist the Director in the preparation of a biennial report, as described in section 9519 of this title.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2005 through 2010.

(Pub. L. 107–279, title I, §177, as added Pub. L. 108–446, title II, §201(a)(2), Dec. 3, 2004, 118 Stat. 2800.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(1) and (c)(3), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

EFFECTIVE DATE

Pub. L. 108–446, title III, §302(c), Dec. 3, 2004, 118 Stat. 2803, provided that:

"(1) NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.—Sections 175, 176, and 177 [20 U.S.C. 9567, 9567a, 9567b] (other than section 177(c) [20 U.S.C. 9567b(c)]) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on the date of enactment of

this Act [Dec. 3, 2004].

"(2) PLAN.—Section 177(c) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on October 1, 2005."

PART F—GENERAL PROVISIONS

AMENDMENTS

2004—Pub. L. 108–446, title II, §201(a)(1), Dec. 3, 2004, 118 Stat. 2799, redesignated part E as F.

§9571. Interagency data sources and formats

The Secretary, in consultation with the Director, shall ensure that the Department and the Institute use common sources of data in standardized formats.

(Pub. L. 107–279, title I, §181, Nov. 5, 2002, 116 Stat. 1971.)

§9572. Prohibitions

(a) National database

Nothing in this subchapter may be construed to authorize the establishment of a nationwide database of individually identifiable information on individuals involved in studies or other collections of data under this subchapter.

(b) Federal Government and use of Federal funds

Nothing in this subchapter may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control the curriculum, program of instruction, or allocation of State or local resources of a State, local educational agency, or school, or to mandate a State, or any subdivision thereof, to spend any funds or incur any costs not provided for under this subchapter.

(c) Endorsement of curriculum

Notwithstanding any other provision of Federal law, no funds provided under this subchapter to the Institute, including any office, board, committee, or center of the Institute, may be used by the Institute to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(d) Federally sponsored testing

(1) In general

Subject to paragraph (2), no funds provided under this subchapter to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(2) Exceptions

Subsection (a) of this section shall not apply to international comparative assessments developed under the authority of section 9543(a)(6) of this title or section 9003(a)(6) of this title (as such section was in effect on the day before November 5, 2002) and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 107–279, title I, §182, Nov. 5, 2002, 116 Stat. 1971.)

REFERENCES IN TEXT

Section 9003 of this title, referred to in subsec. (d)(2), was repealed by Pub. L. 107–279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985.

§9573. Confidentiality

(a) In general

All collection, maintenance, use, and wide dissemination of data by the Institute, including each office, board, committee, and center of the Institute, shall conform with the requirements of section 552a of title 5, the confidentiality standards of subsection (c) of this section, and sections 1232g and 1232h of this title.

(b) Student information

The Director shall ensure that all individually identifiable information about students, their academic achievements, their families, and information with respect to individual schools, shall remain confidential in accordance with section 552a of title 5, the confidentiality standards of subsection (c) of this section, and sections 1232g and 1232h of this title.

(c) Confidentiality standards

(1) In general

(A) The Director shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this subchapter.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) Prohibition

No person may—

(A) use any individually identifiable information furnished under this subchapter for any purpose other than a research, statistics, or evaluation purpose under this subchapter;

(B) make any publication whereby the data furnished by any particular person under this subchapter can be identified; or

(C) permit anyone other than the individuals authorized by the Director to examine the individual reports.

(d) Administration

(1) In general

(A) Disclosure

No Federal department, bureau, agency, officer, or employee and no recipient of a Federal grant, contract, or cooperative agreement may, for any reason, require the Director, any Commissioner of a National Education Center, or any other employee of the Institute to disclose individually identifiable information that has been collected or retained under this subchapter.

(B) Immunity

Individually identifiable information collected or retained under this subchapter shall be immune from legal process and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(C) Application

This paragraph does not apply to requests for individually identifiable information submitted by or on behalf of the individual identified in the information.

(2) Employee or staff violations

Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (c)(2) of this section, knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection

(c)(2) of this section, and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this subchapter, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(3) Temporary staff

The Director may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Director in performing the Director's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) Information requirements

No collection of information or data acquisition activity undertaken by the Director shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, except such collection of information or data acquisition activity may be subject to review or coordination if the Director determines that such review or coordination is beneficial.

(5) Definitions

For the purposes of this section—

(A) the term "individually identifiable information" means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term "report" means a response provided by or about an individual to an inquiry from the Director and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) Violations

Any person who uses any data provided by the Director, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (c)(2) of this section, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(7) Access to reports or records

Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Director's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

(e) Investigation and prosecution of terrorism

(1) In general

Notwithstanding subsections (a) and (b) of this section, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring the Secretary to permit the Attorney General (or his designee) to—

(A) collect reports, records, and information (including individually identifiable information) in the possession of the Director that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18 or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other

administrative or judicial proceedings) such information, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) Application and approval

(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the information sought is described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) Protection

An officer or employee of the Department who, in good faith, produces information in accordance with an order issued under this subsection does not violate subsection (b)(2) [1] of this section and shall not be liable to any person for that production.

(Pub. L. 107–279, title I, §183, title IV, §401(a)(6), Nov. 5, 2002, 116 Stat. 1972, 1983.)

CODIFICATION

Subsecs. (a) to (c) of section 9007 of this title, which were transferred to this section and redesignated subsecs. (c) to (e) by Pub. L. 107–279, §401(a)(6), were based on Pub. L. 103–382, title IV, §408(a) to (c), Oct. 20, 1994, 108 Stat. 4034; Pub. L. 107–56, title V, §508, Oct. 26, 2001, 115 Stat. 368; Pub. L. 107–279, title IV, §401(a)(1)–(5), Nov. 5, 2002, 116 Stat. 1983.

AMENDMENTS

2002—Subsecs. (c) to (e). Pub. L. 107–279, §401(a)(6), transferred subsecs. (a) to (c) of section 9007 of this title to this section and redesignated them as subsecs. (c) to (e), respectively. See Codification note above.

[1] *So in original. Probably means subsection (d)(2).*

§9574. Availability of data

Subject to section 9573 of this title, data collected by the Institute, including any office, board, committee, or center of the Institute, in carrying out the priorities and mission of the Institute, shall be made available to the public, including through use of the Internet.

(Pub. L. 107–279, title I, §184, Nov. 5, 2002, 116 Stat. 1972.)

§9575. Performance management

The Director shall ensure that all activities conducted or supported by the Institute or a National Education Center make customer service a priority. The Director shall ensure a high level of customer satisfaction through the following methods:

(1) Establishing and improving feedback mechanisms in order to anticipate customer needs.

(2) Disseminating information in a timely fashion and in formats that are easily accessible and usable by researchers, practitioners, and the general public.

(3) Utilizing the most modern technology and other methods available, including arrangements to use data collected electronically by States and local educational agencies, to ensure the efficient collection and timely distribution of information, including data and reports.

(4) Establishing and measuring performance against a set of indicators for the quality of data collected, analyzed, and reported.

(5) Continuously improving management strategies and practices.

(6) Making information available to the public in an expeditious fashion.

(Pub. L. 107–279, title I, §185, Nov. 5, 2002, 116 Stat. 1972.)

§9576. Authority to publish

(a) Publication

The Director may prepare and publish (including through oral presentation) such research, statistics (consistent with part C of this subchapter), and evaluation information and reports from any office, board, committee, and center of the Institute, as needed to carry out the priorities and mission of the Institute without the approval of the Secretary or any other office of the Department.

(b) Advance copies

The Director shall provide the Secretary and other relevant offices with an advance copy of any information to be published under this section before publication.

(c) Peer review

All research, statistics, and evaluation reports conducted by, or supported through, the Institute shall be subjected to rigorous peer review before being published or otherwise made available to the public.

(d) Items not covered

Nothing in subsections [1] (a), (b), or (c) of this section shall be construed to apply to—

(1) information on current or proposed budgets, appropriations, or legislation;

(2) information prohibited from disclosure by law or the Constitution, classified national security information, or information described in section 552(b) of title 5; and

(3) review by officers of the United States in order to prevent the unauthorized disclosure of information described in paragraph (1) or (2).

(Pub. L. 107–279, title I, §186, Nov. 5, 2002, 116 Stat. 1973.)

[1] *So in original. Probably should be "subsection".*

§9577. Vacancies

Any member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A vacancy in an office, board, committee, or center of the Institute shall be filled in the manner in which the original appointment was made. This section does not apply to employees appointed under section 9578 of this title.

(Pub. L. 107–279, title I, §187, Nov. 5, 2002, 116 Stat. 1973.)

§9578. Scientific or technical employees

(a) In general

The Director may appoint, for terms not to exceed 6 years (without regard to the provisions of title 5 governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees to carry out the functions of the Institute or the office, board, committee, or center, respectively, if—

(1) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

(2) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS–15, as determined in accordance with section 5376 of title 5, except that not more than 7 individuals appointed under this section may be paid at a rate that does not exceed the rate of basic pay for level III of the Executive Schedule;

(3) the appointment of such employee is necessary (as determined by the Director on the basis of clear and convincing evidence) to provide the Institute or the office, board, committee, or center with scientific or technical expertise which could not otherwise be obtained by the Institute or the office, board, committee, or center through the competitive service; and

(4) the total number of such employees does not exceed 40 individuals or 1/5 of the number of full-time, regular scientific or professional employees of the Institute, whichever is greater.

(b) Duties of employees

All employees described in subsection (a) of this section shall work on activities of the Institute or the office, board, committee, or center, and shall not be reassigned to other duties outside the Institute or the office, board, committee, or center during their term.

(Pub. L. 107–279, title I, §188, Nov. 5, 2002, 116 Stat. 1973.)

REFERENCES IN TEXT

GS–15, referred to in subsec. (a)(2), is contained in the General Schedule, which is set out under section 5332 of Title 5, Government Organization and Employees.

Level III of the Executive Schedule, referred to in subsec. (a)(2), is set out in section 5314 of Title 5, Government Organization and Employees.

REFERENCES TO MAXIMUM RATE UNDER 5 U.S.C. 5376

For reference to maximum rate under section 5376 of Title 5, Government Organization and Employees, see section 2(d)(3) of Pub. L. 110–372, set out as an Effective Date of 2008 Amendment note under section 5376 of Title 5.

§9579. Fellowships

In order to strengthen the national capacity to carry out high-quality research, evaluation, and statistics related to education, the Director shall establish and maintain research, evaluation, and statistics fellowships in institutions of higher education (which may include the establishment of such fellowships in historically Black colleges and universities and other institutions of higher education with large numbers of minority students) that support graduate and postdoctoral study onsite at the Institute or at the institution of higher education. In establishing the fellowships, the Director shall ensure that women and minorities are actively recruited for participation.

(Pub. L. 107–279, title I, §189, Nov. 5, 2002, 116 Stat. 1974.)

§9580. Voluntary service

The Director may accept voluntary and uncompensated services to carry out and support activities that are consistent with the priorities and mission of the Institute.

(Pub. L. 107–279, title I, §190, Nov. 5, 2002, 116 Stat. 1974.)

§9581. Rulemaking

Notwithstanding section 1232(d) of this title, the exemption for public property, loans, grants, and benefits in section 553(a)(2) of title 5 shall apply to the Institute.

(Pub. L. 107–279, title I, §191, Nov. 5, 2002, 116 Stat. 1974.)

§9582. Copyright

Nothing in this Act shall be construed to affect the rights, remedies, limitations, or defense under title 17.

(Pub. L. 107–279, title I, §192, Nov. 5, 2002, 116 Stat. 1974.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 7013, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 and former sections 6317, 6491, 6932, 7253c, 7283b, and 7283d of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

§9583. Removal

(a) Presidential

The Director, each member of the Board, and the Commissioner for Education Statistics may be removed by the President prior to the expiration of the term of each such appointee.

(b) Director

Each Commissioner appointed by the Director pursuant to section 9517 of this title may be removed by the Director prior to the expiration of the term of each such Commissioner.

(Pub. L. 107–279, title I, §193, Nov. 5, 2002, 116 Stat. 1974.)

§9584. Authorization of appropriations

(a) In general

There are authorized to be appropriated to administer and carry out this subchapter (except section 9564 of this title) $400,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) not less than the amount provided to the National Center for Education Statistics (as such Center was in existence on the day before November 5, 2002) for fiscal year 2002 shall be provided to the National Center for Education Statistics, as authorized under part C of this subchapter; and

(2) not more than the lesser of 2 percent of such funds or $1,000,000 shall be made available to carry out section 9516 of this title (relating to the National Board for Education Sciences).

(b) Regional educational laboratories

There are authorized to be appropriated to carry out section 9564 of this title $100,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years. Of the amounts appropriated under the preceding sentence for a fiscal year, the Director shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

(c) Availability

Amounts made available under this section shall remain available until expended.

(Pub. L. 107–279, title I, §194, Nov. 5, 2002, 116 Stat. 1975.)

SUBCHAPTER II—EDUCATIONAL TECHNICAL ASSISTANCE

§9601. Definitions

In this subchapter:

(1) In general

The terms "local educational agency" and "State educational agency" have the meanings given those terms in section 7801 of this title.

(2) Secretary

The term "Secretary" means the Secretary of Education.

(Pub. L. 107–279, title II, §202, Nov. 5, 2002, 116 Stat. 1975; Pub. L. 114–95, title IX, §9215(gg)(1), Dec. 10, 2015, 129 Stat. 2174.)

AMENDMENTS

2015—Par. (1). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SHORT TITLE

This subchapter known as the "Educational Technical Assistance Act of 2002", see Short Title note set out under section 9501 of this title.

§9602. Comprehensive centers

(a) Authorization

(1) In general

Subject to paragraph (2), beginning in fiscal year 2004, the Secretary is authorized to award not less than 20 grants to local entities, or consortia of such entities, with demonstrated expertise in providing technical assistance and professional development in reading, mathematics, science, and technology, especially to low-performing schools and districts, to establish comprehensive centers.

(2) Regions

In awarding grants under paragraph (1), the Secretary—

(A) shall ensure that not less than 1 comprehensive center is established in each of the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before November 5, 2002); and

(B) after meeting the requirements of subparagraph (A), shall consider, in awarding the remainder of the grants, the school-age population, proportion of economically disadvantaged students, the increased cost burdens of service delivery in areas of sparse population, and the number of schools implementing comprehensive support and improvement activities and targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(d)] in the population served by the local entity or consortium of such entities.

(b) Eligible applicants

(1) In general

Grants under this section may be made with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in subsection (f) of this section, including regional entities that carried out activities under the Educational Research,

Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002).

(2) Outreach

In conducting competitions for grants under this section, the Secretary shall actively encourage potential applicants to compete for such awards by making widely available information and technical assistance relating to the competition.

(3) Objectives and indicators

Before awarding a grant under this section, the Secretary shall design specific objectives and measurable indicators, using the results of the assessment conducted under section 9605 of this title, to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional entities, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(c) Application

(1) Submission

Each local entity, or consortium of such entities, seeking a grant under this section shall submit an application at such time, in such manner, and containing such additional information as the Secretary may reasonably require.

(2) Plan

Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 9606 of this title and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the comprehensive center, on an ongoing basis.

(d) Allocation

Each comprehensive center established under this section shall allocate such center's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the center.

(e) Scope of work

Each comprehensive center established under this section shall work with State educational agencies, local educational agencies, regional educational agencies, and schools in the region where such center is located on school improvement activities that take into account factors such as the proportion of economically disadvantaged students in the region, and give priority to—

(1) schools in the region with high percentages or numbers of students from low-income families, as determined under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)), including such schools in rural and urban areas, and schools receiving assistance under title I of that Act (20 U.S.C. 6301 et seq.);

(2) local educational agencies in the region in which high percentages or numbers of school-age children are from low-income families, as determined under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)), including such local educational agencies in rural and urban areas; and

(3) schools in the region that are implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(d)].

(f) Activities

(1) In general

A comprehensive center established under this section shall support dissemination and technical assistance activities by—

(A) providing training, professional development, and technical assistance regarding, at a minimum—

(i) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(ii) the use of scientifically valid teaching methods and assessment tools for use by teachers and administrators in, at a minimum—

(I) the core academic subjects of mathematics, science, and reading or language arts;

(II) English language acquisition; and

(III) education technology; and

(iii) the facilitation of communication between education experts, school officials, teachers, parents, and librarians, as appropriate; and

(B) disseminating and providing information, reports, and publications that are usable for improving academic achievement, closing achievement gaps,, [1] and particularly assisting those schools implementing comprehensive support and improvement and targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(d)],, [1] to schools, educators, parents, and policymakers within the region in which the center is located; and

(C) developing teacher and school leader inservice and preservice training models that illustrate best practices in the use of technology in different content areas.

(2) Coordination and collaboration

Each comprehensive center established under this section shall coordinate its activities, collaborate, and regularly exchange information with the regional educational laboratory in the region in which the center is located, the National Center for Education Evaluation and Regional Assistance, the Office of the Secretary, the State service agency, and other technical assistance providers in the region.

(g) Comprehensive center advisory board

(1) Establishment

Each comprehensive center established under this section shall have an advisory board that shall support the priorities of such center.

(2) Duties

Each advisory board established under paragraph (1) shall advise the comprehensive center—

(A) concerning the activities described in subsection (d) of this section;

(B) on strategies for monitoring and addressing the educational needs of the region, on an ongoing basis;

(C) on maintaining a high standard of quality in the performance of the center's activities; and

(D) on carrying out the center's duties in a manner that promotes progress toward improving student academic achievement.

(3) Composition

(A) In general

Each advisory board shall be composed of—

(i) the chief State school officers, or such officers' designees or other State officials, in each State served by the comprehensive center who have primary responsibility under State law for elementary and secondary education in the State; and

(ii) not more than 15 other members who are representative of the educational interests in

the region served by the comprehensive center and are selected jointly by the officials specified in clause (i) and the chief executive officer of each State served by the comprehensive center, including the following:

(I) Representatives of local educational agencies and regional educational agencies, including representatives of local educational agencies serving urban and rural areas.

(II) Representatives of institutions of higher education.

(III) Parents.

(IV) Practicing educators, including classroom teachers, principals, and administrators.

(V) Representatives of business.

(VI) Policymakers, expert practitioners, and researchers with knowledge of, and experience using, the results of research, evaluation, and statistics.

(B) Special rule

In the case of a State in which the chief executive officer has the primary responsibility under State law for elementary and secondary education in the State, the chief executive officer shall consult, to the extent permitted by State law, with the State educational agency in selecting additional members of the board under subparagraph (A)(i).

(h) Report to Secretary

Each comprehensive center established under this section shall submit to the Secretary an annual report, at such time, in such manner, and containing such information as the Secretary may require, which shall include the following:

(1) A summary of the comprehensive center's activities during the preceding year.

(2) A listing of the States, local educational agencies, and schools the comprehensive center assisted during the preceding year.

(Pub. L. 107–279, title II, §203, Nov. 5, 2002, 116 Stat. 1975; Pub. L. 114–95, title IX, §9215(gg)(2), Dec. 10, 2015, 129 Stat. 2174.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in subsecs. (a)(2)(A) and (b)(1), is title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, as amended, which was classified principally to subchapter IX (§6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985. Section 941(h) of the Act was classified to section 6041(h) of this title prior to repeal. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

Title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002), referred to in subsec. (b)(1), means title XIII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3876, which was classified generally to subchapter XIII (§8601 et seq.) of chapter 70 of this title, prior to amendment by Pub. L. 107–110. Parts A to D of title XIII of Pub. L. 89–10, were classified to parts A (§8621 et seq.), B (§8651 et seq.), C (§8671 et seq.), and D (§8701 et seq.), respectively, of subchapter XIII of chapter 70 of this title, and were redesignated as parts K to N of title IX of Pub. L. 103–227, by Pub. L. 107–110, title X, §§1021(a), 1022(a), 1023(a), 1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to parts G (§6053 et seq.), H (§6054 et seq.), I (§6055 et seq.), and J (§6056 et seq.), respectively, of subchapter IX of chapter 68 of this title, and subsequently repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (e)(1) and (f)(1)(A)(i), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

2015—Subsec. (a)(2)(B). Pub. L. 114–95, §9215(gg)(2)(A), substituted "the number of schools implementing comprehensive support and improvement activities and targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965" for "the number of schools identified for school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))".

Subsec. (e)(3). Pub. L. 114–95, §9215(gg)(2)(B), substituted "schools in the region that are implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965" for "schools in the region that have been identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))".

Subsec. (f)(1)(B). Pub. L. 114–95, §9215(gg)(2)(C), substituted ", and particularly assisting those schools implementing comprehensive support and improvement and targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965," for "and encouraging and sustaining school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)))".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

[1] *So in original.*

§9603. Evaluations

The Secretary shall provide for ongoing independent evaluations by the National Center for Education Evaluation and Regional Assistance of the comprehensive centers receiving assistance under this subchapter, the results of which shall be transmitted to the appropriate congressional committees and the Director of the Institute of Education Sciences. Such evaluations shall include an analysis of the services provided under this subchapter, the extent to which each of the comprehensive centers meets the objectives of its respective plan, and whether such services meet the educational needs of State educational agencies, local educational agencies, and schools in the region.

(Pub. L. 107–279, title II, §204, Nov. 5, 2002, 116 Stat. 1979.)

§9604. Existing technical assistance providers

The Secretary shall continue awards for the support of the Eisenhower Regional Mathematics and Science Education Consortia established under part M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before November 5, 2002), the Regional Technology in Education Consortia under section 3141 of the Elementary and Secondary Education Act of 1965 (as such section existed on the day before January 8, 2002), and the Comprehensive Regional Assistance Centers established under part K of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before November 5, 2002), in accordance with the terms of such awards, until the comprehensive centers authorized under section 9602 of this title are established.

(Pub. L. 107–279, title II, §205, Nov. 5, 2002, 116 Stat. 1979.)

REFERENCES IN TEXT

Parts K and M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such parts existed on the day before November 5, 2002), referred to in text, mean parts K and M of title IX

of Pub. L. 103–227, which were classified to parts G (§6053 et seq.) and I (§6055 et seq.), respectively, of subchapter IX of chapter 68 of this title, prior to repeal by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

Section 3141 of the Elementary and Secondary Education Act of 1965 (as such section existed on the day before January 8, 2002), referred to in text, is section 3141 of title III of Pub. L. 89–10, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3649, which was classified to section 6861 of this title prior to the general amendment of title III of Pub. L. 89–10 by Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1689.

§9605. Regional advisory committees

(a) Establishment

Beginning in 2004, the Secretary shall establish a regional advisory committee for each region described in section 9564(b) of this title.

(b) Membership

(1) Composition

The membership of each regional advisory committee shall—

(A) not exceed 25 members;

(B) contain a balanced representation of States in the region; and

(C) include not more than one representative of each State educational agency geographically located in the region.

(2) Eligibility

The membership of each regional advisory committee may include the following:

(A) Representatives of local educational agencies, including rural and urban local educational agencies.

(B) Representatives of institutions of higher education, including individuals representing university-based education research and university-based research on subjects other than education.

(C) Parents.

(D) Practicing educators, including classroom teachers, principals, administrators, school board members, and other local school officials.

(E) Representatives of business.

(F) Researchers.

(3) Recommendations

In choosing individuals for membership on a regional advisory committee, the Secretary shall consult with, and solicit recommendations from, the chief executive officers of States, chief State school officers, and education stakeholders within the applicable region.

(4) Special rule

(A) Total number

The total number of members on each committee who are selected under subparagraphs (A), (C), and (D) of paragraph (2), collectively, shall exceed the total number of members who are selected under paragraph (1)(C) and subparagraphs (B), (E), and (F) of paragraph (2), collectively.

(B) Dissolution

Each regional advisory committee shall be dissolved by the Secretary after submission of such committee's report described in subsection (c)(2) of this section to the Secretary, but each such committee may be reconvened at the discretion of the Secretary.

(c) Duties

Each regional advisory committee shall advise the Secretary on the following:

(1) An educational needs assessment of its region (using the results of the assessment conducted under subsection (d) of this section), in order to assist in making decisions regarding the regional educational priorities.

(2) Not later than 6 months after the committee is first convened, a report based on the assessment conducted under subsection (d) of this section.

(d) Regional assessments

Each regional advisory committee shall—

(1) assess the educational needs within the region to be served;

(2) in conducting the assessment under paragraph (1), seek input from chief executive officers of States, chief State school officers, educators, and parents (including through a process of open hearings to solicit the views and needs of schools (including public charter schools), teachers, administrators, members of the regional educational laboratory governing board, parents, local educational agencies, librarians, businesses, State educational agencies, and other customers (such as adult education programs) within the region) regarding the need for the activities described in section 9564 of this title and section 9602 of this title and how those needs would be most effectively addressed; and

(3) submit the assessment to the Secretary and to the Director of the Institute of Education Sciences, at such time, in such manner, and containing such information as the Secretary may require.

(Pub. L. 107–279, title II, §206, Nov. 5, 2002, 116 Stat. 1979; Pub. L. 108–446, title II, §203, Dec. 3, 2004, 118 Stat. 2803.)

AMENDMENTS

2004—Subsec. (d)(3). Pub. L. 108–446 substituted "Institute" for "Academy".

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§9606. Priorities

The Secretary shall establish priorities for the regional educational laboratories (established under section 9564 of this title) and comprehensive centers (established under section 9602 of this title) to address, taking onto account the regional assessments conducted under section 9605 of this title and other relevant regional surveys of educational needs, to the extent the Secretary deems appropriate.

(Pub. L. 107–279, title II, §207, Nov. 5, 2002, 116 Stat. 1981.)

§9607. Grant program for statewide, longitudinal data systems

(a) Grants authorized

The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable such agencies to design, develop, and implement statewide, longitudinal data systems to efficiently and accurately manage, analyze, disaggregate, and use individual student data, consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) Applications

Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may

reasonably require.

(c) Awarding of grants

In awarding grants under this section, the Secretary shall use a peer review process that—

(1) ensures technical quality (including validity and reliability), promotes linkages across States, and protects student privacy consistent with section 9573 of this title;

(2) promotes the generation and accurate and timely use of data that is needed—

(A) for States and local educational agencies to comply with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and other reporting requirements and close achievement gaps; and

(B) to facilitate research to improve student academic achievement and close achievement gaps; and

(3) gives priority to applications that meet the voluntary standards and guidelines described in section 9543(a)(5) of this title.

(d) Supplement not supplant

Funds made available under this section shall be used to supplement, and not supplant, other State or local funds used for developing State data systems.

(e) Report

Not later than 1 year after November 5, 2002, and again 3 years after such date, the Secretary, in consultation with the National Academies Committee on National Statistics, shall make publicly available a report on the implementation and effectiveness of Federal, State, and local efforts related to the goals of this section, including—

(1) identifying and analyzing State practices regarding the development and use of statewide, longitudinal data systems;

(2) evaluating the ability of such systems to manage individual student data consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 9573 of this title; and

(3) identifying best practices and areas for improvement.

(Pub. L. 107–279, title II, §208, Nov. 5, 2002, 116 Stat. 1981.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a), (c)(2)(A), and (e)(2), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

§9608. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter $80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 107–279, title II, §209, Nov. 5, 2002, 116 Stat. 1982.)

SUBCHAPTER III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

§9621. National Assessment Governing Board

(a) Establishment

There is established the National Assessment Governing Board (hereafter in this subchapter referred to as the "Assessment Board"), which shall formulate policy guidelines for the National Assessment (carried out under section 9622 of this title).

(b) Membership

(1) Appointment and composition

The Assessment Board shall be appointed by the Secretary and be composed as follows:

(A) Two Governors, or former Governors, who shall not be members of the same political party.

(B) Two State legislators, who shall not be members of the same political party.

(C) Two chief State school officers.

(D) One superintendent of a local educational agency.

(E) One member of a State board of education.

(F) One member of a local board of education.

(G) Three classroom teachers representing the grade levels at which the National Assessment is conducted.

(H) One representative of business or industry.

(I) Two curriculum specialists.

(J) Three testing and measurement experts, who shall have training and experience in the field of testing and measurement.

(K) One nonpublic school administrator or policymaker.

(L) Two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal.

(M) Two parents who are not employed by a local, State or Federal educational agency.

(N) Two additional members who are representatives of the general public, and who may be parents, but who are not employed by a local, State, or Federal educational agency.

(2) Director of the Institute of Education Sciences

The Director of the Institute of Education Sciences shall serve as an ex officio, nonvoting member of the Assessment Board.

(3) Balance and diversity

The Secretary and the Assessment Board shall ensure at all times that the membership of the Assessment Board reflects regional, racial, gender, and cultural balance and diversity and that the Assessment Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) Terms

(1) In general

Terms of service of members of the Assessment Board shall be staggered and may not exceed a period of 4 years, as determined by the Secretary.

(2) Service limitation

Members of the Assessment Board may serve not more than two terms.

(3) Change of status

A member of the Assessment Board who changes status under subsection (b) of this section during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(4) Conforming provision

Members of the Assessment Board previously granted 3 year terms, whose terms are in effect on December 21, 2000, shall have their terms extended by 1 year.

(d) Vacancies

(1) In general

(A) Organizations

The Secretary shall appoint new members to fill vacancies on the Assessment Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) of this section with respect to which the vacancy exists.

(B) Nominations

Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Assessment Board vacancy.

(C) Maintenance of Assessment Board

The Secretary's appointments shall maintain the composition, diversity, and balance of the Assessment Board required under subsection (b) of this section.

(2) Additional nominations

The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) Duties

(1) In general

In carrying out its functions under this section the Assessment Board shall—

(A) select the subject areas to be assessed (consistent with section 9622(b) of this title);

(B) develop appropriate student achievement levels as provided in section 9622(e) of this title;

(C) develop assessment objectives consistent with the requirements of this section and test specifications that produce an assessment that is valid and reliable, and are based on relevant widely accepted professional standards;

(D) develop a process for review of the assessment which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(E) design the methodology of the assessment to ensure that assessment items are valid and reliable, in consultation with appropriate technical experts in measurement and assessment, content and subject matter, sampling, and other technical experts who engage in large scale surveys;

(F) consistent with section 9622 of this title, measure student academic achievement in grades 4, 8, and 12 in the authorized academic subjects;

(G) develop guidelines for reporting and disseminating results;

(H) develop standards and procedures for regional and national comparisons;

(I) take appropriate actions needed to improve the form, content, use, and reporting of results of any assessment authorized by section 9622 of this title consistent with the provisions of this section and section 9622 of this title; and

(J) plan and execute the initial public release of National Assessment of Educational Progress reports.

The National Assessment of Educational Progress data shall not be released prior to the release of the reports described in subparagraph (J).

(2) Delegation

The Assessment Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) All cognitive and noncognitive assessment items

The Assessment Board shall have final authority on the appropriateness of all assessment items.

(4) Prohibition against bias

The Assessment Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias and are secular, neutral, and non-ideological.

(5) Technical

In carrying out the duties required by paragraph (1), the Assessment Board may seek technical advice, as appropriate, from the Commissioner for Education Statistics and other experts.

(6) Report

Not later than 90 days after an evaluation of the student achievement levels under section 9622(e) of this title, the Assessment Board shall make a report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate describing the steps the Assessment Board is taking to respond to each of the recommendations contained in such evaluation.

(f) Personnel

(1) In general

In the exercise of its responsibilities, the Assessment Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) Staff

(A) In general

The Secretary may appoint, at the request of the Assessment Board, such staff as will enable the Assessment Board to carry out its responsibilities.

(B) Technical employees

Such appointments may include, for terms not to exceed 3 years and without regard to the provisions of title 5 governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) Coordination

The Commissioner for Education Statistics and the Assessment Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner for Education Statistics to report to the Assessment Board on the Department's actions to implement the decisions of the Assessment Board.

(h) Administration

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Assessment Board, other than sections 10, 11, and 12 of such Act.

(Pub. L. 107–279, title III, §302, formerly Pub. L. 103–382, title IV, §412, Oct. 20, 1994, 108 Stat. 4039; Pub. L. 106–554, §1(a)(1) [title III, §307], Dec. 21, 2000, 114 Stat. 2763, 2763A–44; Pub. L. 107–110, title VI, §602(b), Jan. 8, 2002, 115 Stat. 1904; renumbered Pub. L. 107–279, title III, §302, and amended Pub. L. 107–279, title IV, §401(c), Nov. 5, 2002, 116 Stat. 1983.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 9011 of this title prior to renumbering by Pub. L. 107–279.

PRIOR PROVISIONS

A prior section 302 of Pub. L. 107–279 was renumbered section 304 and is classified to section 9623 of this

title.

AMENDMENTS

2002—Pub. L. 107–110 amended section generally, restating and expanding provisions and inserting headings.

Subsec. (a). Pub. L. 107–279, §401(c)(1), substituted "referred to as the 'Assessment Board' " for "referred to as the 'Board' " and inserted "(carried out under section 9622 of this title)" after "for the National Assessment".

Subsec. (b)(1). Pub. L. 107–279, §401(c)(2), substituted "Assessment Board" for "Board" in introductory provisions.

Subsec. (b)(2). Pub. L. 107–279, §401(c)(4), substituted "Director of the Institute of Education Sciences" for "Assistant Secretary for Educational Research" in heading and "Assistant Secretary for Educational Research and Improvement" in text.

Pub. L. 107–279, §401(c)(2), substituted "Assessment Board" for "Board".

Subsecs. (b)(3) to (d)(1). Pub. L. 107–279, §401(c)(2), substituted "Assessment Board" for "Board" wherever appearing.

Subsec. (e)(1). Pub. L. 107–279, §401(c)(2), (5)(A)(vii), substituted "Assessment Board" for "Board" in introductory provisions and inserted concluding provisions.

Subsec. (e)(1)(A). Pub. L. 107–279, §401(c)(5)(A)(i), substituted "section 9622(b)" for "section 9010(b)".

Subsec. (e)(1)(B). Pub. L. 107–279, §401(c)(5)(A)(ii), substituted "section 9622(e)" for "section 9010(e)".

Subsec. (e)(1)(E). Pub. L. 107–279, §401(c)(5)(A)(iii), struck out ", including the Advisory Council established under section 9006 of this title" before semicolon at end.

Subsec. (e)(1)(F), (I). Pub. L. 107–279, §401(c)(5)(A)(iv), substituted "section 9622" for "section 9010" wherever appearing.

Subsec. (e)(1)(J). Pub. L. 107–279, §401(c)(5)(A)(v)–(vii), added subpar. (J).

Subsec. (e)(2) to (4). Pub. L. 107–279, §401(c)(2), substituted "Assessment Board" for "Board".

Subsec. (e)(5). Pub. L. 107–279, §401(c)(5)(B), struck out "and the Advisory Council on Education Statistics" before "and other experts."

Pub. L. 107–279, §401(c)(3), substituted "Commissioner for Education Statistics" for "Commissioner".

Pub. L. 107–279, §401(c)(2), substituted "Assessment Board" for "Board".

Subsec. (e)(6). Pub. L. 107–279, §401(c)(5)(C), substituted "section 9622(e)" for "section 9010(e)".

Pub. L. 107–279, §401(c)(2), substituted "Assessment Board" for "Board" in two places.

Subsec. (f). Pub. L. 107–279, §401(c)(2), substituted "Assessment Board" for "Board" wherever appearing.

Subsec. (g). Pub. L. 107–279, §401(c)(3), substituted "Commissioner for Education Statistics" for "Commissioner" in two places.

Pub. L. 107–279, §401(c)(2), substituted "Assessment Board" for "Board" wherever appearing.

Subsec. (h). Pub. L. 107–279, §401(c)(2), substituted "Assessment Board" for "Board".

2000—Subsec. (c)(1). Pub. L. 106–554, §1(a)(1) [title III, §307(1)], substituted "4 years" for "3 years".

Subsec. (c)(4). Pub. L. 106–554, §1(a)(1) [title III, §307(2)], added par. (4).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SHORT TITLE

This subchapter known as the "National Assessment of Educational Progress Authorization Act", see Short Title note set out under section 9501 of this title.

§9622. National Assessment of Educational Progress

(a) Establishment

The Commissioner for Education Statistics shall, with the advice of the Assessment Board established under section 9621 of this title, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress, which collectively refers to a national assessment, State assessments, and a long-term trend assessment in reading and mathematics.

(b) Purpose; State assessments

(1) Purpose

The purpose of this section is to provide, in a timely manner, a fair and accurate measurement of student academic achievement and reporting of trends in such achievement in reading, mathematics, and other subject matter as specified in this section.

(2) Measurement and reporting

The Commissioner for Education Statistics, in carrying out the measurement and reporting described in paragraph (1), shall—

(A) use a random sampling process which is consistent with relevant, widely accepted professional assessment standards and that produces data that are representative on a national and regional basis;

(B) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private elementary schools and secondary schools at least once every 2 years, in grades 4 and 8 in reading and mathematics;

(C) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private schools in reading and mathematics in grade 12 in regularly scheduled intervals, but at least as often as such assessments were conducted prior to January 8, 2002;

(D) to the extent time and resources allow, and after the requirements described in subparagraph (B) are implemented and the requirements described in subparagraph (C) are met, conduct additional national assessments and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in grades 4, 8, and 12 in public and private elementary schools and secondary schools in regularly scheduled intervals in additional subject matter, including writing, science, history, geography, civics, economics, foreign languages, and arts, and the trend assessment described in subparagraph (F);

(E) conduct the reading and mathematics assessments described in subparagraph (B) in the same year, and every other year thereafter, to provide for 1 year in which no such assessments are conducted in between each administration of such assessments;

(F) continue to conduct the trend assessment of academic achievement at ages 9, 13, and 17 for the purpose of maintaining data on long-term trends in reading and mathematics;

(G) include information on special groups, including, whenever feasible, information collected, cross tabulated, compared, and reported by race, ethnicity, socioeconomic status, gender, disability and limited English proficiency; and

(H) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis and that includes trend lines.

(3) State assessments

(A) In general

The Commissioner for Education Statistics—

(i) shall conduct biennial State academic assessments of student achievement in reading and mathematics in grades 4 and 8 as described in paragraphs (2)(B) and (2)(E);

(ii) may conduct the State academic assessments of student achievement in reading and mathematics in grade 12 as described in paragraph (2)(C);

(iii) may conduct State academic assessments of student achievement in grades 4, 8, and 12 as described in paragraph (2)(D); and

(iv) shall conduct each such State assessment, in each subject area and at each grade level, on a developmental basis until the Commissioner for Education Statistics determines, as the result of an evaluation required by subsection (f) of this section, that such assessment produces high quality data that are valid and reliable.

(B) Agreement

(i) In general

States participating in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(3) of this section.

(ii) Content

Such agreement shall contain information sufficient to give States full information about the process for decision-making (which shall include the consensus process used), on objectives to be tested, and the standards for random sampling, test administration, test security, data collection, validation, and reporting.

(C) Review and release

(i) In general

Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(ii) Special rule

A State participating in the biennial academic assessments of student achievement in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if the State has an approved plan under section 6311 of this title.

(4) Prohibited activities

(A) In general

The use of assessment items and data on any assessment authorized under this section by an agent or agents of the Federal Government to rank, compare, or otherwise evaluate individual students or teachers, or to provide rewards or sanctions for individual students, teachers, schools or local educational agencies is prohibited.

(B) Special rule

Any assessment authorized under this section shall not be used by an agent or agents of the Federal Government to establish, require, or influence the standards, assessments, curriculum, including lesson plans, textbooks, or classroom materials, or instructional practices of States or local educational agencies.

(C) Applicability to student educational decisions

Nothing in this section shall be construed to prescribe the use of any assessment authorized under this section for student promotion or graduation purposes.

(D) Applicability to home schools

Nothing in this section shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law, nor shall any home schooled student be required to participate in any assessment referenced or authorized under this section.

(5) Requirement

In carrying out any assessment authorized under this section, the Commissioner for Education Statistics, in a manner consistent with subsection (c)(3) of this section, shall—

(A) use widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and ensure that any academic assessment authorized under this section be tests that do not evaluate or assess personal or family beliefs and attitudes or publicly disclose personally identifiable information;

(B) only collect information that is directly related to the appraisal of academic achievement, and to the fair and accurate presentation of such information; and

(C) collect information on race, ethnicity, socioeconomic status, disability, limited English

proficiency, and gender.

(6) Technical assistance

In carrying out any assessment authorized under this section, the Commissioner for Education Statistics may provide technical assistance to States, localities, and other parties.

(c) Access

(1) Public access

(A) In general

Except as provided in paragraph (3), parents and members of the public shall have access to all assessment data, questions, and complete and current assessment instruments of any assessment authorized under this section. The local educational agency shall make reasonable efforts to inform parents and members of the public about the access required under this paragraph.

(B) Timeline

The access described in this paragraph shall be provided within 45 days of the date the request was made, in writing, and be made available in a secure setting that is convenient to both parties.

(C) Prohibition

To protect the integrity of the assessment, no copy of the assessment items or assessment instruments shall be duplicated or taken from the secure setting.

(2) Complaints

(A) In general

Parents and members of the public may submit written complaints to the Assessment Board.

(B) Forwarding of complaints

The Assessment Board shall forward such complaints to the Commissioner for Education Statistics, the Secretary of Education, and the State and local educational agency from within which the complaint originated within 30 days of receipt of such complaint.

(C) Review

The Assessment Board, in consultation with the Commissioner for Education Statistics, shall review such complaint and determine whether revisions are necessary and appropriate. As determined by such review, the Board shall revise, as necessary and appropriate, the procedures or assessment items that have generated the complaint and respond to the individual submitting the complaint, with a copy of such response provided to the Secretary, describing any action taken, not later than 30 days after so acting.

(D) Report

The Secretary shall submit a summary report of all complaints received pursuant to subparagraph (A) and responses by the Assessment Board pursuant to subparagraph (C) to the Chairman of the House Committee on Education and the Workforce, and the Chairman of the Senate Committee on Health, Education, Labor, and Pensions.

(E) Cognitive questions

(i) In general

The Commissioner for Education Statistics may decline to make available through public means, such as posting on the Internet, distribution to the media, distribution through public agencies, or in response to a request under section 552 of title 5, for a period, not to exceed 10 years after initial use, cognitive questions that the Commissioner for Education Statistics intends to reuse in the future.

(ii) Extension

Notwithstanding clause (i), the Commissioner for Education Statistics may decline to make cognitive questions available as described in clause (i) for a period longer than 10 years if the Commissioner for Education Statistics determines such additional period is necessary to protect the security and integrity of long-term trend data.

(3) Personally identifiable information

(A) In general

The Commissioner for Education Statistics shall ensure that all personally identifiable information about students, their academic achievement, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5.

(B) Prohibition

The Assessment Board, the Commissioner for Education Statistics, and any contractor or subcontractor shall not maintain any system of records containing a student's name, birth information, Social Security number, or parents' name or names, or any other personally identifiable information.

(4) Penalties

Any unauthorized person who knowingly discloses, publishes, or uses assessment questions, or complete and current assessment instruments of any assessment authorized under this section may be fined as specified in section 3571 of title 18 or charged with a class E felony.

(d) Participation

(1) Voluntary participation

Participation in any assessment authorized under this section shall be voluntary for students, schools, and local educational agencies.

(2) Student participation

Parents of children selected to participate in any assessment authorized under this section shall be informed before the administration of any authorized assessment, that their child may be excused from participation for any reason, is not required to finish any authorized assessment, and is not required to answer any test question.

(3) State participation

(A) Voluntary

Participation in assessments authorized under this section, other than reading and mathematics in grades 4 and 8, shall be voluntary.

(B) Agreement

For reading and mathematics assessments in grades 4 and 8, the Secretary shall enter into an agreement with any State carrying out an assessment for the State under this section. Each such agreement shall contain provisions designed to ensure that the State will participate in the assessment.

(4) Review

Representatives of State educational agencies and local educational agencies or the chief State school officer shall have the right to review any assessment item or procedure of any authorized assessment upon request in a manner consistent with subsection (c) of this section, except the review described in subparagraph (2)(C) of subsection (c) of this section shall take place in consultation with the representatives described in this paragraph.

(e) Student achievement levels

(1) Achievement levels

The Assessment Board shall develop appropriate student achievement levels for each grade or

age in each subject area to be tested under assessments authorized under this section, except the trend assessment described in subsection (b)(2)(F) of this section.

(2) Determination of levels

(A) In general

Such levels shall—

(i) [1] be determined by—

(I) identifying the knowledge that can be measured and verified objectively using widely accepted professional assessment standards; and

(II) developing achievement levels that are consistent with relevant widely accepted professional assessment standards and based on the appropriate level of subject matter knowledge for grade levels to be assessed, or the age of the students, as the case may be.

(B) National consensus approach

After the determinations described in subparagraph (A), devising a national consensus approach.

(C) Trial basis

The achievement levels shall be used on a trial basis until the Commissioner for Education Statistics determines, as a result of an evaluation under subsection (f) of this section, that such levels are reasonable, valid, and informative to the public.

(D) Status

The Commissioner for Education Statistics and the Board shall ensure that reports using such levels on a trial basis do so in a manner that makes clear the status of such levels.

(E) Updates

Such levels shall be updated as appropriate by the Assessment Board in consultation with the Commissioner for Education Statistics.

(3) Reporting

After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f) of this section, the Commissioner for Education Statistics shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(4) Review

The Assessment Board shall provide for a review of any trial student achievement levels under development by representatives of State educational agencies or the chief State school officer in a manner consistent with subsection (c) of this section, except the review described in paragraph (2)(C) of such subsection shall take place in consultation with the representatives described in this paragraph.

(f) Review of National and State assessments

(1) Review

(A) In general

The Secretary shall provide for continuing review of any assessment authorized under this section, and student achievement levels, by one or more professional assessment evaluation organizations.

(B) Issues addressed

Such continuing review shall address—

(i) whether any authorized assessment is properly administered, produces high quality data that are valid and reliable, is consistent with relevant widely accepted professional assessment standards, and produces data on student achievement that are not otherwise

available to the State (other than data comparing participating States to each other and the Nation);

(ii) whether student achievement levels are reasonable, valid, reliable, and informative to the public;– [2]

(iii) whether any authorized assessment is being administered as a random sample and is reporting the trends in academic achievement in a valid and reliable manner in the subject areas being assessed;

(iv) whether any of the test questions are biased, as described in section 9621(e)(4) of this title; and

(v) whether the appropriate authorized assessments are measuring, consistent with this section, reading ability and mathematical knowledge.

(2) Report

The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, the President, and the Nation on the findings and recommendations of such reviews.

(3) Use of findings and recommendations

The Commissioner for Education Statistics and the Assessment Board shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner for Education Statistics carries out the National Assessment.

(g) Coverage agreements

(1) Department of Defense schools

The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary schools and secondary schools operated by the Department of Defense.

(2) Bureau of Indian Affairs schools

The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

(Pub. L. 107–279, title III, §303, formerly Pub. L. 103–382, title IV, §411, Oct. 20, 1994, 108 Stat. 4036; Pub. L. 107–110, title VI, §602(a), Jan. 8, 2002, 115 Stat. 1898; renumbered Pub. L. 107–279, title III, §303, and amended Pub. L. 107–279, title IV, §401(d), Nov. 5, 2002, 116 Stat. 1984.)

CODIFICATION

Section was formerly classified to section 9010 of this title prior to renumbering by Pub. L. 107–279.

PRIOR PROVISIONS

A prior section 303 of Pub. L. 107–279 was renumbered section 305 and is classified to section 9624 of this title.

AMENDMENTS

2002—Pub. L. 107–110 amended section generally, restating and expanding provisions and inserting headings.

Subsec. (a). Pub. L. 107–279, §401(d)(3), substituted "section 9621" for "section 9011" and struck out "and with the technical assistance of the Advisory Council established under section 9006 of this title," before "carry out".

Pub. L. 107–279, §401(d)(2), substituted "Assessment Board" for "National Assessment Governing Board".

Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner".

Subsec. (b)(1). Pub. L. 107–279, §401(d)(4)(A), inserted "of" after "academic achievement and reporting".

Subsec. (b)(2), (3)(A). Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner" in introductory provisions.

Subsec. (b)(3)(A)(i). Pub. L. 107–279, §401(d)(4)(B)(i), substituted "paragraphs (2)(B) and (2)(E)" for

"paragraphs (1)(B) and (1)(E)".

Subsec. (b)(3)(A)(ii). Pub. L. 107–279, §401(d)(4)(B)(ii), substituted "paragraph (2)(C)" for "paragraph (1)(C)".

Subsec. (b)(3)(A)(iii). Pub. L. 107–279, §401(d)(4)(B)(iii), substituted "paragraph (2)(D)" for "paragraph (1)(D)".

Subsec. (b)(3)(A)(iv). Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner".

Subsec. (b)(5). Pub. L. 107–279, §401(d)(4)(C), substituted "subsection (c)(3)" for "subsection (c)(2)" in introductory provisions.

Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner" in introductory provisions.

Subsec. (b)(6). Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner".

Subsec. (c)(2). Pub. L. 107–279, §401(d)(2), substituted "Assessment Board" for "National Assessment Governing Board" wherever appearing.

Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner" wherever appearing.

Subsec. (c)(2)(D). Pub. L. 107–279, §401(d)(5), substituted "subparagraph (C)" for "subparagraph (B)".

Subsec. (c)(3). Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner" in subpars. (A) and (B).

Subsec. (c)(3)(B). Pub. L. 107–279, §401(d)(2), substituted "Assessment Board" for "National Board".

Subsec. (e)(1). Pub. L. 107–279, §401(d)(2), substituted "Assessment Board" for "National Assessment Governing Board".

Subsec. (e)(2). Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner" wherever appearing.

Subsec. (e)(2)(E). Pub. L. 107–279, §401(d)(2), substituted "Assessment Board" for "National Assessment Governing Board".

Subsec. (e)(3). Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner".

Subsec. (e)(4). Pub. L. 107–279, §401(d)(6), substituted "paragraph (2)(C) of such subsection" for "subparagraph (2)(C)".

Pub. L. 107–279, §401(d)(2), substituted "Assessment Board" for "National Assessment Governing Board".

Subsec. (f)(1)(B)(iv). Pub. L. 107–279, §401(d)(7), substituted "section 9621(e)(4)" for "section 9011(e)(4)".

Subsec. (f)(3). Pub. L. 107–279, §401(d)(2), substituted "Assessment Board" for "National Assessment Governing Board".

Pub. L. 107–279, §401(d)(1), substituted "Commissioner for Education Statistics" for "Commissioner" in two places.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

[1] So in original. No cl. (ii) has been enacted.

[2] So in original.

§9623. Definitions

In this subchapter:

(1) The term "Director" means the Director of the Institute of Education Sciences.

(2) The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 107–279, title III, §304, formerly §302, Nov. 5, 2002, 116 Stat. 1982; renumbered §304, Pub. L. 107–279, title IV, §401(b), Nov. 5, 2002, 116 Stat. 1983.)

§9624. Authorization of appropriations

(a) In general

There are authorized to be appropriated—

(1) for fiscal year 2003—

(A) $4,600,000 to carry out section 9621 of this title; and

(B) $107,500,000 to carry out section 9622 of this title; and

(2) such sums as may be necessary for each of the 5 succeeding fiscal years to carry out sections 9621 and 9622 of this title.

(b) Availability

Amounts made available under this section shall remain available until expended.

(Pub. L. 107–279, title III, §305, formerly §303, Nov. 5, 2002, 116 Stat. 1982; renumbered §305, Pub. L. 107–279, title IV, §401(b), Nov. 5, 2002, 116 Stat. 1983.)

SUBCHAPTER IV—NATIONAL CENTER FOR RESEARCH IN ADVANCED INFORMATION AND DIGITAL TECHNOLOGIES

§9631. National Center for Research in Advanced Information and Digital Technologies

(a) Establishment

There shall be established, during the first fiscal year for which appropriations are made available under subsection (c), a nonprofit corporation to be known as the National Center for Research in Advanced Information and Digital Technologies, which shall not be an agency or establishment of the Federal Government. The Center shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act (sec. 29–501 et seq., D.C. Official Code).

(b) Purpose

The purpose of the Center shall be to support a comprehensive research and development program to harness the increasing capacity of advanced information and digital technologies to improve all levels of learning and education, formal and informal, in order to provide Americans with the knowledge and skills needed to compete in the global economy.

(c) Funding

(1) Authorization of appropriations

There are authorized to be appropriated to the Center such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(2) Additional funds

The Center is authorized—

(A) to accept funds from any Federal agency or entity;

(B) to accept, hold, administer, and spend any gift, devise, or bequest of real or personal property made to the Center; and

(C) to enter into competitive contracts with individuals, public or private organizations, professional societies, and government agencies for the purpose of carrying out the functions of the Center.

(3) Prohibition

The Center shall not accept gifts, devises, or bequests from a foreign government or foreign source.

(d) Board of Directors; vacancies; compensation

(1) In general

A Board of the Center shall be established to oversee the administration of the Center.

(2) Initial composition

The initial Board shall consist of nine members to be appointed by the Secretary of Education from recommendations received from the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate, who—

(A) reflect representation from the public and private sectors;

(B) shall provide, as nearly as practicable, a broad representation of various regions of the United States, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Center;

(C) shall not be in a position to benefit financially directly from the contracts and grants to eligible institutions under subsection (f)(2); and

(D) may not be officers or employees of the Federal Government or a Members of Congress serving at the time of such appointment.

(3) Vacancies and subsequent appointments

To the extent not inconsistent with paragraph (2), in the case of a vacancy on the Board due to death, resignation, or removal, the vacancy shall be filled through nomination and selection by the sitting members of the Board after—

(A) taking into consideration the composition of the Board; and

(B) soliciting recommendations from the public.

(4) Compensation

Members of the Board shall serve without compensation but may be reimbursed for reasonable expenses for transportation, lodging, and other expenses directly related to their duties as members of the Board.

(5) Organization and operation

The Board shall incorporate and operate the Center in accordance with the laws governing tax exempt organizations in the District of Columbia.

(e) Director and staff

(1) Director

The Board shall appoint a Director of the Center after conducting a national, competitive search to find an individual with the appropriate expertise, experience, and knowledge to oversee the operations of the Center.

(2) Staff

In accordance with procedures established by the Board, the Director shall employ individuals to carry out the functions of the Center.

(3) Compensation

In no case shall the Director or any employee of the Center receive annual compensation that exceeds an amount equal to the annual rate payable for level II of the Executive Schedule under section 5313 of title 5.

(f) Center activities

(1) Uses of funds

The Director, after consultation with the Board, shall use the funds made available to the Center—

(A) to support research to improve education, teaching, and learning that is in the public interest, but that is determined unlikely to be undertaken entirely with private funds;

(B) to support—

(i) precompetitive research, development, and demonstrations;

(ii) assessments of prototypes of innovative digital learning and information technologies, as well as the components and tools needed to create such technologies; and

(iii) pilot testing and evaluation of prototype systems described in clause (ii); and

(C) to encourage the widespread adoption and use of effective, innovative digital approaches to improving education, teaching, and learning.

(2) Contracts and grants

(A) In general

To carry out the activities described in paragraph (1), the Director, with the agreement of two-thirds of the members of the Board, may award, on a competitive basis, contracts and grants to four-year institutions of higher education, museums, libraries, nonprofit organizations, public institutions with or without for-profit partners, for-profit organizations, and consortia of any such entities.

(B) Public domain

(i) In general

The research and development properties and materials associated with any project funded by a grant or contract under this section shall be freely and nonexclusively available to the general public in a timely manner, consistent with regulations prescribed by the Secretary of Education.

(ii) Exemption

The Director may waive the requirements of clause (i) with respect to a project funded by a grant or contract under this section if—

(I) the Director and the Board (by a unanimous vote of the Board members) determine that the general public will benefit significantly due to the project not being freely and nonexclusively available to the general public in a timely manner; and

(II) the Board issues a public statement as to the specific reasons of the determination under subclause (I).

(C) Peer review

Proposals for grants or contracts shall be evaluated on the basis of comparative merit by panels of experts who represent diverse interests and perspectives, and who are appointed by the Director based on recommendations from the fields served and from the Board.

(g) Accountability and reporting

(1) Report

(A) In general

Not later than December 30 of each year beginning in fiscal year 2009, the Director shall prepare and submit to the Secretary of Education and the authorizing committees a report that contains the information described in subparagraph (B) with respect to the preceding fiscal year.

(B) Contents

A report under subparagraph (A) shall include—

(i) a comprehensive and detailed report of the Center's operations, activities, financial condition, and accomplishments, and such recommendations as the Director determines appropriate;

(ii) evidence of coordination with the Department of Education, the National Science Foundation, Office of the Assistant Secretary of Defense for Research and Engineering in the Department of Defense, and other related Federal agencies to carry out the operations and activities of the Center;

(iii) a comprehensive and detailed inventory of funds distributed from the Center during the fiscal year for which the report is being prepared; and

(iv) an independent audit of the Center's finances and operations, and of the implementation of the goals established by the Board.

(C) Statement of the Board

Each report under subparagraph (A) shall include a statement from the Board containing—

(i) a clear description of the plans and priorities of the Board for the subsequent year for activities of the Center; and

(ii) an estimate of the funds that will be expended by the Center for such year.

(2) Testimony

The Director and principal officers of the Center shall testify before the authorizing committees and the Committees on Appropriations of the House of Representatives and the Senate, upon request of such committees, with respect to—

(A) any report required under paragraph (1)(A); and

(B) any other matter that such committees may determine appropriate.

(h) Use of funds subject to appropriations

The authority to award grants, enter into contracts, or otherwise expend funds under this section is subject to the availability of amounts deposited into the Center under subsection (c), or amounts otherwise appropriated for such purposes by an Act of Congress.

(i) Definitions

For purposes of this section:

(1) Authorizing committees

The term "authorizing committees" has the meaning given the term in section 1003 of this title.

(2) Board

The term "Board" means the Board of the Center appointed under subsection (d)(1).

(3) Center

The term "Center" means the National Center for Research in Advanced Information and Digital Technologies established under subsection (a).

(4) Director

The term "Director" means the Director of the Center appointed under subsection (e)(1).

(Pub. L. 110–315, title VIII, §802, Aug. 14, 2008, 122 Stat. 3446; Pub. L. 112–239, div. A, title X, §1076(c)(2)(A)(vii), Jan. 2, 2013, 126 Stat. 1950.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a), is Pub. L. 87–569, Aug. 6, 1962, 76 Stat. 265, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Higher Education Opportunity Act, and not as part of Pub. L. 107–279 which comprises this chapter.

AMENDMENTS

2013—Subsec. (g)(1)(B)(ii). Pub. L. 112–239 substituted "Assistant Secretary of Defense for Research and Engineering" for "Director of Defense Research and Engineering".

CHAPTER 77—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

Sec.

9701. Definitions.
9702. Establishment of Financial Literacy and Education Commission.
9703. Duties of the Commission.
9704. Powers of the Commission.
9705. Commission personnel matters.
9706. Studies by the Comptroller General.
9707. The national public service multimedia campaign to enhance the state of financial literacy.
9708. Authorization of appropriations.
9709. Coordinated education efforts.

§9701. Definitions

As used in this chapter—

(1) the term "Chairperson" means the Chairperson of the Financial Literacy and Education Commission; and

(2) the term "Commission" means the Financial Literacy and Education Commission established under section 9702 of this title.

(Pub. L. 108–159, title V, §512, Dec. 4, 2003, 117 Stat. 2003.)

EFFECTIVE DATE

Chapter subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as an Effective Date of 2003 Amendment note under section 1681 of Title 15, Commerce and Trade.

SHORT TITLE

Pub. L. 108–159, title V, §511, Dec. 4, 2003, 117 Stat. 2003, provided that: "This title [enacting this chapter] may be cited as the 'Financial Literacy and Education Improvement Act'."

EX. ORD. NO. 13455. ESTABLISHING THE PRESIDENT'S ADVISORY COUNCIL ON FINANCIAL LITERACY

Ex. Ord. No. 13455, Jan. 22, 2008, 73 F.R. 4445, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and to promote and enhance financial literacy among the American people, it is hereby ordered as follows:

SECTION 1. *Policy*. To help keep America competitive and assist the American people in understanding and addressing financial matters, it is the policy of the Federal Government to encourage financial literacy among the American people.

SEC. 2. *Establishment of the Council*. There is established within the Department of the Treasury the President's Advisory Council on Financial Literacy (Council).

SEC. 3. *Membership and Operation of the Council*. (a) The Council shall consist of 19 members appointed by the President from among individuals not employed by the Federal Government, consistent with subsection (b) of this section.

(b) In selecting individuals for appointment to the Council, appropriate consideration should be given to selection of individuals with backgrounds as providers of, consumers of, promoters of access to, and educators with respect to financial education and financial services. Each individual member of the Council will serve as a representative of his or her industry, trade group, public interest group, or other organization or group. The composition of the Council will reflect the views of diverse stakeholders.

(c) The President shall designate a Chair and a Vice Chair from among the members of the Council.

(d) Subject to the direction of the Secretary of the Treasury (Secretary), the Chair shall convene and preside at meetings of the Council, determine its agenda, direct its work, and, as appropriate to deal with particular subject matters, establish and direct the work of subgroups of the Council that shall consist exclusively of members of the Council.

(e) The Vice Chair shall perform:

(i) the duties of the Chair when the position of Chair is vacant; and

(ii) such other functions as the Chair may from time to time assign.

SEC. 4. *Functions of the Council*. To assist in implementing the policy set forth in section 1 of this order, the Council shall:

(a) obtain information and advice concerning financial literacy as appropriate in the course of its work from:

(i) officers and employees of executive departments and agencies (including members of the Financial Literacy and Education Commission), unless otherwise directed by the head of the department or agency;

(ii) State, local, territorial, and tribal officials;

(iii) providers of, consumers of, promoters of access to, and educators with respect to financial services;

(iv) experts on matters relating to the policy set forth in section 1; and

(v) such other individuals as the Secretary may direct;

(b) advise the President and the Secretary consistent with this order on means to implement effectively the policy set forth in section 1, including by providing advice on means to:

(i) improve financial education efforts for youth in school and for adults in the workplace;

(ii) promote effective access to financial services, especially for those without access to such services;

(iii) establish effective measures of national financial literacy;

(iv) conduct research on financial knowledge, including the collection of data on the extent of financial knowledge of individuals; and

(v) strengthen and coordinate public and private sector financial education programs; and

(c) periodically report to the President, through the Secretary, on:

(i) the status of financial literacy in the United States;

(ii) progress made in implementing the policy set forth in section 1 of this order; and

(iii) recommendations on means to further implement the policy set forth in section 1 of this order, including with respect to the matters set forth in subsection (b)(i) through (v) of this section.

SEC. 5. *Administration of the Council*. (a) To the extent permitted by law, the Department of the Treasury shall provide funding and administrative support for the Council, as determined by the Secretary, to implement this order.

(b) The heads of executive departments and agencies shall provide, as appropriate and to the extent permitted by law, such assistance and information to the Council as the Secretary may request to implement this order.

(c) Members of the Council:

(i) shall serve without any compensation for their work on the Council; and

(ii) while engaged in the work of the Council, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government (5 U.S.C. 5701–5707), consistent with the availability of funds.

(d) The Secretary shall designate an officer or employee of the United States within the Department of the Treasury to serve as an Executive Director to supervise the administrative support for the Council.

SEC. 6. *Termination of the Council*. Unless extended by the President, the Council shall terminate 2 years from the date of this order.

SEC. 7. *General Provisions*. (a) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (Act), may apply to the Council, any functions of the President under the Act, except for those in section 6 of the Act, shall be performed by the Secretary in accordance with the guidelines issued by the Administrator of General Services.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 13530. PRESIDENT'S ADVISORY COUNCIL ON FINANCIAL CAPABILITY

Ex. Ord. No. 13530, Jan. 29, 2010, 75 F.R. 5481, as amended by Ex. Ord. No. 13591, §3, Nov. 23, 2011, 76

F.R. 74623, provided:

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

SECTION 1. *Policy*. To help keep America competitive and assist the American people in understanding and addressing financial matters, and thereby contribute to financial stability, it is the policy of the Federal Government to promote and enhance financial capability among the American people. Financial capability is the capacity, based on knowledge, skills, and access, to manage financial resources effectively. In order to develop this capacity, individuals must have appropriate access to and understanding of financial products, services, and concepts. Financial capability empowers individuals to make informed choices, avoid pitfalls, know where to go for help, and take other actions to improve their present and long-term financial well-being.

SEC. 2. *Establishment of the Council*. There is established within the Department of the Treasury the President's Advisory Council on Financial Capability (Council).

SEC. 3. *Membership and Operation of the Council*. (a) The Council shall consist of:

(i) the Secretary of the Treasury and the Secretary of Education, who may designate a senior official from each of their respective departments to perform their Council duties; and

(ii) not more than 22 members appointed by the President from among individuals not employed by the Federal Government, up to three of whom shall be selected by the President on the basis of their experience in academia or similar research experience related to financial education and financial access.

(b) Members of the Council shall include individuals with relevant backgrounds, such as financial services providers, consumers, access advocates, and educators. Members of the Council appointed by the President pursuant to subsection (a)(ii) of this section, may serve as representatives of individual industries, trade groups, public interest groups, or other organizations. The composition of the Council shall reflect the views of diverse stakeholders.

(c) The President shall designate a Chair and a Vice Chair from among the members of the Council appointed pursuant to subsection (a)(ii) of this section.

(d) Subject to the direction of the Secretary of the Treasury (Secretary), the Chair shall convene and preside at meetings of the Council, determine its agenda, direct its work, and, as appropriate to deal with particular subjects, establish and direct the work of subgroups of the Council that shall consist exclusively of members of the Council.

(e) The Vice Chair shall perform:

(i) the duties of the Chair when the position of Chair is vacant; and

(ii) such other functions as the Chair may from time to time assign.

SEC. 4. *Functions of the Council*. To assist in implementing the policy set forth in section 1 of this order, the Council shall:

(a) collect information and views concerning financial capability from:

(i) officers of executive departments and agencies (including members of the Financial Literacy and Education Commission established under title V of the Fair and Accurate Credit Transaction[s] Act [of 2003], Public Law 108–159);

(ii) State, local, territorial, and tribal officials;

(iii) financial services providers and consumers, financial access advocates, and financial literacy educators;

(iv) experts on matters relating to the policy set forth in section 1 of this order; and

(v) such other individuals as the Secretary may direct;

(b) advise the President and the Secretary on means to implement effectively the policy set forth in section 1 of this order, including means to:

(i) build a culture of financial capability by promoting messages and lessons about sound financial practices as broadly as possible;

(ii) improve financial education efforts directed at youth, young adults, and adults in schools, workplaces, and other settings through innovative approaches;

(iii) promote access to financial services;

(iv) promote the private-sector development of financial products and services benefitting consumers, especially low- and moderate-income consumers;

(v) educate consumers about effective use of such products and services;

(vi) identify the most important basic financial concepts and actions individuals need to understand and perform to be financially capable;

(vii) identify effective financial education approaches and methods for evaluating the effectiveness of financial education approaches; and

(viii) strengthen and enhance coordination between public and private-sector financial education programs;

(c) periodically report to the President, through the Secretary, on:

(i) the status of financial capability in the United States;

(ii) progress made in implementing the policy set forth in section 1 of this order; and

(iii) recommended means to further implement the policy set forth in section 1 of this order, including with respect to the matters set forth in subsection (b) of this section; and

(d) where appropriate in providing advice and recommendations, take into consideration the particular needs of traditionally underserved populations.

SEC. 5. *Administration of the Council*. (a) To the extent permitted by law, the Department of the Treasury shall provide funding and administrative support for the Council, as determined by the Secretary, to implement this order.

(b) The heads of executive departments and agencies shall provide, as appropriate and to the extent permitted by law, such assistance and information to the Council as the Secretary may request to implement this order.

(c) Members of the Council:

(i) shall serve without any compensation for their work on the Council; and

(ii) while engaged in the work of the Council, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707), consistent with the availability of funds.

(d) The Secretary shall designate an official within the Department of the Treasury to serve as an Executive Director to supervise the administrative support for the Council.

SEC. 6. [*Termination of the Council*.] Unless extended by the President, the Council shall terminate on January 29, 2013.

SEC. 7. *General Provisions*. (a) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act"), may apply to the Council, any functions of the President under the Act, except for that of reporting to the Congress, shall be performed by the Secretary in accordance with the guidelines issued by the Administrator of General Services.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EX. ORD. NO. 13646. ESTABLISHING THE PRESIDENT'S ADVISORY COUNCIL ON FINANCIAL CAPABILITY FOR YOUNG AMERICANS

Ex. Ord. No. 13646, June 25, 2013, 78 F.R. 39159, provided:

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

SECTION 1. *Policy*. To contribute to the Nation's future financial stability and increase upward economic mobility, it is the policy of the Federal Government to promote financial capability among young Americans and encourage building the financial capability of young people at an early stage in schools, families, communities, and the workplace. By starting early, young people can begin to learn the difference between wants and needs, the importance and power of saving, and the positive and productive role money can play in their lives. Having a basic understanding of money management from an early age will make our young people better equipped to tackle more complex financial decisions in their transition to adulthood, when critical decisions about financing higher education and saving for retirement can have lasting consequences for financial security. Strengthening the financial capability of our young people is an investment in our Nation's economic prosperity.

Financial capability is the capacity, based on knowledge, skills, and access, to manage financial resources prudently and effectively. Efforts to improve financial capability, which should be based on evidence of effectiveness, empower individuals to make informed choices, plan and set goals, avoid pitfalls, know where to seek help, and take other actions to better their present and long-term financial well-being.

SEC. 2. *Establishment of the Council*. There is established within the Department of the Treasury the President's Advisory Council on Financial Capability for Young Americans (Council).

SEC. 3. *Membership and Operation of the Council*. (a) The Council shall consist of:

(i) the Secretary of the Treasury (Secretary), and the Secretary of Education, who may designate a senior official from each of their respective departments to perform their Council duties; and

(ii) not more than 22 members appointed by the President from among individuals not employed by the Federal Government.

(b) Members of the Council shall include individuals with demonstrated experience or clear commitment to improving the financial capability of young people, such as individuals working with youth-serving organizations; educators and education policy experts; business leaders and employers of young workers; State, tribal, and local government policy makers; financial services providers; and innovators in financial capability. The composition of the Council shall reflect the views of diverse stakeholders.

(c) The Secretary shall invite the Director of the Bureau of Consumer Financial Protection to participate as a member of the Council, to the extent consistent with the Bureau's statutory authorities and legal obligations.

(d) The President shall designate a Chair and a Vice Chair from among the members of the Council appointed pursuant to subsection (a)(ii) of this section.

(e) Subject to the direction of the Secretary, the Chair shall convene and preside at meetings of the Council, determine its agenda, direct its work, and, as appropriate to deal with particular subjects, establish and direct the work of subgroups of the Council that shall consist exclusively of members of the Council.

(f) The Vice Chair shall perform:

(i) the duties of the Chair when the position of Chair is vacant; and

(ii) such other functions as the Chair may from time to time assign.

SEC. 4. *Functions of the Council*. To assist in implementing the policy set forth in section 1 of this order, the Council shall:

(a) collect information and views concerning financial capability from:

(i) executive departments and agencies (agencies), including members of the Financial Literacy and Education Commission established under title V of the Fair and Accurate Credit Transactions Act of 2003 (20 U.S.C. 9702);

(ii) State, local, territorial, and tribal officials; and

(iii) financial capability innovators, educators and education policy experts, financial services providers, corporate leaders, and employers of young workers, as well as other experts;

(b) advise the President and the Secretary on means to effectively implement the policy set forth in section 1 of this order, including means to:

(i) build strong public-private partnerships between and among members of the Financial Literacy and Education Commission; other agencies; State, tribal, and local governments; and private entities to coordinate the use of high quality financial capability resources and practices in schools, families, communities, and elsewhere in order to build the financial capability of young Americans;

(ii) support ongoing research and evaluation of financial education and capability activities aimed at young people to determine and disseminate effective approaches;

(iii) effectively assess the financial capability, including both financial knowledge and financial behaviors, of young Americans;

(iv) identify and develop strategies to pilot financial capability approaches in schools and among young people that are likely to have significant effects on young Americans' financial capability, and determine ways to test and implement such innovations in a large-scale and sustainable manner;

(v) identify, develop, and measure the effectiveness of technology-driven approaches to promote financial capability among young people;

(vi) identify and test promising and tested approaches for increasing planning, saving, and investing for retirement by young people; and

(vii) promote the importance of starting to plan and act early for financial success broadly among Americans through public awareness campaigns or other means;

(c) periodically report to the President, through the Secretary, on:

(i) progress made in implementing the policy set forth in section 1 of this order; and

(ii) recommended means to further implement the policy set forth in section 1 of this order, including with respect to the matters set forth in subsection (b) of this section; and

(d) where appropriate in providing advice and recommendations, take into consideration the particular needs of traditionally underserved populations—including women and minorities.

SEC. 5. *Administration of the Council*. (a) To the extent permitted by law, the Department of the Treasury shall provide funding and administrative support for the Council, as determined by the Secretary, to implement this order.

(b) The heads of agencies shall provide, as appropriate and to the extent permitted by law, such assistance and information to the Council as the Secretary may request to implement this order.

(c) Members of the Council appointed under section 3(a)(ii) of this order shall serve without any compensation for their work on the Council.

(d) Members of the Council, while engaged in the work of the Council, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707), consistent with the availability of funds.

(e) The Secretary shall designate an official within the Department of the Treasury to serve as an Executive Director to supervise the administrative support for the Council.

SEC. 6. *Termination of the Council*. Unless extended by the President, the Council shall terminate 2 years after the date of this order.

SEC. 7. *General Provisions*. (a) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act"), may apply to the Council, any functions of the President under the Act, except for that of reporting to the Congress, shall be performed by the Secretary in accordance with the guidelines issued by the Administrator of General Services.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§9702. Establishment of Financial Literacy and Education Commission

(a) In general

There is established a commission to be known as the "Financial Literacy and Education Commission".

(b) Purpose

The Commission shall serve to improve the financial literacy and education of persons in the United States through development of a national strategy to promote financial literacy and education.

(c) Membership

(1) Composition

The Commission shall be composed of—

(A) the Secretary of the Treasury;

(B) the respective head of each of the Federal banking agencies (as defined in section 1813 of title 12), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Social Security Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management;

(C) the Director of the Bureau of Consumer Financial Protection; and

(D) at the discretion of the President, not more than 5 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Federal Government entities, whom the President determines to be engaged in a serious effort to improve financial literacy and education.

(2) Alternates

Each member of the Commission may designate an alternate if the member is unable to attend a meeting of the Commission. Such alternate shall be an individual who exercises significant

decisionmaking authority.

(d) Chairperson

The Secretary of the Treasury shall serve as the Chairperson. The Director of the Bureau of Consumer Financial Protection shall serve as the Vice Chairman.

(e) Meetings

The Commission shall hold, at the call of the Chairperson, at least 1 meeting every 4 months. All such meetings shall be open to the public. The Commission may hold, at the call of the Chairperson, such other meetings as the Chairperson sees fit to carry out this chapter.

(f) Quorum

A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) Initial meeting

The Commission shall hold its first meeting not later than 60 days after December 4, 2003.

(Pub. L. 108–159, title V, §513, Dec. 4, 2003, 117 Stat. 2003; Pub. L. 111–203, title X, §1013(d)(5), (6), July 21, 2010, 124 Stat. 1971.)

AMENDMENTS

2010—Subsec. (c)(1)(C), (D). Pub. L. 111–203, §1013(d)(5), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (d). Pub. L. 111–203, §1013(d)(6), inserted at end "The Director of the Bureau of Consumer Financial Protection shall serve as the Vice Chairman."

§9703. Duties of the Commission

(a) Duties

(1) In general

The Commission, through the authority of the members referred to in section 9702(c) of this title, shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and materials of the Federal Government, including curricula for all Americans.

(2) Areas of emphasis

To improve financial literacy and education, the Commission shall emphasize, among other elements, basic personal income and household money management and planning skills, including how to—

(A) create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

(B) manage spending, credit, and debt, including credit card debt, effectively;

(C) increase awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

(D) ascertain fair and favorable credit terms;

(E) avoid abusive, predatory, or deceptive credit offers and financial products;

(F) understand, evaluate, and compare financial products, services, and opportunities;

(G) understand resources that ought to be easily accessible and affordable, and that inform and educate investors as to their rights and avenues of recourse when an investor believes his or her rights have been violated by unprofessional conduct of market intermediaries;

(H) increase awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are targeted in multilingual financial literacy and education programs and improve the development and distribution of multilingual financial

literacy and education materials;

(I) promote bringing individuals who lack basic banking services into the financial mainstream by opening and maintaining an account with a financial institution; and

(J) improve financial literacy and education through all other related skills, including personal finance and related economic education, with the primary goal of programs not simply to improve knowledge, but rather to improve consumers' financial choices and outcomes.

(b) Website

(1) In general

The Commission shall establish and maintain a website, such as the domain name "FinancialLiteracy.gov", or a similar domain name.

(2) Purposes

The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy and education programs;

(B) provide a coordinated entry point for accessing information about all Federal publications, grants, and materials promoting enhanced financial literacy and education;

(C) offer information on all Federal grants to promote financial literacy and education, and on how to target, apply for, and receive a grant that is most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature website links to efforts that have no commercial content and that feature information about financial literacy and education programs, materials, or campaigns; and

(E) offer such other information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) Toll-free hotline

The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy and education.

(d) Development and dissemination of materials

The Commission shall—

(1) develop materials to promote financial literacy and education; and

(2) disseminate such materials to the general public.

(e) Coordination of efforts

The Commission shall take such steps as are necessary to coordinate and promote financial literacy and education efforts at the State and local level, including promoting partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises.

(f) National strategy

(1) In general

The Commission shall—

(A) not later than 18 months after December 4, 2003, develop a national strategy to promote basic financial literacy and education among all American consumers; and

(B) coordinate Federal efforts to implement the strategy developed under subparagraph (A).

(2) Strategy

The strategy to promote basic financial literacy and education required to be developed under paragraph (1) shall provide for—

(A) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(B) the development of methods—

(i) to increase the general financial education level of current and future consumers of

financial services and products; and

(ii) to enhance the general understanding of financial services and products;

(C) review of Federal activities designed to promote financial literacy and education, and development of a plan to improve coordination of such activities; and

(D) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication.

(3) National strategy review

The Commission shall, not less than annually, review the national strategy developed under this subsection and make such changes and recommendations as it deems necessary.

(g) Consultation

The Commission shall actively consult with a variety of representatives from private and nonprofit organizations and State and local agencies, as determined appropriate by the Commission.

(h) Reports

(1) In general

Not later than 18 months after the date of the first meeting of the Commission, and annually thereafter, the Commission shall issue a report, the Strategy for Assuring Financial Empowerment ("SAFE Strategy"), to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this chapter.

(2) Contents

The report required under paragraph (1) shall include—

(A) the national strategy for financial literacy and education, as described under subsection (f);

(B) information concerning the implementation of the duties of the Commission under subsections (a) through (g);

(C) an assessment of the success of the Commission in implementing the national strategy developed under subsection (f);

(D) an assessment of the availability, utilization, and impact of Federal financial literacy and education materials;

(E) information concerning the content and public use of—

(i) the website established under subsection (b); and

(ii) the toll-free telephone number established under subsection (c);

(F) a brief survey of the financial literacy and education materials developed under subsection (d), and data regarding the dissemination and impact of such materials, as measured by improved financial decisionmaking;

(G) a brief summary of any hearings conducted by the Commission, including a list of witnesses who testified at such hearings;

(H) information about the activities of the Commission planned for the next fiscal year;

(I) a summary of all Federal financial literacy and education activities targeted to communities that have historically lacked access to financial literacy materials and education, and have been underserved by the mainstream financial systems; and

(J) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(3) Initial report

The initial report under paragraph (1) shall include information regarding all Federal programs, materials, and grants which seek to improve financial literacy, and assess the effectiveness of such programs.

(i) Testimony

The Commission shall annually provide testimony by the Chairperson to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(Pub. L. 108–159, title V, §514, Dec. 4, 2003, 117 Stat. 2004.)

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 108–159, set out as a note under section 1681 of Title 15, Commerce and Trade.

§9704. Powers of the Commission

(a) Hearings

(1) In general

The Commission shall hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate to carry out this chapter.

(2) Participation

In hearings held under this subsection, the Commission shall consider inviting witnesses from, among other groups—

(A) other Federal Government officials;

(B) State and local government officials;

(C) consumer and community groups;

(D) nonprofit financial literacy and education groups (such as those involved in personal finance and economic education); and

(E) the financial services industry.

(b) Information from Federal agencies

The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this chapter. Upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

(c) Periodic studies

The Commission may conduct periodic studies regarding the state of financial literacy and education in the United States, as the Commission determines appropriate.

(d) Multilingual

The Commission may take any action to develop and promote financial literacy and education materials in languages other than English, as the Commission deems appropriate, including for the website established under section 9703(b) of this title, at the toll-free number established under section 9703(c) of this title, and in the materials developed and disseminated under section 9703(d) of this title.

(Pub. L. 108–159, title V, §515, Dec. 4, 2003, 117 Stat. 2007.)

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 108–159, set out as a note under section 1681 of Title 15, Commerce and Trade.

§9705. Commission personnel matters

(a) Compensation of members

Each member of the Commission shall serve without compensation in addition to that received for

their service as an officer or employee of the United States.

(b) Travel expenses

The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Assistance

(1) In general

The Director of the Office of Financial Education of the Department of the Treasury shall provide assistance to the Commission, upon request of the Commission, without reimbursement.

(2) Detail of Government employees

Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(Pub. L. 108–159, title V, §516, Dec. 4, 2003, 117 Stat. 2008.)

§9706. Studies by the Comptroller General

(a) Effectiveness study

Not later than 3 years after December 4, 2003, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of the Commission in promoting financial literacy and education.

(b) Study and report on the need and means for improving financial literacy among consumers

(1) Study required

The Comptroller General of the United States shall conduct a study to assess the extent of consumers' knowledge and awareness of credit reports, credit scores, and the dispute resolution process, and on methods for improving financial literacy among consumers.

(2) Factors to be included

The study required under paragraph (1) shall include the following issues:

(A) The number of consumers who view their credit reports.

(B) Under what conditions and for what purposes do consumers primarily obtain a copy of their consumer report (such as for the purpose of ensuring the completeness and accuracy of the contents, to protect against fraud, in response to an adverse action based on the report, or in response to suspected identity theft) and approximately what percentage of the total number of consumers who obtain a copy of their consumer report do so for each such primary purpose.

(C) The extent of consumers' knowledge of the data collection process.

(D) The extent to which consumers know how to get a copy of a consumer report.

(E) The extent to which consumers know and understand the factors that positively or negatively impact credit scores.

(3) Report required

Before the end of the 12-month period beginning on December 4, 2003, the Comptroller General shall submit a report to Congress on the findings and conclusions of the Comptroller General pursuant to the study conducted under this subsection, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate, including recommendations on methods for improving financial literacy among consumers.

(Pub. L. 108–159, title V, §517, Dec. 4, 2003, 117 Stat. 2008.)

For definitions of terms used in this section, see section 2 of Pub. L. 108–159, set out as a note under section 1681 of Title 15, Commerce and Trade.

§9707. The national public service multimedia campaign to enhance the state of financial literacy

(a) In general

The Secretary of the Treasury (in this section referred to as the "Secretary"), after review of the recommendations of the Commission, as part of the national strategy, shall develop, implement, and conduct a pilot national public service multimedia campaign to enhance the state of financial literacy and education in the United States.

(b) Program requirements

(1) Public service campaign

The Secretary, after review of the recommendations of the Commission, shall select and work with a nonprofit organization or organizations that are especially well-qualified in the distribution of public service campaigns, and have secured private sector funds to produce the pilot national public service multimedia campaign.

(2) Development of multimedia campaign

The Secretary, after review of the recommendations of the Commission, shall develop, in consultation with nonprofit, public, or private organizations, especially those that are well qualified by virtue of their experience in the field of financial literacy and education, to develop the financial literacy national public service multimedia campaign.

(3) Focus of campaign

The pilot national public service multimedia campaign shall be consistent with the national strategy, and shall promote the toll-free telephone number and the website developed under this chapter.

(c) Multilingual

The Secretary may develop the multimedia campaign in languages other than English, as the Secretary deems appropriate.

(d) Performance measures

The Secretary shall develop measures to evaluate the effectiveness of the pilot national public service multimedia campaign, as measured by improved financial decision making among individuals.

(e) Report

For each fiscal year for which there are appropriations pursuant to the authorization in subsection (e),[1] the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives, describing the status and implementation of the provisions of this section and the state of financial literacy and education in the United States.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary, not to exceed $3,000,000 for fiscal years 2004, 2005, and 2006, for the development, production, and distribution of a pilot national public service multimedia campaign under this section.

(Pub. L. 108–159, title V, §518, Dec. 4, 2003, 117 Stat. 2009.)

[1] *So in original. Probably should be subsection "(f),".*

§9708. Authorization of appropriations

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this chapter, including administrative expenses of the Commission.

(Pub. L. 108–159, title V, §519, Dec. 4, 2003, 117 Stat. 2010.)

§9709. Coordinated education efforts

(a) In general

The Secretary of the Treasury (in this section referred to as the "Secretary"), in coordination with the Secretary of Education, the Secretary of Agriculture (with respect to land-grant colleges and universities), and any other appropriate agency that is a member of the Financial Literacy and Education Commission established under the Financial Literacy and Education Improvement Act (20 U.S.C. 9701 et seq.), shall seek to enhance financial literacy among students at covered educational institutions through—

(1) the development of initiatives, programs, and curricula that improve student awareness of the short- and long-term costs associated with education loans and other debt assumed while in college, their repayment obligations, and their rights as borrowers; and

(2) assisting such students in navigating the financial aid process.

(b) Duties

For purposes of this section, the Secretary, working in conjunction with the Secretary of Education, the Secretary of Agriculture, and the Financial Literacy and Education Commission, shall—

(1) identify programs that promote or enhance financial literacy for college students, with specific emphasis on programs that impart the knowledge and ability for students to best navigate the financial aid process, including those that involve partnerships between nonprofit organizations, colleges and universities, State and local governments, and student organizations;

(2) evaluate the effectiveness of such programs in terms of measured results, including positive behavioral change among college students;

(3) promote the programs identified as being the most effective; and

(4) encourage covered educational institutions to implement financial education programs for their students, including those that have the highest evaluations.

(c) Report

(1) In general

Not later than 2 years after August 14, 2008, the Financial Literacy and Education Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Health Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives on the state of financial education among students at covered educational institutions.

(2) Content

The report required by this subsection shall include a description of progress made in enhancing financial education with respect to student understanding of financial aid, including the programs and evaluations required by this section.

(3) Appearance before Congress

The Secretary shall, upon request, provide testimony before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives concerning the report required by this subsection.

(Pub. L. 110–315, title X, §1042, Aug. 14, 2008, 122 Stat. 3489.)

REFERENCES IN TEXT

The Financial Literacy and Education Improvement Act, referred to in subsec. (a), is title V of Pub. L. 108–159, Dec. 4, 2003, 117 Stat. 2003, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Higher Education Opportunity Act, and also as part of the Private Student Loan Transparency and Improvement Act of 2008, and not as part of the Financial Literacy and Education Improvement Act which comprises this chapter.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

DEFINITIONS

Pub. L. 110–315, title X, §1041, Aug. 14, 2008, 122 Stat. 3489, provided that: "As used in this subtitle [subtitle D (§§1041, 1042) of title X of Pub. L. 110–315, enacting this section]—

"(1) the terms 'covered educational institution', 'private educational lender', and 'private education loan' have the same meanings as in section 140 of the Truth in Lending Act [15 U.S.C. 1650], as added by this Act;

"(2) the term 'historically Black colleges and universities' means a 'part B institution', within the meaning of section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061))[sic]; and

"(3) the term 'land-grant colleges and universities' has the same meaning as in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)."

CHAPTER 78—SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, AND CRITICAL FOREIGN LANGUAGE EDUCATION

Sec.

9801. Repealed.

9802. Definitions.

SUBCHAPTER I—TEACHER ASSISTANCE

PART A—TEACHERS FOR A COMPETITIVE TOMORROW

9811. Purpose.

9812. Definitions.

9813. Programs for baccalaureate degrees in science, technology, engineering, mathematics, or critical foreign languages, with concurrent teacher certification.

9814. Programs for master's degrees in science, technology, engineering, mathematics, or critical foreign language education.

9815. General provisions.

9816. Authorization of appropriations.

PART B—ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS

9831. Purpose.

9832. Definitions.

9833. Advanced Placement and International Baccalaureate programs.

PART C—PROMISING PRACTICES IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TEACHING

9841. Repealed.

SUBCHAPTER II—MATHEMATICS

9851 to 9854. Repealed.

SUBCHAPTER III—FOREIGN LANGUAGE PARTNERSHIP PROGRAM
9861 to 9864. Repealed.
SUBCHAPTER IV—ALIGNMENT OF EDUCATION PROGRAMS
9871. Alignment of secondary school graduation requirements with the demands of 21st century postsecondary endeavors and support for P–16 education data systems.
SUBCHAPTER V—MATHEMATICS AND SCIENCE PARTNERSHIP BONUS GRANTS
9881, 9882. Repealed.

§9801. Repealed. Pub. L. 111–358, title X, §1002(a)(1), Jan. 4, 2011, 124 Stat. 4048

Section, Pub. L. 110–69, title VI, §6001, Aug. 9, 2007, 121 Stat. 625, related to congressional findings.

SHORT TITLE

Pub. L. 110–69, §1, Aug. 9, 2007, 121 Stat. 572, provided that: "This Act [see Tables for classification] may be cited as the 'America COMPETES Act' or the 'America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act'."

ACCOUNTABILITY AND TRANSPARENCY OF ACTIVITIES AUTHORIZED BY PUB. L. 110–69

Pub. L. 110–69, title VIII, §8008, Aug. 9, 2007, 121 Stat. 718, provided that:

"(a) PROHIBITED USE OF FUNDS.—A grant or contract funded by amounts authorized by this Act [see Tables for classification] may not be used for the purpose of defraying the costs of a banquet or conference that is not directly and programmatically related to the purpose for which the grant or contract was awarded. A directly and programmatically related banquet or conference includes a banquet or conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract. Records of the total costs related to, and justifications for, all banquets and conferences shall be reported to the appropriate Department, Administration, or Foundation. Not later than 60 days after receipt of such records, the appropriate Department, Administration, or Foundation shall make the records available to the public.

"(b) CONFLICT OF INTEREST STATEMENT.—Any person awarded a grant or contract funded by amounts authorized by this Act shall submit a statement to the Secretary of Commerce, the Secretary of Energy, the Secretary of Education, the Administrator, or the Director, as appropriate, certifying that no funds derived from the grant or contract will be made available through a subcontract or in any other manner to another person who has a financial interest or other conflict of interest in the person awarded the grant or contract, unless such conflict is previously disclosed and approved in the process of entering into a contract or awarding a grant. Not later than 60 days after receipt of the certification, the appropriate Secretary, Administrator, or Director shall make all documents received that relate to the certification available to the public.

"(c) APPLICATION TO FEDERAL GRANTS AND CONTRACTS.—Subsections (a) and (b) shall take effect 360 days after the date of enactment of this Act [Aug. 9, 2007].

"(d) EXCEPTION.—Subsections (a) and (b) shall not apply to grants or contracts authorized under sections 6201 and 6203 [former 20 U.S.C. 9851, 9853]."

§9802. Definitions

(a) ESEA definitions

Unless otherwise specified in this chapter, the terms used in this chapter have the meanings given the terms in section 7801 of this title.

(b) Other definitions

In this chapter:

(1) Critical foreign language

The term "critical foreign language" means a foreign language that the Secretary determines, in

consultation with the heads of such Federal departments and agencies as the Secretary determines appropriate, is critical to the national security and economic competitiveness of the United States.

(2) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1001(a) of this title.

(3) Secretary

The term "Secretary" means the Secretary of Education.

(4) Scientifically valid research

The term "scientifically valid research" includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with accepted principles of scientific research.

(Pub. L. 110–69, title VI, §6001, formerly §6002, Aug. 9, 2007, 121 Stat. 625; renumbered §6001, Pub. L. 111–358, title X, §1002(b)(1), Jan. 4, 2011, 124 Stat. 4048; Pub. L. 114–95, title IX, §9215(i)(1), Dec. 10, 2015, 129 Stat. 2167.)

PRIOR PROVISIONS

A prior section 6001 of Pub. L. 110–69 was classified to section 9801 of this title prior to repeal by Pub. L. 111–358.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95 made amendment to reference in original act which appears in text as reference to section 7801 of this title. Amendment was executed to this section, which is section 6001 of Pub. L. 110–69, notwithstanding directory language directing amendment of section 6002(a) of Pub. L. 110–69, to reflect the probable intent of Congress and the renumbering of section 6002 of Pub. L. 110–69 as this section. Pub. L. 110–69 does not contain a section 6002.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

SUBCHAPTER I—TEACHER ASSISTANCE

PART A—TEACHERS FOR A COMPETITIVE TOMORROW

§9811. Purpose

The purpose of this part is—

(1) to develop and implement programs to provide integrated courses of study in science, technology, engineering, mathematics, or critical foreign languages, and teacher education, that lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language, with concurrent teacher certification;

(2) to develop and implement 2- or 3-year part-time master's degree programs in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teachers' content knowledge and pedagogical skills; and

(3) to develop programs for professionals in science, technology, engineering, mathematics, or critical foreign language education that lead to a master's degree in teaching that results in teacher certification.

(Pub. L. 110–69, title VI, §6111, Aug. 9, 2007, 121 Stat. 626.)

§9812. Definitions

In this part:

(1) Children from low-income families

The term "children from low-income families" means children described in section 6333(c)(1)(A) of this title.

(2) Eligible recipient

The term "eligible recipient" means an institution of higher education that receives grant funds under this part on behalf of a department of science, technology, engineering, mathematics, or a critical foreign language, or on behalf of a department or school with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification, for use in carrying out activities assisted under this part.

(3) High-need local educational agency

The term "high-need local educational agency" means a local educational agency or educational service agency—

(A)(i) that serves not fewer than 10,000 children from low-income families;

(ii) for which not less than 20 percent of the children served by the agency are children from low-income families; or

(iii) with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools are designated with a school locale code of 41, 42, or 43, as determined by the Secretary; and

(B)(i) for which there is a high percentage of teachers providing instruction in academic subject areas or grade levels for which the teachers are not highly qualified; or

(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

(4) Highly qualified

The term "highly qualified" has the meaning given such term in section 9101 [1] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) and, with respect to special education teachers, in section 1401 [1] of this title.

(5) Partnership

The term "partnership" means a partnership that—

(A) shall include—

(i) an eligible recipient;

(ii)(I)(aa) a department within the eligible recipient that provides a program of study in science, technology, engineering, mathematics, or a critical foreign language; and

(bb) a school, department, or program of education within the eligible recipient, or a 2-year institution of higher education that has a teacher preparation offering or a dual enrollment program with the eligible recipient; or

(II) a department or school within the eligible recipient with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification; and

(iii) not less than 1 high-need local educational agency and a public school or a consortium of public schools served by the agency; and

(B) may include a nonprofit organization that has a demonstrated record of providing expertise or support to meet the purposes of this part.

(6) Teaching skills

The term "teaching skills" means the ability to—

(A) increase student achievement and learning and increase a student's ability to apply knowledge;

(B) effectively convey and explain academic subject matter;

(C) employ strategies grounded in the disciplines of teaching and learning that—

(i) are based on scientifically valid research;

(ii) are specific to academic subject matter; and

(iii) focus on the identification of students' specific learning needs, particularly students with disabilities, students who are limited English proficient, students who are gifted and talented, and students with low literacy levels, and the tailoring of academic instruction to such needs;

(D) conduct ongoing assessment of student learning;

(E) effectively manage a classroom; and

(F) communicate and work with parents and guardians, and involve parents and guardians in their children's education.

(Pub. L. 110–69, title VI, §6112, Aug. 9, 2007, 121 Stat. 626.)

REFERENCES IN TEXT

Section 9101 of the Elementary and Secondary Education Act of 1965, referred to in par. (4), was amended by Pub. L. 114–95 and, as so amended, is now section 8101 of the Act and no longer defines "highly qualified". A reference in this section to "highly qualified", as defined in section 9101 of the Act, with respect to a teacher, means that the teacher meets applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification. See section 9214(a)(2) of Pub. L. 114–95, set out as a Use of the Term "Highly Qualified" in Other Laws note under section 1070g–2 of this title.

Section 1401 of this title, referred to in par. (4), was amended by Pub. L. 114–95, title IX, §9214(d)(1), Dec. 10, 2015, 129 Stat. 2164, and, as so amended, no longer contains a definition of the term "highly qualified".

[1] See References in Text note below.

§9813. Programs for baccalaureate degrees in science, technology, engineering, mathematics, or critical foreign languages, with concurrent teacher certification

(a) Program authorized

From the amounts made available to carry out this section under section 9816(1) of this title and not reserved under section 9815(d) of this title for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible recipients to enable partnerships served by the eligible recipients to develop and implement programs to provide courses of study in science, technology, engineering, mathematics, or critical foreign languages that—

(1) are integrated with teacher education; and

(2) lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language with concurrent teacher certification.

(b) Application

Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall—

(1) describe the program for which assistance is sought;

(2) describe how a department of science, technology, engineering, mathematics, or a critical foreign language participating in the partnership will ensure significant collaboration with a teacher preparation program in the development of undergraduate degrees in science, technology,

engineering, mathematics, or a critical foreign language, with concurrent teacher certification, including providing student teaching and other clinical classroom experiences or how a department or school participating in the partnership with a competency-based degree program has ensured, in the development of a baccalaureate degree program in science, technology, engineering, mathematics, or a critical foreign language, the provision of concurrent teacher certification, including providing student teaching and other clinical classroom experiences;

(3) describe the high-quality research, laboratory, or internship experiences, integrated with coursework, that will be provided under the program;

(4) describe how members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages will be encouraged to participate in the program;

(5) describe how program participants will be encouraged to teach in schools determined by the partnership to be most in need, and the assistance in finding employment in such schools that will be provided;

(6) describe the ongoing activities and services that will be provided to graduates of the program;

(7) describe how the activities of the partnership will be coordinated with any activities funded through other Federal grants, and how the partnership will continue the activities assisted under the program when the grant period ends;

(8) describe how the partnership will assess the content knowledge and teaching skills of the program participants; and

(9) provide any other information the Secretary may reasonably require.

(c) Priority

Priority shall be given to applications whose primary focus is on placing participants in high-need local educational agencies.

(d) Authorized activities

(1) In general

Each eligible recipient receiving a grant under this section shall use the grant funds to enable a partnership to develop and implement a program to provide courses of study in science, technology, engineering, mathematics, or a critical foreign language that—

(A) are integrated with teacher education programs that promote effective teaching skills; and

(B) lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language with concurrent teacher certification.

(2) Program requirements

The program shall—

(A) provide high-quality research, laboratory, or internship experiences for program participants;

(B) provide student teaching or other clinical classroom experiences that—

(i) are integrated with coursework; and

(ii) lead to the participants' ability to demonstrate effective teaching skills;

(C) if implementing a program in which program participants are prepared to teach science, technology, engineering, mathematics, or critical foreign language courses, include strategies for improving student literacy;

(D) encourage the participation of individuals who are members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages;

(E) encourage participants to teach in schools determined by the partnership to be most in need, and actively assist the participants in finding employment in such schools;

(F) offer training in the use of and integration of educational technology;

(G) collect data regarding and evaluate, using measurable objectives and benchmarks, the

extent to which the program succeeded in—

(i) increasing the percentage of highly qualified mathematics, science, or critical foreign language teachers, including increasing the percentage of such teachers teaching in those schools determined by the partnership to be most in need;

(ii) improving student academic achievement in mathematics, science, and where applicable, technology and engineering;

(iii) increasing the number of students in secondary schools enrolled in upper level mathematics, science, and, where available, technology and engineering courses; and

(iv) increasing the numbers of elementary school and secondary school students enrolled in and continuing in critical foreign language courses;

(H) collect data on the employment placement and retention of all graduates of the program, including information on how many graduates are teaching and in what kinds of schools;

(I) provide ongoing activities and services to graduates of the program who teach elementary school or secondary school, by—

(i) keeping the graduates informed of the latest developments in their respective academic fields; and

(ii) supporting the graduates of the program who are employed in schools in the local educational agency participating in the partnership during the initial years of teaching through—

(I) induction programs;

(II) promotion of effective teaching skills; and

(III) providing opportunities for regular professional development; and

(J) develop recommendations to improve the school, department, or program of education participating in the partnership.

(e) Annual report

Each eligible recipient receiving a grant under this section shall collect and report to the Secretary annually such information as the Secretary may reasonably require, including—

(1) the number of participants in the program;

(2) information on the academic majors of participating students;

(3) the race, gender, income, and disability status of program participants;

(4) the placement of program participants as teachers in schools determined by the partnership to be most in need;

(5) the extent to which the program succeeded in meeting the objectives and benchmarks described in subsection (d)(2)(G); and

(6) the data collected under subparagraphs (G) and (H) of subsection (d)(2).

(f) Technical assistance

From the funds made available under section 9816(1) of this title, the Secretary may provide technical assistance to an eligible recipient developing a baccalaureate degree program with concurrent teacher certification, including technical assistance provided through a grant or contract awarded on a competitive basis to an institution of higher education or a technical assistance center.

(g) Compliance with FERPA

Any activity under this section shall be carried out in compliance with section 1232g of this title (commonly known as the Family Educational Rights and Privacy Act of 1974).

(h) Induction program defined

In this section, the term "induction program" means a formalized program for new teachers during not less than the teachers' first 2 years of teaching that is designed to provide support for, and improve the professional performance and advance the retention in the teaching field of, beginning teachers. Such program shall promote effective teaching skills and shall include the following components:

(1) High-quality teacher mentoring.

(2) Periodic, structured time for collaboration with teachers in the same department or field, as well as time for information-sharing among teachers, principals, administrators, and participating faculty in the partner institution.

(3) The application of empirically based practice and scientifically valid research on instructional practices.

(4) Opportunities for new teachers to draw directly upon the expertise of teacher mentors, faculty, and researchers to support the integration of empirically based practice and scientifically valid research with practice.

(5) The development of skills in instructional and behavioral interventions derived from empirically based practice and, where applicable, scientifically valid research.

(6) Faculty who—

(A) model the integration of research and practice in the classroom; and

(B) assist new teachers with the effective use and integration of technology in the classroom.

(7) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers on the learning process and the assessment of learning.

(8) Assistance with the understanding of data, particularly student achievement data, and the data's applicability in classroom instruction.

(9) Regular evaluation of the new teacher.

(Pub. L. 110–69, title VI, §6113, Aug. 9, 2007, 121 Stat. 628.)

§9814. Programs for master's degrees in science, technology, engineering, mathematics, or critical foreign language education

(a) Program authorized

From the amounts made available to carry out this section under section 9816(2) of this title and not reserved under section 9815(d) of this title for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible recipients to enable the partnerships served by the eligible recipients to develop and implement—

(1) 2- or 3-year part-time master's degree programs in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teacher's content knowledge and teaching skills; or

(2) programs for professionals in science, technology, engineering, mathematics, or a critical foreign language that lead to a 1-year master's degree in teaching that results in teacher certification.

(b) Application

Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall describe—

(1) how a department of science, technology, engineering, mathematics, or a critical foreign language will ensure significant collaboration with a school, department, or program of education in the development of the master's degree programs authorized under subsection (a), or how a department or school with a competency-based degree program has ensured, in the development of a master's degree program, the provision of rigorous studies in science, technology, engineering, mathematics, or a critical foreign language that enhance the teachers' content knowledge and teaching skills;

(2) the role of the local educational agency in the partnership in developing and administering the program and how feedback from the local educational agency, school, and participants will be used to improve the program;

(3) how the program will help increase the percentage of highly qualified mathematics, science,

or critical foreign language teachers, including increasing the percentage of such teachers teaching in schools determined by the partnership to be most in need;

(4) how the program will—

(A) improve student academic achievement in mathematics, science, and, where applicable, technology and engineering and increase the number of students taking upper-level courses in such subjects; or

(B) increase the numbers of elementary school and secondary school students enrolled and continuing in critical foreign language courses;

(5) how the program will prepare participants to become more effective science, technology, engineering, mathematics, or critical foreign language teachers;

(6) how the program will prepare participants to assume leadership roles in their schools;

(7) how teachers (or science, technology, engineering, mathematics, or critical foreign language professionals) who are members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages and teachers from schools determined by the partnership to be most in need will be encouraged to apply for and participate in the program;

(8) the ongoing activities and services that will be provided to graduates of the program;

(9) how the partnership will continue the activities assisted under the grant when the grant period ends;

(10) how the partnership will assess, during the program, the content knowledge and teaching skills of the program participants; and

(11) methods to ensure applicants to the master's degree program for professionals in science, technology, engineering, mathematics, or a critical foreign language demonstrate advanced knowledge in the relevant subject.

(c) Authorized activities

Each eligible recipient receiving a grant under this section shall use the grant funds to develop and implement a 2- or 3-year part-time master's degree program in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teachers' content knowledge and teaching skills, or programs for professionals in science, technology, engineering, mathematics, or a critical foreign language that lead to a 1-year master's degree in teaching that results in teacher certification. The program shall—

(1) promote effective teaching skills so that program participants become more effective science, technology, engineering, mathematics, or critical foreign language teachers;

(2) prepare teachers to assume leadership roles in their schools by participating in activities such as teacher mentoring, development of curricula that integrate state of the art applications of science, technology, engineering, mathematics, or critical foreign language into the classroom, working with school administrators in establishing in-service professional development of teachers, and assisting in evaluating data and assessments to improve student academic achievement;

(3) use high-quality research, laboratory, or internship experiences for program participants that are integrated with coursework;

(4) provide student teaching or clinical classroom experience;

(5) if implementing a program in which participants are prepared to teach science, technology, engineering, mathematics, or critical foreign language courses, provide strategies for improving student literacy;

(6) align the content knowledge in the master's degree program with challenging student academic achievement standards and challenging academic content standards established by the State in which the program is conducted;

(7) encourage the participation of—

(A) individuals who are members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages;

(B) members of the Armed Forces who are transitioning to civilian life; and

(C) teachers teaching in schools determined by the partnership to be most in need;

(8) offer tuition assistance, based on need, as appropriate;

(9) create opportunities for enhanced and ongoing professional development for teachers that improves the science, technology, engineering, mathematics, and critical foreign language content knowledge and teaching skills of such teachers; and

(10) evaluate and report on the impact of the program, in accordance with subsection (d).

(d) Evaluation and report

Each eligible recipient receiving a grant under this section shall evaluate, using measurable objectives and benchmarks, and provide an annual report to the Secretary regarding, the extent to which the program assisted under this section succeeded in the following:

(1) Increasing the number and percentage of science, technology, engineering, mathematics, or critical foreign language teachers who have a master's degree and meet 1 or more of the following requirements:

(A) Are teaching in schools determined by the partnership to be most in need, and taught in such schools prior to participation in the program.

(B) Are teaching in schools determined by the partnership to be most in need, and did not teach in such schools prior to participation in the program.

(C) Are members of a group underrepresented in the teaching of science, technology, engineering, mathematics, or a critical foreign language.

(2) Bringing professionals in science, technology, engineering, mathematics, or a critical foreign language into the field of teaching.

(3) Retaining teachers who participate in the program.

(Pub. L. 110–69, title VI, §6114, Aug. 9, 2007, 121 Stat. 631.)

§9815. General provisions

(a) Duration of grants

The Secretary shall award each grant under this part for a period of not more than 5 years.

(b) Matching requirement

Each eligible recipient that receives a grant under this part shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (which may be provided in cash or in kind) to carry out the activities supported by the grant.

(c) Supplement, not supplant

Grant funds provided under this part shall be used to supplement, and not supplant, other Federal or State funds.

(d) Evaluation

From amounts made available for any fiscal year under section 9816 of this title, the Secretary shall reserve such sums as may be necessary—

(1) to provide for the conduct of an annual independent evaluation, by grant or by contract, of the activities assisted under this part, which shall include an assessment of the impact of the activities on student academic achievement; and

(2) to prepare and submit an annual report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives.

(Pub. L. 110–69, title VI, §6115, Aug. 9, 2007, 121 Stat. 634.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§9816. Authorization of appropriations

There are authorized to be appropriated to carry out this part $4,000,000 for each of fiscal years 2011 through 2013, of which—

(1) $2,000,000 shall be available to carry out section 9813 of this title for each of fiscal years 2011 through 2013; and

(2) $2,000,000 shall be available to carry out section 9814 of this title for each of fiscal years 2011 through 2013.

(Pub. L. 110–69, title VI, §6116, Aug. 9, 2007, 121 Stat. 634; Pub. L. 111–358, title X, §1003(a), Jan. 4, 2011, 124 Stat. 4048.)

AMENDMENTS

2011—Pub. L. 111–358 amended section generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this section $276,200,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years, of which—

"(1) $151,200,000 shall be available to carry out section 9813 of this title for fiscal year 2008 and each succeeding fiscal year; and

"(2) $125,000,000 shall be available to carry out section 9814 of this title for fiscal year 2008 and each succeeding fiscal year."

PART B—ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS

§9831. Purpose

It is the purpose of this part—

(1) to raise academic achievement through Advanced Placement and International Baccalaureate programs by increasing, by 70,000, over a 4-year period beginning in 2008, the number of teachers serving high-need schools who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages;

(2) to increase, to 700,000 per year, the number of students attending high-need schools who—

(A) take and score a 3, 4, or 5 on an Advanced Placement examination in mathematics, science, or a critical foreign language administered by the College Board; or

(B) achieve a passing score on an examination administered by the International Baccalaureate Organization in such a subject;

(3) to increase the availability of, and enrollment in, Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools; and

(4) to support statewide efforts to increase the availability of, and enrollment in, Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools.

(Pub. L. 110–69, title VI, §6121, Aug. 9, 2007, 121 Stat. 634.)

§9832. Definitions

In this part:

(1) Advanced Placement or International Baccalaureate course

The term "Advanced Placement or International Baccalaureate course" means—

(A) a course of college-level instruction provided to secondary school students, terminating in an examination administered by the College Board or the International Baccalaureate Organization, or another such examination approved by the Secretary; or

(B) another highly rigorous, evidence-based, postsecondary preparatory program terminating in an examination administered by another nationally recognized educational organization that has a demonstrated record of effectiveness in assessing secondary school students, or another such examination approved by the Secretary.

(2) Eligible entity

The term "eligible entity" means—

(A) a State educational agency;

(B) a local educational agency; or

(C) a partnership consisting of—

(i) a national, regional, or statewide nonprofit organization, with expertise and experience in providing Advanced Placement or International Baccalaureate services; and

(ii) a State educational agency or local educational agency.

(3) Low-income student

The term "low-income student" means an individual who is determined by a State educational agency or local educational agency to be a child ages 5 through 19, from a low-income family, on the basis of data used by the Secretary to determine allocations under section 6333 of this title, data on children eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.], data on children in families receiving assistance under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or data on children eligible to receive medical assistance under the Medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], or through an alternate method that combines or extrapolates from those data.

(4) High concentration of low-income students

The term "high concentration of low-income students", used with respect to a school, means a school that serves a student population 40 percent or more of who are low-income students.

(5) High-need local educational agency

The term "high-need local educational agency" means a local educational agency or educational service agency described in 9812(3)(A) [1] of this title.

(6) High-need school

The term "high-need school" means a secondary school—

(A) with a pervasive need for Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages, or for additional Advanced Placement or International Baccalaureate courses in such a subject; and

(B)(i) with a high concentration of low-income students; or

(ii) designated with a school locale code of 41, 42, or 43, as determined by the Secretary.

(Pub. L. 110–69, title VI, §6122, Aug. 9, 2007, 121 Stat. 635; Pub. L. 114–95, title IX, §9215(i)(2), Dec. 10, 2015, 129 Stat. 2167.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in par. (3), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in par. (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2015—Par. (3). Pub. L. 114–95, §9215(i)(2)(A), substituted "The term 'low-income student' means an individual who is determined by a State educational agency or local educational agency to be a child ages 5 through 19, from a low-income family, on the basis of data used by the Secretary to determine allocations under section 6333 of this title, data on children eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act, data on children in families receiving assistance under part A of title IV of the Social Security Act, or data on children eligible to receive medical assistance under the Medicaid program under title XIX of the Social Security Act, or through an alternate method that combines or extrapolates from those data." for "The term 'low-income student' has the meaning given the term 'low-income individual' in section 6537(3) of this title."

Par. (4). Pub. L. 114–95, §9215(i)(2)(B), substituted "The term 'high concentration of low-income students', used with respect to a school, means a school that serves a student population 40 percent or more of who are low-income students." for "The term 'high concentration of low-income students' has the meaning given the term in section 6537(2) of this title."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be preceded by "section".*

§9833. Advanced Placement and International Baccalaureate programs

(a) Program authorized

From the amounts appropriated under subsection (l), the Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable the eligible entities to carry out the authorized activities described in subsection (g).

(b) Duration of grants

The Secretary may award grants under this section for a period of not more than 5 years.

(c) Coordination

The Secretary shall coordinate the activities carried out under this section with any activities carried out under section 7114 or 7117 of this title that provide students access to accelerated learning programs that provide—

(1) postsecondary level courses accepted for credit at institutions of higher education, including dual or concurrent enrollment programs, and early college high schools; or

(2) postsecondary level instruction and examinations that are accepted for credit at institutions of higher education, including Advanced Placement and International Baccalaureate programs.

(d) Priority

In awarding grants under this section, the Secretary shall give priority to eligible entities that are part of a statewide strategy for increasing—

(1) the availability of Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools; and

(2) the number of students who participate in Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign language in high-need schools, and take and score a 3, 4, or 5 on an Advanced Placement examination in such a subject, or pass

an examination administered by the International Baccalaureate Organization in such a subject in such schools.

(e) Equitable distribution

The Secretary, to the extent practicable, shall—

(1) ensure an equitable geographic distribution of grants under this section among the States; and

(2) promote an increase in participation in Advanced Placement or International Baccalaureate mathematics, science, and critical foreign language courses and examinations in all States.

(f) Application

(1) In general

Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) Contents

The application shall, at a minimum, include a description of—

(A) the goals and objectives for the project, including—

(i) increasing the number of teachers serving high-need schools who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(ii) increasing the number of qualified teachers serving high-need schools who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages to students in the high-need schools;

(iii) increasing the number of Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages that are available to students attending high-need schools; and

(iv) increasing the number of students attending a high-need school, particularly low-income students, who enroll in and pass—

(I) Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages; and

(II) pre-Advanced Placement or pre-International Baccalaureate courses in such a subject (where provided in accordance with subparagraph (B));

(B) how the eligible entity will ensure that students have access to courses, including pre-Advanced Placement and pre-International Baccalaureate courses, that will prepare the students to enroll and succeed in Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(C) how the eligible entity will provide professional development for teachers assisted under this section;

(D) how the eligible entity will ensure that teachers serving high-need schools are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(E) how the eligible entity will provide for the involvement of business and community organizations and other entities, including institutions of higher education, in the activities to be assisted; and

(F) how the eligible entity will use funds received under this section, including how the eligible entity will evaluate the success of its project.

(g) Authorized activities

(1) In general

Each eligible entity that receives a grant under this section shall use the grant funds to carry out activities designed to increase—

(A) the number of qualified teachers serving high-need schools who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages; and

(B) the number of students attending high-need schools who enroll in, and pass, the examinations for such Advanced Placement or International Baccalaureate courses.

(2) Permissive activities

The activities described in paragraph (1) may include—

(A) teacher professional development, in order to expand the pool of teachers in the participating State, local educational agency, or high-need school who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(B) pre-Advanced Placement or pre-International Baccalaureate course development and professional development;

(C) coordination and articulation between grade levels to prepare students to enroll and succeed in Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(D) purchase of instructional materials;

(E) activities to increase the availability of, and participation in, online Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages;

(F) reimbursing low-income students attending high-need schools for part or all of the cost of Advanced Placement or International Baccalaureate examination fees;

(G) carrying out subsection (j), relating to collecting and reporting data;

(H) in the case of a State educational agency that receives a grant under this section, awarding subgrants to local educational agencies to enable the local educational agencies to carry out authorized activities described in subparagraphs (A) through (G); and

(I) providing salary increments or bonuses to teachers serving high-need schools who—

(i) become qualified to teach, and teach, Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language; or

(ii) increase the number of low-income students, who take Advanced Placement or International Baccalaureate examinations in mathematics, science, or a critical foreign language with the goal of successfully passing such examinations.

(h) Matching requirement

(1) In general

Subject to paragraph (2), each eligible entity that receives a grant under this section shall provide, toward the cost of the activities assisted under the grant, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, except that an eligible entity that is a high-need local educational agency shall provide an amount equal to not more than 50 percent of the amount of the grant.

(2) Waiver

The Secretary may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible entity described in subparagraph (A) or (B) of section 9832(2) of this title, if the Secretary determines that applying the matching requirement to such eligible entity would result in serious hardship or an inability to carry out the authorized activities described in subsection (g).

(i) Supplement not supplant

Grant funds provided under this section shall be used to supplement, not supplant, other Federal and non-Federal funds available to carry out the activities described in subsection (g).

(j) Collecting and reporting requirements

(1) Report

Each eligible entity receiving a grant under this section shall collect and report to the Secretary annually such data on the results of the grant as the Secretary may reasonably require, including data regarding—

(A) the number of students enrolling in Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language, and pre-Advanced Placement or pre-International Baccalaureate courses in such a subject, by the grade the student is enrolled in, and the distribution of grades those students receive;

(B) the number of students taking Advanced Placement or International Baccalaureate examinations in mathematics, science, or a critical foreign language, and the distribution of scores on those examinations by the grade the student is enrolled in at the time of the examination;

(C) the number of teachers receiving training in teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language who will be teaching such courses in the next school year;

(D) the number of teachers becoming qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language; and

(E) the number of qualified teachers who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages to students in a high-need school.

(2) Reporting of data

Each eligible entity receiving a grant under this section shall report data required under paragraph (1)—

(A) disaggregated by subject area;

(B) in the case of student data, disaggregated in the same manner as information is disaggregated under section 6311(b)(2)(B)(xi) of this title; and

(C) to the extent feasible, in a manner that allows comparison of conditions before, during, and after the project.

(k) Evaluation and report

From the amount made available for any fiscal year under subsection (l), the Secretary shall reserve such sums as may be necessary—

(1) to conduct an annual independent evaluation, by grant or by contract, of the program carried out under this section, which shall include an assessment of the impact of the program on student academic achievement; and

(2) to prepare and submit an annual report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives.

(l) Authorization of appropriations

There are authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2011 through 2013.

(Pub. L. 110–69, title VI, §6123, Aug. 9, 2007, 121 Stat. 636; Pub. L. 111–358, title X, §1003(b), Jan. 4, 2011, 124 Stat. 4048; Pub. L. 114–95, title IX, §9215(i)(3), Dec. 10, 2015, 129 Stat. 2167.)

AMENDMENTS

2015—Subsec. (c). Pub. L. 114–95, §9215(i)(3)(A), substituted "any activities carried out under section 7114 or 7117 of this title that provide students access to accelerated learning programs that provide—" and pars. (1) and (2) for "the activities carried out under section 6535 of this title."

Subsec. (j)(2)(B). Pub. L. 114–95, §9215(i)(3)(B), substituted "section 6311(b)(2)(B)(xi) of this title" for "section 6311(h)(1)(C)(i) of this title".

2011—Subsec. (h)(1). Pub. L. 111–358, §1003(b)(1), substituted "50" for "100" and "100" for "200".

Subsec. (l). Pub. L. 111–358, §1003(b)(2), added subsec. (l) and struck out former subsec. (l). Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this section

$75,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years."

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART C—PROMISING PRACTICES IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TEACHING

§9841. Repealed. Pub. L. 111–358, title X, §1002(a)(2), Jan. 4, 2011, 124 Stat. 4048

Section, Pub. L. 110–69, title VI, §6131, Aug. 9, 2007, 121 Stat. 640, related to promising practices in K–12 STEM teaching and learning.

SUBCHAPTER II—MATHEMATICS

§§9851 to 9854. Repealed. Pub. L. 111–358, title X, §1002(a)(3), Jan. 4, 2011, 124 Stat. 4048

Section 9851, Pub. L. 110–69, title VI, §6201, Aug. 9, 2007, 121 Stat. 642, related to Math Now for elementary school and middle school students program.

Section 9852, Pub. L. 110–69, title VI, §6202, Aug. 9, 2007, 121 Stat. 649, related to summer term education programs.

Section 9853, Pub. L. 110–69, title VI, §6203, Aug. 9, 2007, 121 Stat. 653, related to math skills for secondary school students.

Section 9854, Pub. L. 110–69, title VI, §6204, Aug. 9, 2007, 121 Stat. 662, related to peer review of State applications.

SUBCHAPTER III—FOREIGN LANGUAGE PARTNERSHIP PROGRAM

§§9861 to 9864. Repealed. Pub. L. 111–358, title X, §1002(a)(4), Jan. 4, 2011, 124 Stat. 4048

Section 9861, Pub. L. 110–69, title VI, §6301, Aug. 9, 2007, 121 Stat. 664, related to congressional findings and purpose.

Section 9862, Pub. L. 110–69, title VI, §6302, Aug. 9, 2007, 121 Stat. 664, related to definitions.

Section 9863, Pub. L. 110–69, title VI, §6303, Aug. 9, 2007, 121 Stat. 664, related to program authorization.

Section 9864, Pub. L. 110–69, title VI, §6304, Aug. 9, 2007, 121 Stat. 667, related to authorization of appropriations.

SUBCHAPTER IV—ALIGNMENT OF EDUCATION PROGRAMS

CODIFICATION

Subtitle D of title VI of Pub. L. 110–69, comprising this subchapter, was redesignated subtitle B of title VI of Pub. L. 110–69 by Pub. L. 111–358, title X, §1002(b)(2), Jan. 4, 2011, 124 Stat. 4048.

§9871. Alignment of secondary school graduation requirements with the demands of 21st century postsecondary endeavors and support for P–16 education data systems

(a) Purpose

It is the purpose of this section—

(1) to promote more accountability with respect to preparation for higher education, the 21st century workforce, and the Armed Forces, by aligning—

(A) student knowledge, student skills, State academic content standards and assessments, and curricula, in elementary and secondary education, especially with respect to mathematics, science, reading, and, where applicable, engineering and technology; with

(B) the demands of higher education, the 21st century workforce, and the Armed Forces;

(2) to support the establishment or improvement of statewide P–16 education data systems that—

(A) assist States in improving the rigor and quality of State academic content standards and assessments;

(B) ensure students are prepared to succeed in—

(i) academic credit-bearing coursework in higher education without the need for remediation;

(ii) the 21st century workforce; or

(iii) the Armed Forces; and

(3) enable [1] States to have valid and reliable information to inform education policy and practice.

(b) Definitions

In this section:

(1) P–16 education

The term "P–16 education" means the educational system from preschool through the conferring of a baccalaureate degree.

(2) Statewide partnership

The term "statewide partnership" means a partnership that—

(A) shall include—

(i) the Governor of the State or the designee of the Governor;

(ii) the heads of the State systems for public higher education, or, if such a position does not exist, not less than 1 representative of a public degree-granting institution of higher education;

(iii) a representative of the agencies in the State that administer Federal or State-funded early childhood education programs;

(iv) not less than 1 representative of a public community college;

(v) not less than 1 representative of a technical school;

(vi) not less than 1 representative of a public secondary school;

(vii) the chief State school officer;
(viii) the chief executive officer of the State higher education coordinating board;
(ix) not less than 1 public elementary school teacher employed in the State;
(x) not less than 1 early childhood educator in the State;
(xi) not less than 1 public secondary school teacher employed in the State;
(xii) not less than 1 representative of the business community in the State; and
(xiii) not less than 1 member of the Armed Forces; and

(B) may include other individuals or representatives of other organizations, such as a school administrator, a faculty member at an institution of higher education, a member of a civic or community organization, a representative from a private institution of higher education, a dean or similar representative of a school of education at an institution of higher education or a similar teacher certification or licensure program, or the State official responsible for economic development.

(c) Grants authorized

The Secretary is authorized to award grants, on a competitive basis, to States to enable each such State to work with a statewide partnership—

(1) to promote better alignment of content knowledge requirements for secondary school graduation with the knowledge and skills needed to succeed in postsecondary education, the 21st century workforce, or the Armed Forces; or

(2) to establish or improve a statewide P–16 education data system.

(d) Period of grants; non-renewability

(1) Grant period

The Secretary shall award a grant under this section for a period of not more than 3 years.

(2) Non-renewability

The Secretary shall not award a State more than 1 grant under this section.

(e) Authorized activities

(1) Grants for P–16 alignment

Each State receiving a grant under subsection (c)(1)—

(A) shall use the grant funds for—

(i) identifying and describing the content knowledge and skills students who enter institutions of higher education, the workforce, and the Armed Forces need to have in order to succeed without any remediation based on detailed requirements obtained from institutions of higher education, employers, and the Armed Forces;

(ii) identifying and making changes that need to be made to a State's secondary school graduation requirements, academic content standards, academic achievement standards, and assessments preceding graduation from secondary school in order to align the requirements, standards, and assessments with the knowledge and skills necessary for success in academic credit-bearing coursework in postsecondary education, in the 21st century workforce, and in the Armed Forces without the need for remediation;

(iii) convening stakeholders within the State and creating a forum for identifying and deliberating on education issues that—

(I) involve preschool through grade 12 education, postsecondary education, the 21st century workforce, and the Armed Forces; and

(II) transcend any single system of education's ability to address; and

(iv) implementing activities designed to ensure the enrollment of all elementary school and secondary school students in rigorous coursework, which may include—

(I) specifying the courses and performance levels necessary for acceptance into institutions of higher education; and

(II) developing or providing guidance to local educational agencies within the State on the adoption of curricula and assessments aligned with State academic content standards, which assessments may be used as measures of student academic achievement in secondary school as well as for entrance or placement at institutions of higher education, including through collaboration with institutions of higher education in, or State educational agencies serving, other States; and

(B) may use the grant funds for—

(i) developing and making available specific opportunities for extensive professional development for teachers, paraprofessionals, principals, and school administrators, including collection and dissemination of effective teaching practices to improve instruction and instructional support mechanisms;

(ii) identifying changes in State academic content standards, academic achievement standards, and assessments for students in grades preceding secondary school in order to ensure such standards and assessments are appropriately aligned and adequately reflect the content needed to prepare students to enter secondary school;

(iii) developing a plan to provide remediation and additional learning opportunities for students who are performing below grade level to ensure that all students will have the opportunity to meet secondary school graduation requirements;

(iv) identifying and addressing teacher certification needs; or

(v) incorporating 21st century learning skills into the State plan, which skills shall include critical thinking, problem solving, communication, collaboration, global awareness, and business and financial literacy.

(2) Grants for statewide P–16 education data systems

(A) Establishment of system

Each State that receives a grant under subsection (c)(2) shall establish a statewide P–16 education longitudinal data system that—

(i) provides each student, upon enrollment in a public elementary school or secondary school in the State, with a unique identifier, such as a bar code, that—

(I) does not permit a student to be individually identified by users of the system; and

(II) is retained throughout the student's enrollment in P–16 education in the State; and

(ii) meets the requirements of subparagraphs (B) through (E).

(B) Improvement of existing system

Each State that receives a grant under subsection (c)(2) for the improvement of a statewide P–16 education data system may employ, coordinate, or revise an existing statewide data system to establish a statewide longitudinal P–16 education data system that meets the requirements of subparagraph (A), if the statewide longitudinal P–16 education data system produces valid and reliable data.

(C) Privacy and access to data

(i) In general

Each State that receives a grant under subsection (c)(2) shall implement measures to—

(I) ensure that the statewide P–16 education data system meets the requirements of section 1232g of this title (commonly known as the Family Educational Rights and Privacy Act of 1974);

(II) limit the use of information in the statewide P–16 education data system by institutions of higher education and State or local educational agencies or institutions to the activities set forth in paragraph (1) or State law regarding education, consistent with the purposes of this subchapter;

(III) prohibit the disclosure of personally identifiable information except as permitted under section 1232g of this title and any additional limitations set forth in State law;

(IV) keep an accurate accounting of the date, nature, and purpose of each disclosure of personally identifiable information in the statewide P–16 education data system, a description of the information disclosed, and the name and address of the person, agency, institution, or entity to whom the disclosure is made, which accounting shall be made available on request to parents of any student whose information has been disclosed;

(V) notwithstanding section 1232g of this title, require any non-governmental party obtaining personally identifiable information to sign a data use agreement prior to disclosure that—

(aa) prohibits the party from further disclosing the information;

(bb) prohibits the party from using the information for any purpose other than the purpose specified in the agreement; and

(cc) requires the party to destroy the information when the purpose for which the disclosure was made is accomplished;

(VI) maintain adequate security measures to ensure the confidentiality and integrity of the statewide P–16 education data system, such as protecting a student record from identification by a unique identifier;

(VII) where rights are provided to parents under this clause, provide those rights to the student instead of the parent if the student has reached the age of 18 or is enrolled in a postsecondary educational institution; and

(VIII) ensure adequate enforcement of the requirements of this clause.

(ii) Use of unique identifiers

(I) Governmental use of unique identifiers

It shall be unlawful for any Federal, State, or local governmental agency to use the unique identifiers employed in the statewide P–16 education data systems for any purpose other than as authorized by Federal or State law regarding education, or to deny any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose the individual's unique identifier.

(II) Regulations

Not later than 180 days after August 9, 2007, the Secretary shall promulgate regulations governing the use by governmental and non-governmental entities of the unique identifiers employed in statewide P–16 education data systems, including, where necessary, regulations requiring States desiring grants for statewide P–16 education data systems under this section to implement specified measures, with the goal of safeguarding individual privacy to the maximum extent practicable consistent with the uses of the information authorized in this Act or other Federal or State law regarding education.

(D) Required elements of a statewide P–16 education data system

The State shall ensure that the statewide P–16 education data system includes the following elements:

(i) Preschool through grade 12 education and postsecondary education

With respect to preschool through grade 12 education and postsecondary education—

(I) a unique statewide student identifier that does not permit a student to be individually identified by users of the system;

(II) student-level enrollment, demographic, and program participation information;

(III) student-level information about the points at which students exit, transfer in, transfer out, drop out, or complete P–16 education programs;

(IV) the capacity to communicate with higher education data systems; and

(V) a State data audit system assessing data quality, validity, and reliability.

(ii) Preschool through grade 12 education

With respect to preschool through grade 12 education—

(I) yearly test records of individual students with respect to assessments under section 6311(b)(2) of this title;

(II) information on students not tested by grade and subject;

(III) a teacher identifier system with the ability to match teachers to students;

(IV) student-level transcript information, including information on courses completed and grades earned; and

(V) student-level college readiness test scores.

(iii) Postsecondary education

With respect to postsecondary education, data that provide—

(I) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework; and

(II) other information determined necessary to address alignment and adequate preparation for success in postsecondary education.

(E) Functions of the statewide P–16 education data system

In implementing the statewide P–16 education data system, the State shall—

(i) identify factors that correlate to students' ability to successfully engage in and complete postsecondary-level general education coursework without the need for prior developmental coursework;

(ii) identify factors to increase the percentage of low-income and minority students who are academically prepared to enter and successfully complete postsecondary-level general education coursework; and

(iii) use the data in the system to otherwise inform education policy and practice in order to better align State academic content standards, and curricula, with the demands of postsecondary education, the 21st century workforce, and the Armed Forces.

(f) Application

(1) In general

Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) Application contents

Each application submitted under this section shall specify whether the State application is for the conduct of P–16 education alignment activities, or the establishment or improvement of a statewide P–16 education data system. The application shall include, at a minimum, the following:

(A) A description of the activities and programs to be carried out with the grant funds and a comprehensive plan for carrying out the activities.

(B) A description of how the concerns and interests of the larger education community, including parents, students, teachers, teacher educators, principals, and preschool administrators [2] will be represented in carrying out the authorized activities described in subsection (e).

(C) In the case of a State applying for funding for P–16 education alignment, a description of how the State will provide assistance to local educational agencies in implementing rigorous State academic content standards, substantive curricula, remediation, and acceleration opportunities for students, as well as other changes determined necessary by the State.

(D) In the case of a State applying for funding to establish or improve a statewide P–16 education data system—

(i) a description of the privacy protection and enforcement measures that the State has implemented or will implement pursuant to subsection (e)(2)(C), and assurances that these measures will be in place prior to the establishment or improvement of the statewide P–16 education data system; and

(ii) an assurance that the State will continue to fund the statewide P–16 education data system after the end of the grant period.

(g) Supplement not supplant

Grant funds provided under this section shall be used to supplement, not supplant, other Federal, State, and local funds available to carry out the authorized activities described in subsection (e).

(h) Matching requirement

Each State that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, in cash or in kind, to carry out the activities supported by the grant.

(i) Rule of construction

(1) No raw data requirement

Nothing in this section shall be construed to require States to provide raw data to the Secretary.

(2) Private or home schools

Nothing in this section shall be construed to affect any private school that does not receive funds or services under this Act or any home school, whether or not the home school is treated as a home school or a private school under State law, including imposing new requirements for students educated through a home school seeking admission to institutions of higher education.

(j) Authorization of appropriations

There are authorized to be appropriated to carry out this section $120,000,000 for each of fiscal years 2011 and 2012.

(Pub. L. 110–69, title VI, §6201, formerly §6401, Aug. 9, 2007, 121 Stat. 668; renumbered §6201 and amended Pub. L. 111–358, title X, §§1002(b)(3), 1003(c), Jan. 4, 2011, 124 Stat. 4048, 4049; Pub. L. 114–95, title IX, §9215(i)(4), Dec. 10, 2015, 129 Stat. 2168.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (e)(2)(C)(ii)(II) and (i)(2), is Pub. L. 110–69, Aug. 9, 2007, 121 Stat. 572, known as the America COMPETES Act, and also as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

PRIOR PROVISIONS

A prior section 6201 of Pub. L. 110–69 was classified to section 9851 of this title prior to repeal by Pub. L. 111–358.

AMENDMENTS

2015—Subsec. (e)(2)(D)(ii)(I). Pub. L. 114–95, which directed amendment of section 6401(e)(2)(D)(ii)(I) of Pub. L. 110–69 by substituting "yearly test records of individual students with respect to assessments under section 6311(b)(2) of this title" for "yearly test records of individual students with respect to assessments under section 6311(b) of this title", was executed to this section to reflect the probable intent of Congress and the renumbering of section 6401 of Pub. L. 110–69 as this section.

2011—Subsec. (j). Pub. L. 111–358, §1003(c), amended subsec. (j) generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this section $120,000,000 for fiscal year 2008 and such sums as may be necessary for fiscal year 2009."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

[1] *So in original. Probably should be "to enable".*

[2] *So in original. Probably should be followed by a comma.*

SUBCHAPTER V—MATHEMATICS AND SCIENCE PARTNERSHIP BONUS GRANTS

§§9881, 9882. Repealed. Pub. L. 111–358, title X, §1002(a)(5), Jan. 4, 2011, 124 Stat. 4048

Section 9881, Pub. L. 110–69, title VI, §6501, Aug. 9, 2007, 121 Stat. 674, related to mathematics and science partnership bonus grants.

Section 9882, Pub. L. 110–69, title VI, §6502, Aug. 9, 2007, 121 Stat. 675, related to authorization of appropriations.

CHAPTER 79—STEM-TRAINING GRANT PROGRAM

Sec.

9901. Purpose.
9902. Program requirements.
9903. Grant program.
9904. Grant oversight and administration.
9905. Definitions.
9906. Authorization of appropriations.

§9901. Purpose

The purpose of this chapter is to replicate and implement programs at institutions of higher education that provide integrated courses of study in science, technology, engineering, or mathematics, and teacher education, that lead to a baccalaureate degree in science, technology, engineering, or mathematics with concurrent teacher certification.

(Pub. L. 111–358, title V, §551, Jan. 4, 2011, 124 Stat. 4021.)

§9902. Program requirements

The Director shall replicate and implement undergraduate degree programs under this chapter that—

(1) are designed to recruit and prepare students who pursue a baccalaureate degree in science, technology, engineering, or mathematics to become certified as elementary and secondary teachers;

(2) require the education department (or its equivalent) and the departments or division responsible for preparation of science, technology, engineering, and mathematics majors at an institution of higher education to collaborate in establishing and implementing the program at that institution;

(3) require students participating in the program to enter the program through a field-based course and to continue to complete field-based courses supervised by master teachers throughout the program;

(4) hire sufficient teachers so that the ratio of students to master teachers in the program does not exceed 100 to 1;

(5) include instruction in the use of scientifically-based instructional materials and methods, assessments, pedagogical content knowledge (including the interaction between mathematics and science), the use of instructional technology, and how to incorporate State and local standards into the classroom curriculum;

(6) restrict to students participating in the program those courses that are specifically designed for the needs of teachers of science, technology, engineering, and mathematics; and

(7) require students participating in the program to successfully complete a final evaluation of their teaching proficiency, based on their classroom teaching performance, conducted by multiple trained observers, and a portfolio of their accomplishments.

(Pub. L. 111–358, title V, §552, Jan. 4, 2011, 124 Stat. 4022.)

§9903. Grant program

(a) In general

The Director shall establish a grant program to support programs at institutions of higher education to carry out the purpose of this chapter.

(b) Geographical considerations

In the administration of this chapter, the Director shall take such steps as may be necessary to ensure that grants are equitably distributed across all regions of the United States, taking into account population density and other geographic and demographic considerations.

(c) Amount of grant

Subject to the requirements of subsection (d), the Director may award grants annually on a competitive basis to institutions of higher education in the amount of $2,000,000, per institution of which—

(1) $1,500,000 shall be used—

(A) to design, implement, and evaluate a program that meets the requirements of section 9902 of this title;

(B) to employ master teachers at the institution to oversee field experiences;

(C) to provide a stipend to mentor teachers participating in the program; and

(D) to support curriculum development and implementation strategies for science, technology, engineering, and mathematics content courses taught through the program; and

(2) up to $500,000 shall be set aside by the grantee for technical support and evaluation services from the institution whose programs will be replicated.

(d) Eligibility

To be eligible to apply for a grant under this section, an institution of higher education shall—

(1) include former secondary school science, technology, engineering, or mathematics master teachers as faculty in its science department for this program;

(2) grant terminal degrees in science, technology, engineering, and mathematics; and

(3) have a process to be used in establishing partnerships with local educational agencies for placement of participating students in their field experiences, including a process for identifying mentor teachers working in local schools to supervise classroom field experiences in cooperation with university-based master teachers;

(4) maintain policies allowing flexible entry to the program throughout the undergraduate coursework;

(5) require that master teachers employed by the institution will supervise field experiences of students in the program;

(6) require that the program complies with State certification or licensing requirements and the requirements under section 9101(23) [1] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)) for highly qualified teachers;

(7) develop during the course of the grant a plan for long-term support and assessment of its graduates, which shall include—

(A) induction support for graduates in their first one to two years of teaching;

(B) systems to determine the teaching status of graduates and thereby determine retention

rates; and

(C) methods to analyze the achievement of students taught by graduates, and methods to analyze classroom practices of graduates; and

(8) be able upon completion of the grant at the end of 5 years to fund essential program costs, including salaries of master teachers and other necessary personnel, from recurring university budgets.

(e) Application requirements

An institution of higher education seeking a grant under the program shall submit an application to the Director in such form, at such time, and containing such information and assurances as the Director may require, including—

(1) a description of the current rate at which individuals majoring in science, technology, engineering, and mathematics become certified as elementary and secondary teachers;

(2) a description for the institution's plan for increasing the numbers of students enrolled in and graduating from the program supported under this chapter;

(3) a description of the institution's capacity to develop a program in which individuals majoring in science, technology, engineering, and mathematics can become certified as elementary and secondary teachers;

(4) identification of the organizational unit within the department or division of arts and sciences or the science department at the institution that will adopt teacher certification for elementary and secondary teachers as its primary mission;

(5) identification of core faculty within the department or division of arts and sciences or the science department at the institution to champion teacher preparation in their departments by teaching courses dedicated to preparing future elementary and secondary school teachers, helping create new degree plans, advising prospective students within their major, and assisting as needed with program administration;

(6) identification of core faculty in the education department or its equivalent at the institution to champion teacher preparation by creating and teaching courses specific to the preparation of science, technology, engineering, and mathematics and working closely with colleagues in the department or division of arts and sciences or the science department; and

(7) a description of involving practical, field-based experience in teaching and degree plans enabling students to graduate in 4 years with a major in science, technology, engineering, or mathematics and elementary or secondary school teacher certification.

(f) Matching requirement

An institution of higher education may not receive a grant under this section unless it provides, from non-federal sources, to carry out the activities supported by the grant, an amount that is not less than—

(1) 35 percent of the amount of the grant for the first fiscal year of the grant;

(2) 55 percent of the amount of the grant for the second and third fiscal years of the grant; and

(3) 75 percent of the amount of the grant for the fourth and fifth fiscal years of the grant.

(g) Guidance

Within 90 days after January 4, 2011, the Director shall initiate a proceeding to promulgate guidance for the administration of the grant program established under subsection (a).

(Pub. L. 111–358, title V, §553, Jan. 4, 2011, 124 Stat. 4022.)

REFERENCES IN TEXT

Section 9101 of the Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(6), was amended by Pub. L. 114–95 and, as so amended, is now section 8101 of the Act and no longer relates to highly qualified teachers. A reference in this section to "highly qualified", as defined in section 9101 of the Act, with respect to a teacher, means that the teacher meets applicable State certification and licensure

requirements, including any requirements for certification obtained through alternative routes to certification. See section 9214(a)(2) of Pub. L. 114–95, set out as a Use of the Term "Highly Qualified" in Other Laws note under section 1070g–2 of this title.

[1] *See References in Text note below.*

§9904. Grant oversight and administration

(a) In general

The Director may execute a contract for program oversight and fiscal management with an organization at an institution of higher education, a non-profit organization, or other entity that demonstrates capacity for and experience in—

(1) replicating 1 or more similar programs at regional or national levels;

(2) providing programmatic and technical implementation assistance for the program;

(3) performing data collection and analysis to ensure proper implementation and continuous program improvement; and

(4) providing accountability for results by measuring and monitoring achievement of programmatic milestones.

(b) Oversight responsibilities

(1) Mandatory duties

If the Director executes a contract under subsection (a) with an organization for program oversight and fiscal management, the organization shall—

(A) ensure that a grant recipient faithfully replicates and implements the program or programs for which the grant is awarded;

(B) ensure that grant funds are used for the purposes authorized and that a grant recipient has a system in place to track and account for all Federal grant funds provided;

(C) provide technical assistance to grant recipients;

(D) collect and analyze data and report to the Director annually on the effects of the program on—

(i) the progress of participating students in achieving teaching competence and teaching certification;

(ii) the participation of students in the program by major, compared with local and State needs on secondary teachers by discipline; and

(iii) the participation of students in the program by demographic subgroup;

(E) collect and analyze data and report to the Director annually on the effects of the program on the academic achievement of elementary and secondary school students taught by graduates of programs funded by grants under this chapter; and

(F) submit an annual report to the Director demonstrating compliance with the requirements of subparagraphs (A) through (E).

(2) Discretionary duties

At the request of the Director, the organization under contract under subsection (a) may assist the Director in evaluating grant applications.

(c) Reports to Congress

The Director shall submit a copy of the annual report required by subsection (b)(1)(F) to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Health, Education, Labor, and Pensions, the House of Representatives Committee on Science and Technology, and the House of Representatives Committee on Education and Labor.

(Pub. L. 111–358, title V, §554, Jan. 4, 2011, 124 Stat. 4024.)

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives and Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§9905. Definitions

In this chapter:

(1) Field-based course

The term "field-based course" means a course of instruction offered by an institution of higher education that includes a requirement that students teach a minimum of 3 lessons or sequences of lessons to elementary or secondary students.

(2) Institution of higher education

The term "institution of higher education" has the meaning given that term by section 1001 of this title.

(3) Master teacher

The term "master teacher" means an individual—

(A) who has been awarded a master's or doctoral degree by an institution of higher education;

(B) whose graduate coursework included courses in mathematics, science, computer science, or engineering;

(C) who has at least 3 years teaching experience in K–12 settings; and

(D) whose teaching has been recognized for exceptional accomplishments in educating students, or is demonstrated to have resulted in improved student achievement.

(4) Mentor teacher

The term "mentor teacher" means an elementary or secondary school classroom teacher who assists with the training of students participating in a field-based course.

(5) Director

The term "Director" means the Director of the National Science Foundation.

(Pub. L. 111–358, title V, §555, Jan. 4, 2011, 124 Stat. 4025.)

§9906. Authorization of appropriations

There are authorized to be appropriated to the Director to carry out this chapter $10,000,000 for each of fiscal years 2011 through 2013.

(Pub. L. 111–358, title V, §556, Jan. 4, 2011, 124 Stat. 4026.)

CHAPTER 80—STATE FISCAL STABILIZATION FUND

Sec.

10001. Allocations.
10002. State uses of funds.
10003. Uses of funds by local educational agencies.
10004. Uses of funds by institutions of higher education.
10005. State applications.
10006. State incentive grants.
10007. Innovation Fund.
10008. State reports.

10009. Evaluation.
10010. Secretary's report to Congress.
10011. Prohibition on provision of certain assistance.
10012. Fiscal relief.
10013. Definitions.

§10001. Allocations

(a) Outlying areas

From the amount appropriated to carry out this chapter, the Secretary of Education shall first allocate up to one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, in consultation with the Secretary of the Interior, for activities consistent with this chapter under such terms and conditions as the Secretary may determine.

(b) Administration and oversight

The Secretary may, in addition, reserve up to $14,000,000 for administration and oversight of this chapter, including for program evaluation.

(c) Reservation for additional programs

After reserving funds under subsections (a) and (b), the Secretary shall reserve $5,000,000,000 for grants under sections 10006 and 10007 of this title.

(d) State allocations

After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this chapter to the States as follows:

(1) 61 percent on the basis of their relative population of individuals aged 5 through 24.

(2) 39 percent on the basis of their relative total population.

(e) State grants

From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) Reallocation

The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not award as subgrants or otherwise commit within two years of receiving such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

(Pub. L. 111–5, div. A, title XIV, §14001, Feb. 17, 2009, 123 Stat. 279.)

§10002. State uses of funds

(a) Education fund

(1) In general

For each fiscal year, the Governor shall use 81.8 percent of the State's allocation under section 10001(d) of this title for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.

(2) Restoring State support for education

(A) In general

The Governor shall first use the funds described in paragraph (1)—

(i) to provide the amount of funds, through the State's primary elementary and secondary education funding formulae, that is needed—

(I) to restore, in each of fiscal years 2009, 2010, and 2011, the level of State support

provided through such formulae to the greater of the fiscal year 2008 or fiscal year 2009 level; and

(II) where applicable, to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008.

(ii) to provide, in each of fiscal years 2009, 2010, and 2011, the amount of funds to public institutions of higher education in the State that is needed to restore State support for such institutions (excluding tuition and fees paid by students) to the greater of the fiscal year 2008 or fiscal year 2009 level.

(B) Shortfall

If the Governor determines that the amount of funds available under paragraph (1) is insufficient to support, in each of fiscal years 2009, 2010, and 2011, public elementary, secondary, and higher education at the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

(C) Fiscal year

For purposes of this paragraph, the term "fiscal year" shall have the meaning given such term under State law.

(3) Subgrants to improve basic programs operated by local educational agencies

After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

(b) Other government services

(1) In general

The Governor shall use 18.2 percent of the State's allocation under section 10001(d) of this title for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of public school facilities and institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(2) Availability to all institutions of higher education

A Governor shall not consider the type or mission of an institution of higher education, and shall consider any institution for funding for modernization, renovation, and repairs within the State that—

(A) qualifies as an institution of higher education, as defined in subsection [1] 10013(3) of this title; and

(B) continues to be eligible to participate in the programs under title IV of the Higher Education Act of 1965.

(c) Rule of construction

Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

(Pub. L. 111–5, div. A, title XIV, §14002, Feb. 17, 2009, 123 Stat. 279; Pub. L. 111–8, div. F, title V, §523(a), (b), Mar. 11, 2009, 123 Stat. 806.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(3), is Pub. L. 89–10, Apr.

11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (b)(2)(B), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

2009—Subsec. (a)(2)(A)(i). Pub. L. 111–8, §523(a), inserted "education" after "secondary" in introductory provisions.

Subsec. (b)(1). Pub. L. 111–8, §523(b), substituted "10001(d)" for "10001".

[1] So in original. Probably should be "section".

§10003. Uses of funds by local educational agencies

(a) In general

A local educational agency that receives funds under this chapter may use the funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) ("ESEA"), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) ("IDEA"), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.),[1] or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) ("the Perkins Act") or for modernization, renovation, or repair of public school facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) Prohibition

A local educational agency may not use funds received under this chapter for—

(1) payment of maintenance costs;

(2) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;

(3) purchase or upgrade of vehicles; or

(4) improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities.

(c) Rule of construction

Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

(Pub. L. 111–5, div. A, title XIV, §14003, Feb. 17, 2009, 123 Stat. 281; Pub. L. 111–8, div. F, title V, §523(c), Mar. 11, 2009, 123 Stat. 806.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (a), was title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, which was classified principally to subchapter I (§9201 et seq.) of chapter 73 of this title, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pub. L. 113–128 also included a title II, entitled the "Adult Education and Family Literacy Act", which is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. Pursuant to section 3361(a) of Title 29, references to a provision of Pub. L. 105–220 are deemed to refer to the

corresponding provision of Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015. For complete classification of title II of Pub. L. 105–220 to the Code, see Tables. For complete classification of title II of Pub. L. 113–128 to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–8 substituted "the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.)" for "the Adult and Family Literacy Act (20 U.S.C. 1400 et seq.)".

[1] *See References in Text note below.*

§10004. Uses of funds by institutions of higher education

(a) In general

A public institution of higher education that receives funds under this chapter shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students, or for modernization, renovation, or repair of institution of higher education facilities that are primarily used for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) Prohibition

An institution of higher education may not use funds received under this chapter to increase its endowment.

(c) Additional prohibition

No funds awarded under this chapter may be used for—

(1) the maintenance of systems, equipment, or facilities;

(2) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; or

(3) modernization, renovation, or repair of facilities—

(A) used for sectarian instruction or religious worship; or

(B) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.

(Pub. L. 111–5, div. A, title XIV, §14004, Feb. 17, 2009, 123 Stat. 281.)

§10005. State applications

(a) In general

The Governor of a State desiring to receive an allocation under section 10001(d) of this title shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Application

In such application, the Governor shall—

(1) include the assurances described in subsection (d);

(2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation, including whether the State will use such allocation to meet maintenance of effort requirements under the ESEA and IDEA and, in such

cases, what amount will be used to meet such requirements.

(c) Incentive grant application

The Governor of a State seeking a grant under section 10006 of this title shall—

(1) submit an application for consideration;

(2) describe the status of the State's progress in each of the areas described in subsection (d), and the strategies the State is employing to help ensure that students in the subgroups described in section 1111(b)(2)(C)(v)(II) [1] of the ESEA (20 U.S.C. 6311(b)(2)(C)(v)(II)) who have not met the State's proficiency targets continue making progress toward meeting the State's student academic achievement standards;

(3) describe the achievement and graduation rates (as described in section 1111(b)(2)(C)(vi) [1] of the ESEA (20 U.S.C. 6311(b)(2)(C)(vi)) and as clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations) of public elementary and secondary school students in the State, and the strategies the State is employing to help ensure that all subgroups of students identified in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2)) in the State continue making progress toward meeting the State's student academic achievement standards;

(4) describe how the State would use its grant funding to improve student academic achievement in the State, including how it will allocate the funds to give priority to high-need local educational agencies; and

(5) include a plan for evaluating the State's progress in closing achievement gaps.

(d) Assurances

An application under subsection (b) shall include the following assurances:

(1) Maintenance of effort

(A) Elementary and secondary education

The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

(B) Higher education

The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at least at the level of such support in fiscal year 2006.

(2) Achieving equity in teacher distribution

The State will take actions to improve teacher effectiveness and comply with section 1111(b)(8)(C) [1] of the ESEA (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of highly qualified teachers between high- and low-poverty schools, and to ensure that low-income and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.

(3) Improving collection and use of data

The State will establish a longitudinal data system that includes the elements described in section 9871(e)(2)(D) of this title.

(4) Standards and assessments

The State—

(A) will enhance the quality of the academic assessments it administers pursuant to section 1111(b)(3) of the ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) [1] of such Act (20 U.S.C. 7301a(a));

(B) will comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) [1] of the ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of the IDEA (20 U.S.C. 1412(a)(16))

related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; and

(C) will take steps to improve State academic content standards and student academic achievement standards consistent with section 9871(e)(1)(A)(ii) of this title.

(5) Supporting struggling schools

The State will ensure compliance with the requirements of section 1116(b)(7)(C)(iv) [1] and section 1116(b)(8)(B) [1] of the ESEA with respect to schools identified under such sections.

(6) Improving early childhood care and education

The State will take actions to—

(A) increase the number and percentage of low-income and disadvantaged children in each age group of infants, toddlers, and pre-schoolers who are enrolled in high-quality early learning programs;

(B) design and implement an integrated system of high-quality early learning programs and services; and

(C) ensure that any use of assessments conforms with the recommendations of the National Research Council's reports on early childhood.

(Pub. L. 111–5, div. A, title XIV, §14005, Feb. 17, 2009, 123 Stat. 282; Pub. L. 111–8, div. F, title V, §523(d)–(f), Mar. 11, 2009, 123 Stat. 806; Pub. L. 112–10, div. B, title VIII, §1832(b)(1), Apr. 15, 2011, 125 Stat. 164.)

REFERENCES IN TEXT

ESEA, referred to in subsec. (b)(3), is the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

IDEA, referred to in subsec. (b)(3), is the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Section 1111 of the ESEA, referred to in subsecs. (c)(2), (3) and (d)(2), (4)(A), (B), is section 1111 of Pub. L. 89–10, which is classified to section 6311 of this title. Section 1111 was amended generally by Pub. L. 114–95, title I, §1005, Dec. 10, 2015, 129 Stat. 1820, and as so amended, does not contain a subsec. (b)(2)(C)(v), (vi), (3)(C)(ix), (6), or (8)(C).

Section 9871 of this title, referred to in subsec. (d)(3), (4)(C), was in the original "section 6401", and was translated as meaning section 6201 of Pub. L. 110–69 to reflect the probable intent of Congress and the renumbering of section 6401 of Pub. L. 110–69 as section 6201 by Pub. L. 111–358, title X, §1002(b)(3), Jan. 4, 2011, 124 Stat. 4048.

Section 6112 of the ESEA, referred to in subsec. (d)(4)(A), is section 6112 of Pub. L. 89–10, which was classified to section 7301a of this title, prior to repeal by Pub. L. 114–95, §5, title V, §5001(b)(1), Dec. 10, 2015, 129 Stat. 1806, 2040, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 1116 of the ESEA, referred to in subsec. (d)(5), is section 1116 of Pub. L. 89–10, which was classified to section 6316 of this title, prior to repeal by Pub. L. 114–95, §5, title I, §1000(1), Dec. 10, 2015, 129 Stat. 1806, 1814, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs. Section 1000(2) of Pub. L. 114–95 renumbered section 1118 of Pub. L. 89–10 as section 1116, which is classified to section 6318 of this title. Section 6318 does not contain a subsec. (b)(7) or (8).

AMENDMENTS

2011—Subsec. (d)(6). Pub. L. 112–10 added par. (6).

2009—Subsec. (a). Pub. L. 111–8, §523(d), substituted "10001(d)" for "10001".

Subsec. (d)(4)(C). Pub. L. 111–8, §523(e), substituted "9871(e)(1)(A)(ii)" for "9871(e)(1)(9)(A)(ii)".

Subsec. (d)(5). Pub. L. 111–8, §523(f), substituted "1116(b)(7)(C)(iv)" for "1116(a)(7)(C)(iv)" and "1116(b)(8)(B)" for "1116(a)(8)(B)".

[1] *See References in Text note below.*

§10006. State incentive grants

(a) In general

(1) Reservation

From the total amount reserved under section 10001(c) of this title that is not used for section 10007 of this title, the Secretary may reserve up to 1 percent for technical assistance to States to assist them in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 10005(d) of this title.

(2) Remainder

Of the remaining funds, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 10005(d) of this title.

(b) Basis for grants

The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 10005 of this title and such other criteria as the Secretary determines appropriate, which may include a State's need for assistance to help meet the objective of paragraphs [1] (2), (3), (4), (5), or (6) of section 10005(d) of this title.

(c) Subgrants to local educational agencies

(1) In general

Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

(2) Exception

Paragraph (1) does not apply to grants made by the Secretary to consortia of States to develop academic assessments that are aligned with academic standards, or to a State or States for improving early childhood care and education except that such a State may use its grant funds to make subgrants to public or private agencies and organizations for activities consistent with the purposes of the grant.

(Pub. L. 111–5, div. A, title XIV, §14006, Feb. 17, 2009, 123 Stat. 283; Pub. L. 111–117, div. D, title III, §310, Dec. 16, 2009, 123 Stat. 3272; Pub. L. 112–10, div. B, title VIII, §1832(b)(2), Apr. 15, 2011, 125 Stat. 164; Pub. L. 112–74, div. F, title III, §308, Dec. 23, 2011, 125 Stat. 1100.)

REFERENCES IN TEXT

ESEA, referred to in subsec. (c)(1), is the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

2011—Subsec. (b). Pub. L. 112–10, §1832(b)(2)(A), substituted "(5), or (6)" for "and (5)".

Subsec. (c)(2). Pub. L. 112–74 inserted before period at end "except that such a State may use its grant funds to make subgrants to public or private agencies and organizations for activities consistent with the purposes of the grant".

Pub. L. 112–10, §1832(b)(2)(B), inserted before period at end ", or to a State or States for improving early childhood care and education".

2009—Subsec. (c). Pub. L. 111–117 designated existing provisions as par. (1), inserted heading, and added par. (2).

[1] *So in original. Probably should be "paragraph".*

§10007. Innovation Fund

(a) In general

(1) Eligible entities

For the purposes of this section, the term "eligible entity" means—

(A) a local educational agency; or

(B) a partnership between a nonprofit organization and—

(i) one or more local educational agencies; or

(ii) a consortium of schools.

(2) Program established

From the total amount reserved under section 10001(c) of this title, the Secretary may reserve up to $650,000,000 to establish an Innovation Fund, which shall consist of academic achievement awards that recognize eligible entities that meet the requirements described in subsection (b).

(3) Purpose of awards

The Secretary shall make awards to eligible entities in order to identify, document, and bring to scale innovative best practices based on demonstrated success, to allow such eligible entities to—

(A) expand their work and serve as models for best practices; and

(B) work in partnership with the private sector and the philanthropic community.

(b) Eligibility

To be eligible for such an award, an eligible entity shall—

(1)(A) have significantly closed the achievement gaps between groups of students described in section 6311(b)(2) [1] of this title; or

(B) have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section;

(2) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(3) demonstrate that it has established one or more partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

(c) Special rule

In the case of an eligible entity that includes a nonprofit organization, the eligible entity shall be considered to have met the eligibility requirements of paragraphs (1)(A) or (1)(B) and (2) of subsection (b) if the nonprofit organization has a record of significantly improving student achievement, attainment, or retention and shall be considered to have met the requirements of subsection (b)(3) if it demonstrates that it will meet the requirement relating to private-sector matching.

(d) Subgrants

In the case of an eligible entity that is a partnership described in subsection (a)(1)(B), the partner serving as the fiscal agent may make subgrants to one or more of the other entities in the partnership.

(Pub. L. 111–5, div. A, title XIV, §14007, Feb. 17, 2009, 123 Stat. 284; Pub. L. 111–117, div. D, title III, §307, Dec. 16, 2009, 123 Stat. 3271.)

REFERENCES IN TEXT

Section 6311 of this title, referred to in subsec. (b)(1)(A), was amended generally by Pub. L. 114–95, title I, §1005, Dec. 10, 2015, 129 Stat. 1820, and, as so amended, subsec. (b)(2) does not describe achievement gaps.

AMENDMENTS

2009—Subsec. (a)(3). Pub. L. 111–117, §307(1), amended par. (3) generally. Prior to amendment, text read as follows: "The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

"(A) to allow such eligible entities to expand their work and serve as models for best practices;

"(B) to allow such eligible entities to work in partnership with the private sector and the philanthropic community; and

"(C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success."

Subsec. (b). Pub. L. 111–117, §307(2), redesignated pars. (1), (2), (3), and (4) as (1)(A), (1)(B), (2), and (3), respectively, inserted "or" after semicolon in par. (1)(A), amended par. (1)(B) generally, and substituted "it has established one or more partnerships" for "they have established partnerships" in par. (3). Prior to amendment, par. (1)(B) read as follows: "have exceeded the State's annual measurable objectives consistent with such section 6311(b)(2) of this title for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 6311(c)(2) of this title;".

Subsec. (c). Pub. L. 111–117, §307(3), substituted "paragraphs (1)(A) or (1)(B) and (2) of subsection (b) if the nonprofit organization has a record of significantly improving student achievement, attainment, or retention and shall be considered to have met the requirements of subsection (b)(3) if it demonstrates that it will meet the requirement relating to private-sector matching" for "paragraphs (1), (2), (3) of subsection (b) if such nonprofit organization has a record of meeting such requirements".

Subsec. (d). Pub. L. 111–117, §307(4), added subsec. (d).

GRANT RENEWALS

Pub. L. 113–76, div. H, title III, Jan. 17, 2014, 128 Stat. 392, provided in part: "That the Secretary may renew a grant made under section 14007 [20 U.S.C. 10007] for additional 1-year periods, for fiscal year 2014 and thereafter, if the grantee is meeting its performance targets, up to a total award period of 6 years".

[1] *See References in Text note below.*

§10008. State reports

For each year of the program under this chapter, a State receiving funds under this chapter shall submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes—

(1) the uses of funds provided under this chapter within the State;

(2) how the State distributed the funds it received under this chapter;

(3) the number of jobs that the Governor estimates were saved or created with funds the State received under this chapter;

(4) tax increases that the Governor estimates were averted because of the availability of funds from this chapter;

(5) the State's progress in reducing inequities in the distribution of highly qualified teachers, in implementing a State longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;

(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this chapter, and a description of any actions taken by the State to limit those increases;

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance; and

(8) a description of each modernization, renovation and repair project funded, which shall include the amounts awarded and project costs.

(Pub. L. 111–5, div. A, title XIV, §14008, Feb. 17, 2009, 123 Stat. 285.)

§10009. Evaluation

The Comptroller General of the United States shall conduct evaluations of the programs under sections 10006 and 10007 of this title which shall include, but not be limited to, the criteria used for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

(Pub. L. 111–5, div. A, title XIV, §14009, Feb. 17, 2009, 123 Stat. 285.)

§10010. Secretary's report to Congress

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of State reports, that evaluates the information provided in the State reports under section 10008 of this title and the information required by section 10005(b)(3) of this title including State-by-State information.

(Pub. L. 111–5, div. A, title XIV, §14010, Feb. 17, 2009, 123 Stat. 285.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§10011. Prohibition on provision of certain assistance

No recipient of funds under this chapter shall use such funds to provide financial assistance to students to attend private elementary or secondary schools, unless such funds are used to provide special education and related services to children with disabilities, as authorized by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(Pub. L. 111–5, div. A, title XIV, §14011, Feb. 17, 2009, 123 Stat. 285; Pub. L. 111–8, div. F, title V, §523(g), Mar. 11, 2009, 123 Stat. 806.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

2009—Pub. L. 111–8 inserted before period at end ", unless such funds are used to provide special education and related services to children with disabilities, as authorized by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)".

§10012. Fiscal relief

(a) In general

For the purpose of relieving fiscal burdens on States and local educational agencies that have experienced a precipitous decline in financial resources, the Secretary of Education may waive or modify any requirement of this chapter relating to maintaining fiscal effort.

(b) Duration

A waiver or modification under this section shall be for any of fiscal year 2009, fiscal year 2010, or fiscal year 2011, as determined by the Secretary.

(c) Criteria

The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State receiving such waiver or modification will not provide for elementary, secondary, and public higher education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State than the percentage provided for such purpose in the preceding fiscal year.

(d) Maintenance of effort

Upon prior approval from the Secretary, a State or local educational agency that receives funds under this chapter may treat any portion of such funds that is used for elementary, secondary, or postsecondary education as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other program, including part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), administered by the Secretary.

(e) Subsequent level of effort

Notwithstanding (d),[1] the level of effort required by a State or local educational agency for the following fiscal year shall not be reduced.

(Pub. L. 111–5, div. A, title XIV, §14012, Feb. 17, 2009, 123 Stat. 285; Pub. L. 111–8, div. F, title V, §523(h), Mar. 11, 2009, 123 Stat. 806.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (d), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–8 amended subsec. (c) generally. Prior to amendment, text read as follows: "The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State or local educational agency receiving such waiver or modification will not provide for elementary and secondary education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State or local educational agency than the amount provided for such purpose in the preceding fiscal year."

[1] So in original. Probably should be "subsection (d),".

§10013. Definitions

Except as otherwise provided in this chapter, as used in this chapter—

(1) the terms "elementary education" and "secondary education" have the meaning given such terms under State law;

(2) the term "high-need local educational agency" means a local educational agency—

(A) that serves not fewer than 10,000 children from families with incomes below the poverty line; or

(B) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line;

(3) the term "institution of higher education" has the meaning given such term in section 1001 of this title;

(4) the term "Secretary" means the Secretary of Education;

(5) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) any other term used that is defined in section 7801 [1] of this title shall have the meaning given the term in such section.

(Pub. L. 111–5, div. A, title XIV, §14013, Feb. 17, 2009, 123 Stat. 286.)

REFERENCES IN TEXT

Section 7801 of this title, referred to in par. (6), was in the original a reference to section 9101 of Pub. L. 89–10, which was renumbered section 8101 by Pub. L. 114–95, title VIII, §8001(a)(1), Dec. 10, 2015, 129 Stat. 2089.